



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-2022-00346
	Date Issued: _____	23 February 2023
	Comments _____	
<b>Galveston District</b>	Due: _____	27 March 2023

## U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT

**PURPOSE OF PUBLIC NOTICE:** To inform you of a proposal for work in which you might be interested. It is also to solicit your comments and information to better enable us to make a reasonable decision on factors affecting the public interest. The U.S. Army Corps of Engineers (Corps) is not the entity proposing or performing the proposed work, nor has the Corps taken a position, in favor or against the proposed work.

**AUTHORITY:** This application will be reviewed pursuant to Section 404 of the Clean Water Act (CWA).

**APPLICANT:** Entergy Texas, Inc.  
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Hammond, Louisiana 70401  
POC: Teala Johnson  
Phone: 985.542.3970  
Email: [sjohn19@entergy.com](mailto:sjohn19@entergy.com)

**AGENT:** C.H. Fenstermaker & Associates, L.L.C.  
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**LOCATION:** The project site is located in wetlands and waterbodies, approximately 0.6-miles southwest of 27453 Highway 105 W, in Cleveland, Liberty County, Texas 77328. The project can be located on the U.S.G.S. quadrangle map titled: Fostoria, Texas.

**LATITUDE & LONGITUDE (NAD 83):**

**Latitude:** 30.3291° North;      **Longitude:** 095.1325° West

**PROJECT DESCRIPTION:** The applicant proposes modifications to a previously authorized permit under SWG-2022-00346 issued on 10 November 2022, and expires 31 December 2027. The proposed project modifications include a westerly shift of the proposed substation, an updated design for the vegetated detention pond, and the addition of three laydown areas. Additional project modifications include a reduced clearing and grubbing limit and installation of two new culverts to construct the substation and detention pond. Modifications to the proposed substation and transmission line cut-in will alter impacts to waters of the US, as follows:

- Temporary impacts in palustrine emergent (PEM) wetlands within the transmission line cut-in will increase from 0.19 acres to 0.23 acres.
- Total loss of wetland functions in PEM wetlands for pole installation will increase from 0.003 acres to 0.004 acres.
- Total loss of wetland functions in palustrine forested (PFO) wetlands for construction of the substation, access road and detention pond will remain at 1.63 acres.
- Conversion impacts in PFO wetlands from clearing/grubbing will decrease from 0.38 acres to 0.134 acres.
- Temporary impacts to streams (D-1 & OW-2) will remain at 0.03 acres.

**BACKGROUND/PROJECT HISTORY:** SWG-2022-00346, issued on 10 November 2022, and expires on 31 December 2027, authorized the discharge of approximately 11,136.97-cubic-yards of fill into approximately 2.23 acres associated with the installation of an approximate 360-foot x 310-foot new electrical substation, an approximate 2,195-foot x 25-foot access road with associated culverts, an approximate 215-foot x 52-foot detention pond, and an approximate 455-foot x 733-foot transmission line cut-in. Such activities include permanent impacts (loss) to approximately 1.63 acres of PFO, 0.003 acre of PEM, and the permanent conversion of 0.38 acre of PFO wetlands to PEM wetlands. Temporary impacts include 0.19 acre of PEM wetlands, and 0.03 acre (133-linear-feet) of waters associated with temporary workspaces and access road construction.

**AVOIDANCE AND MINIMIZATION:** The applicant (Entergy Texas, Inc./Entergy) has stated that they have avoided and minimized the environmental impacts to the maximum extent practicable. The applicant stated that impacts were minimized through preferred substation selection. Implementation of best management practices (BMPs) during construction will reduce noise, dust emissions, and erosion, as well as minimize adverse effects to the human and natural environment. The proposed access road and substation footprint has been minimized to the fullest extent practicable in order to reduce impacts to PFO wetlands. Additionally, the proposed substation was placed adjacent to an existing transmission line ROW to reduce fragmentation of existing forested habitat. No secondary impacts to downstream flows, hydrology, or water quality are anticipated as a result of the proposed project. The applicant will prepare a Storm Water Pollution Prevention Plan (SWPPP) and obtain a Notice of Intent for stormwater discharges from the Texas Commission on Environmental Quality (TCEQ). The SWPP Plan will identify potential sources of pollution, which may reasonably be expected to affect the quality of storm water runoff from construction of the site. The plan will describe the implementation of BMPs, which will be used to reduce the pollutants in storm water runoff associated with construction activities at the construction site.

