

APPENDIX B

Agency Correspondence



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 6
 1445 ROSS AVENUE, SUITE 1200
 DALLAS, TX 75202-2733

NOV 17 2003

REPLY TO: 60004

Ms. Robin Cyble
 Texas Ecological Services Field Office
 U.S. Fish and Wildlife Service
 c/o Texas A&M University at Corpus Christi
 6300 Ocean Drive, Campus Box 338
 Corpus Christi, Texas 78412

RECEIVED

NOV 20 2003

FISH & WILDLIFE SERVICE
 CORPUS CHRISTI, TX

Date: 11/17/03

The Environmental Protection Agency is proposing to issue a National Pollutant Discharge Elimination System (NPDES) general permit for the Territorial Seas of Texas. When issued, the permit will authorize discharges from exploration, development, and production facilities located in, and discharging to the territorial seas of Texas. The limitations and conditions included in the proposed permit are based on Effluent Limitations Guidelines, Texas numeric and water quality standards, and Federal Ocean Discharge Criteria.

EPA's final issuance of this permit will not adversely affect any listed threatened or endangered species or their critical habitat. The proposed permit and fact sheet are enclosed for your review. Please contact us within 30 days, whether or not you concur with our conclusion that the discharges authorized by this permit are not likely adversely affect any listed threatened or endangered species or their critical habitat. In the event that you believe that this permit is likely to adversely affect such species, please respond within the 30 day time frame documenting reasons for the determination.

Please feel free to contact me regarding any requirements or conditions which may be necessary to include in the permit or have your staff contact Scott Wilson of my staff. Scott can be reached at (714) 603-7311. Thank you in advanced for our assistance in coordinating these efforts.

Sincerely,

Jack V. Ferguson
 Jack V. Ferguson
 Chief
 NPDES Permits Branch

NO EFFECT FINDING

Based on our review of your project activity as proposed, it is not likely that federally listed species, or other important fish and wildlife resources, will be impacted.

Date: January 5, 2004

Conducted by: 2-4-03-F-0031

Approved by: Mary Thomas (Bella) [Signature]



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
9721 Executive Center Drive North
St. Petersburg, Florida 33702

November 25, 2003

Mr. Jack V. Ferguson, P.E.
Chief, NPDES Permits Branch
U. S. Environmental Protection Agency
Region 6
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Dear Mr. Ferguson:

The National Marine Fisheries Service (NOAA Fisheries) has reviewed the information provided to us by your November 17, 2003, letter related to the proposed issuance of a National Pollutant Discharge Elimination System (NPDES) general permit for oil and gas exploration, development and production facilities in the Territorial Seas of Texas. This letter transmitted the Environmental Protection Agency's determination that the issuance of the proposed NPDES general permit will not adversely impact essential fish habitat in the Gulf of Mexico.

We have reviewed the proposal and concur with your determination of no adverse impact to essential fish habitat in the Territorial Seas of Texas. Assuming the NPDES permit is not further revised, this satisfies the consultation procedures outlined in 50 CFR Section 600.920, of the regulation to implement the EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act and no further consultation with NOAA Fisheries is required.

Should you have questions or wish to coordinate further on this NPDES permit, please contact Mr. Rusty Swafford of my staff at (409)766-3699.

Sincerely,

Miles M. Croom
Assistant Regional Administrator
Habitat Conservation Division

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office
263 13th Avenue South
St. Petersburg, Florida 33701-5505
(727) 824-5317; FAX (727) 824-5300
<http://sero.nmfs.noaa.gov/>

June 17, 2011

F/SER4:DD

Mr. Troy Hill, Acting Associate Director
U.S. Environmental Protection Agency
Region 6, NPDES Permits and TMDL Branch
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

Dear Mr. Hill:

NOAA's National Marine Fisheries Service (NMFS), Southeast Region, Habitat Conservation Division has reviewed the information provided on May 16, 2011, regarding the proposed reissuing of a National Pollutant Discharge Elimination System (NPDES) general permit for the Territorial Seas of Texas for discharges from existing and new discharges and new sources in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category. The permit would authorize discharges from exploration, development, and production facilities located in and discharging to the territorial seas off Texas. Permit No. TXG260000 would supersede the previous general permit issued in September 2005.

