

**DEPARTMENT OF THE ARMY  
REGIONAL/PROGRAMMATIC  
GENERAL PERMIT:  
SWG-2002-02397**



**PERMIT:** Oil Field Development Activities within Navigable Waters Offshore Kleberg and Nueces Counties, Texas

**ISSUING OFFICE:** U.S. Army Corps of Engineers, Southwest Division, Galveston District Regulatory Division (Corps)

**EFFECTIVE DATE:** July 1, 2020

**EXPIRATION DATE:** July 1, 2025

## **A. AUTHORIZATION**

**Permittee:** General Public

**Project Description:** This Regional/Programmatic General Permit (R/PGP) authorizes the general public to erect and maintain structures and appurtenances to be used in connection with the production and transport of oil, gas, or other minerals.

**Project Location:** Waters of the United States (U.S.) in specific State Tracts, as identified in the 3 attached maps, between 1 mile and 3 leagues (10.3 miles) offshore Kleberg and Nueces Counties, Texas.

**Permit Expiration:** This permit will expire on **July 1, 2025**. If the work authorized by a specific site approval is not started within 1 year, or if it is not completed within 2 years from its approval date, the authorization, if not previously revoked or specifically extended, shall automatically expire.

## **B. REGIONAL/PROGRAMMATIC GENERAL PERMIT APPLICABILITY**

This permit serves as both a regional and programmatic general permit. The State of Texas General Land Office (GLO) pursuant to Texas Natural Resources Code Ann. § 31.051 has authority to execute and perform all acts and other things related to public real property of the state or right of individuals in public real property which is required by law, and requires lease agreements for structures on State-owned lands. As such, the Corps and GLO developed a cooperative agreement to streamline the permit evaluation process and avoid unnecessary duplication of permit requirements. This permit serves as a programmatic general permit that transfers the permit evaluation process for most of the activities authorized under this general permit to the GLO. This permit also serves as a regional general permit under which the Corps retains its authority to evaluate these activities, as necessary. The Corps retains all authority to enforce any conditions under Corps jurisdiction, and its compliance and enforcement responsibilities. This permit applies to the activities in waters of the U.S. as described herein.

**1. Regulatory Authority:**

- a. Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C 403, Section 10) regulating the authorization of certain structures or work in or affecting navigable waters of the U.S.
- b. Section 404 of the Clean Water Act (33 U.S.C. 1344, Section 404) regulating the authorization of the discharge of dredged and/or fill material into waters of the U.S., including wetlands and other special aquatic sites.

**2. Eligible Activities:**

- a. Construction and maintenance of structures and appurtenances used in connection with the drilling of wells for the production of oil, gas, or other minerals in the location specified in Part A of this permit.
- b. Construction and maintenance of structures and appurtenances used for the production and transport of oil, gas or other minerals in the location specified in Part A of this permit.
- c. The discharge of dredged and/or fill material into waters of the U.S. in conjunction with the installation of pipelines, associated with the structures/appurtenances described in Part A of this permit, that are installed by bedding and backfill, plowing, trenching, disking, jetting, and horizontal directional drilling methods.

**3. Excluded Activities:** The following activities are ineligible for authorization by this permit.

- a. Regulated activities occurring in safety areas and/or fairways.
- b. Regulated activities that would obstruct a navigation channel.
- c. Dumping of dredged or fill material into ocean waters, as regulated pursuant to Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
- d. Regulated activities that would impact any special aquatic sites, as defined at 40 CFR 230.3(q-1).
- e. Regulated activities that would substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area.
- f. Regulated activities involving prop/wheel washing.
- g. Regulated activities related to the removal of rigs and/or other structures.
- h. Drilling within two (2) miles of the Padre Island National Seashore's shoreline.
- i. Regulated activities which are likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species.

**4. Activity Restrictions:** The following restrictions apply to activities authorized under this permit.

- a. To avoid potential damage to Texas Parks and Wildlife Department (TPWD) artificial reef sites, all regulated activities shall avoid permitted artificial reef sites by a distance 0.5 mile.
- b. To avoid potential damage to natural grouper and snapper banks, all regulated activities shall avoid hard-bottom sites by a distance 0.5 mile.

