BROWN, MITCHELL & ALEXANDER, INC.
CONSULTING ENGINEERS

401 Cowan Road, Suite A
Gulfport, MS 39507
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Biloxi, MS 39530
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Pascagoula, MS 39567
228-436-7612

www.bmaengineers.com

December 5, 2023

Chief, Environmental Permits Division
Mississippi Department of Environmental Quality
Office of Pollution Control
P.O. Box 2261
Jackson, MS 39225

RE: Stennis Space Center Wastewater Conveyance Project
Hancock County Utility Authority

Dear Sir or Madame:

Hancock County Utility Authority requests a Large Construction General Permit for the above referenced project. Please find enclosed a Storm Water Pollution Prevention Plan (SWPPP) along with a Large Construction Notice of Intent (LCNOI) for your review.

Should you have any questions or comments please contact me at (228) 864-7612. We appreciate your assistance on this project.

Sincerely,

M. Scott Burge, P.E.
Project Engineer

Enclosure

P:\

AI: 38603

Coverage #: MSR109164

Rec'd via hard copy: 12/11/2023

MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

LARGE CONSTRUCTION NOTICE OF INTENT (LCNOI) FOR COVERAGE UNDER THE LARGE CONSTRUCTION STORM WATER GENERAL NPDES PERMIT

INSTRUCTIONS

The Large Construction Notice of Intent (LCNOI) is for coverage under the Large Construction General Permit for land disturbing activities of five (5) acres or greater; or for land disturbing activities, which are part of a larger common plan of development or sale that are initially less than five (5) acres but will ultimately disturb five (5) or more acres. Applicant must be the owner or operator. For construction activities, the operator is typically the prime contractor. The owner(s) of the property and the prime contractor associated with regulated construction activity on the property have joint and severable responsibility for compliance with the Large Construction Storm Water General Permit MSR10.

If the company seeking coverage is a corporation, a limited liability company, a partnership, or a business trust, attach proof of its registration with the Mississippi Secretary of State and/or its Certificate of Good Standing. This registration or Certificate of Good Standing must be dated within twelve (12) months of the date of the submittal of this coverage form. Coverage will be issued in the company name as it is registered with the Mississippi Secretary of State.

Completed LCNOIs should be filed at least thirty (30) days prior to the commencement of construction. Discharge of storm water from large construction activities without written notification of coverage is a violation of state law.

Submittals with this LCNOI must include:
- **A site-specific Storm Water Pollution Prevention Plan (SWPPP) developed in accordance with ACT5 of the General Permit**
- **A detailed site-specific scaled drawing showing the property layout and the features outlined in ACT5 of the General Permit**
- **A United States Geological Survey (USGS) quadrangle map or photocopy, extending at least one-half mile beyond the facility property boundaries with the site location and outfalls outlined or highlighted. The name of the quadrangle map must be shown on all copies. Quadrangle maps can be obtained from the MDEQ, Office of Geology at 601-961-5523.**

Additional submittals may include the following, if applicable:
- **Appropriate Section 404 documentation from U.S. Army Corps of Engineers**
- **Appropriate documentation concerning future disposal of sanitary sewage and sewage collection system construction**
- **Appropriate documentation from the MDEQ Office of Land & Water concerning dam construction and low flow requirements**
- **Approval from County Utility Authority in Hancock, Harrison, Jackson, Pearl River and Stone Counties**
- **Antidegradation report for disturbance within Waters of the State**

ALL QUESTIONS MUST BE ANSWERED (Answer "NA" if the question is not applicable)

O.C

MSR10 9164

(NUMBER TO BE ASSIGNED BY STATE)

APPLICANT IS THE: ☑ OWNER ☐ PRIME CONTRACTOR

OWNER CONTACT INFORMATION

OWNER CONTACT PERSON: David Pitalo

OWNER COMPANY LEGAL NAME: Hancock County Utility Authority

OWNER STREET OR P.O. BOX: 401 Gulfside Street

OWNER CITY: Waveland STATE: Mississippi ZIP: 39576

OWNER PHONE #: (228) 467-3702 OWNER EMAIL: davidphcua@bellsouth.net

PREPARER CONTACT INFORMATION

IF NOI WAS PREPARED BY SOMEONE OTHER THAN THE APPLICANT

CONTACT PERSON: SCOTT BURGE, PE

COMPANY LEGAL NAME: Brown, Mitchell, & Alexander, Inc.

STREET OR P.O. BOX: 401 Cowan Road, Suite A

CITY: Gulfport STATE: Mississippi ZIP: 39507

PHONE # ( ) 228-864-7612 EMAIL: scott@bmaengineers.com

PRIME CONTRACTOR CONTACT INFORMATION

PRIME CONTRACTOR CONTACT PERSON: To be determined

PRIME CONTRACTOR COMPANY LEGAL NAME:

PRIME CONTRACTOR STREET OR P.O. BOX:

PRIME CONTRACTOR CITY: STATE: ZIP:

PRIME CONTRACTOR PHONE #: ( ) PRIME CONTRACTOR EMAIL:

FACILITY SITE INFORMATION

FACILITY SITE NAME: HCUA Stennis Space Center Wastewater conveyance project

FACILITY SITE ADDRESS (If the physical address is not available, please indicate the nearest named road. For linear projects indicate the beginning of the project and identify all counties the project traverses.)

STREET: Texas Flat Road and Mainline Road

CITY: Kiln STATE: Mississippi COUNTY: Hancock ZIP: 39556

FACILITY SITE TRIBAL LAND ID (N/A If not applicable): N/A

LATITUDE: 30 degrees 23 minutes 45 seconds LONGITUDE: 89 degrees 31 minutes 41 seconds

LAT & LONG DATA SOURCE (GPS *(Please GPS Project Entrance/Start Point)* or Map Interpolation): Google Earth

TOTAL ACREAGE THAT WILL BE DISTURBED [1]: Approximately 20 acres

IS THIS PART OF A LARGER COMMON PLAN OF DEVELOPMENT? YES ☐ NO ☑

IF YES, NAME OF LARGER COMMON PLAN OF DEVELOPMENT: _____
AND PERMIT COVERAGE NUMBER: MSR10____

ESTIMATED CONSTRUCTION PROJECT START DATE: 2024-05-01 (YYYY-MM-DD)

ESTIMATED CONSTRUCTION PROJECT END DATE: 2025-05-01 (YYYY-MM-DD)

DESCRIPTION OF CONSTRUCTION ACTIVITY: Construction of sewer forcemain and two lift stations

PROPOSED DESCRIPTION OF PROPERTY USE AFTER CONSTRUCTION HAS BEEN COMPLETED:
Wastewater, Pumpstation, and Force main

SIC Code: 1 6 2 3 NAICS Code 2 3 7 1 1 0

NEAREST NAMED RECEIVING STREAM: Catahoula Creek

IS RECEIVING STREAM ON MISSISSIPPI'S 303(d) LIST OF IMPAIRED WATER BODIES? (The 303(d) list of impaired waters and TMDL stream segments may be found on MDEQ's web site: http://www.deq.state.ms.us/MDEQ.nsf/page/TWB_Total_Maximum_Daily_Load_Section) YES ☑ NO ☐

HAS A TMDL BEEN ESTABLISHED FOR THE RECEIVING STREAM YES ☑ NO ☐

SEGMENT? FOR WHICH POLLUTANT: Biological Impairment

ARE THERE RECREATIONAL STREAMS, PRIVATE/PUBLIC PONDS OR LAKES WITHIN ½ MILE DOWNSTREAM OF PROJECT BOUNDRY THAT MAY BE IMPACTED BY THE CONSTRUCTION ACTIVITY? YES ☐ NO ☑

EXISTING DATA DESCRIBING THE SOIL (for linear projects please describe in SWPPP):
Smithton, Escambia, Harleston, Malbis, Atmore, Poarch, and Guyton

WILL FLOCCULANTS BE USED TO TREAT TURBIDITY IN STORM WATER? YES ☐ NO ☑

IF YES, INDICATE THE TYPE OF FLOCCULANT. ☐ ANIONIC POLYACRYLIMIDE (PAM) ☐ OTHER _____

IF YES, DOES THE SWPPP DESCRIBE THE METHOD OF INTRODUCTION, THE LOCATION OF INTRODUCTION AND THE LOCATION OF WHERE FLOCCULATED MATERIAL WILL SETTLE?

IS A SDS SHEET INCLUDED FOR THE FLOCCULATE? YES ☐ NO ☑

WILL THERE BE A 50 FT BUFFER BETWEEN THE PROJECT DISTURBANCE AND THE WATERS OF THE STATE? YES ☑ NO ☐

IF NOT, PROVIDE EQUIVALENT CONTROL MEASURES IN THE SWPPP.

[1]Acreage for subdivision development includes areas disturbed by construction of roads, utilities and drainage. Additionally, a housesite of at least 10,000 ft^2 per lot (entire lot, if smaller) shall be included in calculating acreage disturbed.

DOCUMENTATION OF COMPLIANCE WITH OTHER REGULATIONS/REQUIREMENTS

COVERAGE UNDER THIS PERMIT WILL NOT BE GRANTED UNTIL ALL OTHER REQUIRED MDEQ PERMITS AND APPROVALS ARE SATISFACTORILY ADDRESSED

IS LCNOI FOR A FACILITY THAT WILL REQUIRE OTHER PERMITS? YES ☐ NO ☑

IF YES, CHECK ALL THAT APPLY: ☐ AIR ☐ HAZARDOUS WASTE ☐ PRETREATMENT

☐ WATER STATE OPERATING ☐ INDIVIDUAL NPDES ☐ OTHER: _____

IS THE PROJECT REROUTING, FILLING OR CROSSING A WATER CONVEYANCE OF ANY KIND? (If yes, contact the U.S. Army Corps of Engineers' Regulatory Branch for permitting requirements.) YES ☑ NO ☐

IF THE PROJECT REQUIRES A CORPS OF ENGINEER SECTION 404 PERMIT, PROVIDE APPROPRIATE DOCUMENTATION THAT: See copy of Corps of Engineers permit in SWPPP

-The project has been approved by individual permit, or
-The work will be covered by a nationwide permit and NO NOTIFICATION to the Corps is required, or
-The work will be covered by a nationwide or general permit and NOTIFICATION to the Corps is required

IS THE PROJECT REROUTING, FILLING OR CROSSING A STATE WATER CONVEYANCE OF ANY KIND? (If yes, please provide an antidegradation report.) YES ☐ NO ☑

IS A LAKE REQUIRING THE CONSTRUCTION OF A DAM BEING PROPOSED? (If yes, provide appropriate approval documentation from MDEQ Office of Land and Water, Dam Safety.) YES ☐ NO ☑

IF THE PROJECT IS A SUBDIVISION OR A COMMERCIAL DEVELOPMENT, HOW WILL SANITARY SEWAGE BE DISPOSED? Check one of the following and attach the pertinent documents.

☐ Existing Municipal or Commercial System. Please attach plans and specifications for the collection system and the associated "Information Regarding Proposed Wastewater Projects" form or approval from County Utility Authority in Hancock, Harrison, Jackson, Pearl River and Stone Counties. If the plans and specifications can not be provided at the time of LCNOI submittal, MDEQ will accept written acknowledgement from official(s) responsible for wastewater collection and treatment that the flows generated from the proposed project can and will be transported and treated properly. The letter must include the estimated flow.

☐ Collection and Treatment System will be Constructed. Please attach a copy of the cover of the NPDES discharge permit from MDEQ or indicate the date the application was submitted to MDEQ (Date: _____.)

☐ Individual Onsite Wastewater Disposal Systems for Subdivisions Less than 35 Lots. Please attach a copy of the Letter of General Acceptance from the Mississippi State Department of Health or certification from a registered professional engineer that the platted lots should support individual onsite wastewater disposal systems.

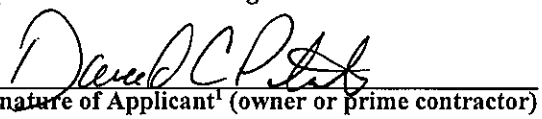
☐ Individual Onsite Wastewater Disposal Systems for Subdivisions Greater than 35 Lots. A determination of the feasibility of installing a central sewage collection and treatment system must be made by MDEQ. A copy of the response from MDEQ concerning the feasibility study must be attached. If a central collection and wastewater system is not feasible, then please attach a copy of the Letter of General Acceptance from the State Department of Health or certification from a registered professional engineer that the platted lots should support individual onsite wastewater disposal systems.

INDICATE ANY LOCAL STORM WATER ORDINANCE (I.E. MS4)WITH WHICH THE PROJECT MUST COMPLY:

_____

_____

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



Signature of Applicant[1] (owner or prime contractor)

12/5/23

Date Signed

David Pitalo

Printed Name[1]

Executive Director

Title

[1]This application shall be signed as follows:

- **For a corporation, by a responsible corporate officer.**
- **For a partnership, by a general partner.**
- **For a sole proprietorship, by the proprietor.**

For a municipal, state or other public facility, by principal executive officer, mayor, or ranking elected official

Please submit the LCNOI form to: **Chief, Environmental Permits Division**
MS Department of Environmental Quality, Office of Pollution Control
P.O. Box 2261
Jackson, Mississippi 39225

Electronically: **https://www.mdeq.ms.gov/construction-stormwater/**

Revised 3/23/22

STORM WATER POLLUTION PREVENTION PLAN (SWPPP)

For

HANCOCK COUNTY UTILITY AUTHORITY
STENNIS SPACE CENTER WASTEWATER
CONVEYANCE PROJECT
HANCOCK COUNTY, MS

BMA Project No. 3846

December 4, 2023

Prepared for:

Hancock County Utility Authority
401 Gulfside Street
Waveland, MS 39576-28095
Phone: (228) 467-3702
E-mail: hcua@bellsouth.net

Prepared by:

Brown, Mitchell & Alexander, Inc.
401 Cowan Road, Suite A
Gulfport, Mississippi 39507
Phone: (228) 864-7612
Fax: (228) 864-7676

BROWN, MITCHELL & ALEXANDER, INC.
CONSULTING ENGINEERS

CELEBRATING 50 YEARS

EXECUTIVE SUMMARY

Brown, Mitchell & Alexander, Inc. has prepared this Storm water Pollution Prevention Plan (SWPPP) for the Hancock County Utility Authority's Stennis Space Center Wastewater Conveyance Project located in Hancock County, MS more specifically being located along Mainline Road and Texas Flat Road. The plan has been prepared in accordance with the provisions of the Clean Water Act, the National Pollution Discharge Elimination System, and the requirements of the Mississippi Department of Environmental Quality. This plan is being prepared to accompany a Large Construction Notice of Intent LCNOI in accordance with the General Permit.