As specified in the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), essential fish habitat (EFH) consultation is required for federal actions which may adversely affect EFH. The Environmental Protection Agency has determined that the authorization of the discharges from the proposed permit will not adversely impact EFH in the Territorial Seas of Texas and the Gulf of Mexico. We have reviewed the proposal and concur with your determination. Assuming the NPDES permit is not further revised, this satisfies the consultation procedures outlined in 50 C.F.R. Section 600.920 of the regulation to implement the EFH provisions of the MSFCMA.

We sincerely appreciate your efforts to protect our Nation's living marine resources. Related action or matters needing our attention should be directed to David Dale at (727)824-5317 or David.Dale@noaa.gov.

Sincerely,

Miles M. Croom
Assistant Regional Administrator
Habitat Conservation Division

cc: (via electronic mail)
F/SER46-Swofford



5/2004/5/2/0



Coastal Coordination Council

P.O. Box 12873 • Austin, Texas 78712-2873 • (512) 463-5383 • FAX (512) 475-8680

Chairman

Jerry Patterson
Texas Land Commissioner



Members

Victor Cuerrile
Railroad Commissioner of Texas

Mayor Victor Flores
Coastal Government
Representative

John Barrett
Agriculture Representative

Maria Benevides
Texas State Soil & Water
Conservation Board

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Texas Water Development Board

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Texas Transportation Commissioner

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Coastal Resident Representative

Larry R. Seward
Texas Commission on
Environmental Quality

Robert R. Siskary
Sea Grant College Program

Mark E. Watson, Jr.
Parks & Wildlife Commissioner
of Texas



Diane P. Garcia
Council Secretary

Kristen D. Clark
Permit Services Center
(512) 463-1278

December 8, 2003

Mr. Jack Ferguson, Chief
US Environmental Protection Agency
Region 6
Permits Branch
1445 Ross Avenue Suite 1300
Dallas, Texas 75202-2733

Re: Reissue of the NPDES general permit for the Territorial Seas off
Texas.

Dear Mr. Ferguson:

Pursuant to Section 506.30 of 31 TAC of the Coastal Coordination Act, the project referenced above has been reviewed for consistency with the Texas Coastal Management Program (CMP).

Based on information you have supplied regarding the project referenced above, it has been determined that the RRC will be solely responsible for determining the project's consistency with the goals and policies of the CMP. This determination will accompany RRC's Section 401 certification for the permit referenced above.

Sincerely,

Thomas R. Calnan
Consistency Review Coordinator
Texas General Land Office

TRC/sb

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EWQ-P

VICTOR G. CARRILLO, CHAIRMAN
 CHARLES R. MATTHEWS, COMMISSIONER
 MICHAEL L. WILLIAMS, COMMISSIONER



RICHARD A. VARELLA
 DIRECTOR, OIL AND GAS DIVISION

RAILROAD COMMISSION OF TEXAS

OIL AND GAS DIVISION

January 12, 2004

Miguel I. Flores, Director
 Water Quality Protection Division
 Region 5
 United States Environmental Protection Agency
 1445 Ross Avenue, Suite 1200
 Dallas, Texas 75203-2793

Re: Proposed National Pollutant Discharge Elimination System (NPDES)
 General Permit for Discharges from the Offshore Subcategory of the Oil and Gas Extraction Point
 Source Category to the Territorial Seas of Texas Permit # TXG260000

Dear Mr. Flores:

The Railroad Commission of Texas (RRC) has examined the above referenced draft permit in response to your letter dated December 5, 2003. The RRC is the certifying agency for federal permits covering activities associated with the exploration, development, and production of oil, gas, or geothermal resources that may result in discharges to waters of the U.S.