**MITIGATION:** The applicant is proposing to secure credits from an approved mitigation bank, which requires review of components baseline information and determination of credits. Additionally, Entergy utilized the mitigation rule hierarchy to research potential compensatory mitigation sites within the East Fork San Jacinto River HUC. Based on RIBITS, mitigation bank credits (third party mitigation) are available for in-kind within the East Fork San Jacinto River HUC watershed. Riverine forested biological, chemical, and physical credits are available within the primary watershed. Approximately 0.134 acres of palustrine forested (PFO) wetlands will be converted to an emergent wetland type, and approximately 1.63 acres of PFO wetlands and 0.004 acres of palustrine emergent (PEM) wetlands will have a permanent loss of wetland functions due deposition of fill material and excavation during construction of the substation, detention pond, access road, and for pole installation at the preferred option location. Conversion impacts to PFO wetlands will result from clearing and grubbing activities within 25-foot of the substation for storm resilience. The temporary impacts to other waters from access road culvert installation and clearing and grubbing activities will equate to 0.03 acres. Loss of functions to other waters are not anticipated from culvert installation. The temporary workspace within the existing transmission line cut-in will impact 0.23 acres of PEM wetlands and will be returned to pre-construction contours and restored by natural revegetation upon completion of construction activities. The restored area will be monitored during construction and restoration will be documented to determine success of natural revegetation (i.e., regrowth of previously existing grasses and shrubs based on the existing seed source at the site). With respect to the term “natural restoration” and criteria to judge that this condition has been reached, the applicant is confident that regrowth of previously existing grasses and shrubs is highly likely based on the existing seed source at the site. If the restored area does not have 70% aerial coverage of vegetation, the applicant will coordinate with the United State Army Corps of Engineers (USACE) on replanting with native grasses.

The applicant has partially completed the previously USACE authorized mitigation plan on 23 January 2023. Entergy completed a mitigation bank credit purchase with a 1.0 credit multiplier to offset losses based on the following:

- PFO Wetlands: TSSW (Physical) – 0.8 functional capacity units (FCU's), MPAC (Biological) – 1.4 FCU's, RSEC (Chemical) – 0.9 FCU's.
- PEM Wetlands TSSW (Phy) – 0.1 FCU's, MPAC (Bio) – 0.1 FCU's, RSEC (Chem) – 0.1 FCU's.

Entergy executed an agreement and purchased 1.4 TSSW, 1.4 MPAC, and 1.4 RSEC FCUs from the Tarkington Bayou Mitigation Bank (TBMB) to satisfy mitigation measures which includes loss and conversion of PFO wetland functions from placement of the substation, detention pond, and access road. Entergy is currently in the process of completing the USACE approved mitigation credit purchase for 0.1 TSSW, 0.1 MPAC, and 0.1 RSEC FCUs from TBMB for emergent wetland credits from the TBMB to offset the impacts to emergent wetlands on the project site.

The mitigation plan for the newly proposed project modifications would be to complete a mitigation bank credit purchase with a 1.0 credit multiplier to offset the losses based on the following:

- PFO Wetlands: TSSW (Phy) – 0.7 FCU's, MPAC (Bio) – 1.2 FCU's, RSEC (Chem) – 0.8 FCU's.
- PEM Wetlands TSSW (Phy) – 0.1 FCU's, MPAC (Bio) – 0.1 FCU's, RSEC (Chem) – 0.1 FCU's.

The proposed project modifications would reduce the total proposed physical, biological, and chemical FCUs, to compensate the impacts to PFO wetland functions, to 1.2 TSSW, 1.2 MPAC, and 1.2 RSEC FCUs from the TBMB, which is 0.6 FCU's less than the previously USACE authorized mitigation plan. The proposed mitigation credit purchase to compensate for the impacts to emergent wetlands would remain as originally approved.

**CURRENT SITE CONDITIONS:** The project site is located in Liberty County, Texas, southwest of the intersection of State Highway (SH) 105 W and SH 105. The surrounding areas primarily consist of undeveloped bottomland hardwood forests broken by pastures, scrub/shrub habitats and cleared ROWs along existing roadways and distribution lines. The project site is primarily forested with a section of maintained herbaceous ROW along the southern boundary.

Palustrine forested wetland habitats were dominated by Loblolly pine (*Pinus taeda*), Red maple (*Acer rubrum*), Water oak (*Quercus nigra*), Sweet bay magnolia (*Magnolia virginiana*), Sweet gum (*Liquidambar styraciflua*), Dwarf palmetto (*Sabal minor*), Possumhaw (*Ilex decidua*), Chinese tallow (*Triadica sebifera*), Wax myrtle (*Morella cerifera*), Redtop panicgrass (*Coleataenia rigidula*), Swamp sunflower (*Helianthus angustifolius*), Climbing dogbane (*Thyrsanthella difformis*), Evening trumpetflower (*Gelsemium sempervirens*), Heller's rosette grass (*Dichantherium oligosanthes*), American holly (*Ilex opaca*), Winged elm (*Ulmus alata*), Eastern baccharis (*halimifolia*), and Little bluestem (*Schizahyrium scoparium*).