- c. To avoid potential damage to other structures in offshore disposal areas, regulated structures in these areas shall be a minimum of one (1) mile from existing structures.
  - d. Pipelines placed in Federal project placement areas shall be placed at a minimum of three (3) feet below the seafloor.
  - e. Pipelines crossing deep-draft Federal project channels shall be placed a minimum of 20 feet below the authorized project depth of the channel. However, in cases where the natural bottom of the channel is already more than 20 feet below the authorized project depth, the pipeline shall be placed at a minimum of five (5) feet below the seafloor. The pipeline shall be placed at the greatest depth which meets the above requirements over the entire channel bottom width, plus a distance of 50 feet on each side of the channel. Any channel with an authorized project depth greater than 25 feet below mean lower-low water (MLLW) shall be considered a deep-draft channel.
  - f. No activity authorized by this permit may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharge must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).
5. **Single and Complete Project:** The proposed activity must be a single and complete project, whether linear, non-linear or a combination of the two. A single and complete non-linear project is defined as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. A single and complete linear project is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the U.S. at a specific location. This permit cannot be used more than once for the same single and complete project.
6. **Mitigation:** The following factors will be considered when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects of the proposed activity are no more than minimal.
- a. Activities authorized under this permit must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the U.S. to the maximum extent practicable at the project site.
  - b. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effect are no more than minimal.
  - c. Where the determination is made that mitigation is required to ensure no more than minimal adverse environmental effect, the activity shall be authorized with project-specific special conditions that state the mitigation requirements. The authorization will include the necessary conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the U.S. may

occur until a specific mitigation plan has been approved or it has been determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

7. **Regulatory Discretion:** If the determination is made that the applicant's proposed activity would result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest, the applicant will be notified that either:
- a. The proposed activity does not qualify for authorization under this permit and instruct the applicant on the procedures to seek authorization under an Individual Permit; or,
  - b. The proposed activity is authorized under this permit subject to the applicant's submission of an approved mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or,
  - c. The proposed activity is authorized under this permit with specific modifications or conditions that reduce the adverse environmental effects so that they are no more than minimal.

### **C. PRE-CONSTRUCTION NOTIFICATION REQUIREMENTS**

Prior to initiation of the activities described in Part A of this permit, all applicants shall submit a pre-construction notification (PCN) to the GLO Energy Resources Division at 1700 N. Congress Avenue, Austin, Texas 78701-1496. The GLO will review all PCNs to determine if the application is complete. If the application is determined incomplete, the GLO will request additional information necessary to make the PCN complete. Once the application is determined complete, the GLO will notify the applicant of verification, in writing, within thirty (30) days of the receipt of a complete application. Written verification by GLO or the Corps is required prior to commencing activities authorized by this permit. The PCN shall include the following information:

1. A completed and signed Application for Department of the Army (DA) Permit form (Form ENG 4345).
2. A copy of all DA authorizations previously issued for the work area.
3. Description of the proposed activity including, but not limited to: all proposed temporary and permanent structures and/or work, all direct and indirect permanent and temporary impacts to waters of the U.S., existing condition of the project site, construction methods, and description of special aquatic site avoidance measures, if applicable.
4. Project plans that include clear and concise plan view and cross-section drawings showing construction methods and all direct and indirect (permanent and temporary) impacts to waters of the U.S., including the acreage of the proposed impacts for the single and complete project, on 8½ by 11-inch white paper. This may include an overview sheet and subsequent plan view sheets "zoomed -in" on specific project components. Color drawings and drawings super-imposed over an aerial background may be accepted, if they are legible and clearly demonstrate all impacts to waters of the U.S. Project plans shall include the following:

