



STATE OF MISSISSIPPI
TATE REEVES
GOVERNOR
MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY

September 11, 2020

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

Dear Ms. Mallard:

Re: U.S. Army Corps of Engineers
Vicksburg & Memphis District
General Permit 20
Warren County
COE No. MVK2020281
COE No. MVM2020215
WQC No. WQC2020020

Pursuant to Section 401 of the Federal Water Pollution Control Act (33 U. S. C. §§ 1251, 1341), the Mississippi Department of Environmental Quality's Office of Pollution Control issues this Certification, after public notice and opportunity for public hearing, to the U.S. Army Corps of Engineers – Memphis District and Vicksburg District, an applicant for a Federal License or permit, to conduct the following activity:

U.S. Army Corps of Engineers, Vicksburg & Memphis District, General Permit 20 (GP-20): This General Permit is for the construction of structures in or affecting waters of the United States and/or discharges of dredged and/or fill material into waters of the United States associated with the construction, maintenance, repair, replacement, and/or removal of utility lines and associated facilities within the regulatory jurisdiction of the Vicksburg District in the states of Arkansas, Louisiana, and Mississippi, and the Memphis District in the states of Arkansas and Mississippi.

General Permits may be issued for a category or categories of activities when:

- (1) those activities are substantially similar in nature and cause only minimal individual and cumulative environmental impacts; or
- (2) the General Permit would result in avoiding unnecessary duplication of the regulatory control exercised by another Federal, State, or local agency,

provided it has been determined that the environmental consequences of the action are individually and cumulatively minimal.

This General Permit contains certain limitations intended to protect the environment and natural and cultural resources. Construction, dredging, or fill operations which include regulated work and/or discharges of dredged or fill material into Section 10/404 or Section 404 regulated waters of the United States (collectively hereafter referred to as: WOTUS) which are not specifically authorized by this General Permit are prohibited unless specifically approved by the District Engineer via separate authorization. Conformance with conditions contained in the General Permit would not necessarily guarantee authorization under this General Permit. In cases where the District Engineer considers it necessary, an application for an individual permit will be required.

Typical activities which may be authorized under GP-20 include open-cut trenching and backfilling and horizontal directional drilling for buried utility lines/cable/pipes, fill for the construction of pole foundations, handhole covers, outfalls and associated intakes, aerial crossings over navigable waters, and temporary structures, fills, and work necessary to conduct the utility line activity including access roads and workspace preparation. Pipelines that may be eligible for authorization under GP-20 include those that may transport gaseous, liquid, liquescent, or slurry substances. GP-20 may also be used for electrical substations, compressor stations, transmission towers and other similar features along an existing or new utility line. Remediation of inadvertent returns of drilling fluid may also be authorized by GP-20.

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 GP-20. Utility line activities must comply with 33 CFR 330.6(d).

Pipes or pipelines used to transport gaseous, liquid, liquescent, or slurry substances over navigable waters of the United States are considered 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 would require a section 404 permit.

For overhead utility lines authorized by this General Permit, a copy of the Application and GP-20 authorization would be provided to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

This General Permit may not be used to authorize regulated activities in the Louisiana Coastal Zone, nor in any of the following ecotypes in Mississippi: tidal

waters, WOTUS having a surface hydrologic connection to tidal waters; marsh habitats (i.e. all tidal emergent wetlands dominated by salt or estuarine marsh plant species; and all nontidal emergent wetlands dominated by freshwater marsh plant species, abutting and/or adjacent to tidal emergent wetlands).

The following activities would be authorized by GP-20 without the submission of an application for project specific evaluation to the District Engineer:

- i. The construction/installation of cables (e.g. fiber optic, electrical) where the regulated activity is related to installation by open-cut trench/plow and/or directional bore when all of the following criteria are met:
 - 1) There will be no conversion of forested wetlands to emergent wetlands via mechanized land clearing;
 - 2) the cumulative impact of all conversion and permanent loss of WOTUS does not exceed 0.10 acre at each single and complete crossing; and,
 - 3) all ground disturbed is returned to pre-construction condition within 90 days (this period may be extended up to 180 days where appropriate).