Palustrine emergent wetland habitats were dominated by Dwarf palmetto (*Sabal minor*), Redtop panicum (*Coleataenia rigidula*), Swamp sawgrass (*Cladium mariscus*), Blunt spikerush (*Eleocharis cobtusa*), Needle leaf witch grass (*Dicantherium aciculare*), Heller's rosette grass (*Dichantherium oligosanthes*), Yellow nutsedge (*Cyperus esculentus*), Deeprooted sedge (*Cyperus entrerianus*), Eastern baccharis (*Baccharis halimifolia*), Bermuda grass (*Cynodon dactylon*), and Southern dewberry (*Rubus trivialis*).

The topography within the project site can be described as gently sloping from north to south with slopes of 0 to 4%. Overall waterflow trajectory within the site is from north to south. Each mapped wetland feature appears to have connectivity with the mapped other water features, which appear to continue south and terminating into other waterways to the south. According to the Liberty County Soil Survey, the project site has three mapped soil units. The soil units located within the project area are: HatA-Hatloff-Pluck-Kian complex, 0-1% slopes, frequently flooded, SosA-Sorter-tarkington complex, 0-1% slopes, and WetA-Westcott-plumgrove complex, 0-1% slopes.

**NOTES:** This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. The applicant's plans are enclosed in 6 sheets.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since permit assessment is a continuing process, this preliminary determination of EIS requirement will be changed if data or information brought forth in the coordination process is of a significant nature.

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the CWA.

**OTHER AGENCY AUTHORIZATIONS:**

The project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management Program.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Commission on Environmental Quality (TCEQ) will review this application under Section 401 of the CWA and in accordance with Title 30, Texas Administrative Code Section 279.1-13 to determine if the work would comply with State water quality standards. On 26 January 2023, the applicant, Entergy Service, LLC, OBO Entergy Texas, Inc., submitted a 401 Prefiling application request to TCEQ for Corps Permit Number SWG-2020-00346. If you have comments or questions on this proposed project's State water quality certification, please contact [401certs@tceq.texas.gov](mailto:401certs@tceq.texas.gov).

**NATIONAL REGISTER OF HISTORIC PLACES:** The staff archaeologist has reviewed the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. The following is current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties:

The permit area was investigated for historic properties and none were identified as documented in the technical report titled "Cultural Resources Investigation Report for Entergy Texas, Inc's Proposed Southline Substation, Liberty County, Texas" prepared by CH Fenstermaker & Assoc. LLC and dated February 2022. The SHPO concurred with the recommendations in the report on 21 March 2022.

**THREATENED AND ENDANGERED SPECIES:** Preliminary indications are that no known threatened and/or endangered species or their critical habitat will be affected by the proposed work.

**PUBLIC INTEREST REVIEW FACTORS:** This application will be reviewed in accordance with 33 CFR 320-332, the Regulatory Programs of the Corps, and other pertinent laws, regulations and executive orders. The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered: among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and, in general, the needs and welfare of the people.

**SOLICITATION OF COMMENTS:** The Corps is soliciting comments from the public, Federal, State, and local agencies and officials, Indian tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Impact Assessment and/or an EIS pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice is being distributed to all known interested persons in order to assist in developing facts upon which a decision by the Corps may be based. For accuracy and completeness of the record, all data in support of or in opposition to the proposed work should be submitted in writing setting forth sufficient detail to furnish a clear understanding of the reasons for support or opposition.

**PUBLIC HEARING:** The purpose of a public hearing is to solicit additional information to assist in the evaluation of the proposed project. Prior to the close of the comment period, any person may make a written request for a public hearing, setting forth the particular reasons for the request. The District Engineer will determine if the reasons identified for holding a public hearing are sufficient to warrant that a public hearing be held. If a public hearing is warranted, all known interested persons will be notified of the time, date, and location.

**CLOSE OF COMMENT PERIOD:** All comments pertaining to this public notice must reach this office on or before **27 March 2023**. Extensions of the comment period may be granted for valid reasons provided a written request is received by the limiting date. **If no comments are received by that date, it will be considered that there are no objections.** Comments and requests for additional information should reference our file number, **SWG-2022-00346**, and should be submitted to:

North Unit Evaluation  
Regulatory Division, CESWG-RDE  
U.S. Army Corps of Engineers  
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2000 Fort Point Road  
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DISTRICT ENGINEER  
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CORPS OF ENGINEERS