- a. Vicinity map with the precise location of the project in Universal Transverse Mercator (UTM) geographic coordinates, all State Tracts identified that are affected by the activity, and the location of all project related GLO leases with the lease number(s) identified;
  - b. Plan view and/or cross-section drawing(s) showing all proposed temporary and permanent structures and/or work (including, but not limited to: the drilling structure, pipelines, pipeline route, specific pipeline installation method(s), access channels, etc.), dimensions, and their location and distance in relation to the top edge cut of nearby (i.e. within 300 feet) navigation channels, existing pipelines, or other marine structures;
  - c. All plan drawings and/or maps shall display water depth relative to MLLW;
  - d. If applicable, cross-section drawing(s) showing dimensions of any proposed shell or gravel pad, draft of the rig once placed onsite, depth of water at MLLW datum and Mean High Tide (MHT), maximum height of derrick and/or other permanent structures, and/or the amount of material discharge in cubic yards;
  - e. Mapped location(s) of any special aquatic resources located within 1,000 feet of any portion of the proposed project. If such resources are identified within the project vicinity, all aquatic resource names, size (in acres or square feet), location (decimal degrees), and delineated boundaries must be clearly demarcated; and,
  - f. Mapped location(s) of any designated TPWD artificial reef within one (1) mile of any portion of the proposed project. The map(s) shall present the information in NAD 83 UTM overlaid on the National Oceanic and Atmospheric Administration (NOAA) navigation charts and show the reef location(s) using geographic spatial project coordinates presented in Environmental Research Institute (ESRI) ARC/Info acreage export file and/or Arc View shape file formats available through the GLO website (<http://www.glo.state.tx.us/gisdata/gisdata.html>).
5. A statement of estimated start and completion dates.
  6. If any ESA listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity.
  7. If the proposed activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity and/or include a vicinity map indicating the location of the historic property.
  8. A statement that the work will be conducted in compliance with the terms and conditions of this permit and any additional special conditions issued with the project specific verification.

## D. GENERAL CONDITIONS

1. **Cultural and Historic Resources:** All proposed activities will be reviewed for cultural resources requirements, and a determination will be made whether the proposed activity has the potential to cause effects on historic properties. In cases where it is determined that the activity may have the potential to cause effects to properties listed or those eligible for listing in the National Register of Historic Places, or currently unidentified due to lack of investigation, the activity is not authorized until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied. In such cases, the following procedure applies:
  - a. The prospective permittee will be notified that Section 106 consultation is required;
  - b. Consultation will be initiated with the Texas Historic Preservation Officer (SHPO) (Texas Historical Commission (THC));
  - c. Site-specific conditions may be implemented to ensure avoidance of these resources by a sufficient margin, as designated by the GLO/Corps and the THC;
  - d. If avoidance of the potential historic property is not feasible, further archeological investigations shall be required prior to authorization; and,
  - e. The activity is not authorized under this permit until the GLO/Corps has notified the permittee has been notified that the activity has no potential to cause effects to historic properties and/or that Section 106 consultation has been completed.
  
2. **Discovery of Previously Unknown Remains and Artifacts:** If any previously unknown historic, cultural, or archeological remains and artifacts are discovered while accomplishing the activity authorized by this permit, the permittee shall immediately notify the Corps of what was found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The Corps will initiate the Federal and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
  
3. **Threatened and Endangered Species:** Authorization of an activity by this permit does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization from the U.S. Fish and Wildlife Service (FWS) or National Marine Fisheries Service (NMFS), the ESA prohibits any person subject to the jurisdiction of the U.S. to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering. The following conditions apply to all activities authorized under this permit.

- a. The GLO will review all pre-construction notification for compliance with the ESA and determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat. In cases where it is determined that the activity “may affect” a listed species or critical habitat, the activity is not authorized, until the requirements of ESA have been satisfied. In such cases, the following procedure applies:
    - i. The GLO will initiate consultation with the FWS and/or NMFS, as appropriate, and notify the prospective permittee that consultation is required;
    - ii. As a result of formal or informal consultation with the FWS or NMFS, species-specific special conditions may be added to the permit authorization; and,
    - iii. No activity is authorized under this permit which “may affect” a listed species or critical habitat until the GLO has notified the permittee that ESA consultation has been completed.
  - b. To avoid potential impacts to ESA listed sea turtles during nesting season, activities authorized within one (1) to five (5) miles offshore shall only be performed during the period of September 15<sup>th</sup> through March 15<sup>th</sup>.
4. **Migratory Birds:** Activities in waters of the U.S. that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act. The permittee is responsible for contacting the appropriate local office of the FWS to determine applicable measures to reduce impacts to migratory birds, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act for a particular activity.
5. **Activities Affecting Structures or Works Built by the United States:** If the activity authorized by this permit requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) Federally authorized Civil Works project (a “USACE project”), the activity is not authorized by this permit until the appropriate Corps office issues the Section 408 permission to alter, occupy, or use the USACE project, and the Corps sends a written notice to the applicant of approval.
6. **Navigation:** No activity may cause more than a minimal adverse effect on navigation.
  - a. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulation or otherwise, must be installed and maintained at the permittee’s expense on authorized facilities in navigable waters of the U.S.
  - b. The permittee understands and agrees that, if future operations by the U.S. require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the U.S. No claim shall be made against the U.S. on account of any such removal or alteration.