- ii. The construction/installation of pipelines (e.g. water, gas) where the regulated activity is related to installation by open-cut trench/plow and/or directional bore when all of the following criteria are met:
 - 1) The pipeline does not exceed 8-inches in diameter;
 - 2) there will be no conversion of forested wetlands to emergent wetlands via mechanized land-clearing;
 - 3) the cumulative impact of all conversion and permanent loss of WOTUS does not exceed 0.10 acre at each single and complete crossing; and,
 - 4) all ground disturbed is returned to pre-construction condition within 90 days (this period may be extended up to 180 days where appropriate).

- iii. The construction method is boring/horizontal directional drilling (HDD) under a WOTUS that is designated as a Section 10 waterbody, and:
 - 1) The depth of the bore/HDD is a minimum of 25 feet below the thalweg of the Section 10 waterbody;
 - 2) the project does not require 408 permission; and
 - 3) there are no associated impacts to WOTUS (wetlands or streams) that exceed the limits provided in (i.) and (ii.) above, at each single and complete crossing.

Requests for authorization under this General permit must be submitted to the District Engineer, in writing, 60 days prior to the planned start date for the work and must include:

- a. State the number of the General Permit under which the work would be conducted. (General Permit - 20) (GP-20)
- b. A statement that the work would be conducted in compliance with the terms and conditions of GP-20 and will not adversely impact adjoining properties.
- c. Name, mailing address, telephone number, and e-mail address of the party (person/agency) applying for authorization and for the agent (if applicable).
- d. A location description including: latitude and longitude (starting and ending points for linear projects in decimal degrees); Section, Township, Range; County or Parish, and State; a plan-view (including a digital aerial overlay), and location map showing the proposed worksite(s).
- e. A detailed description of the proposed activity and its purpose, including:
 1. Purpose statement (general).
 2. Estimated starting date, and estimated time duration to completion of the construction activity in/affecting WOTUS.
 3. Drawings (plan and profile) of the proposed structure/work and associated facilities, including permanent and temporary access roads and workspaces.
 4. 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 would be prepared in accordance with the current method required by the Corps. The applicant may ask the Corps to delineate the special aquatic sites, including wetlands, 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 waters of the United States. Furthermore, the application evaluation period would not start until the delineation has been submitted by the applicant or completed by the Corps, as appropriate.
 5. For aerial utility lines in general, elevation of the highest pole (or other connection point) of the line.
 6. For aerial utility lines consisting of transmission lines crossing navigable waters of the United States, the line positioning must comply with the applicable minimum clearances specified in 33 CFR 322.5(i). The following minimum clearances are required for aerial electric power transmission lines crossing navigable waters of the United States. These clearances are related to the clearances over the navigable channel provided by existing fixed bridges, or the clearances that would be required by the U.S. Coast Guard for new fixed bridges, in the vicinity of the proposed power line crossing. The clearances are based on the low point of the line under conditions which produce the greatest sag, taking into consideration temperature, load, wind, length or span, and type of supports as outlined in the National Electrical Safety Code.

Nominal system voltage, kV	Minimum additional clearance (feet) above clearance required for bridges
115 and below	20
138	22
161	24
230	26
350	30
500	35
700	42
750-765	45

Applications for aerial lines crossing over Section 10 waters must include the following statement, completed with relevant project-specific information:

“The low wire height of the ___ kv power line will be at a minimum elevation of ___ [MSL/NVGD/Other]. The low wire was calculated using the low steel elevation of _____ [MSL/NVGD/Other] at ___(bridge location)___, located approximately ___ feet upstream of the proposed aerial transmission line crossing.”

7. For permanent and temporary discharges of fill and/or dredged material: The latitude/longitude in decimal degrees (approximate centerpoint) for each impact; dimensions (in acres or square feet) at each impact location, the total area impacted (in acres for wetlands; in both acres and linear feet for streams). The description of the impacts should be identified for each single and complete project, separated into permanent impacts and temporary impacts, discharges of fill versus discharges of dredged material versus structures, and identified by aquatic resource type (e.g. emergent wetland, forested wetland, intermittent stream). Applicants are encouraged to utilize the “Consolidated Upload Spreadsheet” available on the Vicksburg District’s Regulatory Web Page: <https://www.mvk.usace.army.mil/Missions/Regulatory/Permits/>
8. A narrative summary (or list/table) detailing the total aquatic resource impacts (separated into permanent impacts and temporary impacts; separated into discharges of fill and discharges of dredged material), and the total impacts for each resource type (e.g. emergent wetland, forested wetland, intermittent stream, etc.).
9. Where wetlands are proposed to be filled or converted (causing a loss of wetland functions), current site photos representative of the WOTUS to be impacted is highly encouraged, although not required.
10. A narrative describing how impacts to WOTUS were minimized to the maximum extent practicable. For projects that include adverse impacts to WOTUS, the complete application would include information on mitigation in all forms (i.e. avoidance, minimization, and compensation). The narrative should include a description of the Best Management Practices (BMPs) that would be used to minimize movement of disturbed

