



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229

JUN 09 2010

Policy Analysis Section

SUBJECT: SWG-2007-00768; STP Nuclear Operating Company, Permit Determination

Mr. Scott Head
Manager, Regulatory Affairs
South Texas Project, Units 3 & 4
4000 Avenue F, Suite A
Bay City, TX 77414

Dear Mr. Head:

The Corps published a notice on March 25, 2010 to advise the public of your proposed activity. In response, we received the enclosed letter letters from the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, the Texas Commission on Environmental Quality, and the Texas Parks and Wildlife Department.

The concerns raised in the letters must be given full consideration before we can make a final decision on your application. We need your information to address the concerns/issues raised over the proposed project. You may submit additional information or revise your plans to help resolve the issues. You may also rebut the issues made or request a decision based on the existing record. We must hear from you within 30 days from the date of this letter, otherwise your application will be withdrawn.

The Corps recommends that STP revise its plan drawings to better illustrate the proposed project and to conduct a stream functional assessment, such as the Unified Stream Methodology, on the relatively permanent waters to determine if compensatory mitigation is required.

We are ready to assist you in whatever way possible. We can even arrange a meeting between you and the concerned parties if that is your desire. Please call me at 409-766-3108 if you need help.

Sincerely,

Jayson M Hudson
Regulatory Project Manager
Policy Analysis Section

(Copy Furnished - See Page 2)

Copy Furnished: (with enclosures)

US Nuclear Regulatory Commission
c/o Ms. Jessie Muir M/S T7-E30
11555 Rockville Pike
Rockville, MD 20852

Mr. Sam Damico
STPNOC
4000 Avenue F
Bay City, TX 77414

APR 19 2010

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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 14, 2010

Mr. Jayson Hudson
U.S. Army Corps of Engineers
Galveston District CESWG-PE-RE
P.O. Box 1229
Galveston, Texas 77553-1229

Re: USACE Permit Application Number SWG-2007-00786

Dear Mr. Hudson:

As described in the Joint Public Notice (PN), dated March 25, 2010, the applicant, South Texas Nuclear Operating Company, proposes to dredge and expand two existing barge slips and construct a heavy-haul road by placing six culverts into waters of the United States. The project is located at the South Texas Nuclear Power Plant, eight miles west of Wadsworth, Matagorda County, Texas.

In addition to the information contained in the public notice, the following information is needed for review of the proposed project. Responses to this letter may raise other questions that will need to be addressed before a water quality certification determination can be made.

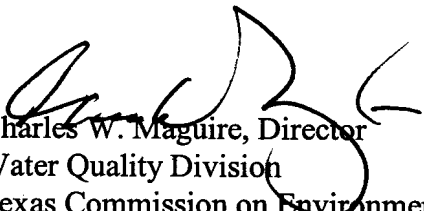
1. The site plan (Sheet 2 of 17), provided as an attachment to the PN, prominently identifies the location of the six proposed culverts and proposed stream crossings. However, the site plan does not provide any identification for significant project and infrastructure components or landmarks. In addition, various items presented on the site plan (printed and electronic versions) are unrecognizable or illegible. Please provide an updated site plan with project information provided in a clear and identifiable context.
2. The PN states that stream crossing impacts resulting from the placement of the six culverts are expected to total approximately 7,360 sq. ft. or 0.17 acres. No information is provided in the PN for the location and sizing of construction staging areas and heavy equipment access areas that will be required for construction activities within the stream channels. Please have the applicant provide any additional information if staging and access activities have the potential to adversely impact waters of the United States.

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U.S. Army Corps of Engineers
USACE Permit Application Number SWG-2007-00786
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3. Mitigation of impacts is considered for "... all unavoidable adverse impacts that remain after all practicable avoidance and minimization has been completed ..." (30 TAC §279.11(c)(3)). According to the information provided in the 401 Certification Questionnaire, no compensatory mitigation is proposed due to the small scale of the proposed impacts and overall low quality nature of the aquatic resources. Please have the applicant provide additional information on potential mitigation/enhancement opportunities in the vicinity of the proposed impacts that can be incorporated into the project design to provide mitigation and improve the quality of the aquatic resources.
4. The Water Quality Impacts section of the 401 Certification Questionnaire states that concrete head walls will be constructed around the proposed culverts for long-term protection to prevent bank and shoreline erosion. Since no information is provided in the PN attachment sheets, it is unclear if the construction and placement of the concrete head walls will be conducted in conjunction with the current proposed project or if the concrete head walls will be constructed as a separate project at a future date. Please provide additional information concerning the long-term erosion and sediment controls and structures.

The Texas Commission on Environmental Quality (TCEQ) looks forward to receiving and evaluating other agency or public comments. Please provide any agency comments, public comments, as well as the applicant's comments, to Mr. Robert Hansen of the Water Quality Division MC-150, P.O. Box 13087, Austin, Texas 78711-3087. Mr. Hansen may also be contacted by e-mail at rhansen@tceq.state.tx.us, or by telephone at (512) 239-4583.