7. **Aerial Navigation:** The permittee shall promptly comply with any future regulation or instructions affecting the work, hereby authorized, if and when issued in accordance with law, by any department of the Federal Government, for the aid or protection of aerial navigation.
  
8. **Proper Maintenance:** Any authorized structure or fill shall be properly maintained by the permittee, including maintenance to ensure public safety and compliance with the terms and conditions of this permit, as well as any special conditions added to project-specific authorizations.
  - a. The permittee shall only be relieved of this requirement if the permittee makes a good faith transfer to a third party in compliance with general condition 10 of this permit.
  - b. Should the permittee wish to cease to maintain the authorized activity/structure(s) for the use described in Part A of this permit or abandon without a good faith transfer, the permittee shall seek alternative authorization from the Corps.
  
9. **Compliance:**
  - a. The permittee shall allow representatives from the Corps and/or GLO to inspect the authorized activity to ensure that it is, or has been, accomplished in accordance with the terms and conditions of this permit.
  - b. Not later than seven (7) days from the completion date, the permittee shall notify the Corps and GLO, in writing, of the dates that work authorized herein commenced and concluded, and provide a surveyed well location (x and y Lambert coordinates).
  - c. When structures, including pipelines, or work authorized by this permit are determined by the Corps to have become abandoned or cease to be used for the purpose for which they were permitted, the permittee will be required, upon due notice from the Corps, to remove these structures or work and clear the area of all obstructions.
  - d. The Corps will coordinate compliance and/or enforcement matters with the GLO, and determine whether joint action by both agencies is necessary.
  
10. **Transfer of Permit:** If the permittee sells the property associated with this permit verification, the permittee may transfer the permit verification to the new owner by submitting a letter to the Corps to validate the transfer. A copy of the permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

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(Transferee)

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(Date)



## E. FURTHER INFORMATION

1. **Discretionary Authority:** The Corps retains discretionary authority to determine if an activity complies with the terms and conditions of this permit. Furthermore, the Corps may require an individual permit for any activity eligible for authorization by this permit based on concern for the aquatic environment or for any other factor of public interest.
2. **Limits of this Authorization:**
  - a. This permit does not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
  - b. This permit does not grant any property rights or exclusive privileges.
  - c. This permit does not authorize any injury to the property or rights of others.
  - d. This permit does not authorize interference with any existing or proposed Federal project (see general condition 5).
3. **Limits of Federal Liability:** In authorizing a project under this permit, the Federal Government does not assume any liability for the following:
  - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the U.S. in the public interest.
  - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - d. Design or construction deficiencies associated with the permitted work.
  - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. **Reliance on Applicant's Data:** The determination to authorize the activity under this permit as not contrary to the public interest will be made in reliance on the information provided by the applicant.
5. **Re-evaluation of Permit Decisions:** The Corps may re-evaluate the decision to authorize an activity under this permit at any time the circumstances warrant. Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7. Circumstances that may warrant a re-evaluation include, but are not limited to, the following:
  - a. The permittee fails to comply with the terms and conditions of this permit;
  - b. The information provided by the applicant to support their permit application proves to have been false, incomplete, or inaccurate (See 4 above); and,
  - c. Significant new information surfaces which was not considered in reaching the original public interest decision.
6. **Enforcement:** The Corps will, at its discretion, take reasonable measures to inspect permitted activities, as required, to ensure that these activities comply with the specified terms and conditions herein. If the Corps determines that a permittee has violated the terms and conditions of this permit, such non-compliance may result in a determination that it is appropriate to use the enforcement procedures contained in 33 CFR 326.4. In accordance with these