This report is divided into sections and provides the user with the information relating to the measures to be taken by the contractor to control the storm water discharges during the construction phase of the project. A summary of the information presented in each section is as follows:

- **Section 1.0** Introduction - outlines the detailed location of the project, scope of the project and the purpose of the plan.
- **Section 2.0** Construction Stormwater Management Activities - provides detailed information regarding the construction activities and measures to be taken by the contractor both during and after construction to ensure proper management of the storm water generated on site.
- **Section 3.0** Post-Construction Storm Water Management - outlines the post-construction storm water practices and controls for this project.
- **Section 4.0** Maintenance / Inspection Procedures - presents information about the maintenance and inspection procedures to be used for this project.
- **Section 5.0** Material Management / Spill Prevention - outlines the material management practices and spill prevention measures for the project.
- **Appendices:** Appendix I Vicinity Map (USGS Quadrangle Map)
  Appendix II Site Plan- Pump Station Sites
  Appendix III Erosion Control Plan
  Appendix IV Erosion Control Construction Details
  Appendix V U.S. Army Corps of Engineers Permit (No. SAM-2023-00915-KJP and MDEQ WQC Permit No. WQC2020088)

STORM WATER POLLUTION PREVENTION PLAN
Stennis Space Center Wastewater Conveyance Project
Hancock County, MS

1.0 INTRODUCTION

The owner proposes the construction of approximately 8.5 miles of 12" and 14" diameter force main and two lift stations along Mainline and Texas Flat Roads in Sections 22, 23, 24, 25, and 27 of Township 7 South, Range 16 West, and Sections 30, 31, 32, 33, 34, and 35 of Township 7 South, Range 15 West, Kiln, Mississippi. The project will utilize surface drainage to manage storm water both during and after construction. This project overlaps soil types of Smithton, Escambia, Harleston, Malbis, Atmore, Poarch, and Guyton.

This purpose of this plan (SWPPP) is to accompany the LCNOI and outline the minimum standards, practices, and requirements necessary for the contractor to meet requirements of the Environmental Protection Agency (EPA) and Mississippi Department of Environmental Quality (MDEQ) regarding treatment and discharge of storm water.

2.0 CONSTRUCTION STORMWATER MANAGEMENT ACTIVITIES

Major construction activities associated with the project will include, but not necessarily be limited to clearing and grubbing, construction of sewer force mains and lift stations, ancillary construction and grassing.

2.1 Sequence of Major Construction Activities

Major construction activities will be scheduled and carried out in a manner consistent with routine construction practices. The following list provides a general schedule of the events that will occur during construction as well as the sequence in which the events are proposed:

1. Construction of sewer force main by open cut;
2. Construction of sewer force main by horizontal directional bore;
3. Grassing of sewer force main construction areas;
4. Clearing and grubbing of two lift station sites;
5. Install construction entrance at lift station sites;
6. Earthwork and grading at lift station sites;
7. Construction of lift station including wet well, piping and electrical equipment;

8. Final grading at lift station sites
9. Grassing at lift station sites,
10. Removal of temporary erosion control devices at lift station sites;

2.2 Timing of Control Measures

Temporary sediment control devices will be installed prior to commencement of grading and earthwork activities. Areas which have been disturbed by construction activities will be stabilized to prevent erosion and sedimentation. Once construction is complete, the entire project site will be stabilized with permanent seed, and/or sod.

Construction activities for this project may be implemented in phases. Erosion control measures will be installed for each phase prior to beginning work in that phase.

2.3 Stabilization Practices

Silt fence will be placed at openings of inlets and flared end sections to filter sediments. Disturbed areas where construction activities have permanently ceased will be stabilized with permanent seed, sod, or permanent surface materials no later than 7 days after the last construction activity. Construction entrances and all interior construction areas will be monitored for excessive buildup of mud and/or dirt.

2.4 Grading Activities

Land grading activities vary by project type. Land grading will be required prior to trench excavation and installation of sewer force mains. Land grading for sewer force main installation using directional boring techniques will be required. The majority of the grading will occur during the first 1 month of construction at lift station sites and will be focused on shaping the site to final grades. Construction entrances shall be installed and maintained to minimize off-site sedimentation resulting from vehicle tracking.

2.5 Erosion and Sediment Controls

During construction, care will be taken to manage storm water, and the owner will implement appropriate erosion and sediment control to retain sediment on site. The objective of the plan will divert upslope water around disturbed areas, limit exposure of disturbed areas to the shortest time possible, disturb the smallest area possible, preserve vegetation where possible, and slow rainfall runoff velocities to prevent erosion. A variety of vegetative and structural controls shall be used.

2.5.1 Vegetative Controls

Construction shall proceed in a planned sequence, and every attempt will be made to preserve existing vegetation in order to reduce erosion. All disturbed sites, on which construction activities will not resume for a period of fourteen (14) calendar days or more, shall be managed and re-vegetated no later than the next work day following clearing, grading, grubbing, excavating, and all other land disturbance activities. Where applicable, disturbed areas shall be stabilized by use of temporary seeding, permanent seeding, mulching, sod stabilization, and/or vegetative buffer zones.

If it is not feasible to achieve this requirement due to circumstances beyond the contractor's control, then the following stabilization deadlines shall be followed:

1. Immediately initiate, and within fourteen (14) calendar days complete, the installation of temporary non-vegetated stabilization measures to prevent erosion;
2. Complete all soil conditioning, seeding, watering or irrigation installation, mulching, and other required activities related to the planting and initial establishment of vegetation as soon as conditions or circumstances allow it on your site; and,
3. Document the circumstances that prevent you from meeting the deadlines required and the schedule you will follow for initiating and completing stabilization.

2.5.1.1 Temporary Seeding

Temporary seeding shall be planted in accordance with the planting schedule, rate of application, and planting preparation outlined in the MDEQ seeding chart.

2.5.1.2 Permanent Seeding

If called for on plans, permanent seeding shall be established on disturbed surfaces along the access road and project site upon final grading and other activities.

2.5.1.3 Sod Stabilization

If called for on plans, sod shall be provided at appropriate places within the project site upon completion of final grading and other activities.

2.5.2 Structural Controls

In addition to the vegetative practices referenced above, certain structural erosion control measures shall be implemented, as needed. These measures include diverting flows from exposed soils, or otherwise limiting runoff from exposed areas. Other structural devices may include wattles, silt fences, drainage swales, rock check dams, and sediment basins.

The contractor shall utilize as sedimentation basins during project construction if necessary. Once construction is complete, the contractor shall restore the storm water detention basins to their original plan-grade and cross-section. Seeding or sodding shall follow as described in **Section 2.5.1**.

2.5.2.1 Stabilized Construction Entrance / Exit

Stabilized construction entrances shall be installed to help reduce the vehicular tracking of sediments onto public roads. These stabilization areas shall consist of a layer of natural stone or other acceptable material to a depth of at least six inches and a length of at least 50 feet prior to the intersection of any public road.

2.5.2.2 Silt Fencing and Sediment Barriers

Silt fencing and sediment barriers shall be installed to intercept and detain sediment from disturbed areas during construction activities. Silt fencing shall consist of synthetic woven or non-woven fabric and will be attached to supporting posts and entrenched, as indicated on attached construction details. Sediment barriers shall be constructed of natural stone, concrete riprap, wattles, or other acceptable materials. These structures shall be installed downslope of disturbed areas or in minor swales or ditch lines that have been constructed for the sole purpose of storm water drainage. Silt fencing and sediment barriers shall not be installed in live streams or in areas where surface flow is anticipated to exceed 1 cubic foot per second (cfs).

2.5.2.4 Other Structural Controls

Other structural controls may be implemented into the erosion control plan and the required materials, objectives and details shall be indicated in the plans.

2.5.2.5 Dewatering

Water from dewatering of excavation, particularly lift station wet wells will be diverted through a temporary sediment basin designed to filter sediment from ground water prior to draining offsite.

2.6 Prohibited Non-Storm Water Discharges

The following non-storm water discharges are prohibited:

1. Wastewater from washout of concrete (unless managed by appropriate Best Management Practices (BMPs))
2. Wastewater from washout and cleanout of stucco, paint, from releasing oils, curing compounds and other construction materials
3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance
4. Soaps or solvents used in vehicle and equipment washing
5. Wastewater from Sanitary facilities, including portable toilets
6. Dewatering activities, including from dewatering of trenches and excavations except as specified here in.

3.0 POST-CONSTRUCTION STORMWATER MANAGEMENT

Post-construction storm water management shall be accomplished through the use of surface drainage, subsurface drainage and storm water detention basins. Regular maintenance (including grass mowing), cleaning, and inspections shall be conducted every six (6) months to ensure the subsurface drainage system and storm water detention basins operate at maximum efficiency.

4.0 MAINTENANCE / INSPECTION PROCEDURES

All storm water control measures outlined above shall require routine inspection and periodic maintenance during the duration of construction. The contractor shall inspect all stormwater control devices on a scheduled basis and perform all necessary maintenance measures to ensure their proper function during construction activities.

4.1 Construction Inspection and Maintenance Practices

In order to ensure the effectiveness of the erosion and sediment control practices incorporated into this plan, the contractor shall inspect and maintain the storm water control devices referenced above during construction of the project. These devices shall be inspected and maintained as follows:

1. All erosion and sediment control measures shall be inspected at least once each week for a minimum of four inspections per month and following any rain events

that produce a discharge. All measures shall be maintained in good working order and repaired within 24 hours of any reported problem unless prevented by unsafe weather conditions as documented on the inspection form.

2. Sediment buildup behind silt fences or barriers shall be removed when it has reached one-half of the height of the barrier.
3. Silt fences and silt barriers shall be inspected for depth of sediment, tears, breaches, and general integrity on a weekly basis.
4. A maintenance inspection report shall be completed after each inspection and filed on the job site by the site contractor.
5. It is also strongly recommended that a "walk through" inspection of the construction site daily to ensure controls are in place and will function properly.

4.2 Post-Construction Inspection and Maintenance Practices

Upon completion of construction, and in order to ensure the effectiveness of the drainage system and storm water management features described in this plan, the owner shall inspect the storm water system as part of its overall site inspection and maintenance program. The system shall be inspected and maintained as follows:

1. Yard and lawn areas shall be maintained by regular mowing during the growing season to keep grass to an acceptable length.
2. Every six months ditches, swales, inlets, drainage culverts and storm water basins shall be inspected. Any ditches, swales or culverts that have become overgrown or clogged shall be corrected within 72 hours.
3. Any areas of the site that show signs of erosion will be grassed by seeding or sodding and stabilized immediately.
4. Storm water basins shall be inspected for stable banks or side slopes, deposition of sediment and overgrowth of vegetation. Once sediment deposits take up 10% of the designed volume of a detention basin, the sediment shall be removed and the basin restored to its designed volume. All deficiencies in overgrowth of vegetation, instability of erosion of side slopes or loss of volume due to sediment shall be corrected immediately.
5. A maintenance inspection report shall be made after each inspection and filed on the site by the owner.

5.0 MATERIAL MANAGEMENT PRACTICES / SPILL PREVENTION

In addition to the erosion and sediment control measures that will be implemented both during and after construction, the owner shall require certain material management and spill prevention measures to prevent impacts to water quality.

5.1 Housekeeping Practices

The following housekeeping practices shall be followed on site during the construction project:

1. All materials stored on site shall be stored in a neat, orderly manner in their appropriate containers and, if possible, under a roof or other enclosure.
2. Products shall be kept in their original containers with the original manufacturer's label.
3. Manufacturer's recommendations for proper use and disposal shall be followed.
4. The site superintendent shall inspect the site on a daily basis to ensure proper use and disposal of materials on site.
5. All sediment or other debris tracked or deposited from the site onto adjacent streets and other paved surfaces shall be swept or removed.
6. All sediment or other pollutants that have accumulated in or near any sediment control measures, storm water conveyance channels, storm drain inlets, or water course conveyance within the construction site shall be removed.
7. Accumulated sediment that has been trapped by sediment control measures at the site shall be removed in accordance with maintenance requirements, as described in **Section 4.1**.

After construction, the owner shall utilize good housekeeping practices to prevent the accidental release of contaminants and/or pollutants from entering the surrounding surface waters.

5.2 Spill Control Practices

The following practices shall be used to reduce the risks associated with any spills of materials during the construction phase of the project:

1. All spills shall be cleaned up immediately after discovery.
2. Spills of toxic or hazardous materials shall be reported to the appropriate government agency.
3. Materials and equipment necessary for spill cleanup shall be kept in the material

storage area on site. Equipment and materials will include but not be limited to brooms, dust pans, mops, rags, gloves, goggles, absorbent material, sand, sawdust, and plastic and metal trash containers.

