

**To:** Project File

**From:** Sonya Hernandez  
Environmental Specialist, Austin District

**Subject:** I-35 Capital Express North Project (CSJs 0015-10-062 & 0015-13-389)  
Design Changes

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The Texas Department of Transportation (TxDOT) Austin District proposes improvements to Interstate 35 (I-35) from State Highway 45 North (SH 45N) in Williamson County to US Highway 290 East (US 290E) in Travis County. A Surface Waters Analysis Form, dated May 6, 2020, was approved by TxDOT for the project on 05/12/2020. Following approval, several revisions occurred to the schematic that affected the existing and proposed right-of-way (ROW) acreages reflected in the approved deliverable. The following is a description of those changes:

- The following design changes were made, which resulted in the need for additional proposed ROW:
  - Added collector-distributor roads at Howard Lane (northbound), Yager Lane/Tech Ridge Boulevard (northbound), and Rundberg Lane (northbound and southbound) to improve traffic operations (i.e., to reduce weaving on the mainlanes). The additional ROW was needed to accommodate the new collector-distributor road system and proper lane balancing between the collector-distributor roads, mainlanes, and frontage roads. This resulted in an increase in the number of frontage road lanes, location of auxiliary lanes, and mainlane modifications to accommodate the access point of the collector-distributor roads. Additional drill shafts would also be needed to accommodate the portions of the new collector-distributor roads that would be on-structure.
  - Realigned the Braker Lane crossing of I-35 to improve traffic flow through the intersection.
  - Raised the grade of the southbound frontage road between Braker Lane and the Little Walnut Creek Bridge to eliminate the need for a design exception.
  - Accommodated grading at previously proposed retaining walls to allow for desirable SUP and offset widths.
  - Accommodated required utility relocations.
- The following design changes were made, which did not result in the need for additional proposed ROW:
  - Added right-turn lane along the southbound frontage road at Howard Lane and along the northbound frontage road at The Lakes Boulevard.
  - Added another right-turn lane (previously one lane was proposed) along northbound frontage road at Grand Avenue Parkway.
  - Added another lane to the southbound exit ramp to Parmer Lane (previously one lane was proposed), resulting in the need for an additional frontage road lane south to Parmer Lane (previously three lanes were proposed).
  - Converted existing (currently being constructed) one-lane southbound collector-distributor road at Parmer Lane to two lanes.
  - Flipped the ingress and egress at all northbound managed lane access points.

The project area needed for the previous design included 666.0 acres of existing ROW, 13.5 acres of existing drainage easements, 10.7 acres of proposed ROW, 0.20 acre of proposed drainage easements, and 3.3 acres of proposed driveway license areas. As a result of the proposed design changes, there was a decrease of 0.8 acre of existing ROW (now 664.2 acres) and an increase of 6.3 acres of proposed ROW (now 17.0 acres). The acreage of drainage easements (existing and proposed) and driveway license areas did not change.

The following describes the existing conditions, impact evaluations, and conclusions associated with Section 402 of the Clean Water Act (CWA), Section 404 of the CWA, Section 14 of the Rivers and Harbors Act, Section 303(d) of the CWA, General Bridge Act/Section 9 of the Rivers and Harbors Act, Section 10 of the Rivers and Harbors Act, Section 401 of the CWA, Executive Order (EO) 11990 for the Protection of Wetlands, EO 11988 for Floodplain Management, and Drinking Water Systems that changed in the Surface Waters Analysis Form as a result of the changes in design described above.

a) Section 402 of the CWA

No project specific analysis is required as part of the environmental review process under Section 402 of the CWA as any Construction General Permit (CGP) authorizations and compliance occurs outside of the environmental clearance process. No change for this resource is needed from the previously approved Surface Water Analysis Form.

b) Section 404 of the CWA

A desktop review of the National Hydrography Dataset, National Wetlands Inventory (NWI), and United States Geological Survey (USGS) Topographic Maps was completed to determine if any additional potential Waters of the United States (WOUS) not previously delineated existed within the newly expanded areas of the project area. No additional water resources were identified during the desktop survey, and a field reconnaissance on November 6, 2020 confirmed that no additional waters outside of what was previously delineated existed within the project area. Exact impacts to potential WOUS cannot be determined until further design plans are available in the PS&E Stage; however, as there is no increase in the acreage or linear feet of potential WOUS within the project area, a Non-Reporting Nationwide Permit (NWP) 14 is still anticipated for the proposed project. No change for this resource is needed from the previously approved Surface Water Analysis Form.

c) Section 14 of the Rivers and Harbors Act (33 USC 408)