procedures, attempts to resolve the non-compliance state of the permit may take the form of the permitted project being voluntarily brought into compliance by the permittee or a permit modification (33 CFR 325.7(b)). The referenced enforcement procedures also provide for the issuance of a written order requiring compliance. However, issuance of an order is not a prerequisite to legal action. If the permittee fails to comply with the order, the Corps may consider using the suspension/revocation procedures in 33 CFR 325.7(c) and/or recommend legal action in accordance with 33 CFR 326.5.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

FOR THE DISTRICT ENGINEER:

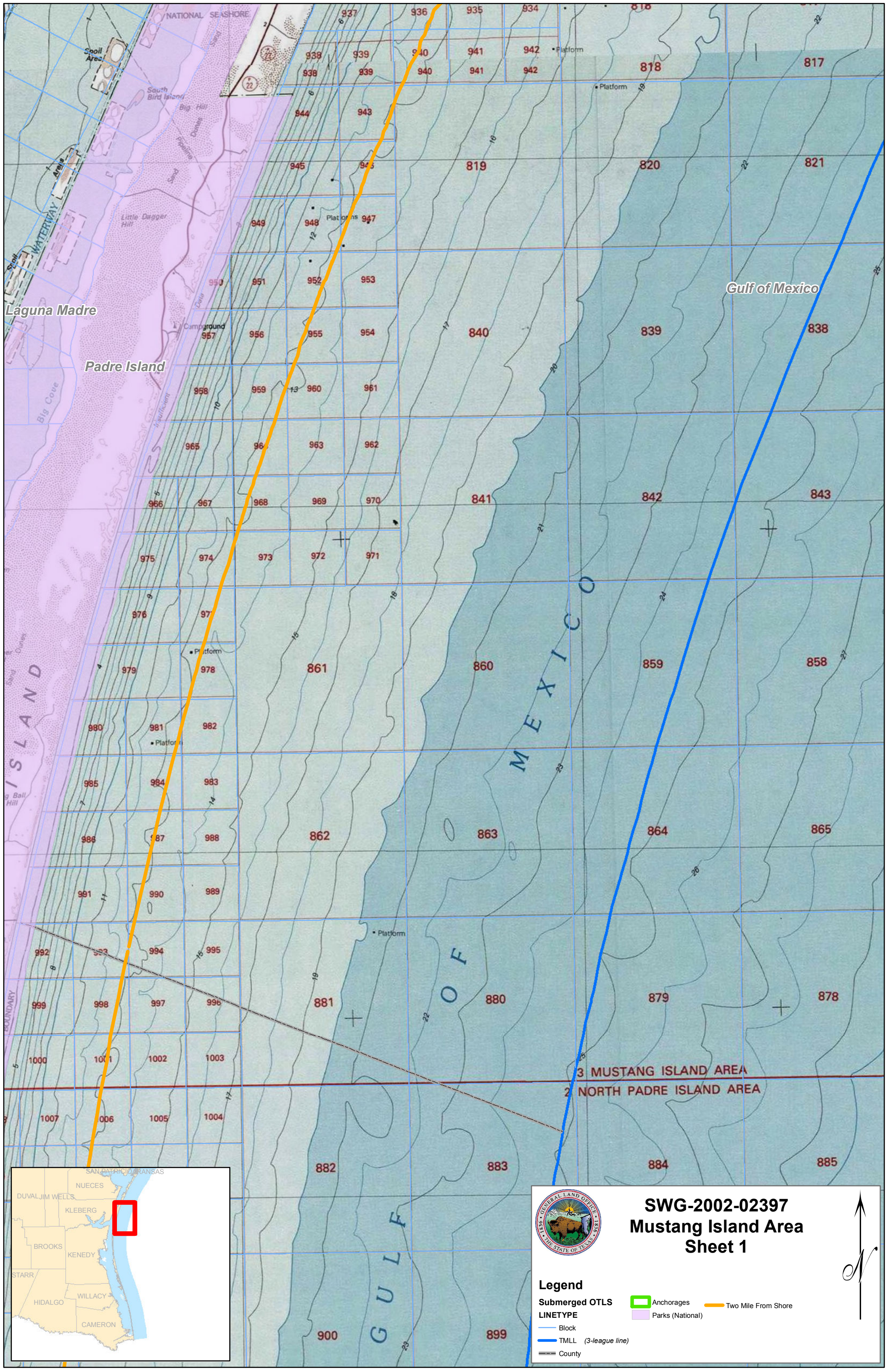
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**ROBERT W. HEINLY**  
**CHIEF, POLICY ANALYSIS BRANCH**  
**REGULATORY DIVISION, GALVESTON DISTRICT**  
**FOR COLONEL TIMOTHY R. VAIL**