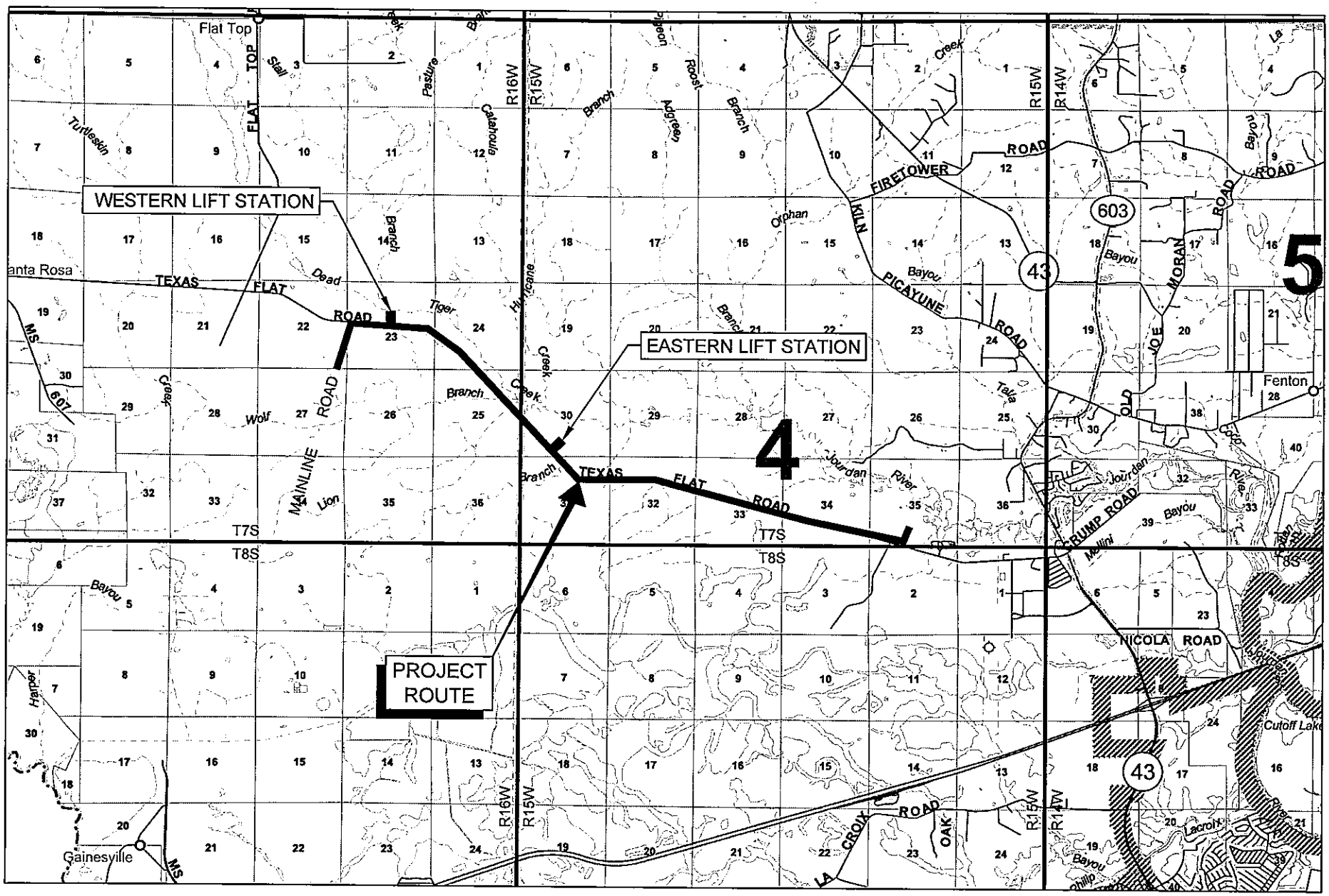
5.3 Waste Disposal

All waste materials will be collected and stored in a covered metal dumpster provided by a licensed solid waste management company in Hancock County, Mississippi. All construction debris and trash will also be deposited in the dumpster. Construction waste shall not be buried on site. All personnel shall be instructed regarding the correct procedure for waste disposal. All hazardous waste materials will be disposed of in the manner specified by the local or state regulation or by the Material Safety Data Sheets (MSDS) provided with the particular waste material. All sanitary waste will be collected from the portable units as required.

Once site development is completed, the owner shall utilize appropriate solid waste disposal procedures commensurate with the type of solid waste generated at the site. All sanitary waste generated on the site shall be discharged to a public wastewater utility system.

APPENDIX I

VICINITY MAP



VICINITY MAP

STORM WATER POLLUTION PREVENTION PLAN

STENNIS SPACE CENTER - WASTEWATER CONVEYANCE PROJECT
HANCOCK COUNTY, MISSISSIPPI

12/1/2023

BROWN, MITCHELL & ALEXANDER, INC.
CONSULTING ENGINEERS

SCALE: 1"=8000'

THE MAP SHOWN IS FROM THE MDOT GENERAL HIGHWAY MAP FOR HANCOCK COUNTY, REVISED 4/16/2018

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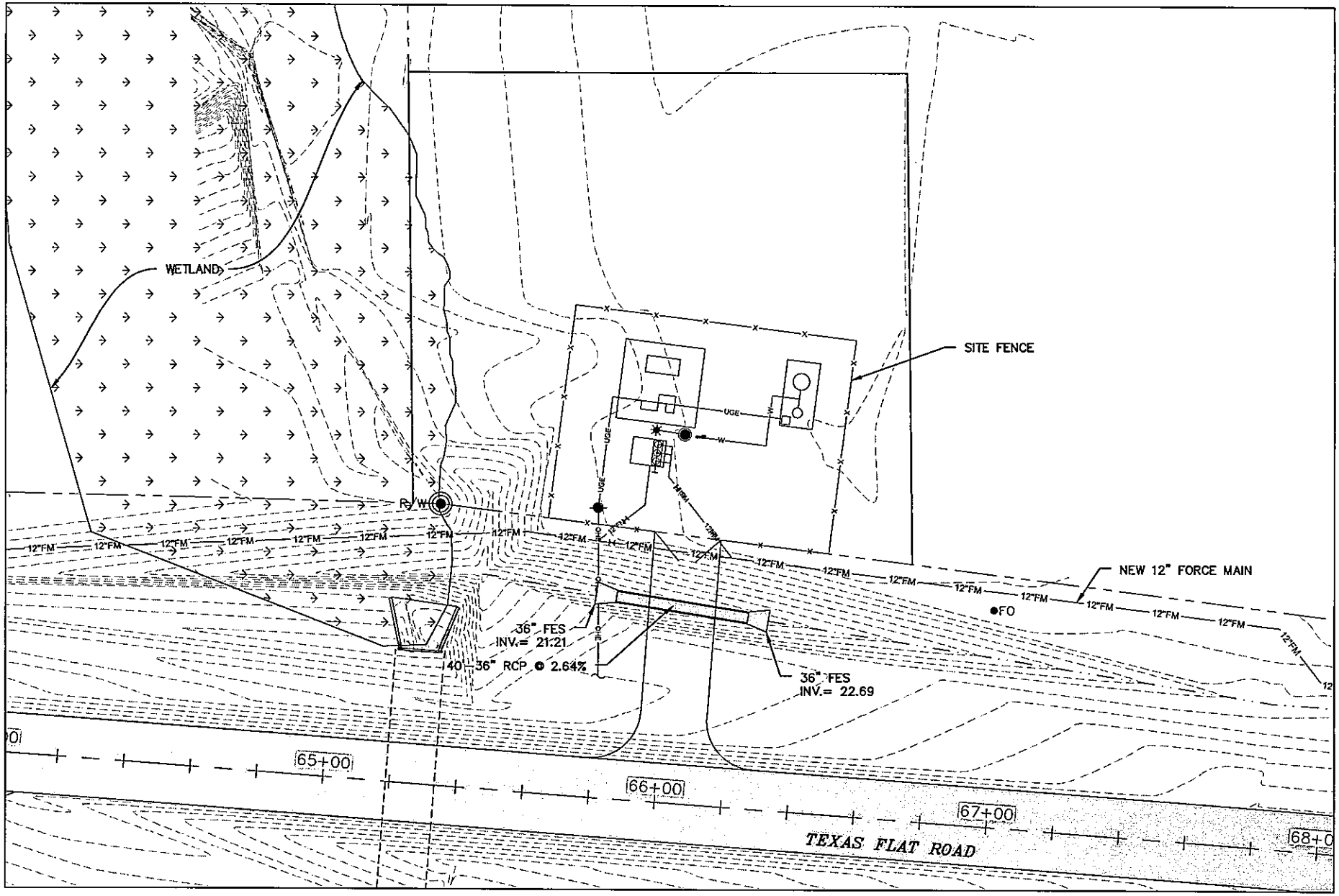
APPENDIX II

LIFT STATION SITE PLANS



WESTERN LIFT STATION - SITE PLAN

STORM WATER POLLUTION PREVENTION PLAN

STENNIS SPACE CENTER - WASTEWATER CONVEYANCE PROJECT
HANCOCK COUNTY, MISSISSIPPI

12/1/2023

BROWN, MITCHELL & ALEXANDER, INC.
CONSULTING ENGINEERS

SCALE: 1"=40'

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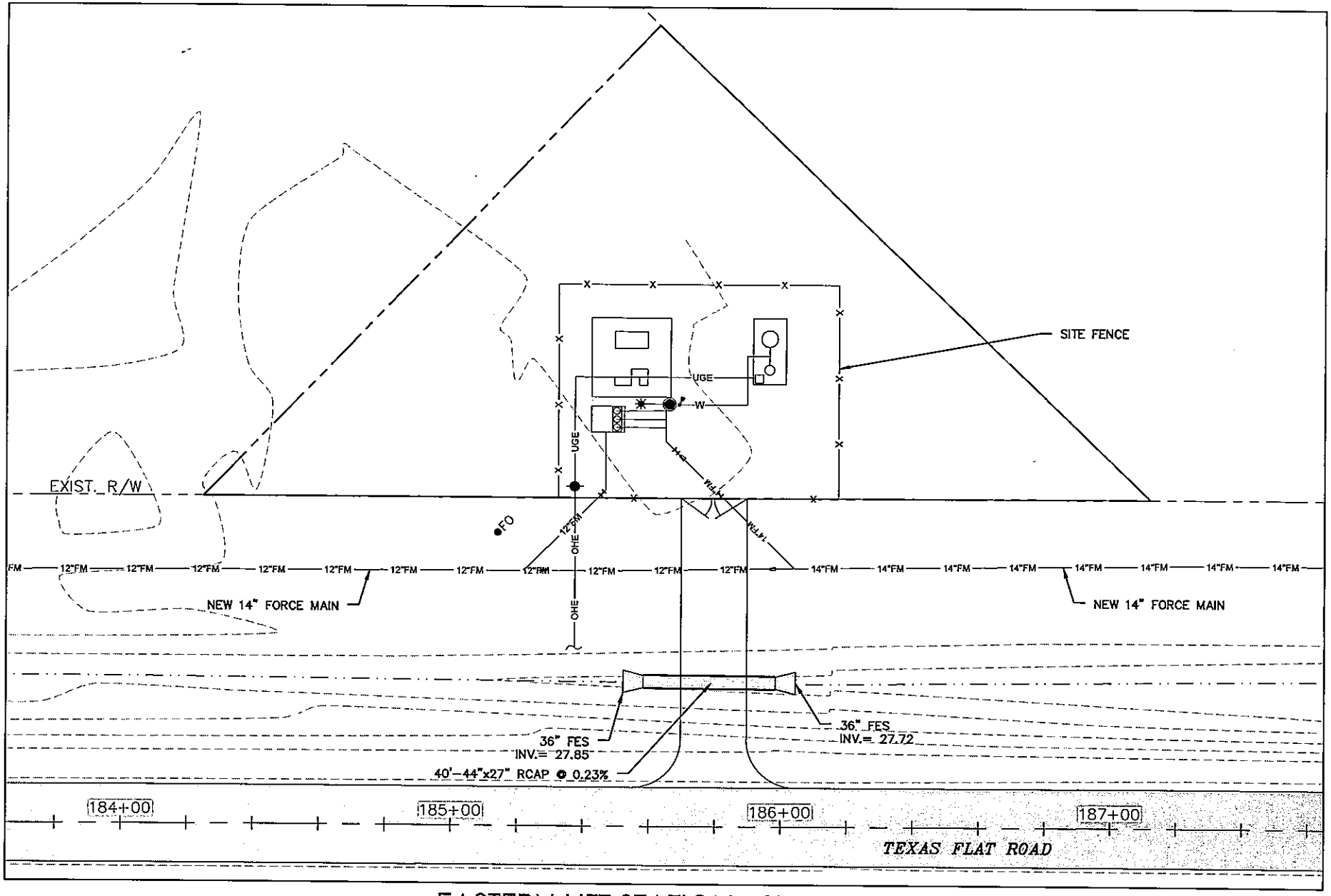

EASTERN LIFT STATION - SITE PLAN

STORM WATER POLLUTION PREVENTION PLAN

STENNIS SPACE CENTER - WASTEWATER CONVEYANCE PROJECT
HANCOCK COUNTY, MISSISSIPPI

12/1/2023

BROWN, MITCHELL & ALEXANDER, INC.
CONSULTING ENGINEERS

SCALE: 1"=40'

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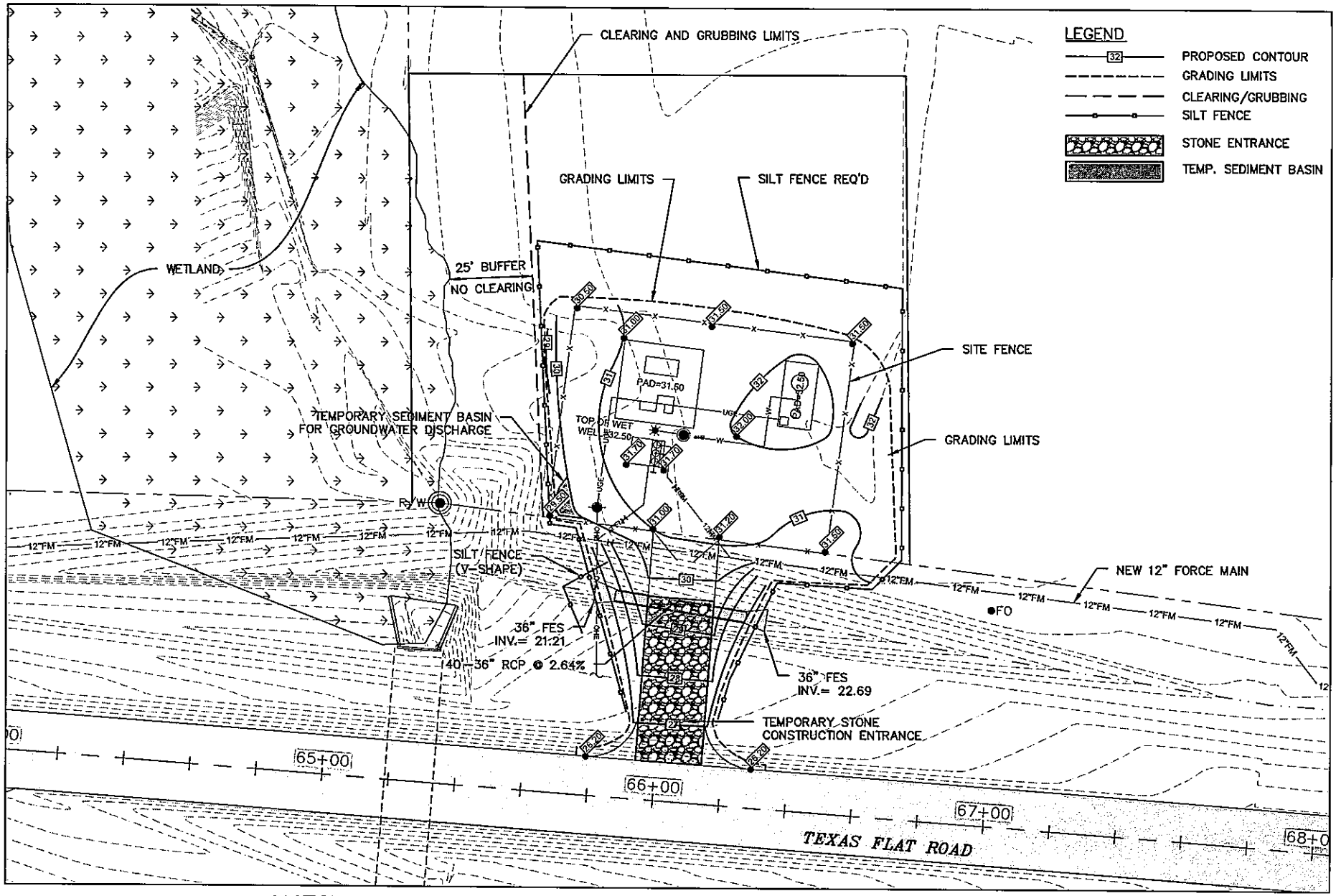
APPENDIX III

