

PI-80-0100

March 27, 1980

Mr. M. L. Sneed
Sun Pipe Line Company
Southwest Area Office
P.O. Box 3187
Longview, Texas 75601

Dear Mr. Sneed:

This responds to your letter of March 14, 1980, regarding your application number 14015 to the U.S. Corps of Engineers to construct a 16-inch crude oil line across Nueces Bay in Texas. According to your letter, following the publication of your permit application by the Corps of Engineers, the U.S. Fish and Wildlife Service took exception to your application stating that "The applicant should install pipeline by jetting, disking, or plowing across Nueces Bay to a depth not exceeding 2 feet below the bay bottom." You indicate that you informed the Corps of Engineers that 49 CFR 195.248 requires that the pipeline be installed with a minimum of 4-feet of cover.

Your letter further indicated that by letter of February 29, 1980, the Corps of Engineers replied that within 45 days of that date, you must either: (1) Resolve the objections and/or conform to the recommendations; or (2) Rebut the objections or recommendations and explain why you cannot or will not conform to the recommendations and request a decision from the Corps of Engineers.

Our review of the December 27, 1979, letter from the U.S. Fish and Wildlife Service enclosed in your letter indicates that it believes that "burial to a depth of four feet below the bed of the bay seems excessive since most pipelines have been buried to a depth averaging 2 feet below the bay bottom." In addition, we reviewed the January 28, 1980, letter from the Texas Parks and Wildlife Department in which it recommends that the pipeline be buried 2 feet below the surface to reduce the amount of spoil and thereby reduce the likelihood of unwanted slightly elevated mounds remaining after backfilling.

Neither of the above arguments is convincing. The U.S. Fish and Wildlife Service did not provide reasons why a burial of 4 feet "seems excessive." While we do not have information to comment on the statement that most pipelines have been buried to a depth averaging 2 feet below the bay bottom, the Federal pipeline safety standards for interstate pipelines, 49 CFR 195.248, which require 4 feet of cover in inland bodies of water more than 100 feet wide, have been in effect since 1968. Although the recent enactment of the Hazardous Liquid Pipeline Safety Act of 1979(Pub. L. 96-129; November 30, 1979) extends the regulatory authority of the Department to intrastate pipelines, perhaps those pipelines crossing the bay were only buried to a depth averaging 2 feet because they were intrastate pipeline not subject to 49 CFR Part 195.

While we recognize that a trench for a 2-foot pipeline burial would reduce the amount of spoil when compared to a 4-foot pipeline burial, we have no information that the environmental effect of the spoil would differ substantially between the two burial depths.

Even though the burial suggested by the U.S. Fish and Wildlife Service and the Texas Parks and Wildlife Department might minimize the impact on the fish and waterfront of the bay during construction, such a shallow depth would make the pipeline significantly more susceptible to damage by currents or vessels, with the ensuing consequences of a spill. In this regard, we do not believe, based on the information you have provided, that the planned design and construction of the pipeline would qualify it for less than 4 feet of cover under the provisions of 49 CFR 195.248(b).

Therefore, based on the information in the letter of December 27, 1979, from the U.S. Fish and Wildlife Service and the letter of January 28, 1980, from the Texas Parks and Wildlife Department, we do not find sufficient basis for deviating from 49 CFR 195.248. If these agencies would like to provide additional information or if you care to discuss this further, please contact me at 202-426-2392.

Sincerely,
SIGNED
Cesar De Leon
Associate Director for
Pipeline Safety Regulation
Materials Transportation Bureau

Sun Pipe Line Company
P.O. Box 3187
Longview, Texas 75601

March 14, 1980

Mr. Cesar De Leon
Associate Director
Materials Transportation Bureau
400 7th Street, S.W.
Washington, D.C. 20590

Dear Mr. De Leon:

Sun Pipe Line Company plans to construct approximately 10 miles of pipeline in the vicinity of Corpus Christi, Texas within the next several months. This line will transport foreign crude oil from a tanker unloading terminal located near Ingleside, Texas to several refineries located in Corpus Christi, Texas.