1 July 2020

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**DATE**

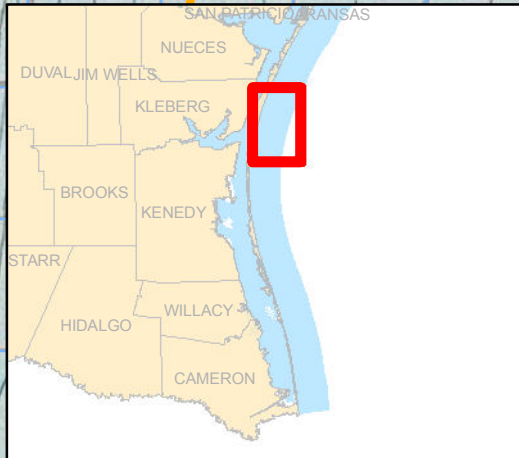


Gulf of Mexico

Laguna Madre

Padre Island

3 MUSTANG ISLAND AREA  
2 NORTH PADRE ISLAND AREA

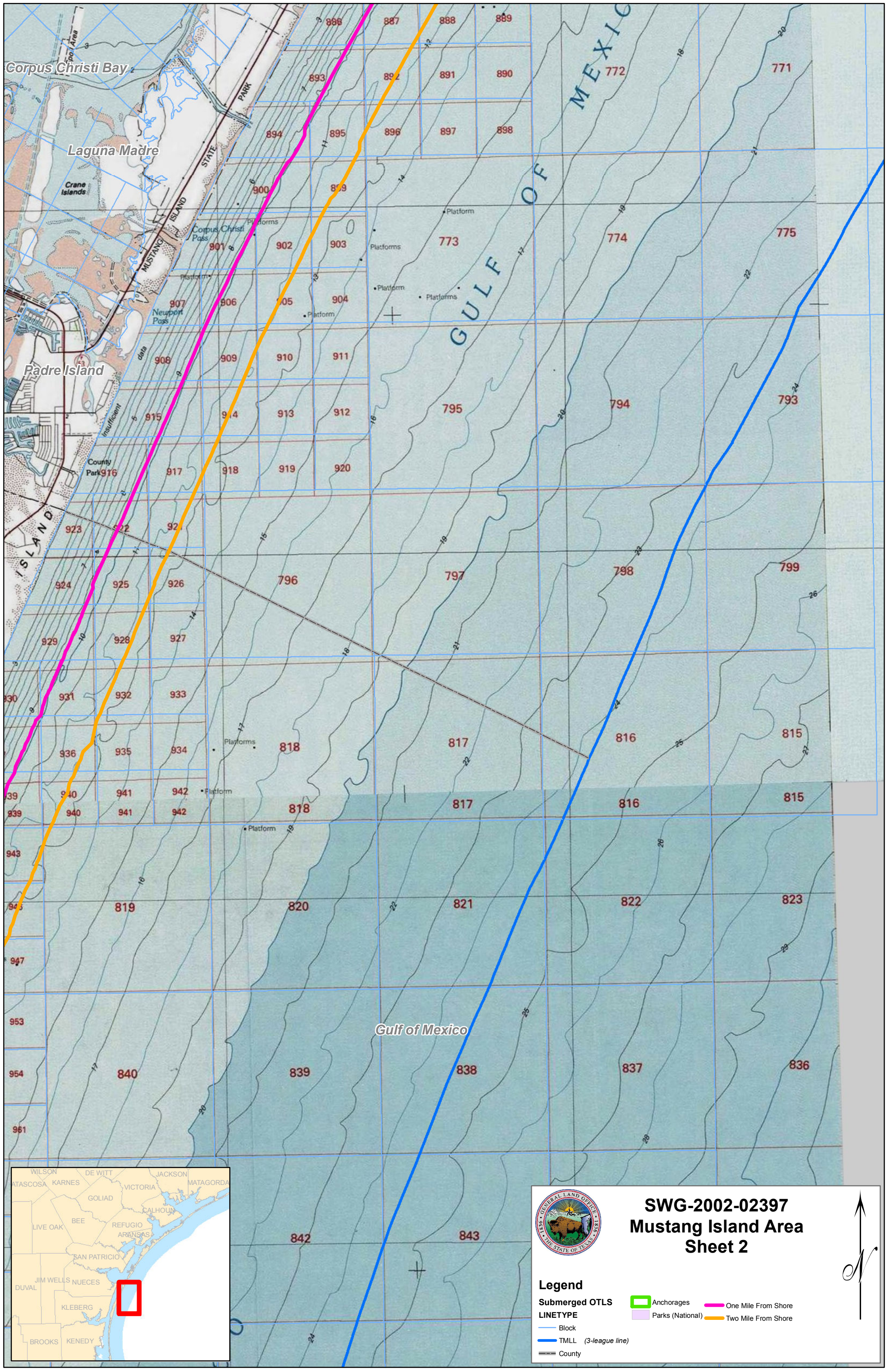


**SWG-2002-02397**  
**Mustang Island Area**  
**Sheet 1**



**Legend**

- Submerged OTLS**
- LINETYPE**
- Block
- TMLL (3-league line)
- County
- Anchorages
- Parks (National)
- Two Mile From Shore