LIFT STATION EROSION CONTROL PLANS



WESTERN LIFT STATION - GRADING & EROSION CONTROL

STORM WATER POLLUTION PREVENTION PLAN

STENNIS SPACE CENTER - WASTEWATER CONVEYANCE PROJECT
HANCOCK COUNTY, MISSISSIPPI

12/1/2023

BROWN, MITCHELL & ALEXANDER, INC.
CONSULTING ENGINEERS

SCALE: 1"=40'

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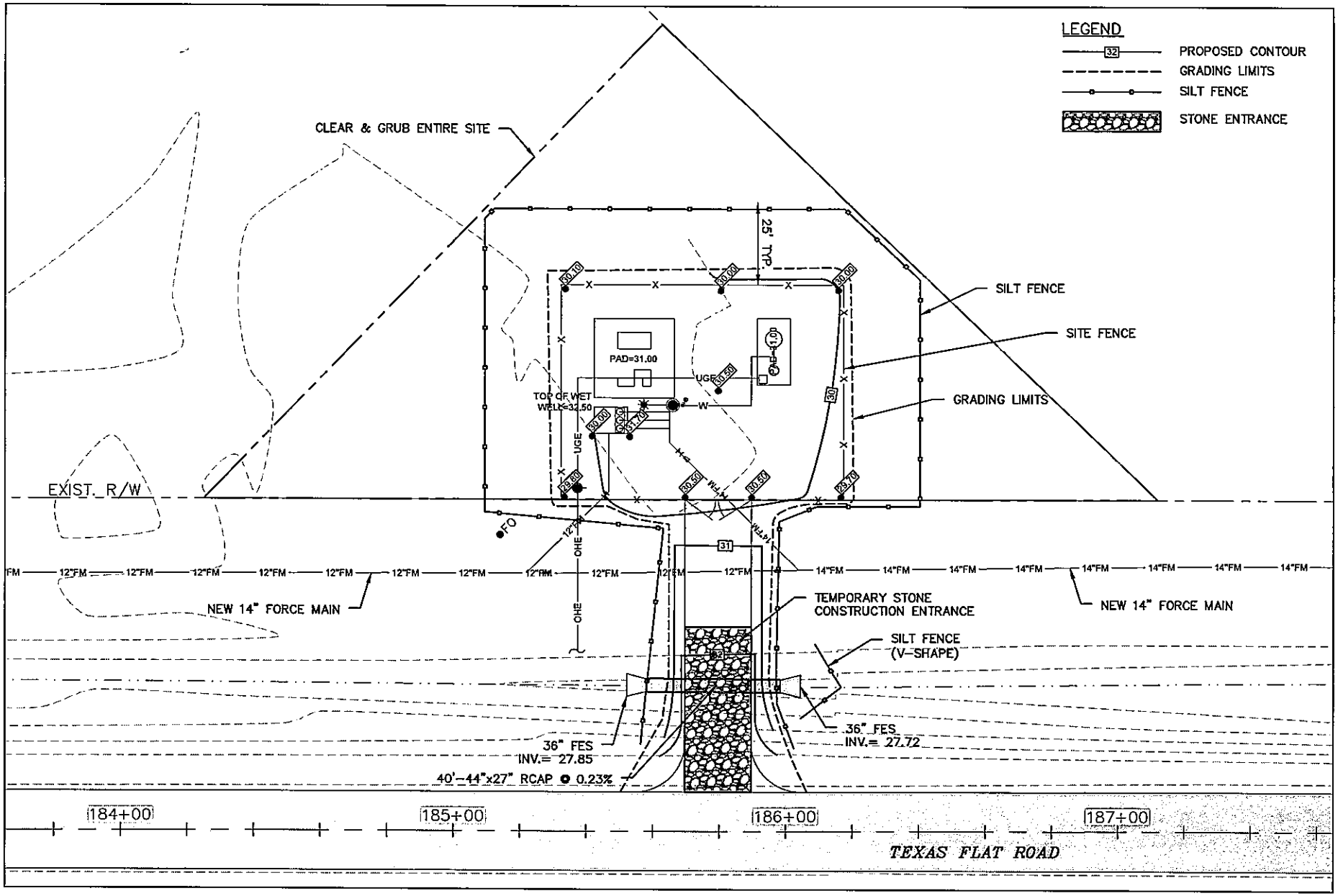

EASTERN LIFT STATION - GRADING & EROSION CONTROL

STORM WATER POLLUTION PREVENTION PLAN

STENNIS SPACE CENTER - WASTEWATER CONVEYANCE PROJECT
HANCOCK COUNTY, MISSISSIPPI

12/1/2023

BROWN, MITCHELL & ALEXANDER, INC.
CONSULTING ENGINEERS

SCALE: 1"=40'

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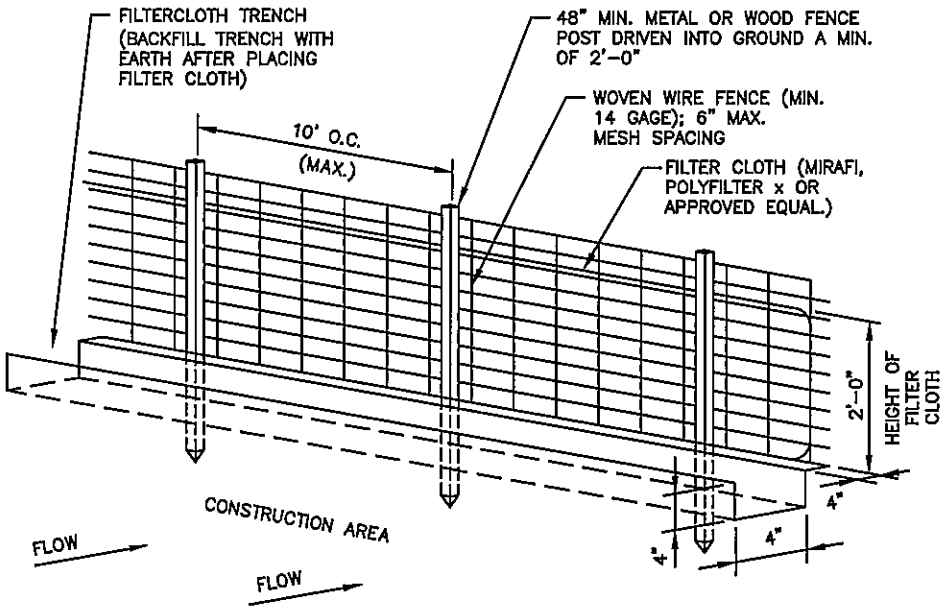

CONSTRUCTION SPECIFICATIONS

INSTALLATION:

1. USE STEEL FENCE POSTS OR 4-INCH DIAMETER WOODEN POSTS THAT ARE 5 FEET IN LENGTH.
2. INSTALL POSTS STARTING AT THE CENTER OF THE LOWEST POINT OF THE FENCE LINE. DRIVE POSTS 12 INCHES INTO THE GROUND.
3. INSTALL POSTS ON 10-FOOT CENTERS IF METAL MESH FENCING IS TO BE USED AS ADDITIONAL SUPPORT. IF NO METAL FENCING SUPPORT IS USED, THEN INSTALL POSTS ON 6-FOOT CENTER OR LESS.
4. EXCAVATE A TRENCH 4 INCHES DEEP BY 4 INCHES WIDE ON THE UPHILL SIDE OF THE FENCE POSTS.
5. STAPLE OR TIE SILT FENCE FABRIC TO POSTS ON UPHILL SIDE, LEAVING 8 INCHES ON THE BOTTOM TO EXTEND DOWN AND ACROSS THE BOTTOM OF THE TRENCH.
6. BACKFILL TRENCH AND TAMP DOWN OVER FABRIC.
7. ALLOW 6-INCH OVERLAP AT JOINTS.
8. MULCH BARE GROUND UPHILL OF SILT FENCE OR PROVIDE OTHER EROSION CONTROL MEASURES.

MAINTENANCE:

1. REMOVE ACCUMULATED SEDIMENT ALONG THE FENCE WHEN IT HAS REACHED A THIRD TO A HALF OF THE FENCE HEIGHT. DO NOT PLACE SEDIMENT ON THE DOWNHILL SIDE.
2. INSPECT WEEKLY AND AFTER EACH SIGNIFICANT STORM EVENT (GREATER THAN 1/2 INCH OF RAIN).
3. REMOVE FENCE WHEN AREA ABOVE THE FENCE HAS BEEN STABILIZED.
4. IF FABRIC IS TORN, THEN REPLACE WITH A NEW PIECE THAT STRETCHES TO POST ON EITHER SIDE OF THE TEAR.

EROSION CONTROL - SILT FENCE DETAIL

STORM WATER POLLUTION PREVENTION PLAN
STENNIS SPACE CENTER - WASTEWATER CONVEYANCE PROJECT
HANCOCK COUNTY, MISSISSIPPI

12/1/2023

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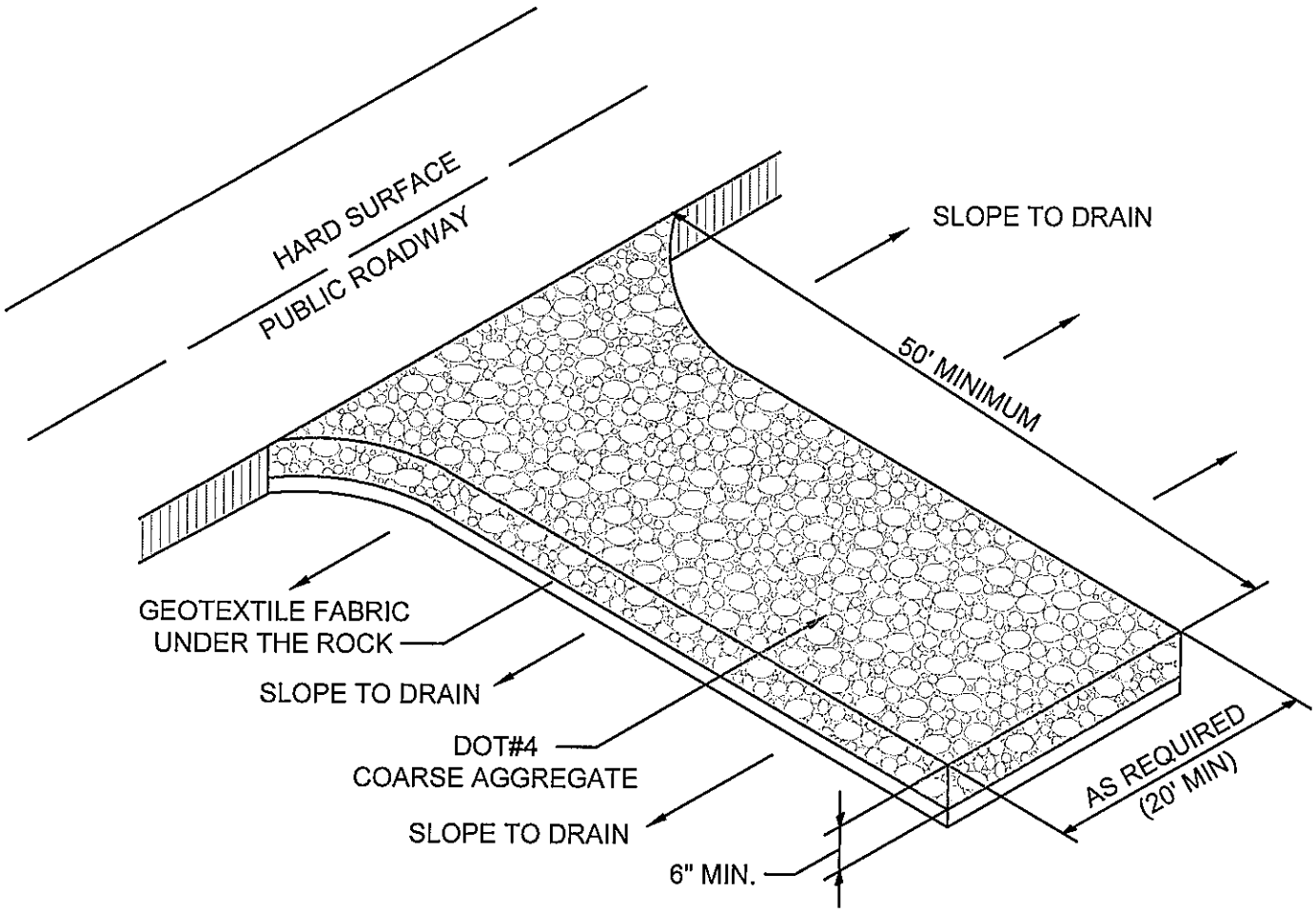