No project specific analysis is required as part of the environmental review process under Section 14 of the Rivers and Harbors Act (33 USC 408) ("Section 408") as no Waters under Section 408 jurisdiction are located within the project area. No change for this resource is needed from the previously approved Surface Water Analysis Form.

d) Section 303(d) of the CWA

As the proposed project classifies as an Environmental Assessment, a review of the Section 303(d) list was consulted as part of the environmental review process. The previously approved Surface Waters Analysis Form consulted the 2018 TCEQ Integrated Report -Texas 303(d) List and 2018 Index of All Impaired Waters. The 2020 TCEQ Integrated Report – Texas 303(d) List and 2020 Index of All Impaired Waters has since been approved and was reviewed for these project updates. All five previously listed impaired waters (Walnut Creek, Gilleland Creek, Waller Creek, Spicewood Tributary to Shoal Creek, and Taylor Slough South) within five linear miles of the proposed project are still listed in the 2020 TCEQ Report. Waller Creek was previously listed as impaired under categories 4a, 5a, and 5c, but is now only listed for categories 4a and 5c. This source update and change in impaired category listing is the only update for water resources from the previously approved form.

- e) **General Bridge Act/Section 9 of the Rivers and Harbors Act**  
A review of Section 9 Waters monitored by the United States Coast Guard under Section 9 of the Rivers and Harbors Act determined that no navigable waters are present anywhere within the vicinity of the proposed project. No change for this resource is needed from the previously approved Surface Water Analysis Form.
- f) **Section 10 of the Rivers and Harbors Act**  
Section 10 of the Rivers and Harbors Act would not pertain to the proposed project as no navigable waters are present anywhere within the vicinity of the proposed project. No change for this resource is needed from the previously approved Surface Water Analysis Form.
- g) **Section 401 of the CWA**  
No project specific analysis is required as part of the surface water analysis under Section 401 of the CWA for this project as TxDOT complies with Section 401 of the CWA by implementing TCEQ's conditions for NWPs. No change for this resource is needed from the previously approved Surface Water Analysis Form.
- h) **Executive Order 119900, Protection of Wetlands**  
A review of the NWI determined that no potential wetlands were mapped within the newly expanded areas of the project area. One NWI-mapped wetland was field verified during the March 2020 site visit within an existing drainage easement along Gilleland Creek to the west of IH 35. After design changes it was again confirmed by the design team that no work would occur in this area outside of the existing ROW; therefore, the wetland would not be impacted. No change for this resource is needed from the previously approved Surface Waters Analysis Form.
- i) **Executive Order 11988, Floodplain Management**  
No project specific analysis is required as part of the environmental review process under EO 11988 as this EO is implemented by TxDOT on a programmatic basis through its Hydraulic Design Manual. No change for this resource is needed from the previously approved Surface Waters Analysis Form.
- j) **Drinking Water Systems**  
No project specific analysis is required as part of the environmental review process for drinking water systems as any drinking water wells would need to be properly removed and disposed of during construction of the project in accordance with TxDOT's Standard Specifications for Construction and Maintenance of Highways, Streets, and Bridges (Item 103, Disposal of Wells).



# Form Surface Water Analysis

Project Name: **Capital Express North (I-35 from SH 45N to US 290E)**

CSJ(s): **0015-10-062, 0015-13-389**

County(ies): **Travis, Williamson**

Date Analysis Completed: **May 6, 2020**

Prepared by: **Melissa Cross (CP&Y, Inc.)**

<If the project is assigned to TxDOT by FHWA, retain the following sentence; if not, delete it>

The environmental review, consultation, and other actions required by applicable Federal environmental laws for this project are being, or have been, carried-out by TxDOT pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated December 9, 2019, and executed by FHWA and TxDOT.

## I. Section 402 of the Clean Water Act

No project-specific analysis is required as part of the environmental review process under Section 402 of the Clean Water Act for the reasons provided below:

Since TPDES Construction General Permit (CGP) authorization and compliance (and the associated documentation) occur outside of the environmental clearance process, compliance is ensured by the policies and procedures that govern the design and construction phases of the project. The Project Development Process Manual and the Plans, Specifications, and Estimates (PS&E) Preparation Manual require a storm water pollution prevention plan (SWP3) be included in the plans of all projects that disturb one or more acres. The Construction Contract Administration Manual requires that the appropriate CGP authorization documents (notice of intent or site notice) be completed, posted, and submitted, when required by the CGP, to TCEQ and the municipal separate storm sewer system (MS4) operator. It also requires that projects be inspected to ensure compliance with the CGP.

The PS&E Preparation Manual requires that all projects include Standard Specification Item 506 (Temporary Erosion, Sedimentation, and Environmental Controls), and the "Required Specification Checklists" require Special Provision 506-003 on all projects that need authorization under the CGP. These documents require the project contractor to comply with the CGP and SWP3, and to complete the appropriate authorization documents.