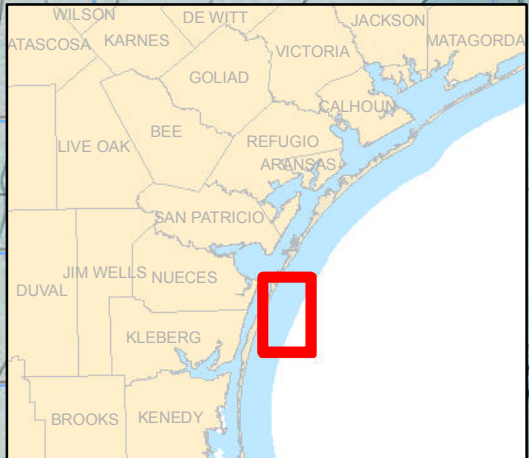
Corpus Christi Bay

Laguna Madre

Padre Island








GULF OF MEXICO

Gulf of Mexico

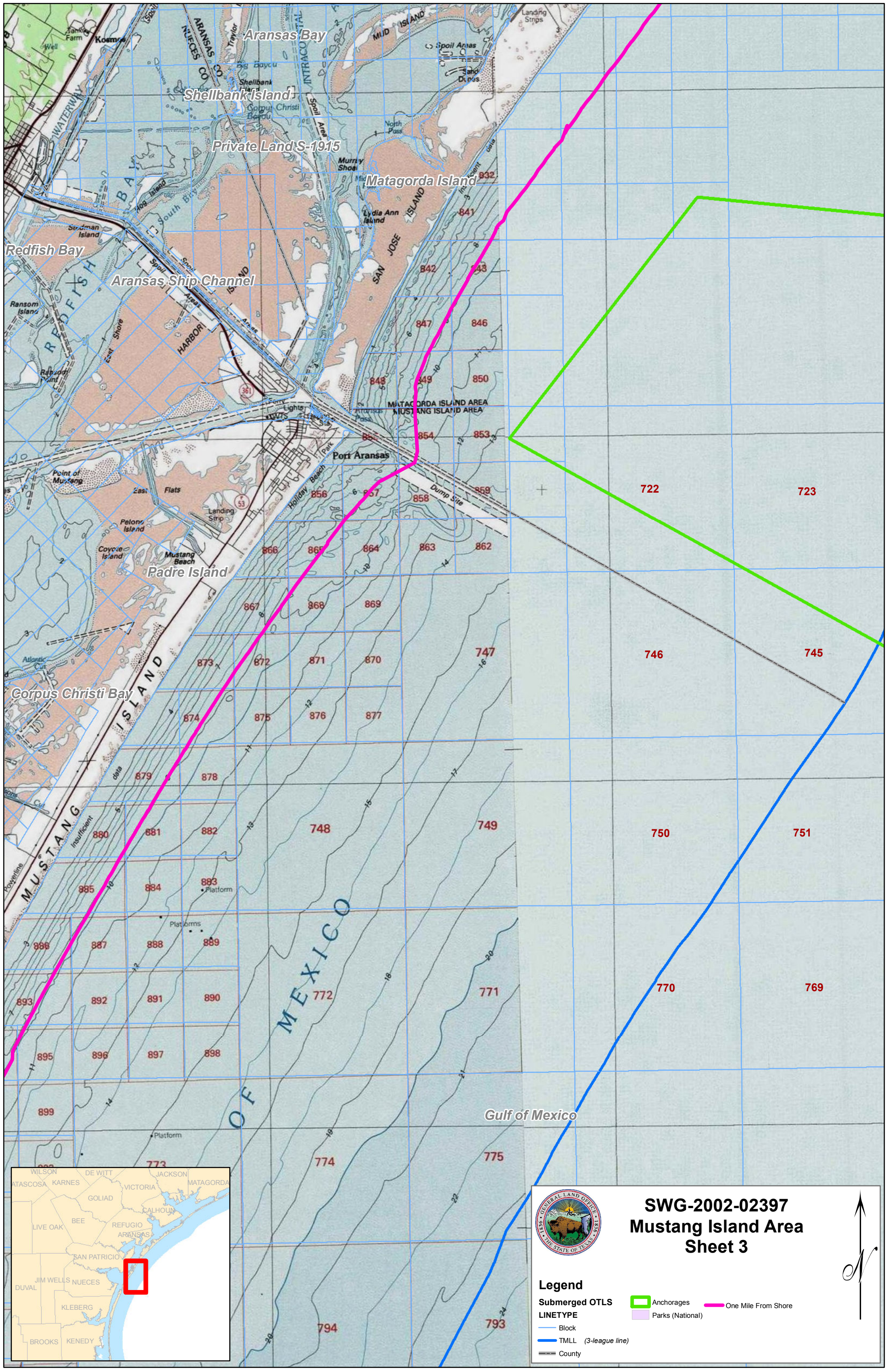


**SWG-2002-02397**  
**Mustang Island Area**  
**Sheet 2**

**Legend**

- Submerged OTLS**
-  Anchorages
  -  One Mile From Shore
  -  Parks (National)
  -  Two Mile From Shore
- LINETYPE**
-  Block
  -  TMLL (3-league line)
  -  County