The route of the proposed line will cross the Nueces Bay near Corpus and on September 28, 1979, we submitted an application for a Department of the Army permit to install a 16 inch crude oil line across the bay and adjacent wetlands. The application called for the line to be buried with a minimum of four feet of cover across the bay.

On January 17, 1980, following the publication of our permit application by the Department of the Army, we received a letter from them stating that the U.S. Fish and Wildlife Service had taken exception to our application and that it was being returned for revision. One of the exceptions was that "The applicant should install pipeline by jetting, disking, or plowing across Nueces Bay to a depth not exceeding 2 feet below the bay bottom." On February 4, 1980, we wrote the Department of the Army that according to Section 195.428 of the Code of Federal Regulations, Title 49, Transportation, that we were required to install the pipeline with a minimum of 4 feet of cover since we did not anticipate encountering any rock or anything other than normal excavation in the crossing.

On February 29, 1980, the Department of the Army replied that within 45 days of that date we must either:

- (1) Resolve the objections and/or conform to the recommendations; or
- (2) Rebut the objections or recommendations, explain why we cannot or will not conform to the recommendations and request a decision from the District Engineer. They advised that the decision may include issuance, modification, or denial of our application. They stated that our request for a decision should include a summary of our attempts to resolve the objections and/or reasons for not doing so. A copy of their letter of February 29, 1980, with attachments is enclosed for your information.

The proposed 16" pipeline will be constructed of 0.500" wall thickness, Grade API-5LX-42, ERW line pipe and will have a 1-1/2" concrete weight coating over the entire section across the bay and wetlands. The normal operating pressure of the line will be 1000 psig. The bay is relatively shallow, approximately 4 - 8 feet in most of it, and is predominately used for fishing or shrimping.

Our question is will the pipeline comply with the Department of Transportation regulations if it is installed in accordance with the objections/recommendations of the U.S. Fish and Wildlife Service.

Considering the time period imposed on us by the Department of the Army for our response we will sincerely appreciate your prompt attention and consideration of this matter. If you have any questions or desire any additional information, please call me at A/C 214-753-5531.

Yours very truly,
Mr. M.L. Sneed

Department of the Army
Galveston District, Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553

February 29, 1980

Sun Pipe Line Company
P.O. Box 3187
Longview, Texas 75601

Dear Mr. Sneed:

Reference your permit application number 14015. During the early phases of administrative processing of your permit application, a public notice was distributed on 30 November 1979. The public notice solicited comments on your permit application from interested citizens, public groups, and local, State and Federal agencies. Correspondence is inclosed with objections or recommended changes to features of your application.

The next step in the processing of your permit requires you to either:

- a. Resolve the objections and/or conform to the recommendations; or
- b. Rebut the objections or recommendations, explain why you cannot or will not conform to the recommendations and request a decision from the District Engineer. The decision may include issuance, modification, or denial of your application.

Proof that an objection/recommendation has been resolved is evidenced by a letter from the objector stating that he withdraws his objections based on a specific agreement or compromise between the parties involved. If resolution of the objection requires a change to your permit application drawings or description of work, you should submit the revised and updated forms.

Should you elect to rebut the objections/recommendations or are unable to resolve the issues and desire a decision, you should request a decision from the District Engineer by letter. Your request for a decision should include a summary of your attempts to resolve the objections and/or reasons for not doing so. The summary and reasons will be considered in the decision making process.

If you fail to respond within 45 days of this letter, your application will be withdrawn. Should you desire clarification or consultation on the contents of this letter, you may contact Mr. Alan Sisselman at telephone number 713-763-1211, extension 382 or 383, or visit the office at 400 Barracuda, Galveston, Texas.

Sincerely,
Marcos De La Rosa
Chief, Permit Branch

Texas Parks and Wildlife Department
4200 Smith School Road
Austin, Texas 78744

January 28, 1980

Colonel James M. Sigler
District Engineer, Galveston District
Corps of Engineers
Post Office Box 1229
Galveston, Texas 77553

Re: Public Notice No. 14015 Sun Pipe Line Company

Dear Colonel Sigler:

The referenced public notice, dated November 30, 1979, concerns proposed placement of a 16-inch pipeline across Nueces Bay and adjacent wetlands, approximately eight miles northwest of Corpus Christi, Texas.