EROSION CONTROL - STONE CONSTRUCTION ENTRANCE

STORM WATER POLLUTION PREVENTION PLAN
STENNIS SPACE CENTER - WASTEWATER CONVEYANCE PROJECT
HANCOCK COUNTY, MISSISSIPPI

12/1/2023

BROWN, MITCHELL & ALEXANDER, INC.
CONSULTING ENGINEERS

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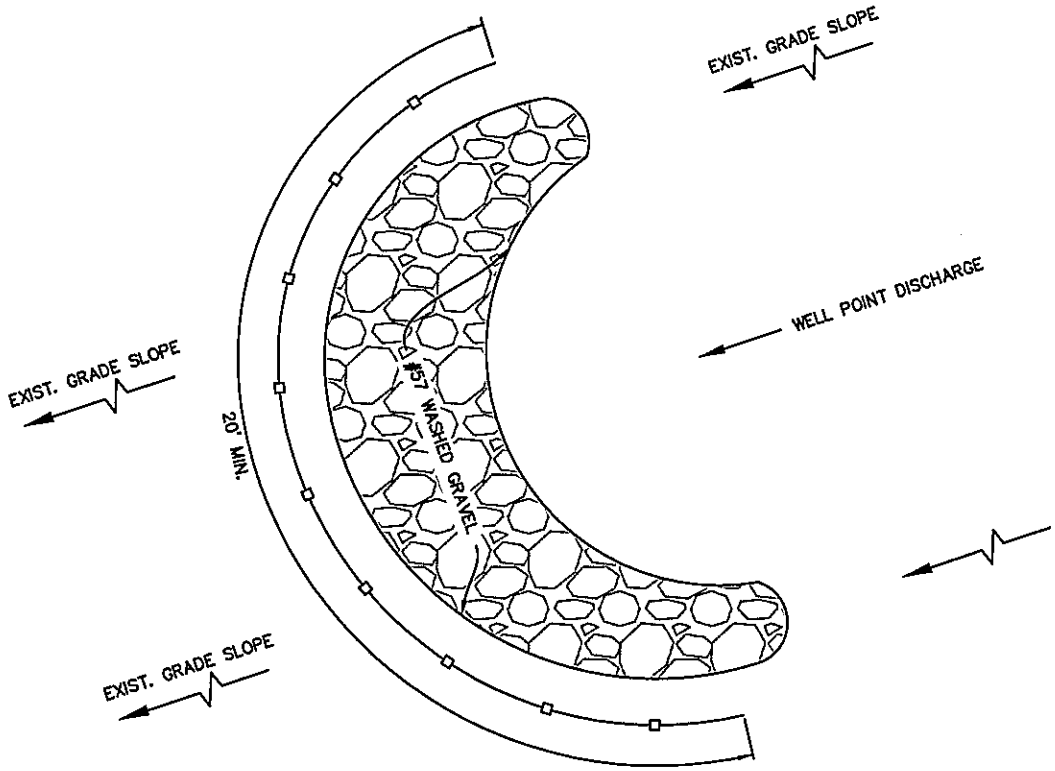
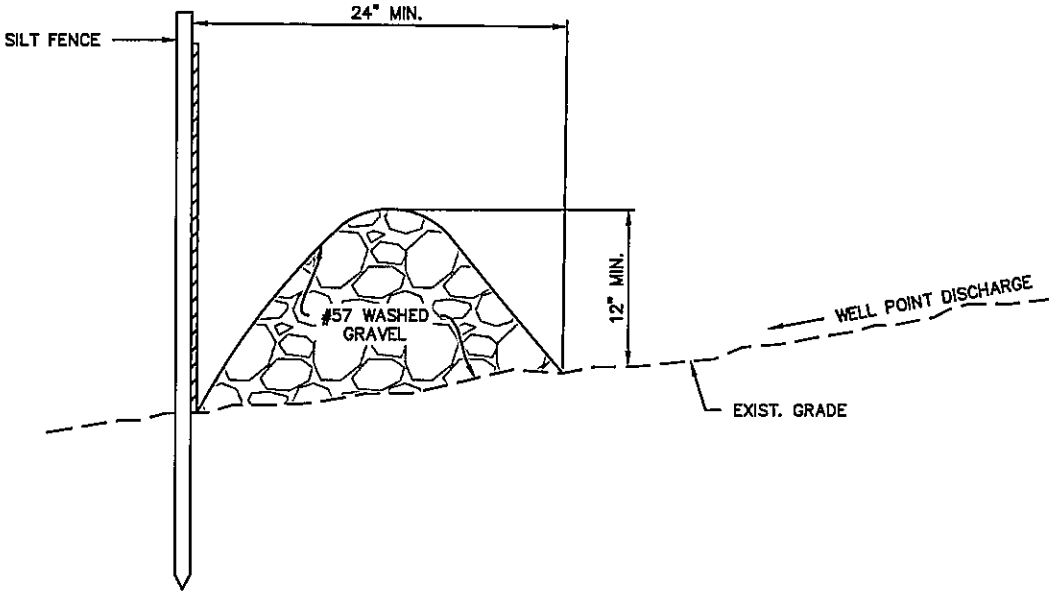
APPENDIX IV

EROSION CONTROL CONSTRUCTION DETAILS





EROSION CONTROL - SEDIMENT BASIN (GROUNDWATER)

STORM WATER POLLUTION PREVENTION PLAN

STENNIS SPACE CENTER - WASTEWATER CONVEYANCE PROJECT
HANCOCK COUNTY, MISSISSIPPI

12/1/2023

BROWN, MITCHELL & ALEXANDER, INC.
CONSULTING ENGINEERS

APPENDIX IV

U.S. ARMY CORPS OF ENGINEERS PERMIT

(PERMIT NO. SAM-2023-00915-KJP

AND

MDEQ WATER QUALITY CERTIFICATION

NO. WQC 2020088)

DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, MOBILE DISTRICT
P.O. BOX 2288
MOBILE, AL 36628-0001

October 20, 2023

South Mississippi Branch
Regulatory Division

SUBJECT: Department of the Army, Nationwide Permit 58, File Number SAM-2023-00915-KPJ, Hancock County Utility Authority, Stennis Space Center Wastewater Conveyance, Hancock County, Mississippi

Hancock County Utility Authority
Attention: Mr. David Pitalo
Email Address: davidphcua@bellsouth.net
401 Gulfside St.
Waveland, MS 39576

Dear Mr. Pitalo:

This letter is in response to your request for a Department of the Army (DA) Nationwide Permit (NWP) for the proposed placement of new sanitary force main in Kiln, MS. This project has been assigned File Number SAM-2023-00915-KPJ, which should be referred to in all future correspondence with this office concerning this project. The project is located multiple locations within the Rights-of-way on Mainline Road, Texas Flat Road, and ending at the regional treatment facility on Texas Flat Road; within Section 30, Township 7 South, Range 15 West; Approximate center coordinates are Latitude 30.4026648° North and Longitude 89.5413546° West; Kiln, MS.

Section 404 of the Clean Water Act (33 U.S.C. 1344) specifically addresses discharges of dredged and/or fill material into waters of the United States (U.S.), including wetlands, and requires that a Department of the Army (DA) permit must be obtained prior to conducting any work that would include a discharge of dredged and/or fill material into waters of the U.S. However, as indicated in your letter and project plans, the proposed installation of new 12-inch HDPE sanitary force main will be installed inside existing road rights-of-way for the sanitary sewer system. Lines will be open trenched and refilled with native soil unless wetland boring is necessary. Impacts will be temporary, and no wetland fill is requested.

A review of the information you submitted on September 29, 2023, and follow-up correspondence on October 18, 2023, indicates that the regulated activity associated with the proposed work appears to be authorized by a Nationwide Permit (NWP), specifically, NWP 58. No application or notification to the Mobile District Corps of Engineers is required for your project.

Utility line projects may be authorized via Nationwide Permit 58 (see attached, Pages 15 - 35). In some cases, submittal of an application or pre-construction

notification (PCN) to the Corps is not required as long as all permit terms and conditions are met. NWP-58 does not require PCN for non-Section 10 (i.e. non-navigable) crossings of wetlands/streams as long as the discharges are below 1/10th of an acre and the work would have no potential to impact historic properties or federally-listed, threatened, and endangered species/critical habitat.

This letter does not verify permit eligibility but indicates that your project may meet the requirements of this permit. **It is your responsibility to ensure that the work is performed in accordance with the terms and all General and Special terms and conditions of this NWP, as well as State 401 Water Quality Certification conditions prior to starting work in waters of the U.S.** A copy of the above referenced NWP and its associated Regional and General Conditions and State Water Quality Certification are attached for your review and compliance.

Any proposed modifications to the project location or scope of work, or anticipated ground disturbance or discharge of fill material in streams and/or wetland areas, should be coordinated with our office prior to commencing the activity.

The statements contained herein do not convey any property rights or any exclusive privileges, and do not authorize any injury to property nor shall it be construed as excusing you from compliance with other Federal, State, or local statutes, ordinances, or regulations that may affect proposed work.

Electronic copies of this permit are being provided to your agent, Patrick Mooney, with BMA Consulting Engineers at patrick@bmaengineers.com.

If you have any questions, please contact me at 251-395-5762, or karen.p.jordan@usace.army.mil. For additional information about our Regulatory Program, visit our web site at www.sam.usace.army.mil/Missions/Regulatory.aspx. Also, please take a moment to complete our customer satisfaction survey located near the bottom of the webpage. Your responses are appreciated and will help us improve our services.

Sincerely,

2023.10.20
14:58:37 -05'00'

Karen P. Jordan
Project Manager
South Mississippi Branch
Regulatory Division

Attachments

Stennis Space Center-

Wastewater Conveyance

Hancock County, MS

Environmental Assessment

MDMR/USACE/MDEQ Joint Application-Attachment C

USACE Mobile District

Produced by:

Patrick Mooney, RPG

Environmental Geologist

Brown, Mitchell, & Alexander, Inc.

401 Cowan Road, STE A

Gulfport, MS 39507

patrick@bmaengineers.com

BROWN, MITCHELL & ALEXANDER, INC.
CONSULTING ENGINEERS

1.0 Project Location & Description Summary

Stennis Space Center Wastewater Conveyance (Project) is in Hancock County, MS. The Project will place new, 12" HDPE sanitary force main from the north side of Stennis Security Gate on Mainline Road, then east along Texas Flat Road, finally to a regional treatment facility on Texas Flat Road. The Project is located inside previously established Rights of Way along both roads. The Project center location is at:

30.4026648° W, -89.5413546° N

Section 30, Township 7 South, Range 15 West

The proposed Project is linear and approximately oriented from northwest to southeast. The Project is approximately 41,350 feet or 7.83 miles.

We request to temporarily impact by excavation, side cast, and refill of native soil 0.35 of an acre (15,350 sq ft) of wetlands as authorized under Nationwide Permit 58.

2.0 Project Purpose & Need

Hancock County Mississippi was one of the only areas to experience growth at the last Census. Stennis Space Center is the main hub of economic activity and produces million gallons of waste water annually. The antiquated lagoon systems present on site have outlived their usefulness. Therefore, a solution moving wastewater to a system with more than enough capacity was made. Additionally, with housing developments in the area slated to add hundreds of new connections to wastewater, the Project will help relieve a burdened system.

3.0 Impacted Environment

Geophysical Setting

The Mississippi Gulf Coast is situated in the East Gulf Flatwoods Major Land Resource Area. It is comprised of gently rolling hills leading to coastal plains. Local relief at the Project site is minimal. Relief ranges from 34'to 18' NAVD88. Topographic mapping is available in the Appendix of this Report.

Hancock County is in the warm-temperate to sub-tropical region. Conditions are generally warm and humid with the occasional drop in air temperature during the winter months. Mean monthly air temperatures range from 43 degrees Fahrenheit to 89 degrees Fahrenheit. Annual precipitation is among the highest in the United States, averaging approximately 61".

Rainfall averages for Kiln, MS are approximately 65.19" annually (NCEI, 2023).

References:

National Centers for Environmental Information (NCEI). https://www.ncei.noaa.gov/cdo-web/ Accessed August 25, 2023.

Hydrologic Resources

The Project area lies in the United States Geological Survey's Watershed Boundary #031700009-1003. Water primarily drains to the east to Jourdan River, through overland and groundwater flow.

Geologic Resources

Hancock County is underlain by one of America's largest unconfined aquifer systems, the Graham Ferry Formation as part of the Grand Gulf Aquifer System. The Graham Ferry Formation is mostly present north of Interstate 10. Bed thickness can exceed 100 feet in the northern end of the county.

South of Interstate 10 is a mix of well-sorted Holocene Epoch deposits. These highly permeable sand-sized sediments mirror the properties of the Graham Ferry Formation but lack the notable oxidized Iron coloring. Bed thickness ranges from 1-30 feet in higher elevations. Both the Holocene and Pleistocene deposits are underlain by the Miocene-aged, Pascagoula Formation. This tenacious clay acts as an aquitard, forcing groundwater to flow laterally, down slope.

Soil type and composition summary for soils associated with the Project AOI are located in the Appendix of this report.

Biological Resources

Wildlife

Wildlife is present at the Project site. Birds of Prey, avian species, large and small mammals, as well as a variety of ground rodents assumed present at the Project.

All Threatened & Endangered species will be thoroughly discussed in the next section.

Threatened and Endangered Species

There are several threatened and endangered species which occupy Hancock County Mississippi. Species are usually threatened or endangered by loss of habitat. On or about August 2nd, 2023, US Fish & Wildlife's IPaC analysis tool was used to determine the potential presence/absence of Endangered & Threatened Species at the proposed Project site (see attached appendix for IPaC species analysis). Additionally, multiple surveys were conducted between April 5th and August 27th, in which the following listed species were not present at the Project site. See Table 2 below for IPaC-generated Species List for the Project.

Table 2: iPaC-Generated Species List

Common Name	Scientific Name	Status
Birds		
Eastern Black Rail	*Laterallus jamaicanensis*	Threatened
Red-cockaded Woodpecker	*Picoides borealis*	Threatened
Reptiles		
Alligator Snapping Turtle	*Machrochelys temminckii*	Proposed
Black Pinesnake	*Pituophis melanoleucus lodingi*	Threatened
Gopher Tortoise	*Gopherus polyphemus*	Threatened
Dusky Gopher Frog	*Rana sevosa*	Endangered
Insects		
Monarch Butterfly	*Danus plexippus*	Candidate
Ferns & Allies		
Louisiana Quillwort	*Isoetes louisianensis*	Endangered

Vegetation

Vegetation is well-manicured in the Rights-of-way. Grasses and sedges dominate the vegetative communities. Invasive Cogon Grass, *Imperata cylidrica*, is present along the majority of the Project. Additional areas of the Project will be in wooded areas, regularly maintained by logging.

Historical and Cultural Resources

Prior to ground excavation, Section 106 of the National Historic Preservation Act requires consultation with our State Historic Preservation Office, Mississippi Department of Archives and History (MDAH), if items of questionable significance are found. The project site was periodically investigated from February 2023 to submission date. During this time, no items nor locations were found which meet, or potentially meet, the criteria outlined in the National Registry of Historical Places.

4.0 Impacts to Environment

Hydrologic Resource Impacts

The Project will have no impacts to hydrological resources present at the Project. The only inundated areas will be directionally bored under to avoid. Similarly, some wetland areas will be avoided by directional bore. The only impacts to hydrology associated with the Project will be the temporary side casting of soil to place the force main through 15,350 square feet of definitional wetlands.

Geologic Resource Impacts

No dredging or de-mucking will occur as part of the proposed activities. No impoundments of source sediments are proposed. Therefore, the Project will result in no impacts to geological resources at the Project site.

Biologic Resource Impacts

"No take" guidance will be in place for all contractors carrying out construction activities. Each species listed previously is discussed below.

