

AMENDMENT TO THE OCTOBER 16, 1985
BAYOU AUX CARPES FINAL DETERMINATION

Background

On October 16, 1985, the Environmental Protection Agency's (EPA's) Assistant Administrator for External Affairs¹ issued a Final Determination pursuant to Section 404(c) of the Clean Water Act restricting the discharge of dredged or fill material in the Bayou aux Carpes site, Jefferson Parish, Louisiana. The Final Determination listed certain activities which were not prohibited, and stated that if landowners identified other specific activities which might involve discharges but would have minor impacts they could apply to EPA for reconsideration of the Final Determination with respect to those activities.

On December 18, 1991 and January 10, 1992 Shell Pipe Line Corporation (Shell) petitioned EPA for reconsideration of exceptions identified in EPA's October 16, 1985 Final Determination concerning the Bayou aux Carpes site. Shell requested an amendment to the Final Determination in order to 1) temporarily discharge dredged or fill material associated with performing emergency work to relocate an existing below ground pipeline located in the restricted Section 404(c) area; and 2) except from the Bayou aux Carpes Section 404(c) restriction future discharges associated with routine operation and maintenance of this pipeline. Shell needs to locate the pipeline deeper underground to allow completion of a Federal hurricane protection levee adjacent to the Section 404(c) restricted area.

EPA announced Shell's request for amendment of the Bayou aux Carpes Final Determination and requested public comment in the January 31, 1992 Federal Register (57 Federal Register 3757). The notice was issued for a 15 day comment period which ended on February 18, 1992. In addition, EPA formally notified the Corps of Engineers Headquarters by letter and requested any comments on Shell's proposal. EPA also mailed copies of the Federal Register notice to other parties that might be interested in the proposed action.

There were no comments from the public received by EPA in response to the Federal Register notice. Corps Headquarters responded in a February 18, 1992 letter to EPA and recommended that EPA give full consideration to the request by Shell to undertake the activity. Corps Headquarters also stated that based on information provided, it appears that only minimal and temporary impacts associated with the project would be necessary to facilitate pipeline installation and maintenance. Further, Corps Headquarters indicated that they had coordinated their response with the Corps of Engineers New Orleans District Office and the District is currently gathering

¹ Signature authority on issuance of Section 404(c) final determinations is now delegated to the Assistant Administrator for Water.

information to review the project in accordance with Section 10 and Section 404 requirements. According to Corps Headquarters, during the permit review process, the District will consider permit conditions to minimize impacts to wetlands within the proposed project area.

Findings and Conclusions

EPA has carefully reviewed Shell's proposal and the information it submitted, comments submitted by the Corps of Engineers, and the existing Bayou aux Carpes administrative record. Based on this review, EPA concludes that environmental impacts associated with the Shell pipeline relocation activity would not result in unacceptable adverse effects to the Bayou aux Carpes Section 404(c) area. In reaching this decision, EPA considered that (1) the environmental impacts are minor and temporary because the project is confined to an area approximately 0.43 acres in size and the project involves a maximum discharge of 300 cubic yards of dredged or fill material for a period of approximately two weeks; (2) the impacted area will be restored to pre-project contours when the project is complete; (3) the Shell pipeline relocation is a precautionary action necessary to facilitate the enlargement of a Federal hurricane protection levee adjacent to the Section 404(c) area; and (4) Shell evaluated and attempted alternate methods of pipeline relocation which were unsuccessful. Shell is now presented with an emergency situation because the existing temporary by-pass pipeline joints have failed and accidental releases of gaseous raw mix have occurred. Therefore, for discharge activities in waters of the United States associated with pipeline relocation as described in the Shell submission to EPA received January 17, 1992, EPA concludes that the action is hereby exempt from the prohibitions of the October 16, 1985 Bayou aux Carpes Section 404(c) action provided the activity complies with all permit conditions which may be imposed by the Corps of Engineers through the Section 10 and Section 404 permit process.

With regard to the Shell request to except from the Bayou aux Carpes Final Determination future discharges associated with routine operation and maintenance of this pipeline, EPA has determined that this request is equivalent to the existing exception described in the October 16, 1985 Bayou aux Carpes Final Determination for routine operation and maintenance activities of the Southern Natural Gas Company pipeline also located within the area restricted by EPA's action under Section 404(c). No information has been provided which suggests that such maintenance has had greater impacts than expected. Accordingly, EPA concludes that future discharges associated with routine operation and maintenance of the Shell pipeline would not result in unacceptable adverse effects to the Section 404(c) area provided dredged or fill material is placed in piles with breaks in between to allow sheet flow to adjacent wetlands. In addition, pre-maintenance contours must be restored, and the activity must comply with all permit conditions imposed by the Corps of Engineers through the Section 10 and Section 404 permit process. Therefore, as described below, EPA has

decided to provide an exception for Shell to perform routine operation and maintenance on the Shell pipeline.

Amendment

The October 16, 1985 Bayou aux Carpes Final Determination is hereby amended by adding the following:

Shell Pipe Line Corporation may discharge dredged or fill material for the purpose of relocating the below ground Shell pipeline located in the Bayou aux Carpes Section 404(c) restricted site by the directional drill method as described in the Shell submission to EPA received January 17, 1992, provided the activity complies with all permit conditions which may be imposed by the Corps of Engineers through the Section 10 and Section 404 permit process.

Shell Pipe Line Corporation may also discharge dredged or fill material into the Bayou aux Carpes Section 404(c) restricted site for the purpose of conducting routine operation and maintenance of the Shell pipeline as long as dredged or fill material is placed in piles with breaks in between to allow inundation of adjacent wetlands and as long as pre-maintenance contours are restored, and provided the activity complies with all permit conditions which may be imposed by the Corps of Engineers through the Section 10 and Section 404 permit process.

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2/28/92

Date