soil(s) from the construction area into adjacent WOTUS. If the regulated activity would include dry crossing techniques of a waterbody with perennial flow or intermittent flow, water quality protection measures must be described.

- f. Impacts to WOTUS (permanent and temporary combined) must not exceed 1.0 acre at each single and complete crossing. For projects with unavoidable adverse functional impacts greater than 0.10 acre to wetlands or greater than 300 linear feet of streams, the complete application would include a statement describing: how, if required, the compensatory mitigation requirement would be satisfied (either through the purchase of mitigation credits from an approved mitigation bank or “in lieu fee” provider, or through permittee responsible mitigation); or explaining why the project specific adverse 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. If the applicant proposes permittee responsible mitigation, the application would not be considered complete until the Corps receives an acceptable permittee responsible mitigation plan.

NOTE: Information on the Vicksburg District’s current mitigation requirements is available on the MVK Regulatory Web Page:
<http://www.mvk.usace.army.mil/Missions/Regulatory/Mitigation.aspx>

- g. If another Federal agency is involved in the project through technical assistance, funding/grants, or other means: identify the agency; briefly describe the involvement of the agency; and provide a point of contact (name, phone number and email address).
- h. Federal permittees would follow their own procedures for complying with the requirements of the Endangered Species Act (ESA). Federal permittee must provide appropriate documentation to demonstrate compliance with those requirements.

For non-Federal permittees: if any ESA-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, the application must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity.

- i. Federal permittees would follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide appropriate documentation to demonstrate compliance with those requirements.

For non-Federal permittees, if the 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 application must state which historic property might have the potential to

be affected by the proposed activity and include a vicinity map indicating the location of the historic property.

- j. For work proposed: on or adjacent to any stream in a component of a National Wild and Scenic Rivers System or in a component of a State Natural and Scenic Rivers System; on a property/area owned or managed by a State or Federal natural resource agency (e.g. wildlife management areas, national wildlife refuges, national forests, etc.), the applicant must submit with their request for authorization under this General Permit, the agency point of contact (including phone number, mailing address, and email address) and proof of initiation of the applicant's request for approval from the managing agency.
- k. For activities affecting structures or works built by the United States (Section 408 of the Rivers and Harbors Act of 1899): If a GP-20 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 USACE Federally authorized Civil Works project, the application must include a statement (and any associated documents) confirming that the project applicant has submitted a written request for Section 408 permission to the appropriate Corps office having jurisdiction over that USACE project.

Upon receipt of this information, the District Engineer would evaluate the proposal and advise the inquiring party, in writing, that the work could be authorized under General Permit 20; or would require an individual permit (if it exceeds the authoritative capacity of the General Permit) and/or additional separate authorizations.

Special Conditions:

1. Permanent loss of WOTUS (wetlands and other waters of the U.S.) from the proposed construction and fill activities would not exceed one (1) acre at any single and complete linear or non-linear project. The activity must be a single and complete project, which may or may not include multiple single and complete crossings (33 CFR 330.6(d)). GP-20 would not be used more than once for the same single and complete crossing. GP-20 may be combined with a Nationwide Permit or other authorization in some circumstances, but only when the acreage of loss of WOTUS does not exceed the acreage limit of the permit with the highest specified acreage limit.
2. No regulated activity would cause the permanent loss, or conversion, of greater than 0.5 acre of cypress swamp and/or cypress-tupelo swamp, coastal prairie, pine savanna, or pitcher plant bogs at any single and complete linear or non-linear project.
3. When clearing of forested or scrub-shrub WOTUS is part of the project plan, the vegetative material would not be chipped or shredded with discharge on the ground within the boundary of the WOTUS (the material may be

chipped/shredded into trucks within WOTUS and hauled offsite). All debris and temporary fills would be removed from WOTUS as early as practicable (within 90 days unless a time extension has been granted). All excavated material not used as backfill would be placed in a non-jurisdictional area (i.e., upland) unless otherwise separately authorized. If dredged material is to be placed in an upland contained disposal area and return water discharged back into WOTUS, a separate Department of the Army authorization may be required (See Nationwide Permit No. 16).