Mississippi has generally been considered to lie outside of the breeding range for black rails. There is little evidence in the historic record to refute this suggestion. Mississippi has relatively little exposure to the Gulf Coast and those estuaries that do exist do not appear to support a breeding population. It is more likely that inland areas of the state may support black rails though no records have emerged to support this. The population is currently set to zero for the state with relatively low uncertainty. Black rails have been reported historically during the breeding season in Jackson County Mississippi (Watts, 2016). Traditionally recognized habitat for this species does not exist at the property site.

The Red-cockaded Woodpecker was reclassified from Endangered to Threatened on February 3rd, 2022 by amendment to 50 CFR Part 17. Anecdotally, the bird is not regularly observed in South Mississippi. Further, avian species are generally known to avoid noisy construction areas, thereby reducing the likelihood of adversely effecting this species.

The Alligator Snapping Turtle, while only a Proposed Threatened species, was assessed during the outset of the Project. This species prefers habitat that includes deep, still pools of perennial inundation. The only area of potentially suitable habitat will be avoided by directional boring under the feature.

The Gopher Tortoise, Dusky Gopher Frog, and Black Pinesnake inhabit similar ecological settings. Upland, Pine Forest with heavy herbaceous layer, sandy, quick draining soils that are easy to burrow. The Gopher Tortoise requires a low water table also and generally inhabits South Mississippi at elevations above 50 feet. While the Dusky Gopher Frog does have defined Critical Habitat near the Project, the timeline will fall outside mating season when the Critical Habitat is most heavily occupied, thereby making the species not likely to be adversely effected.

Louisiana Quillwort prefers a mature, bed & bank riparian system of a 1st or 2nd order magnitude. Preferred soil is typically sandy loam with very little organic matter. Placement in the environment varies, but always in full shade among Sphagnum mosses or bare ground. Standing/gently flowing water is typical for this plant. Quillwort's adaptations of Aerenchyma make it perfect for this type of ecosystem. This type of habitat does not exist at the Project site. The wetland areas are immature with thick vegetation and mucky organic soils.

References:

Watts, B. D. 2016. Status and distribution of the eastern black rail along the Atlantic and Gulf Coasts of North America. The Center for Conservation Biology Technical Report Series, CCBTR-16-09. College of William and Mary / Virginia Commonwealth University, Williamsburg, VA. 148 pp.

Cumulative Impacts

Cumulative impacts are defined as follows:

"an impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time (40 CFR 1508.7)."

In accordance with this definition, the Environmental Assessment provided herein considered the effects of other projects in the vicinity when combined with the Project as proposed. There will be no cumulative effects from the proposed Project. All impacts will be localized to the Project area.

5.0 Mitigation

In an effort to combat the negative effects of filling wetlands, mitigation planning is necessary. The proposed activities include temporary fill of 0.35 acres (15,350 ft^2) of Freshwater Forested/Shrub Wetlands. The wetlands are listed on the National Wetlands Inventory (NWI) map labeled as PFO4B (seasonally wet, needle-leaved evergreen palustrine forest). This mitigation plan is drafted in accordance with 33 CFR 332.4(c).

Baseline Conditions

Wetland Area Impacted- 0.35 acres (15,350 ft^2) total of disturbed palustrine forested temporary wetland impact for force main placement.

Area 1-40% 599 linear ft

Area 2-40% 1,640 linear ft

Area 3-40% 831 linear ft

The overall score is expressed as a percentage, ranging from 0% - 100%. Within the USACE Mobile District wetland regulatory realm, WRAP scores of 0-50% are considered low quality wetlands; 51-75% are medium quality; and greater than 75% are high quality. WRAP Condition Forms for Wetland Impact Area A is available in the Appendix of this Assessment.

The temporarily impacted area had a Wetlands Rapid Assessment Procedure (WRAP) score of approximately 40%, making these low-quality wetlands.

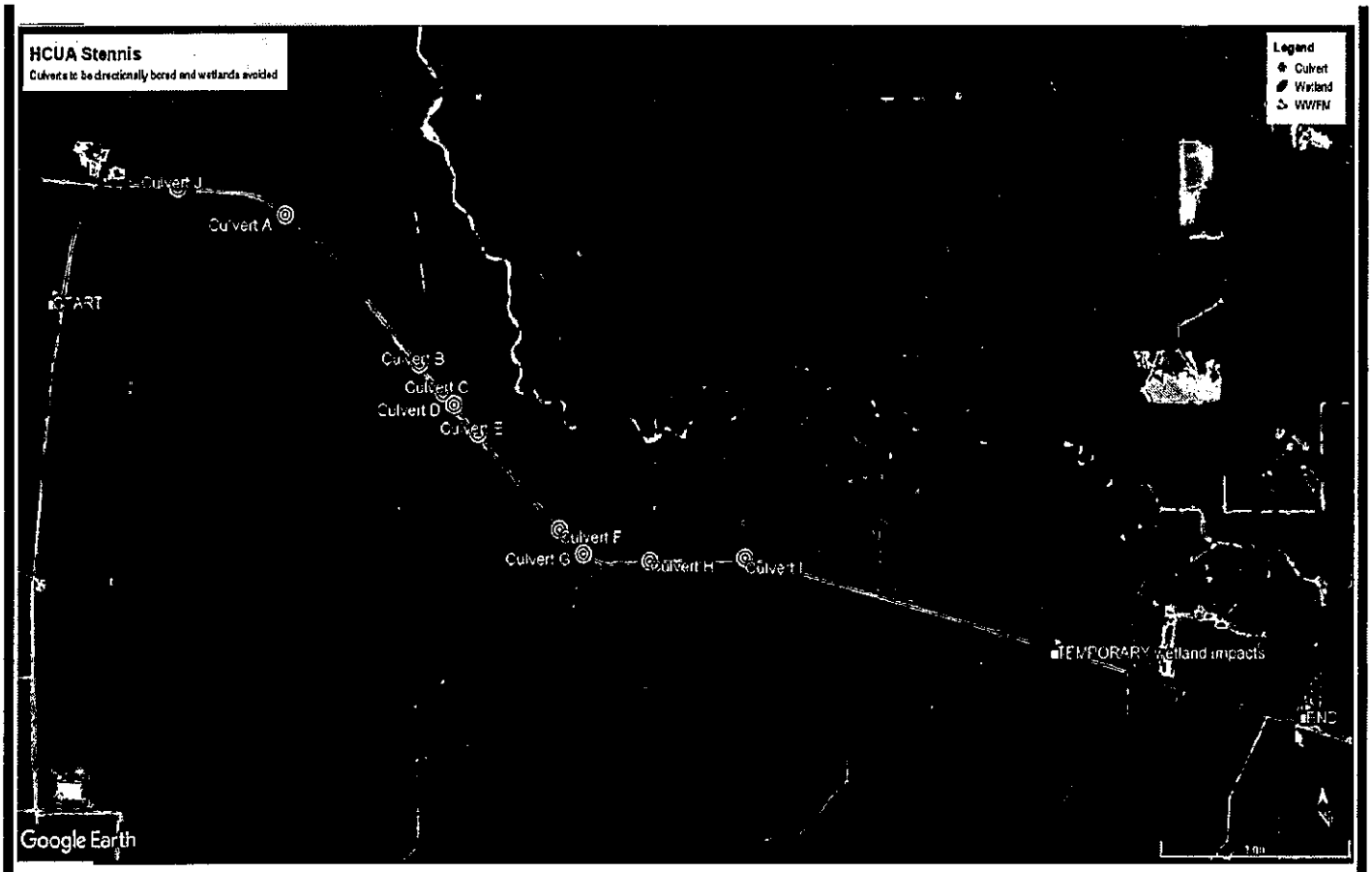
Determination of Credits

The USACE, Mobile Regulatory District recognizes a Mitigation Ratio of 1:1 for Low Quality emergent Wetlands and a 4:1 Mitigation Ratio for Medium-quality forested wetlands. We propose no purchase of credits due to the temporary nature of impacts through low quality Right-of-way wetlands

6.0 Conclusion

Stennis Space Center Wastewater Conveyance (Project) is in Hancock County, MS. The Project will place new, 12" HDPE sanitary force main from the north side of Stennis Security Gate on Mainline Road, then east along Texas Flat Road, finally to a regional treatment facility on Texas Flat Road. The Project is located inside previously established Rights of Way along both roads.

We request to temporarily impact by excavation, side cast, and refill of native soil 0.35 of an acre (15,350 sq ft) of wetlands as authorized under Nationwide Permit 58.



Culverts to be directionally bored as to avoid wetlands

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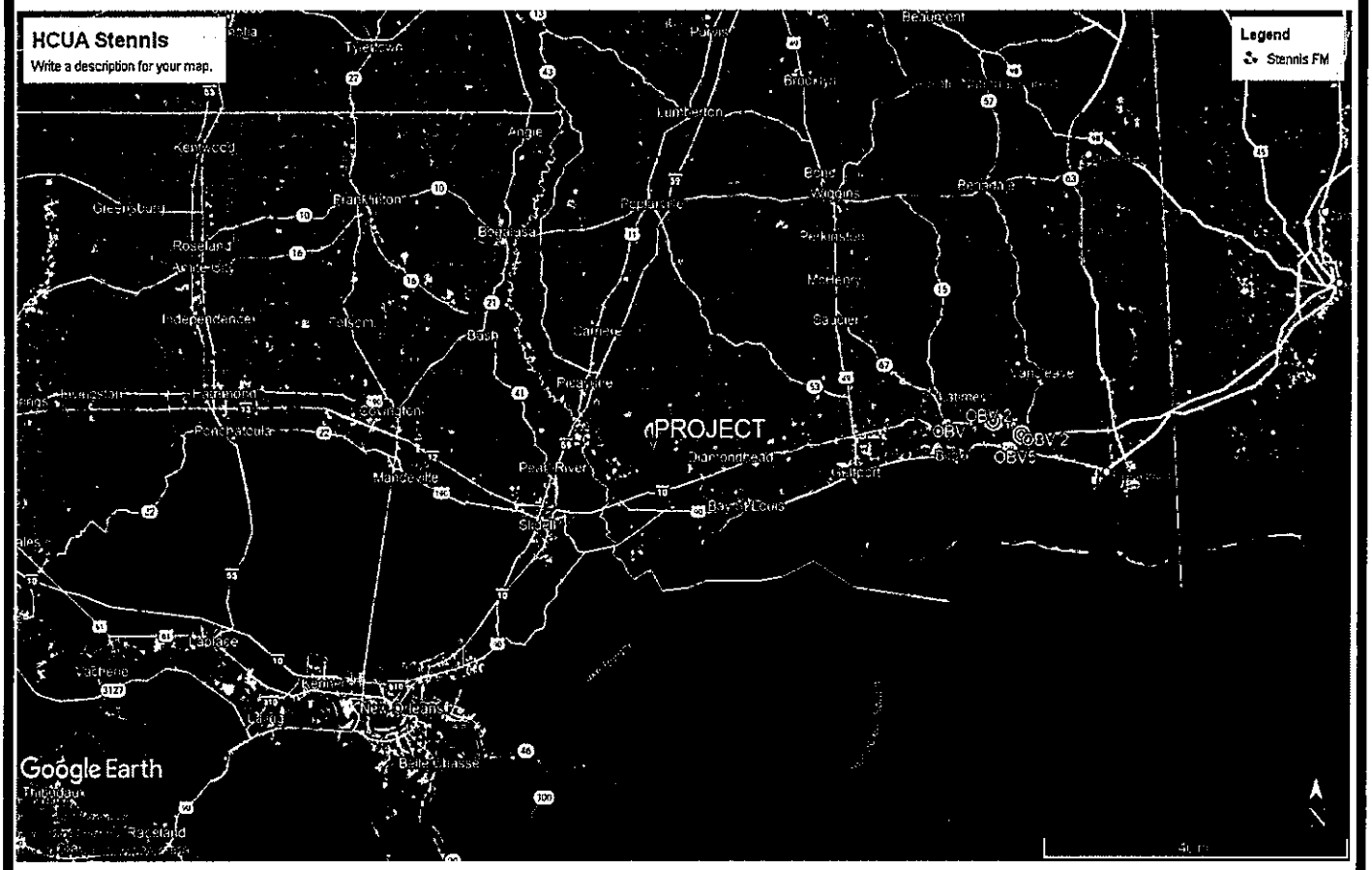
www.bmaengineers.com
401 Cowan Road, Suite A, Gulfport, MS 39507 (228)864-7612
131 Rue Magnolia Biloxi, MS 39530 (228)436-7612
3221 Market Street Pascagoula, MS 39567 (228)864-7612



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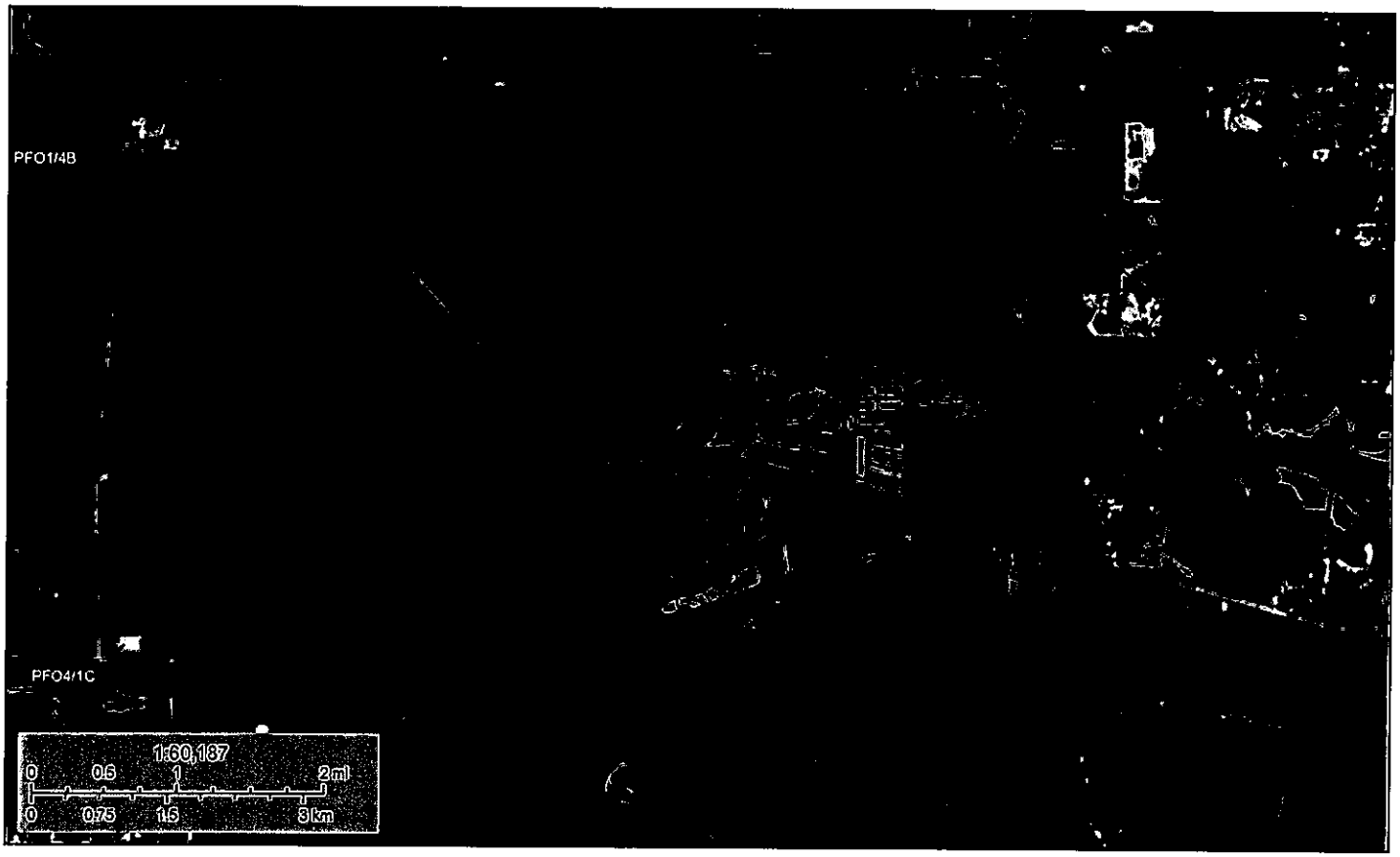
3221 Market Street Pascagoula, MS 39567 (228)864-7612