Sincerely,


Charles W. Maguire, Director
Water Quality Division
Texas Commission on Environmental Quality

CWM/RSR/sp

cc: Mr. Ben Rhame, Secretary, Coastal Coordination Council, P.O. Box 12873, Austin, Texas 78711-2873

Hudson, Jayson M SWG

From: Catherine_Yeargan@fws.gov
Sent: Monday, April 26, 2010 5:29 PM
To: Hudson, Jayson M SWG
Subject: SWG-2007-00786

Jayson,

The U.S. Fish and Wildlife Service (Service) has reviewed the Department of Army Public Notice for permit SWG-2007-00786. We can take NO ACTION on this permit at this time. Should future revisions require additional permits or amendments, we would appreciate the opportunity to provide you with our comments.

If you have any questions, please contact me at 281/286-8282 ext 249.

Sincerely,
Catherine Yeargan
Fish and Wildlife Service
Clear Lake ESFO
17629 El Camino Real #211
Houston, TX 77058-3051
(281) 286-8282 ext 249
(281) 488-5882 FAX



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

Jayson M. Hudson
Regulatory Branch, CESWG-PE-RB
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

APR 26 2010

Dear Jayson M. Hudson:

The Environmental Protection Agency (EPA) has reviewed the Public Notice (PN) SWG-2007-00786, dated March 25, 2010, submitted by South Texas Nuclear Operating Company. The comments that follow are being provided for use in reaching a decision relative to compliance with the EPA's *404(b)(1) Guidelines for Specifications of Disposal Sites for Dredged or Fill Material (40 CFR Part 230)* (Guidelines).

The applicant, South Texas Nuclear Operating Company, is proposing impacts to an unspecified amount of acres of waters of the U.S., for the purpose of expanding South Texas Nuclear Operating Company. No compensatory mitigation is being offered by the applicant for impacts to waters of the U.S.

The draft environmental impact statement (dEIS) for the expansion of the South Texas Nuclear Operating Company project is currently under review and has not been approved. EPA understands the dredging and installation of culverts to be dependent on the approval of the dEIS and not as a separate project. It appears that the PN for the culverts and dredging is premature.

The purpose of the CWA Section 404(b)(1) Guidelines is to restore and maintain the chemical, physical, and biological integrity of waters of the United States. These goals are achieved, in part, by prohibiting discharges of dredged or fill material into the aquatic ecosystem that would result in avoidable or significant adverse impacts on the aquatic environment unless it can be demonstrated that there is no less environmentally damaging practicable alternative that achieves the project purpose [40 CFR 230.10(a)]. The applicant bears the burden for demonstrating that the proposed project is the least environmentally damaging practicable alternative that achieves the project purpose. The determination of the least environmentally damaging practicable alternative is achieved by performing an alternatives analysis that evaluates the direct, secondary, and cumulative impacts to waters of the U.S. resulting from each alternative considered. PN SWG-2007-00786, nor the associated draft EIS for the project, stated the amount of impacts to waters of the United States that would result from the proposed project or from each alternative presented and an accurate comparison of the alternatives could not be performed.

If any impacts to waters of the United States occurs from the proposed dredging and

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instillation of the culverts (according to the draft EIS it is 7 culverts, according to the PN it is 6 culverts), there is no compensatory mitigation presented in either the draft EIS or the PN SWG-2007-00786. Proper mitigation of impacts to waters of the United States is a requirement of the CWA Section 404(b)(1) Guidelines.

It is EPA's decision that the project may not comply with the Guidelines and therefore EPA recommends that this Department of the Army permit be denied until the applicant addresses the alternatives analysis for the project and the amount of impacts to waters of the United States, the compensatory mitigation (including avoidance, minimization, and mitigation for impacts), and agrees to provide compensatory mitigation, within the project watershed, for the replacement of habitat value and wetland functions that would be lost. The amended information should be presented to all commenting agencies for review and comment, and EPA reserves the right to make further comments on the draft EIS. Thank you for the opportunity to review and comment on this public notice. If you have any questions regarding these comments, please contact Jenelle Hill of my staff at 214-665-9737.