Aransas Bay

Shellbank Island

Private Land S-1915

Matagorda Island

Redfish Bay

Aransas Ship Channel

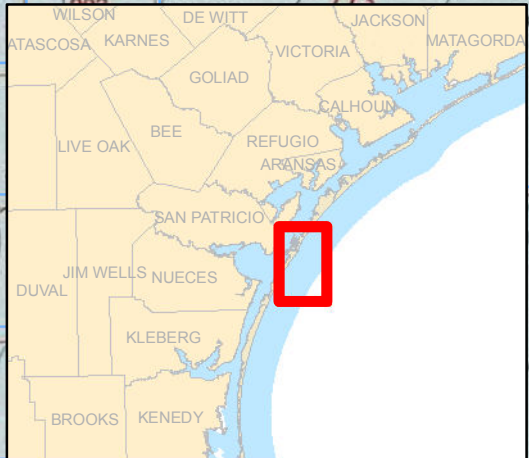
Port Aransas

Padre Island

Corpus Christi Bay

GULF OF MEXICO

Gulf of Mexico



**SWG-2002-02397**  
**Mustang Island Area**  
**Sheet 3**

**Legend**

- Submerged OTLS**
- LINETYPE**
- Block
- TMLL (3-league line)
- County
- Anchorage
- Parks (National)
- One Mile From Shore