U.S. Fish and Wildlife Service

National Wetlands Inventory

Stennis

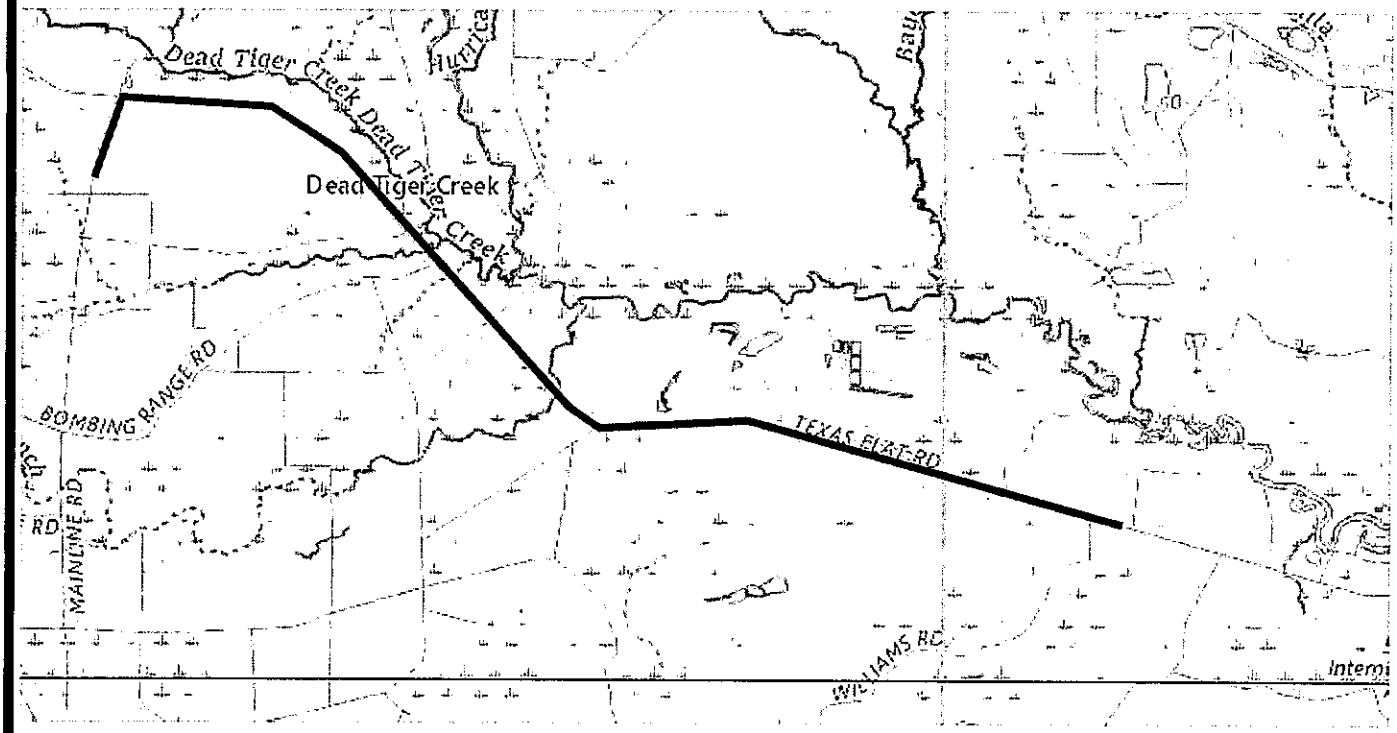


September 29, 2023

Wetlands

- Estuarine and Marine Deepwater
- Estuarine and Marine Wetland
- Freshwater Emergent Wetland
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Lake
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.



USGS Topo Map

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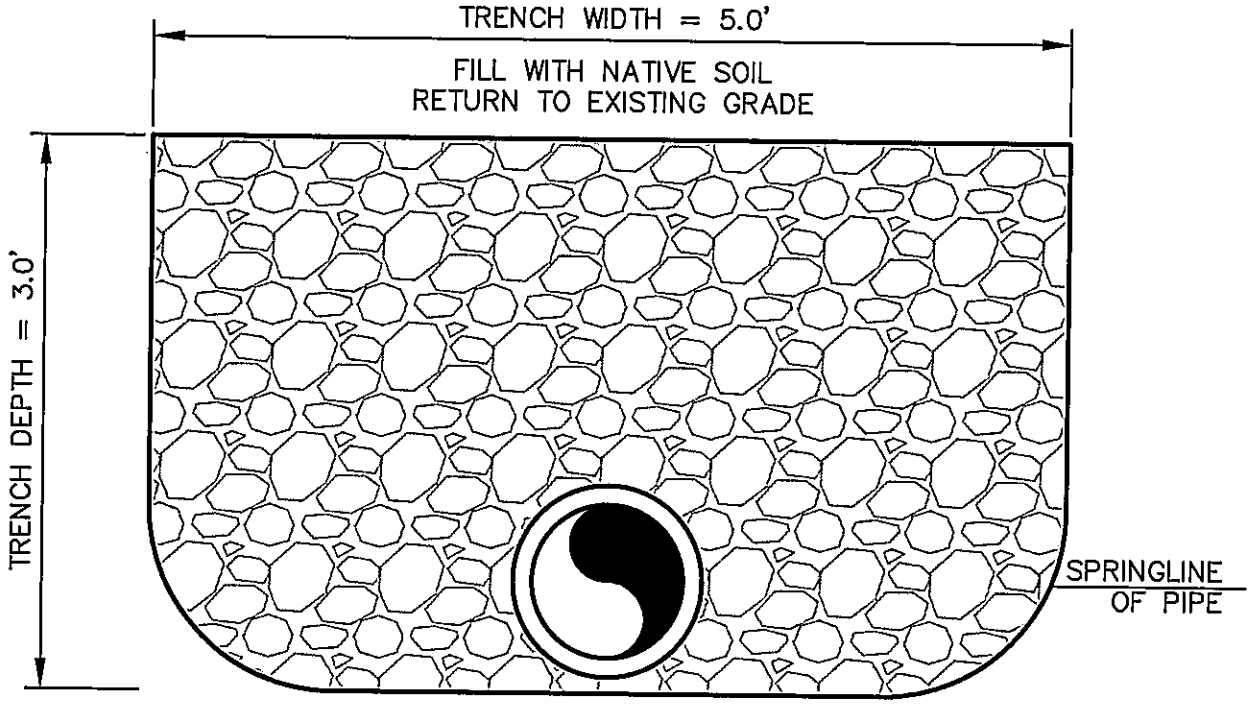
131 Rue Magnolia Biloxi, MS 39530 (228)436-7412
2221 Market Street Pascagoula, MS 39567 (228)864-7412



TYPICAL PIPE EMBEDMENT & BACKFILL

SCALE: 1" = 1'

FOR WATER MAINS, FORCE MAINS, GRAVITY SEWERS & CULVERT PIPE

Nationwide Permit 58 – Utility Line Activities and Other Substances
Effective Date: March 15, 2021 / Expiration Date: March 14, 2026
Authorities: Sections 10 and 404

Activities required for the construction, maintenance, repair, and removal of utility lines for water and other substances, excluding oil, natural gas, products derived from oil or natural gas, and electricity. Oil or natural gas pipeline activities or electric utility line and telecommunications activities may be authorized by NWPs 12 or 57, respectively. This NWP also authorizes associated utility line facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Utility lines: This NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of utility lines for water and other substances, including outfall and intake structures. There must be no change in pre-construction contours of waters of the United States. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose that is not oil, natural gas, or petrochemicals. Examples of activities authorized by this NWP include utility lines that convey water, sewage, stormwater, wastewater, brine, irrigation water, and industrial products that are not petrochemicals. 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 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 of dredged or fill material wetlands adjacent to tidal waters of the United States to construct, maintain, or expand substation facilities.

Foundations for above-ground utility lines: This NWP authorizes the construction or maintenance of foundations for above-ground utility lines in all waters of the United States, provided the foundations are the minimum size necessary.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including utility line substations, 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 cause the loss of greater than 1/2-acre of non-tidal waters of the United States.

This NWP does not authorize discharges of dredged or fill material 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/gravel 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 lines 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 authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines. These remediation activities must be done as soon as practicable, to restore the affected waterbody. District engineers may add special conditions to this NWP to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, 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 of dredged or fill material, 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. After construction, 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: (1) A section 10 permit is required; or (2) the discharge will result in the loss of greater than 1/10-acre of waters of the United States (See general condition 32).

Note 1: Where the utility line is constructed, installed, or maintained in navigable waters of the United States (*i.e.*, section 10 waters) within the coastal United States, the Great Lakes, and United States territories, a copy of the 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: For utility line activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Utility line activities must comply with 33 CFR 330.6(d).

Note 3: 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.

Note 4: Pipes or pipelines used to transport gaseous, liquid, liquescent, 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 the General Bridge Act of 1946. 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).

***Note 5:* This NWP authorizes utility line maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.**

***Note 6:* For activities that require pre-construction notification, the PCN must include 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, including other separate and distant crossings that require Department of the Army authorization but do not require pre- construction notification (see paragraph (b)(4) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, "District Engineer's Decision." The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).**

REGIONAL CONDITIONS:

For applicable Water Quality Certification (WQC) and Coastal Zone Management Act (CZMA) determinations or requirements see the Mississippi Department of Marine Resources (MDMR) and Mississippi Department of Environmental Quality (MDEQ) conditions attached to this document, also available on the Mobile District Regulatory website at: https:// www.sam.usace.army.mil/Missions/Regulatory/NWP/

GENERAL CONDITIONS:

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

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. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

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, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

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, storm water management activities, and temporary and permanent road crossings, 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, or during low tides.

13. *Removal of Structures and Fills.* Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. 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 and compliance with applicable NWP general conditions,

as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. *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.

16. *Wild and Scenic Rivers.*
(a) No NWP 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.
(b) If a proposed NWP activity will 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, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.
(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: http://www.rivers.gov/ .

17. *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.

18. *Endangered Species.*
(a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of "effects of the action" for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further explanation under ESA section 7 regarding "activities that are reasonably certain to occur" and "consequences caused by the proposed action."
(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.
(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity 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 might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. 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. For activities where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have "no effect" on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.
(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species specific permit conditions to the NWPs.
(e) (e) Authorization of an activity by an 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 FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.
(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre- construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.
(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their worldwide Web pages at http://www.fws.gov/ or http://www.fws.gov/ipac and http://www.nmfs.noaa.gov/pr/species/esa/ respectively.

19. *Migratory Birds and Bald and Golden Eagles.* The permittee is responsible for ensuring that an action authorized by NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether "incidental take" permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. *Historic Properties.*
(a) No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places 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 (see 33 CFR 330.4(g)(1)). If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, 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 might have the potential to be affected by the proposed NWP activity 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 properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect.

(d) Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so 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 to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, 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. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) 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 (ACHP), 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, 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.

21. *Discovery of Previously Unknown Remains and Artifacts.* Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. *Designated Critical Resource Waters.* Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public 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, 50, 51, 52, 57 and 5258 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, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than 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 for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than 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 either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-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 only minimal adverse environmental effects.
    (d) Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require pre-construction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the

restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-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 only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation since streams are difficult-to- replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. 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. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. 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 minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee- responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee-responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).

(6) Compensatory mitigation requirements (*e.g.*, resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) 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 NWP activity 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 an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert 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 environmental effects of the activity to the no more than minimal level.

24. *Safety of Impoundment Structures.* To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. *Water Quality.*

(a) Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFF 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.

(b) If the NWP activity requires pre-construction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.

(c) The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. *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)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. *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 CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. *Use of Multiple Nationwide Permits.* The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

(a) If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot 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.

(b) If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. *Transfer of Nationwide Permit Verifications.* If the permittee sells the property associated with a 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)

30. *Compliance Certification.* Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

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

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. *Activities Affecting Structures or Works Built by the United States.* If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. *Pre-Construction Notification.*

(a) *Timing.* Where required by the terms of the NWP, the 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, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers 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) 45 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 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps 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 (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not 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 pr 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 activity;
(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
(4)
(i) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and 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, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.
(ii)For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project and does not change those non-PCN NWP activities into NWP PCNs.
(iii) Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans).
(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, 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 on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate.
(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.
(7) For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act.
(8) For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act.
(9) For an activity that will 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, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and
(10) For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.

(c) *Form of Pre-Construction Notification:* The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(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 activity's adverse environmental effects so that they are no more than minimal.
(2) Agency coordination is required for:
(i) All NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States;
(ii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and
(iii) NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.
(3) When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. 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 concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer 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.

(4) 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.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

DISTRICT ENGINEER'S DECISION:

1. 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 a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.
2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.
3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than 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 environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. 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 proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.
4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either:
   (a) That the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;
   (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or
   (c) that the activity 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 environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

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 (see general condition 31).

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 (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for

the purposes of offsetting 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.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term "discharge" means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

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.