The RRC has examined the proposed general permit and has identified no conflicts between the proposed permit and applicable state water quality laws. Our review indicates that, based on the information contained in the draft permit and public notice, there is a reasonable assurance that the permitted activities will be conducted in a manner which will not violate any applicable water quality requirements. The RRC also finds that no conditions more stringent than those in the draft permit would be necessary to comply with state water quality laws. Therefore, the RRC hereby grants certification of the referenced permit for compliance with applicable state water quality laws.

The proposed permit requires identification of the source of the effluent as "lease area and block number assigned by the state." We respectfully request that the required identification information for Texas include the lease number assigned by the RRC and the well number.

Please call me at (512)463-7306 if you have any questions.

Sincerely yours,

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

Cc: Dr. Steve Saml, Environmental Services
 Ms. Jill Hybner, Environmental Services
 Mr. Bert Sims, Environmental Services



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southeast Regional Office
269 13th Ave. South
St. Petersburg, FL 33701
(727) 824-5312; Fax 824-5309
<http://sero.nmfs.noaa.gov>

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Mr. Jack V. Ferguson
NPDES Permits Branch
Region 6
United States Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, TX 75202

Dear Mr. Ferguson:

This correspondence is in reply to the November 17, 2003, letter from the United States Environmental Protection Agency (EPA) requesting section 7 consultation from the National Marine Fisheries Service (NMFS), pursuant to the Endangered Species Act of 1973 (ESA). The EPA has requested written concurrence with their determination that the re-issuance of a National Pollutant Discharge Elimination System (NPDES) general permit for the Territorial Seas of Texas is not likely to adversely affect federally-listed marine species or critical habitat.

The NPDES general permit for the New and Existing Sources in the Oil and Gas Extraction Point Source Category for the Territorial Seas Offshore of Texas, hereinafter referred to as the Territorial Seas general permit, is proposed to be reissued. The permit is proposed to be updated to include water quality-based limitations consistent with current NPDES permits and State Water Quality Standards. Limits and monitoring are proposed to ensure the discharged waters are not toxic to marine life. Additionally, more current technology-based limits established by Effluent Limitations Guidelines for the oil and gas extraction industry (40 CFR 435, Subpart A) are proposed to be included in the renewed permit. The proposed project area is to include the territorial seas of Texas, defined in Clean Water Act section 502 (3) as "the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open seas and the line marking the seaward limit of inland water, and extending seaward a distance of three miles."

The Clean Water Act Section 402 authorizes the EPA to issue NPDES permits to regulate discharge into the nation's waters. EPA will issue a permit if they determine that the proposed discharges will not result in unreasonable degradation. Factors for determining unreasonable degradation (40 CFR 125.122) that pertain to this consultation are:

1. The quantities, composition, and potential for bioaccumulation or persistence of the pollutants to be discharged;
2. the composition and vulnerability of the biological communities which may be exposed to such pollutants, including the presence of unique species or communities of species, the presence of species identified as endangered or threatened pursuant to the ESA, or the presence of those species critical to the structure or function of the ecosystem, such as those important for the food chain; and





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

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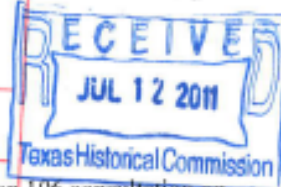
JUL 05 2011

CERTIFIED MAIL: RETURN RECEIPT REQUESTED (7009-2820-0001 8283 9993)

Mr. Lawrence Oaks, SHPO
Texas Historical Commission
1511 Colorado
Austin, TX 78701

by *MEW*
for Mark Wolfe
State Historic Preservation Officer
Date 7/27/2011
Track# 20117113

PROPERTIES AFFECTED
PROJECT MAY PROCEED



RE: Initiation of National Historic Preservation Act (NHPA) Section 106 consultation on the NPDES Territorial Seas of Texas General Permit No TXG260000