For more information regarding Section 402 of the Clean Water Act, see **ENV's Water Resources Handbook**.

## II. Section 404 of the Clean Water Act

Select the appropriate statement(s) below:

- This project will not involve any regulated activity in any jurisdictional waters and therefore does not require a United States Army Corps of Engineers (USACE) "dredge and fill" permit under Section 404 of the Clean Water Act.



- Some or all regulated activity in jurisdictional waters will be authorized under a non-reporting nationwide permit (i.e., no pre-construction notification required). If this statement applies, indicate which non-reporting nationwide permit(s) will be used below.

Non-reporting NWP no(s): **14**

- Some or all regulated activity in jurisdictional waters cannot be authorized under a non-reporting nationwide permit; therefore, a nationwide permit with pre-construction notification, individual permit, letter of permission, or regional general permit will be required.

For more information regarding Section 404 of the Clean Water Act, see **ENV's Water Resources Handbook**.

### III. Section 14 of the Rivers and Harbors Act (33 USC 408)

No project-specific analysis is required as part of the environmental review process under Section 14 of the Rivers and Harbors Act (33 USC 408) ("Section 408") for the reasons provided below:

Any project that involves alterations to, or will temporarily or permanently occupy or use, a USACE federally authorized civil works project (e.g., sea walls, bulkheads, reservoirs, levees, wharfs, or other federal civil works projects, or associated federal land (fee simple) or easements) will require USACE authorization under Section 408 prior to construction of the project. Obtaining any required authorization under Section 408 from the USACE is generally handled by hydraulic and/or design engineers. For any project that requires authorization under both Section 404 and Section 408, the Section 404 authorization cannot be issued until the Section 408 authorization is issued.

For more information regarding Section 408, see **ENV's Water Resources Handbook**.

### IV. Section 303(d) of the Clean Water Act

For a CE project, no project-specific analysis is required as part of the environmental review process under Section 303(d) of the Clean Water Act for the reasons provided below:

To date, TCEQ has not identified (through either a total maximum daily load (TMDL) or the review of projects under the TCEQ MOU) a need to implement control measures beyond those required by the construction general permit (CGP) on road construction projects. Therefore, compliance with the project's CGP, along with coordination under the TCEQ MOU for certain transportation projects, collectively meets the need to address impaired waters during the environmental review process. As required by the CGP, the project and associated activities will be implemented, operated, and maintained using best management practices to control the discharge of pollutants from the project site.

For an EA or EIS project, further analysis regarding impaired waters is required under TxDOT's MOU with TCEQ for inclusion in the body of the environmental assessment or environmental impact statement. To do this further analysis, determine whether the project is located within five linear miles (not stream miles) of, is within the watershed of, and drains to, an impaired assessment unit under Section 303(d) of the federal Clean Water Act.



For an EA or EIS project only, provide the date of the Section 303(d) list consulted: **The 2018 Texas Integrated Report – Texas 303(d) List and 2018 Index of All Impaired Waters was used.**

For an EA or EIS project only, check the appropriate box below:

- This project is not located within five linear miles (not stream miles) of, is not within the watershed of, or does not drain to, an impaired assessment unit under Section 303(d) of the federal Clean Water Act.
- This project is located within five linear miles (not stream miles) of, is within the watershed of, and drains to, an impaired assessment unit under Section 303(d) of the federal Clean Water Act.

For an EA or EIS project only, if the second box is checked, fill-in the table below for any impaired assessment units within five miles of the project and within the same watershed as the project:

Watershed	Segment name	Segment number	Assessment unit number
Colorado River	Walnut Creek	1428B	4a
Colorado River	Gilleland Creek	1428C	4a
Colorado River	Waller Creek	1429C	4a, 5a, 5c
Colorado River	Spicewood Tributary to Shoal Creek	1403J	4a
Colorado River	Taylor Slough South	1403K	4a

For more information regarding Section 303(d) of the Clean Water Act, see **ENV’s Water Resources Handbook.**

**V. General Bridge Act/Section 9 of the Rivers and Harbors Act**

Select the appropriate statement below:

- This project will not require a permit, bridge lighting authorization, or exemption from the United States Coast Guard under Section 9 of the Rivers and Harbors Act, which outlines the requirements for approval to construct dams, dikes, bridges, or causeways in or over a navigable waterway.
- This project will require a permit, bridge lighting authorization, or exemption from the United States Coast Guard under Section 9 of the Rivers and Harbors Act, which outlines the requirements for approval to construct dams, dikes, bridges, or causeways in or over a navigable waterway.