This portion of Nueces Bay and surrounding wetlands is of prime importance in estuarine productivity. It provides habitat for important finfish such as red drum, black drum, spotted seatrout, sheepshead, southern flounder, striped mullet, and other forage species, as well as serving as a nursery for all of the same. White shrimp, brown shrimp, blue crabs, and oysters also utilize these water areas. In addition, it provides excellent habitat for numerous species of migratory waterfowl and shore and wading birds.

Most of the water areas included in this project are three feet or less in depth with mostly mud and silty-sand bottom. There are some scattered oyster reefs in this area as well as a few small islands. The shallow waters at the shoreline have only small amounts of submerged vegetation (Ruppia maritima and green algae). Abundant stands of Spartina alterniflora are found in the inter-tidal and wetland zones, as are numerous other detritus producing flora.

The Texas Parks and Wildlife Department believes that this project could be accomplished with less damage to fish and wildlife resources if the permit stipulates:

- (1) Return all excavated material to the pipeline trench as backfill to prevent the development of tidal pools or traps.
- (2) Avoid all oyster reefs of 100 square feet or larger to minimize the destruction of productive oyster habitat. Transplant oysters from reefs smaller than 100 square feet to suitable substrate away from the path of the pipeline.
- (3) Employ smooth wheeled "roll-a-gon" or "swamp buggy" vehicles in the wetland areas to preclude the excessive damage to vegetation which could occur if tracked or lugged vehicles were used.
- (4) Bury the pipeline two feet (instead-of four feet) below the surface to reduce the amount of spoil and thereby reduce the likelihood of unwanted slightly elevated mounds remaining after backfilling.

The Texas Parks and Wildlife Department appreciates the opportunity to assess the impact of this proposed work on fish and wildlife resources.

Sincerely,
CHARLES P. TRAVIS
Executive Director

United States Department of The Interior
Fish and Wildlife Service
Ecological Services
Suite 24, Commerce One
4455 S. Padre Island Drive
Corpus Christi, Texas 78411

December 27, 1979

District Engineer
Attn: Chief, Permit Branch
Corps of Engineers, U. S. Army
Post Office Box 1229
Galveston, Texas 77553

Dear Sir:

By public notice dated November 30, 1979 you informed this office of an application by Sun Pipe Line Company for Department of the Army permit 14015 to do work in Nueces Bay and adjacent wetlands approximately 8 miles northwest from Corpus Christi, Texas. The applicant proposes to install a 16-inch diameter pipeline across Nueces Bay and a wetland area located between the bay and the Nueces River. The new pipeline would be installed adjacent to an existing 8-inch pipeline.

The revised Department of the Interior Manual Instructions (503 DM 1), dated August 3, 1973, assign responsibility for Department of the Interior coordination and review of Department of the Army permit applications to the U. S. Fish and Wildlife Service. In accordance with these instructions we submit the following Departmental comments on permit 14015.

This report was prepared under the authority of and in accordance with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et. seq.). This report has been coordinated with representatives of the National Marine Fisheries Service and Texas Parks and Wildlife Department.

The applicant proposes to install a 2-mile long by 16-inch pipeline which will be buried 4 Feet beneath the bed of Nueces Bay. Approximately 36,000 cubic yards of dredged material would be temporarily placed in piles 50 feet on either side of the trench with 50-foot breaks or spaces every 200 feet. The pipeline trench would be backfilled where dredge barge flotation is required. The pipeline trench would not be backfilled in waters where dredge barge flotation is not required and where piles will not represent a navigational hazard. The pipeline would be buried 4 feet below the surface of an adjacent wetland area. Approximately 21,000 cubic yards of dredged material would be temporarily placed 50 feet on either side of the trench and would be used as backfill to restore the area to pre-project conditions. All spoil would be used to refill the ditch line.

The Nueces Bay and adjacent wetland areas provide high quality habitat for numerous species of fish and crustaceans. Species of fish and crustaceans utilizing the bay include spotted seatrout, sand seatrout, red drum, black drum, sheepshead, Atlantic croaker, flounder, blue crab, and white and brown shrimp. This is an important use area for sport and commercial fishermen.