Sincerely yours,



Sharon Fancy Parrish
Chief
Wetlands Section

cc:

Jan Culbertson, Texas Parks & Wildlife Department, Dickinson, TX
Catherine Yeargan, U.S. Fish and Wildlife Services, TX



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April 26, 2010

Mr. Jayson Hudson
Regulatory Branch
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Mr. Mark Fisher, 401 Coordinator
Mail Code 150
TCEQ
P.O. Box 13087
Austin, Texas 73711-3087

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Executive Director

Re: Permit Application Number SWG-2007-00786
South Texas Nuclear Operating Company

Texas Parks and Wildlife Department (TPWD) has reviewed permit application number SWG-2007-00786 dated March 25, 2010. The applicant proposes to construct and operate two new nuclear units at the South Texas Project Site. The U.S. Nuclear Regulatory Commission (NRC) has completed the "Draft Environmental Impact Statement for the Combined Licenses for South Texas Project Electric Generating Station Units 3 and 4" (NURGEG-1973). The U.S. Army Corps of Engineers, Galveston District (Corps), is a cooperating agency on the Draft Environmental Impact Statement (DEIS). A Department of the Army Permit is required for the applicant to conduct maintenance dredging and expansion of the two existing barge slips located on the Colorado River and to construct a heavy-haul road from the barge-slip to the construction site by placing six culverts into waters of the United States. Dredged material will be placed in an existing confined dredge material placement area with no return water. The project would result in direct impacts to less than three acres of waters of state and less than 1,500 linear feet of stream. The project is located at the existing South Texas Nuclear Power Plant (STP) on FM 521, approximately 8 miles west of Wadsworth, Matagorda County, Texas.

Please be aware that a written response to a TPWD recommendation or informational comments received by a state governmental agency on or after September 1, 2009 may be required by state law. For further guidance, please see Texas Parks & Wildlife Code Section 12.0011 at <http://www.statutes.legis.state.tx.us/Docs/PW/htm/PW.12.htm>.

A site visit to the barge slip located on the Colorado River that is proposed to be expanded and undergo maintenance dredging was conducted on February 6, 2008. The barge slip depth has been reduced by siltation. The shoreline of the slip has naturalized and is now vegetated with emergent vegetation that is dominated by *Phragmites australis*. Water depths adjacent to the vegetated shoreline are shallow and gradually become deeper toward the middle of the barge slip. During the site visit, numerous avian species were observed at the project site, including the barge slip area. The species observed at the barge slip area were Carolina chickadee, American kestrel, great-blue heron, red-shouldered hawk, and red-tailed hawk. An un-identified snake was also observed at the barge slip area.

It is unclear in the proposed plans whether the proposed heavy-haul road (and associated wetland impacts) from the barge-slip to the construction site is a new road or an expansion of the existing road. An existing road from the existing STP area to the existing barge slip was present during the site visit. A long portion of this road

Mr. Hudson
Mr. Fisher
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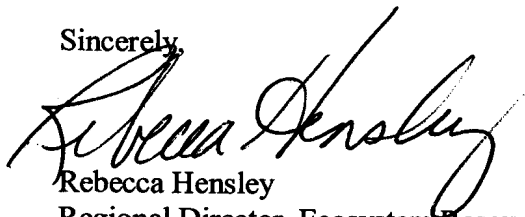
had a vegetated ditch running parallel to it. Crawfish and crawfish chimneys were observed along the road/vegetated ditch. Numerous avian species were also observed feeding within this area including snowy egrets, white egrets, great-blue herons, black-crowned night herons and American coots. Avian species viewed in other areas of the STP site included common snipes, American pipit, Sprague's pipit, meadow larks, killdeer, crested caracaras and brown and white pelicans. White-tailed deer and alligators were also observed at the project site.

TPWD staff was not able to locate a specific compensatory mitigation plan for the project's proposed wetland impacts or any other habitats proposed to be impacted in the Department of the Army Public Notice or in the DEIS. TPWD's review of Section 4.11 of the DEIS, Measures and Controls to Limit Adverse Impacts During Construction Activities, provides some very generalized measures and controls that the review team considered in its evaluation of impacts of building Units 3 and 4. Table 4-6 also provides the team's list of measures and controls proposed by South Texas Project Electric Generating Station Nuclear Operating Company to limit adverse impacts during building Units 3 and 4. Section 4.12 of the DEIS, Summary of Preconstruction and Construction Impacts, and Table 4-7 provide a summary of the impact levels determined by the review team which categorizes the impacts as small, moderate or large. The review team's determination of the impact category levels is based on the assumption that the mitigation measures identified in the Environmental Report (ER) or activities planned by various State and county governments, such as infrastructure upgrades (discussed throughout this chapter), are implemented. Failure to implement these upgrades might result in a change in the impact category. Possible mitigation measures of adverse impacts, where appropriate, are presented in Section 4.11. However, none of the mitigation measures and controls include compensatory mitigation for the project's proposed impacts to fish and wildlife habitat including waters of the U.S.

TPWD recommends that the applicant formulate a compensatory mitigation plan for all impacts to wetlands and shallow water habitat from the proposed project. TPWD requests the opportunity to review and comment on the compensation plan prior to the issuance of the permit.

Questions can be directed to Ms. Cherie O'Brien at (281) 534-0132 or Mr. Jamie Schubert at (281) 534-0135 in our Dickinson Marine Laboratory.

Sincerely,



Rebecca Hensley
Regional Director, Ecosystem Resources Program
Science and Policy Branch
TPWD Coastal Fisheries Division

RH:WJS:COB