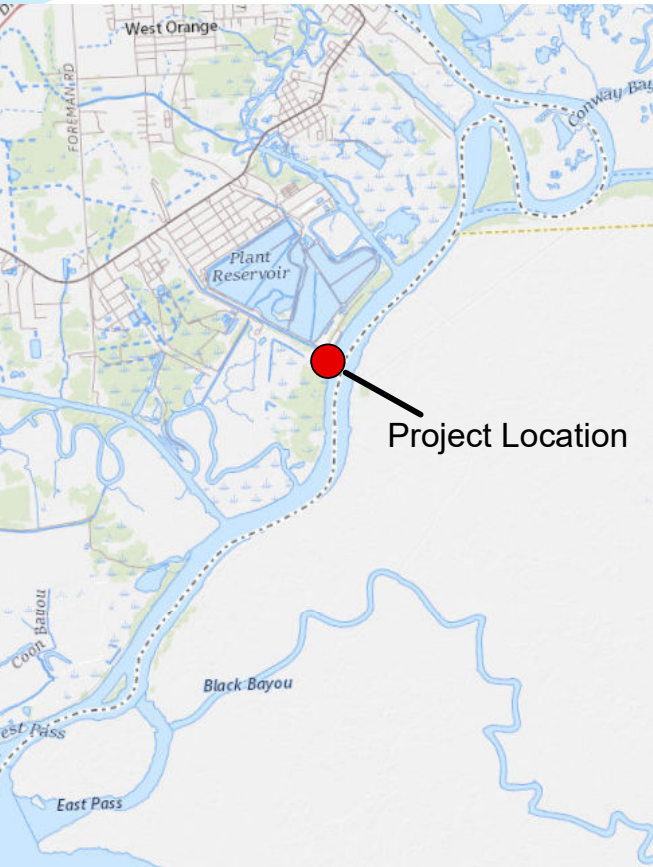


Federal Projects Can Present Significant Permitting Delays



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The Situation:

Federal projects (i.e. waterways, flowage easements, hydroelectric dams, etc.) are scattered throughout the U.S. A lack of centralized database or potential local sponsor (e.g. a levee district) cause many proponents to be unaware that their project may be impacting a federal project. Often, property title needs to be researched back to patent to identify a property that has federal ownership or easements. Percheron's title agents do this regularly for our environmental department. If a project has the potential to impact a federal one (travel over, under, through, or even in proximity), the project may require a review under Section 14 of the Rivers and Harbors Act of 1899, which has since been amended several times and is codified at 33 USC 408 (Section 408). This process generally takes 9 to 12 months.

Percheron was contracted by a pipeline operator to conduct environmental services in support of Clean Water Act (CWA) and Rivers and Harbors Act (RHA) compliance for a project designed to mitigate high voltage alternating current (HVAC) for a pipeline near the Sabine River in Orange County, Texas. This pipeline transports a Highly Volatile Liquid (HVL) and operates at a very high pressure. The pipeline right of way is also shared with a high voltage powerline where there is a risk of voltage being induced or coupled to the pipeline. This project was a high priority for the operator to comply with Pipeline and Hazardous Materials Safety Administration (PHMSA) regulations since the relative severity of the HVAC interference was very high, with amps at the location >2,000.

Percheron provided wetland delineation, threatened and endangered species, and cultural resources services as part of the project. However early on, Percheron identified that the proposed project was adjacent to the Galveston District Permit Setbacks along the Sabine Neches Waterway

and a Dredge Material Placement Area (DMPA), both considered Federal projects that could cause significant timeline delays. This was a concern due to the high priority of this project to protect the existing pipeline under the Sabine River.

Percheron routinely works with our clients to develop innovative permitting strategies to allow projects to be placed in service, whether permitting delays are a result of a federal project or the recent vacatur of NWP 12.

The Strategy:

Through Percheron's strong relationships with the U.S. Army Corps of Engineers (USACE) Regulatory and Land Use Coordination divisions, we were able to identify early that the project would, in fact, require a review under Section 408. Knowing exactly what would be required, Percheron permitting specialists expeditiously worked with the client engineers to develop all of the necessary submittals for the Real Estate Outgrants & Civil Works Project Alteration application (SWG-RE 701i). Due to the requirement for a Pre-construction Notification (PCN) under Nationwide Permit (NWP) 12, we also coordinated this submittal with USACE Regulatory.

The Success:

Because of our extensive experience with Section 408 reviews and NWPs, Percheron knew exactly what would be required to ensure an administratively complete PCN for both the Section 408 and NWP. Percheron was able to expedite the submittal and review process which ultimately lead to a compressed schedule. The pipeline operator received their NWP 12 verification in approximately 3 months and their 408 authorization in approximately 5 months from the submittal date, allowing them to install the HVAC mitigation measures and reduce future risks.