A number of species of waterfowl, shorebirds, and wading birds occur in the area. The principal species of waterfowl include pintail, gadwall, American wigeon, green-winged teal, lesser scaup, canvas back, and redhead. Waterfowl hunting occurs in moderate amounts. Shorebirds and wading birds known to occur in the area include roseate spoonbills, herons, egrets, cormorants, willet, sandpipers, plovers, terns, and gulls.

The average depth of Nueces Bay along the pipeline route averages 2 feet mean high water. A number of scattered oyster reefs exist in the vicinity of the proposed route and may be affected by the proposed project. Therefore, the applicant would need to detect and avoid shell reefs while laying the line. Also, much less environmentally damaging alternatives than laying pipeline as proposed exist; these include, jetting, disking, or plowing and using shallow draft barges. Therefore, these alternatives should be considered by the applicant. Also, burial to a depth of four feet below the bed of the bay seems excessive since most pipelines have been buried to a depth averaging 2 feet below the bay bottom.

The proposed construction in the wetlands would be less damaging if the work was conducted using the "double-ditching" method of construction. This would entail removal and separation of the top 6-12 inches of topsoil and attached vegetation from the rest of the excavated material so that in the backfilling of the pipeline, the topsoil can be placed again over the trench to form the surface layer. This would eliminate the possibility that clay or other non productive materials would be placed on the surface and thus not interfere with the restoration of the vegetative cover over the pipeline. Additionally, breaks or gaps would need to be placed between the spoil mounds. All work should be confined to the narrowest right of way possible, not to exceed 50 feet on each side.

Therefore, to minimize harmful effects to fish and wildlife resources, the Department of the Interior recommends that permit 14015 not be issued unless it is conditioned to include the following stipulations:

1. The applicant should install pipeline by jetting, disking, or plowing across Nueces Bay to a depth not exceeding 2 feet below the bay bottom.
2. The applicant shall avoid reefs during pipeline construction.
3. The use of tracked vehicles with cleats for work in wetlands is prohibited.
4. For work in wetlands, the "double-ditch" method is to be employed so that temporary spoil will be placed no further than 50 feet on either side of the pipeline trench with 50-foot breaks every 200 feet.

Sincerely yours,
SAM SPILLER
Acting Field Supervisor
For: U. S. Department of the Interior Coordinator

United States Department of Commerce
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Duval Building
9450 Koger Boulevard
St. Petersburg, FL 33702

January 15, 1980

F/SER61/RR
893-3503

Colonel James M. Sigler
District Engineer, Galveston District
Department of the Army, Corps of Engineers
P.O. Box 1229
Galveston, TX 77550

Dear Colonel Sigler:

The National Marine Fisheries Service (NMFS) has reviewed Public Notice 14015 dated November 30, 1979, wherein Sun Pipe Line Company proposes to place a 16-inch pipeline beneath the bed of Nueces Bay at a location approximately eight miles northwest of Corpus Christi, Texas.

A report was prepared by Theta Analysis, Inc., under contract with the NMFS. Their field evaluation was conducted on December 19, 1979. A copy of their site description and project impact evaluation is enclosed.

In view of this enclosed information and our knowledge of comparable activities in similar areas, we are convinced that the proposed pipeline laying activities would adversely impact fishery resources for which we are responsible. The proposed activities involve the dredging and filling of vegetated and unvegetated wetlands without adequate mitigation. Therefore, we recommend that the permit not be issued unless the following conditions are included to minimize potential adverse impacts to marine fishery resources:

1. In vegetated wetlands, double-ditching techniques shall be employed; and
2. The Nueces Bay crossing shall be accomplished using dredging techniques which minimize bay-bottom disturbances. These methods could include use of shallow-draft vessels to eliminate the need for flotation canals in combination with jetting, discing, etc., for pipeline burial. The use of the push-pull technique for pipeline laying should also be explored.

If we can be of further assistance, please advise.

Sincerely yours,
William H. Stevenson
Regional Director