4. The construction right of way (workspaces) and permanent right of way would be limited to the minimum necessary to avoid and minimize impacts to WOTUS. In general, the following right of way guidelines would apply.

Utility Line Right-of-Way (ROW) Guidelines		
Utility Type	Construction ROW Limits	Permanent ROW Limits
Electric Transmission Lines	125 feet	100 feet
Pipelines 16" and smaller	50 feet	25 feet
Pipelines 18"–36"	75 feet	50 feet
Pipelines 36" and greater	Case-by-Case	Case-by-Case

*The limits set forth above, may be waived on a case-by-case basis. If a waiver is requested, the applicant would supply with the application a statement of explanation as to why additional right of way is necessary.

5. Adequate best management practices would be required. All construction activities would be performed in a manner that would prevent off-site movement of disturbed soils, minimize increased turbidity of the water in the work area, and otherwise avoid adverse effects on water quality and aquatic life, especially during fish spawning seasons. The fill material would be compacted upon completion of construction. The site would be revegetated by sod, seed, or another acceptable method, as necessary, to restore cover and prevent erosion. Heavy equipment working in wetlands would be placed on temporary mats, or other measures must be taken to minimize soil disturbance. In areas subject to currents, riprap or other measures may be used for slope protection.
6. If the regulated activity would include dry crossing techniques of a waterbody with perennial flow, water quality protection measures, such as fluming, would be used. For intermittent streams, work would be conducted during periods of low to no flow; if not practicable, the above requirement for water quality protection measures would apply. The material returned to the cut would be sufficiently compacted, and the banks restored to pre-construction contours, prior to restoration of natural water flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters would be maintained for each activity, including temporary and permanent road crossings.

7. All temporary fills would be removed in their entirety (to an area outside of WOTUS) and the affected areas returned to pre-construction elevations. The affected areas would be revegetated, as appropriate.
8. Temporary and permanent access roads would be aligned to minimize impacts to WOTUS. Access roads used solely for construction of the utility line would be removed upon completion of the work, in accordance with the requirements for temporary fills.
9. Fill material would not be obtained from any WOTUS or any area which would adversely affect an adjacent WOTUS.
10. The construction activity would not result in the permanent blockage of a natural stream or river channel or drain jurisdictional wetlands.
11. No activity would 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.
12. Discharges and structures would not be located so as to adversely affect a national fish hatchery intake. Discharges would not occur in areas of concentrated shellfish production.
13. The discharge would not contain unacceptable levels of pathogenic organisms in areas used for activities involving physical contact with the water or substrates.
14. The activity would comply with applicable FEMA-approved state or local floodplain management requirements.
15. No sewage, oil, refuse, or other pollutants would be discharged into WOTUS. Dredged, excavated, or fill material used for construction would be nonpolluting material in accordance with the Environmental Protection Agency Guidelines for the Discharge of Dredged or Fill Material found in 40 CFR 230.
16. This GP would authorize, to the extent that DA authorization is required, temporary structures, fills, and work necessary for the remediation of inadvertent returns of drilling muds to waters of the United States through sub-soil fissures or fractures (i.e., frac-outs) that might occur during horizontal directional drilling activities to install or replace utility lines. These remediation activities would be done as soon as practicable to restore the affected waterbody. District engineers may add special conditions to this GP to require a remediation plan for addressing inadvertent returns of drilling muds to waters of the United States during horizontal directional drilling activities for the installation or replacement of utility lines.
17. No activity would be authorized under this General Permit which would be likely to directly or indirectly jeopardize the continued existence of a Federally-listed threatened or endangered species or a species proposed for such designation, as identified under the Endangered Species Act (ESA), or