Dear Mr. Oaks:

The Environmental Protection Agency (EPA) is proposing to reissue a National Pollutant Discharge Elimination System (NPDES) general permit for the Territorial Seas of Texas (Permit No TXG260000) for discharges from existing and new discharges and New Sources in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR Part 435, Subpart A) as authorized by section 402 of the Clean Water Act, 33 U.S.C. 1342. The permit will supersede the previous general permit (TXG260000) issued on September 6, 2005. That permit authorized discharges from exploration, development, and production facilities located in and discharging to the territorial seas off Texas. This letter requests initiation of NHPA Section 106 consultation between EPA, Region 6 and the Texas Historic Preservation Officer (SHPO). EPA has identified the Texas SHPO as a party with a consultative role in the section 106 review of the subject general permit.

In accordance with section 106 and implementing regulations found at 36 CFR 800, EPA is required to take into account the effects of its undertakings on historic properties and to afford the National Council for Historic Preservation a reasonable opportunity to comment on such undertakings. The section 106 process seeks to accommodate historic preservation concerns with the needs of Federal undertakings through consultation between EPA and other parties with interest in the effects of the undertaking on historic properties. We request your assistance with information you may have available to help EPA assess the effects of this undertaking on historic properties. Further, EPA requests your assistance in identifying Tribal Historic Preservation Officers (THPOs) and other consultative parties with a role in this process. We are enclosing a copy of expired permit which states on the signature page that "Facilities which may adversely affect properties listed or eligible for listing in the National Register of Historic Places are not authorized to discharge under this permit." We do not anticipate any changes that would have any impacts on historical properties in the new permit.

EPA has determined that the reissuance of territorial sea general permit constitutes an undertaking as defined in 40 CFR 800.16(y). Based on our initial findings, we believe the renewal of the general permit has no potential to cause effects on historical properties.

We request that you respond to EPA within thirty (30) days with your input regarding the identification of historic properties and/or your comment/concurrence on EPA's determination of no adverse effects on historic properties. Also, your timely response with assistance in identification of other consultative parties appropriate for inclusion in this consultation is also requested.

EPA looks forward to working with the Texas SHPO and Tribal Historic Preservation Officers during this section 106 process. Should you have additional questions please feel free to contact me at (214) 665-7170. Your staff may contact Nelly Smith at (214) 665-7109 or email smith.nelly@epa.gov.

Sincerely yours,



Brent Larsen
Chief, Permits and Technical Assistance Section
NPDES Permits & TMDLs Branch
EPA Region 6

Enclosure

Cc: Bill Martin, Texas Historical Commission

From Annette Smith [mailto:Smith.Annette@epamail.epa.gov]
Sent: Wednesday, July 20, 2011 11:05 AM
To: Shirk, Craig S.
Cc: John MacFarlane; Debra Griffin; Jeffrey Yurk; Brent Larsen; Rhonda Smith
Subject: U.S. Fish & Wildlife Concurrence /Territorial Seas

Hi Craig, please see the attached concurrence from the U.S. Fish & Wildlife & also can we expect to receive delivery of Chapter 4 by Friday, July 22nd? Thanks.

Mr. Larsen:

Thank you for your response to our questions of June 30, 2011. As stated, the Environmental Protection Agency (EPA) determined that the reissuance of the general permit "may affect, but is not likely to adversely affect" nesting Kemp's ridley, loggerhead, leatherback, hawksbill and the green sea turtle. The U.S. Fish and Wildlife Service (Service) agrees the likelihood of an impact occurring on nesting sea turtles is discountable, therefore, the Service concurs with EPA's determination of "may affect, but is not likely to adversely affect" for the five sea turtles. The National Marine Fisheries Service should provide comments and/or concurrences for sea turtles occurring in the water.