For more information regarding the General Bridge Act/Section 9 of the Rivers and Harbors Act, see **ENV’s Water Resources Handbook.**

**VI. Section 10 of the Rivers and Harbors Act**

Select the appropriate statement(s) below:



- This project does not require authorization from the USACE under Section 10 of the Rivers and Harbors Act, which outlines the requirements for approval to construct smaller structures in a navigable waterway.
  
- This project does require authorization from the USACE under Section 10 of the Rivers and Harbors Act. Some or all regulated activity in a navigable waterway will be authorized under a non-reporting nationwide permit (i.e., no pre-construction notification required). If this statement applies, indicate which non-reporting nationwide permit(s) will be used below.

Non-reporting NWP no(s): **<enter number or numbers of any non-reporting NWPs used>**

- This project does require authorization from the USACE under Section 10 of the Rivers and Harbors Act. Some or all regulated activity in a navigable waterway cannot be authorized under a non-reporting nationwide permit; therefore, a nationwide permit with pre-construction notification, individual permit, letter of permission, regional general permit, or individual Section 10 permit will be required.

For more information regarding Section 10 of the Rivers and Harbors Act, see **ENV's Water Resources Handbook**.

**VII. Section 401 of the Clean Water Act**

No project-specific analysis is required as part of the surface water analysis under Section 401 of the Clean Water Act for the reasons provided below:

For a project that will use a NWP under Section 404 or Section 10, regardless of whether the NWP is non-reporting (i.e., assumed) or reporting (i.e., requires submittal of a PCN), TxDOT complies with Section 401 of the Clean Water Act by implementing TCEQ's conditions for NWPs. For projects that require authorization under Section 404 or Section 10 beyond a NWP, TxDOT complies with Section 401 of the Clean Water Act by including a Tier I or Tier II checklist (depending upon the amount of disturbance/impact) in the individual permit, letter of permission, or regional general permit application that is submitted to the USACE, and then complying with the conditions of the Tier I or Tier II checklist.

For more information regarding Section 401 of the Clean Water Act, see **ENV's Water Resources Handbook**.

**VIII. Executive Order 11990, Protection of Wetlands**

Select the appropriate statement below:

- This project is not federally funded and therefore is not subject to Executive Order 11990, Protection of Wetlands.
  
- This project is federally funded and therefore is subject to Executive Order 11990, Protection of Wetlands, and will not involve construction in any wetlands.



This project is federally funded and therefore is subject to Executive Order 11990, Protection of Wetlands, and will involve construction in one or more wetlands. Explanation of how the project will comply with Executive Order 11990 is provided below.

Explanation of why there is no practicable alternative to such construction:

<enter explanation, if applicable>

Explanation of how the project includes all practicable measures to minimize harm to wetlands:

<enter explanation, if applicable>

For more information regarding Executive Order 11990, Protection of Wetlands, see ENV's Water Resources Handbook.

IX. Executive Order 11988, Floodplain Management

No project-specific analysis is required as part of the environmental review process under Executive Order 11988, Floodplain Management for the reasons provided below:

The department implements this Executive Order on a programmatic basis through its Hydraulic Design Manual. Design of this project will be conducted in accordance with the department's Hydraulic Design Manual. Adherence to the TxDOT Hydraulic Design Manual ensures that this project will not result in a "significant encroachment" as defined by FHWA's rules implementing Executive Order 11988 at 23 CFR 650.105(q).

For more information regarding Executive Order 11988, Floodplain Management, see ENV's Water Resources Handbook.

X. Drinking Water Systems

No project-specific analysis is required as part of the environmental review process for drinking water systems for the reasons provided below:

In accordance with TxDOT's Standard Specifications for Construction and Maintenance of Highways, Streets and Bridges (Item 103, Disposal of Wells), any drinking water wells would need to be properly removed and disposed of during construction of the project.

XI. Resources Consulted

Indicate which resources were consulted/actions were taken to make the surface water determinations recorded in this form (DO NOT ATTACH TO THIS FORM OR UPLOAD TO ECOS ANY RESOURCES CONSULTED – JUST CHECK THE APPROPRIATE BOX(ES)):

- Aerial Photography (list dates mm/yyyy): 11/2019
- Topographic Maps
- Site Visit
- NHD
- USACE Approved JDs
- TCEQ 303(d) Impaired Waters
- Floodplain Maps
- USFWS NWI Maps
- TCEQ Streams/Waterbodies
- USACE Section 10 waters
- NRCS Soil Survey
- LIDAR
- USACE 408 data





## Surface Water Analysis Form

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- Contacted resource agency (list agency and reason): \_\_\_\_\_
- Other (list): \_\_\_\_\_