- that would directly or indirectly destroy or adversely modify the critical habitat of such species. No activity would be authorized under this General Permit which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.
18. No activity that has the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places, or a site that has previously been unevaluated, would be authorized by this General Permit until the requirements of Section 106 of the National Historic Preservation Act have been satisfied. Fill material would not be taken from a known historical or archaeological site within or outside regulated areas. If the permittee, during prosecution of work authorized herein, inadvertently discovers or accidentally destroys a cultural resource such as a cemetery, shipwreck, mound, historic structure, or archaeological site, within the area subject to Department of the Army jurisdiction, they would cease work in the immediate area and notify the District Engineer within 24 hours. The District Engineer, in consultation with the appropriate State Historic Preservation Office and the Federally recognized Tribe, would comply with the procedures set forth in 33 CFR 325, Appendix C, paragraph 11 (Historic Properties Discovered During Construction).
 19. No regulated activity would be authorized which has been determined to have an adverse impact upon a federal or state designated rookery and/or bird sanctuary. Activities in WOTUS that may impact other known wading bird rookeries would be avoided to the maximum extent practicable. The permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The permittee would contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for the activity.
 20. Activities proposed on or adjacent to any stream in a component of a National Wild and Scenic Rivers System or in a component of a State Natural and Scenic Rivers System, would not be authorized without the appropriate Federal or State authorization.
 21. Activities would not be authorized on a property/area managed by a State or Federal natural resource agency (e.g. wildlife management areas, national wildlife refuges, national forests, etc.) without documented approval (e.g. special use permit, waiver, etc.) from the managing agency.
 22. Projects located on property encumbered by a Natural Resources Conservation Service (NRCS) Wetlands Reserve Program (WRP) easement would not be authorized without written release/approval from the NRCS. Under such situations, the application would not be considered complete until the Corps is provided written documentation of release/approval from the agreement by the NRCS.

23. Authorizations under GP-20 would be valid until _____, XX, 2025, unless the General Permit is modified, suspended, or revoked. Activities which are under construction, or that are under contract to commence, in reliance upon this General Permit would remain authorized provided the activity is completed within 12 months of the date of any subsequent modification, expiration, or revocation.
24. Any authorized structure or fill would be properly maintained, including maintenance to ensure public safety.
25. If the permittee sells the property associated with a GP-20 authorization, the permittee may transfer the GP-20 authorization to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the GP-20 authorization would be attached to the letter, and the letter would contain the following statement and signature:
- “When the structures or work authorized by this GP-20 authorization are still in existence at the time the property is transferred, the terms and conditions of this GP-20 authorization, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this GP-20 authorization and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

26. Authorizations for this General Permit would not be granted to an applicant who is in noncompliance with a Department of the Army permit until such noncompliance has been resolved.
27. Any conditions in the water quality certification issued from the State (in which the activities are proposed) would be incorporated by reference. Enforcement actions resulting from noncompliance with these conditions may be initiated by the State or the Environmental Protection Agency.
28. The permittee would return a Certification of Compliance after completing construction of the authorized activity.

[MVK2020281, MVM2020215, WQC2020020]

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. The permittee shall obtain appropriate wastewater permits and/or approvals for the proposed activity prior to the commencement of construction activities.
2. 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 but 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.

3. The permittee shall report any spill or discharge of inadvertent returns of drilling fluids/mud to the 24-hour State Warning Point at the Mississippi Emergency Management Agency (1-800-222-6362). Spills of any pollutant, not just hazardous materials, that may affect state waters, land, air or public health must be reported. Discharges of drilling fluids/muds are prohibited unless approved in writing or permitted by the Department.
4. In cases where a pre-construction notification (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.
5. The Department shall be furnished copies of authorizations of coverages under this NWP.
6. No sewage, oil, refuse, or other pollutants shall be discharged into the watercourse.
7. The turbidity outside the limits of a 750-foot mixing zone shall not exceed the ambient turbidity by more than 50-Nephelometric Turbidity Units.

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.

This certification does not authorize activities in nonfederal state waters. If you have any questions, please contact Florance Bass.

Sincerely,



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

KR: chb

cc: Mr. Bryan Williamson, U.S. Army Corps of Engineers, Vicksburg District
Mr. Jerry Bourne, U.S. Army Corps of Engineers, Vicksburg District
Ms. Willa Brantley, Department of Marine Resources
Mr. David Felder, U.S. Fish and Wildlife Service
Ms. Molly Martin, Environmental Protection Agency