As stated in our June 30th reply, the Service does not provide concurrences for "no effect" determinations on species, however, by making determination, the Service believes that EPA has complied with (7)(a)(2) of the Endangered Species Act by making a determination. No further action is required from this office for the piping plover and West Indian manatee.

Should project plans change, or if additional information on the distribution of listed or proposed species becomes available, this determination can be reconsidered. If you have any further questions please contact me.

Mary Orms
U.S. Fish and Wildlife Service
Corpus Christi Ecological Services Field Office
c/o Texas A&M University at Corpus Christi
6300 Ocean Drive, Unit 5837
Corpus Christi, TX 78412-5837
Phone: (361) 994-9005 Ext: 246
Fax: (361) 994-8262

Annette.

Annette Evans Smith
Pollution Prevention Grants Specialist
Office of Planning and Coordination (6EN-XP)
EPA Region 6, 1445 Ross Ave., Dallas, TX 75202-2733
(214) 665-2127, fax (214) 665-7446, smith.annette@epa.gov

From: Brent Larsen/R6/USEPA/US
To: Mary_Orms@fws.gov
Cc: Troy Hill/R6/USEPA/US@EPA, Nelly Smith/R6/USEPA/US@EPA, Taimur Shaikh/R6/USEPA/US@EPA, Isaac Chen/R6/USEPA/US@EPA, John MacFarlane/R6/USEPA/US@EPA
Date: 07/06/2011 11:40 AM
Subject: NPDES Permit Territorial Seas of Texas Permit TXG260000 (Consultation No. 21410-2004-I-0051)

Mary Orms
U.S. Fish and Wildlife Service
Corpus Christi Ecological Services Field Office
c/o Texas A&M University at Corpus Christi
6300 Ocean Drive, Unit 5837
Corpus Christi, TX 78412-5837

Dear Ms. Orms:

In your June 30, 2011, communication with Nelly Smith, of my staff, you raised concerns regarding impacts of spills on sea turtle nesting beaches. I would like to take this opportunity to clarify the scope of our action. The proposed permit does not authorize spills, so therefore responses activities would be outside the scope of our action. We believe endangered species considerations with regard to planning for and responding to spills have already been addressed under the National Contingency Plan, which provides the federal action that would trigger consultation.

While potential effects should a spill occur were mentioned, spill response and remediation are regulated under the National Contingency Plan (NCP), 40 CFR 300, and the associated Area Contingency Plans (ACPs). The NCP requires Federal On-Scene Coordinators (FOSCs), from the U.S. Coast Guard for offshore spills, to direct response efforts and coordinate all other actions at the scene of a spill or release. These plans are developed and implemented by the National and Regional Response Teams, which we understand include representatives of the U.S. Fish and Wildlife Service. For example, the Area Response Plan for the Corpus Christi Area is available at: <http://wwwdb.glo.state.tx.us/oilspill/Atlas/atlas/acp/corpus/corpusoc.pdf> and includes plans for addressing impacts to beaches and wildlife. With respect to state actions, the Texas Oil Spill Prevention and Response Act of 1991 has pre-designated a State-On Scene Coordinator who will coordinate with the FOSC and direct the State's response for oil spills in coastal waters.

Procedures for consideration of endangered species effects related to oil spill planning and response are the subject of the 2001 "Inter-agency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities Under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act" available at: <http://wwwdb.glo.state.tx.us/oilspill/Atlas/atlas/esamoa.pdf>. This MOA coordinates the consultation requirements specified in the ESA regulations, 50 CFR 402, with the pollution response responsibilities outlined in the NCP, 40 CFR 300.

If you have any questions, please feel free to contact either myself or Nelly Smith.

Sincerely,

Brent Larsen
Chief
Permits and Technical Assistance Section (6WQ-PP)
NPDES Permits & TMDLs Branch
EPA Region 6
1445 Ross Ave., Suite 1200
Dallas, TX 75202
214-665-7523
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larsen.brent@epa.gov