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.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

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 non-linear 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.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance but are still reasonably foreseeable.

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. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation 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 or wetlands 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. 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 that do not require Department of the Army authorization, such as 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.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. 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 flowing or standing 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: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

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 and functions.

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 streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through

which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

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 linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term "single and complete project" is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes 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 or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. 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.

Single and complete non-linear project: For non-linear projects, 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 non-linear project must have independent utility (see definition of "independent utility"). Single and complete non-linear projects may not be "piecemealed" to avoid the limits in an NWP authorization.

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 jurisdictional 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 jurisdictional wetland that is inundated by tidal waters. 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.

Tribal lands: Any lands title to which is either: (1) Held in trust by the United States for the benefit of any Indian tribe or individual; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

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 "water of the United States." If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjecent wetlands are considered together as a sing e aquatic unit (see 33 CFR 328.4(c)(2)).

STATE OF MISSISSIPPI
Tate Reeves
Governor

MISSISSIPPI DEPARTMENT OF MARINE RESOURCES
Joe Spraggins, Executive Director

December 14, 2020

Ms. Jennifer Mallard
Chief, Regulatory Division, Vicksburg District
U.S. Army Corps of Engineers
4155 Clay Street
Vicksburg, Mississippi 39183-3435

RE: DMR-FCC20-000007; Reissuance of Nationwide Permits 2020

Dear Ms. Mallard:

The Mississippi Department of Marine Resources (MDMR) in cooperation with other state agencies is responsible under the Mississippi Coastal Program (MCP) for managing the coastal resources of Mississippi. Proposed activities in the coastal area are reviewed to ensure that the activities are in compliance with the MCP.

MDMR has completed review of the Department of the Army, Corps of Engineers' Proposal to Reissue and Modify Nationwide Permits published in the Federal Register on September 15, 2020.

The above proposed Nationwide Permits and the activities they would authorize have been reviewed based upon provisions of the MCP and Section 307 of the Coastal Zone Management Act of 1972 (as amended). MDMR objects to the Vicksburg District's determination that the activities will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the MCP (the State's approved management program) in the following locations and habitats within the Coastal Zone of Mississippi, which consists of Hancock, Harrison, and Jackson Counties:

i. All Coastal Wetlands (as defined by MS Code § 49-27-5(a), attached);

ii. All jurisdictional wetlands having a surface hydrological connection to Coastal Wetlands, and that are located within 200 feet landward of the observed ordinary high water mark;

iii. All marsh habitats (i.e. all tidal emergent wetlands dominated by salt or estuarine marsh plant species, and all non-tidal emergent wetlands dominated by freshwater marsh plant species, abutting and/or adjacent to tidal emergent wetlands) in Hancock, Harrison, and Jackson counties (except pine savannah and pitcher plant bogs) having a surface hydrological connection to tidal waters in Hancock, Harrison, and Jackson counties, whether saltwater, brackish, or freshwater marshes and including high marsh habitat, even if located more than 200 feet landward of the observed mean high tide mark; and,

iv. All jurisdictional stream habitats, whether perennial, intermittent, or ephemeral.

Outside of the above-identified locations and habitats, MDMR concurs with the Vicksburg District's determination that the activities will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the MCP (the State's approved management program).

The above granted consistency certification was based upon the proposal presented. If you have any questions regarding this letter, please contact Willa Brantley with the Bureau of Wetlands Permitting at 228-523-4108 or willa.brantley@dmr.ms.gov.

Sincerely,

Joe Spraggins (Dec 14, 2020 15:05 CST)

Joe Spraggins
Executive Director
Mississippi Department of Marine Resources

JS/wjb

cc: Ms. Cori Carraway, USACE, Vicksburg District
Ms. Jennifer Brown, USACE, Vicksburg District
Mr. Brian Williamson, USACE, Vicksburg District
Ms. Allison Monroe, USACE, Mobile District
Mr. Mike Moxey, USACE, Mobile District
Ms. Florance Bass, OPC
Mr. Raymond Carter, SOS

Consistency 2020_For Signature

Final Audit Report 2020-12-14

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Miss. Code Ann. § 49-27-5

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Current through the 2019 Regular Session.

Mississippi Code 1972 Annotated Title 49. Conservation and Ecology (Chs. 1 — 37) Chapter 27. Coastal Wetlands Protection Act (§§ 49-27-1 — 49-27-71)

§ 49-27-5. Definitions.

(a) "Coastal wetlands" means all publicly-owned lands subject to the ebb and flow of the tide; which are below the watermark of ordinary high tide; all publicly-owned accretions above the watermark of ordinary high tide and all publicly-owned submerged water-bottoms below the watermark of ordinary high tide and includes the flora and fauna on the wetlands and in the wetlands.

(b) "Department" means the Department of Marine Resources.

(c) "Regulated activity" means any of the following activities:

(i) The dredging, excavating or removing of soil, mud, sand, gravel, flora, fauna or aggregate of any kind from any coastal wetland;

(ii) The dumping, filling or depositing of any soil, stones, sand, gravel, mud, aggregate of any kind or garbage, either directly or indirectly, on or in any coastal wetlands;

(iii) Killing or materially damaging any flora or fauna on or in any coastal wetland;

(iv) The erection on coastal wetlands of structures which materially affect the ebb and flow of the tide; and

(v) The erection of any structure or structures on suitable sites for water dependent industry.

(d) "Dredging" means the removal or displacement by any means of soil, sand, gravel, shells or other material, whether of intrinsic value or not, from coastal wetlands.

(e) "Executive director" means the Executive Director of the Department of Marine Resources.

(f) "Filling" means either the displacement of waters by the deposition into coastal wetlands of soil, sand, gravel, shells or other material; or the artificial alteration of water levels or water currents by physical structures, drainage ditches or otherwise.

(g) "Person" means any natural person, partnership, joint stock company, corporation, unincorporated association or society, or the state and any agency thereof, or any county, municipality or political subdivision, or any other corporation of any character whatsoever.

(h) "Commission" means the Mississippi Commission on Marine Resources.

(i) "Water dependent industry" means those commercial, industrial or manufacturing activities which, for purposes basic to their existence must occur or locate on or adjacent to the estuaries, sounds, channels, shores or marshlands of the coast. "Suitable sites for water dependent industry" means those areas of land which are suitable for the development of water dependent industry because of their proximity to waters of navigable depth, size and configuration, topography, soil conditions and access to other means of transportation. After consultation with local governments, port authorities, development commissions, port and harbor commissions and other interested parties, and after full consideration of zoning ordinances duly adopted by local governments, the commission shall designate those sites it deems suitable for water dependent industry. The definition of "suitable sites for water dependent industry" shall be limited to, but not necessarily inclusive of, waterfront sites owned by county port authorities, development commissions and port and harbor commissions, and to areas that are now or are later made to be within one

thousand (1,000) feet of the centerline of any natural or maintained channel having a depth of seven (7) feet or greater at mean low water. However, additional sites may be included in the definition of suitable sites for water dependent industry with the concurrence of the board of supervisors in the county affected.

History

Laws, 1973, ch. 385, § 3; Laws, 1974, ch. 401, § 1; Laws, 1979, ch. 492, § 2; Laws, 1994, ch. 578, § 28; Laws, 2005, ch. 371, § 1, eff from and after July 1, 2005.

Content Type:

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STATE OF MISSISSIPPI
TATE REEVES
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY
CHRIS WELLS, EXECUTIVE DIRECTOR
December 11, 2020

Ms. Jennifer Mallard
U.S Army Corps of Engineers,
Vicksburg District
4155 Clay Street
Vicksburg, Mississippi 39183-3435

Re: US Army COE,
Nationwide Permit No. 58
WQC No. WQC2020088

Pursuant to Section 401 of the Federal Water Pollution Control Act (33 U. S. C. 1251, 1341), the Office of Pollution Control (OPC) issues this Certification, after public notice and opportunity for public hearing, to the U.S. Army Corps of Engineers, an applicant for a Federal License or permit to conduct the following activity:

US Army COE, Nationwide Permit No. 58

Nationwide Permits (NWPs) are general permits issued on a nationwide basis to streamline the authorization of activities that have no more than minimal and cumulative adverse effects on the aquatic environment. The U.S. Army Corps of Engineers issues NWPs to authorize certain activities that require Department of the Army permits under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899.

58. *Utility Line Activities for Water and Other Substances.* Activities required for the construction, maintenance, repair, and removal of utility lines for water and other substances, excluding oil, natural gas, and electricity. Oil or natural gas pipeline activities or electric utility line and telecommunications activities may be authorized by NWPs 12 or C, respectively. This NWP also authorizes associated utility line facilities in waters of the United States, provided the activity does not result in the loss of greater than 1/2-acre of waters of the United States for each single and complete project.

Utility lines: This NWP authorizes discharges of dredged or fill material into waters of the United States and structures or work in navigable waters for crossings of those waters associated with the construction, maintenance, or repair of utility lines for water and other substances, including outfall and intake

structures. There must be no change in pre-construction contours of waters of the United States. A "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose that is not oil, natural gas, or petrochemicals. Examples of activities authorized by this NWP include utility lines that convey water, sewage, stormwater, wastewater, brine, irrigation water, and industrial products that are not petrochemicals. 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 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 above-ground utility lines: This NWP authorizes the construction or maintenance of foundations for above-ground utility lines in all waters of the United States, provided the foundations are the minimum size necessary.

Access roads: This NWP authorizes the construction of access roads for the construction and maintenance of utility lines, including utility line substations, 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 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/gravel 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 lines 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 authorizes, to the extent that Department of the Army authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling fluids to waters of the United States through sub-soil fissures or fractures that might occur during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines. These remediation activities must be done as soon as practicable, to restore the affected waterbody. District engineers may add special conditions to this NWP to require a remediation plan for addressing inadvertent returns of drilling fluids to waters of the United States during horizontal directional drilling activities conducted for the purpose of installing or replacing utility lines.

This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, 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. After construction, temporary fills must be removed in their entirety and the affected areas returned to preconstruction 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: (1) A section 10 permit is required; or (2) the discharge will result in the loss of greater than 1/10-acre of waters of the United States. (See general condition 32.) (Authorities: Sections 10 and 404)

Note 1: Where the utility line is constructed, installed, or maintained in navigable waters of the United States (i.e., section 10 waters) within the coastal United States, the Great Lakes, and United States territories, a copy of the 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: For utility line activities crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Utility line activities must comply with 33 CFR 330.6(d).

Note 3: 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.

Note 4: Pipes or pipelines used to transport gaseous, liquid, liquescent, 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).

Note 5: This NWP authorizes utility line maintenance and repair activities that do not qualify for the Clean Water Act section 404(f) exemption for maintenance of currently serviceable fills or fill structures.

Note 6: For activities that require preconstruction notification, the PCN must include 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, including other separate and distant crossings that require Department of the Army authorization but do not require preconstruction notification (see paragraph (b)(4) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, ''District Engineer's Decision.'' The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23). [NWP No. 58, WQC2020088].

The Office of Pollution Control certifies that the above-described activity will be in compliance with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act and Section 49-17-29 of the Mississippi Code of 1972, if the applicant complies with the following conditions:

1. In cases where a PCN is required, a PCN shall be provided to the Department of Environmental Quality (Department) for projects that include channel work within waterways found on the latest version of the State of Mississippi's Section 303(d) List of Impaired Water Bodies for sediment or biological impairment or waterways with a completed Total Maximum Daily Load (TMDL) for sediment or biological impairment. This notification shall include the following:

    a. Justification of why the impacts cannot be avoided;

b. Proposed best management practices that would minimize the impacts to receiving sensitive waters; and

c. Compensatory mitigation primarily along the same reach of stream or on another impaired stream within the same drainage basin. (Statement A, D & E) (11 Miss. Admin. Code Pt. 6, R. 1.3.4.A(3))

2. The permittee shall obtain appropriate wastewater permits and/or approvals for the proposed activity prior to the commencement of construction activities. (Statement C) (11 Miss. Admin. Code Pt. 6, R. 1.1.1.B., 11 Miss. Admin. Code Pt. 6, R. 1.3.4.B(7))

3. For projects greater than five acres of total ground disturbances including clearing, grading, excavating, or other construction activities, the applicant shall obtain the necessary coverage under the State of Mississippi's Large Construction Storm Water General NPDES Permit. For projects greater than one, to less the five acres of total ground disturbances including clearing, grading, excavating, or other construction activities, the applicant shall follow the conditions and limitations of the State of Mississippi's Small Construction Storm Water General NPDES Permit. No construction activities shall begin until the necessary approvals and/or permits have been obtained. (Statement B & C) (11 Miss. Admin. Code Pt. 6, R. 1.1.1.B.)

4. Turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50 Nephelometric Turbidity Units. (Statement A) (11 Miss. Admin. Code Pt. 6, R. 2.2.A.)

5. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse. (Statement A) (11 Miss. Admin. Code Pt. 6, R. 2.2.A.(3))

6. The Department shall be furnished copies of authorizations of coverages under this NWP. (Statement D) (11 Miss. Admin. Code Pt. 6, R. 1.3.4.A.(4))

As part of the Scope of Review for Application Decisions, 11 Mississippi Administrative Code Part 6, Rule 1.3.4(B), the above conditions are necessary for the Department to ensure that appropriate measures will be taken to eliminate unreasonable degradation and irreparable harm to waters of the State, such that the activity will not meet the criteria for denial:

(A) The proposed activity permanently alters the aquatic ecosystem such that water quality criteria are violated and/or it no longer supports its existing or classified uses. An example is the channelization of streams

(B) Nonpoint source/storm water management practices necessary to protect water quality have not been proposed.

(C) Denial of wastewater permits and/or approvals by the State with regard to the proposed activities.

(D) The proposed activity in conjunction with other activities may result in adverse cumulative impacts.

(E) The proposed activity results in significant environmental impacts which may adversely impact water quality.

The Office of Pollution Control also certifies that there are no limitations under Section 302 nor standards under Sections 306 and 307 of the Federal Water Pollution Control Act which are applicable to the applicant's above-described activity.

This certification is valid for the project as proposed. Any deviations without proper modifications and/or approvals may result in a violation of the 401 Water Quality Certification. If you have any questions, please contact the Department.

Sincerely,

Krystal Rudolph

Krystal Rudolph, P.E., BCEE
Chief, Environmental Permits Division

KR: ld

cc: U.S. Army Corps of Engineers, Mobile District
U.S. Army Corps of Engineers, Memphis District
U.S. Army Corps of Engineers, Nashville District
U.S. Army Corps of Engineers, New Orleans District
Department of Marine Resources
U.S. Fish and Wildlife Service
U.S Environmental Protection Agency, Region 4