



Public Notice

**U.S. Army Corps
Of Engineers**

Galveston District

Permit Application No: SWG-2007-01539

Date Issued: 14 June 2022

Comments

Due: 18 July 2022

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 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

APPLICANT: Bolivar Vanguard, Ltd.
850 Park Street
Beaumont, Texas 77701
POC: Zona Jones
Telephone: 409-753-0000

AGENT: Berg-Oliver Associates, Inc.
14701 Saint Mary's Lane, Suite 400
Houston, Texas 77079
POC: Keith Morgan
Telephone: 281.589.0898
Email: kmorgan@bergoliver.com

LOCATION: The project site is located in Gulf Intracoastal Waterway (GIWW) at the Bolivar Yacht Basin, northwest of the intersection of State Highway 87 and Boyt Road, in Port Bolivar, Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Flake, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.425198 North; **Longitude:** -94.70737 West

PROJECT DESCRIPTION: The applicant proposes to discharge fill material into waters of the United States during the construction of a single-family residential canal development. The applicant proposes to impact 8.26 acres of jurisdictional areas, specifically to fill 0.45-acre of tidal Section 10 deep water habitat, 3.06 acres of adjacent non-tidal wetlands; and to excavate 4.75 acres of adjacent non-tidal wetlands at the GIWW. In addition, the applicant proposes to impact 0.33-acre of adjacent wetland of the construction of a water circulation pipe. The proposed project was previously authorized on 21 July 2012 and expired on 31 December 2017. To date, no work has been started at the location.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by avoiding 53.18 acres of wetlands and 4.41 acres of Section 10 waters.

MITIGATION: The applicant proposed to mitigate for the proposed impacts by creating and preserving a 27.87-acre off-site mitigation site located south of Farm-to-Market Road 1985 and adjacent to Elm Bayou, in Chambers County, Texas. More specifically the tract is located at the UTM, NAD 83, Zone 15 North 363784m E, 3279165m N.

CURRENT SITE CONDITIONS: The project site is currently an undeveloped tract of land surrounded by residential development to the east. The subject property is dominated by a cover of Gulf cordgrass (*Spartina spartinae*), Foxtail millet (*Setaria italica*), and Marshhay cordgrass (*Spartina patens*). In wetland areas, the subject property was dominated by a cover of shoregrass (*Monanthochloe littoralis*), Perennial glasswort (*Salicornia virginica*) and Maritime bulrush (*Scirpus robustus*). Topographical information published by the United States Geological Survey (USGS) indicates a nearly level landscape with storm water runoff flowing to the northwest into the GIWW. The Federal Emergency Management Agency (FEMA) floodplain maps published on 5 July 1993, indicate that the entire tract does lie within the 100-year floodplain of Galveston Bay.

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 wetland delineation has been completed and was 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:

Consistency with the State of Texas Coastal Management Plan is required. The applicant has stated that the proposed activity complies with Texas' approved Coastal Management Program goals and policies and will be conducted in a manner consistent with said 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. The applicant has not yet reached out to the TCEQ to initiate the Section 401 CWA process. If you have comments or questions on this proposed project's State water quality certification, please contact 401certs@tceq.texas.gov. You may also find information on the Section 401 process here: <https://www.epa.gov/cwa-401/basic-information-cwa-section-401-certification>.

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 previously investigated for historic properties as documented in the report titled "A Cultural Resources Intensive Pedestrian Survey of 208 Acres Proposed for Yacht Basin Development on Bolivar Peninsula in Galveston County, Texas" prepared by HRA Gray & Pape and dated December 2009. No historic properties were identified as a result of this investigation.

The project was previously coordinated with the Native American Tribes who have identified an interest in the project area. None of the Native American Tribes expressed a desire to consult on the project. No further coordination is warranted.

THREATENED AND ENDANGERED SPECIES: Threatened and/or endangered species or their critical habitat may be affected by the proposed work. Consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service will be initiated to assess the effect on endangered species.

ESSENTIAL FISH HABITAT: This notice initiates the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action would not have a substantial adverse impact on Essential Fish Habitat or federally managed fisheries in the Gulf of Mexico. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

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 **18 July 2022**. 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-2007-01539**, and should be submitted to:

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Regulatory Division, CESWG-RDE
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Galveston, Texas 77550
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DISTRICT ENGINEER
GALVESTON DISTRICT
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