



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-2007-01401
	Date Issued: _____	9 June 2020
	Comments _____	
<b>Galveston District</b>	Due: _____	10 July 2020

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**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT  
AND  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

**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:** Sunoco Partners Marketing & Terminals LP  
15645 West Port Arthur Road  
Beaumont, Texas 77705  
POC: Justin Minter  
Telephone: 409-377-0054  
Email: Justin.minter@energytransfer.com

**AGENT:** Perennial Environmental Services, LLC  
13100 Northwest Freeway, Suite 150  
Houston, Texas 77040  
POC: Jonathan Fredland  
Telephone: 713-462-7121  
Email: jfredland@perennialenv.com

**LOCATION:** The project site is located in and adjacent to the Neches River, approximately 7.5 miles southeast of Beaumont, within Jefferson County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Beaumont East, Terry, Port Acres, and Port Arthur North, Texas.

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

Latitude: 30.010525° North; Longitude: 094.000444° West

**PROJECT DESCRIPTION:** The applicant proposes to modify an existing permit by temporarily filling 8.75 acres of palustrine emergent wetlands (PEM), 0.66 acre of palustrine scrub shrub wetlands (PSS), and 3.33 acres of palustrine forested wetlands (PFO). The applicant proposes to permanently fill 50.20 acres of PEM, 2.74 acres of PSS, 190.44 acres of PFO, 0.03 acre of streams, and 0.07 acres of open water. The applicant proposes to permanently convert 0.66 acres of PSS to PEM and 3.33 acres of PFO to PEM. The applicant proposes to dredge 14.88 acres (1,938 linear feet) of the Neches River. The applicant proposes to permanently impact 0.07 acres of stream by placing two 48-inch culverts and install slope revetments and rip rap within 0.14 acres of the Neches River.

The applicant proposes to construct a new dock, known as "Dock 7/8" which will require the dredging of 2.94 million cubic yards of material to a depth of -43 Mean Lower Low Water (MLLW) +/- 2 feet (-43.9 Mean High Water) in order to create a new marine berth large enough to support two Aframax-sized vessels, a 100- by 80-foot pile supported dock platform, 8 breasting dolphins with walkways, 6 inshore mooring dolphins, 2 offshore mooring dolphins, an offshore turning dolphin, a landside mooring dolphin, a vehicle approachway, 400 linear feet of sheet pile bulkhead, an access road, a dock house, a valve containment structure, a parking area, a firewater intake structure and meter, and various inshore foundations for ancillary equipment.

The applicant also proposes to raise the grade, by filling an adjacent 222-acre area to an elevation of +9 feet MLLW using excavated material. This 222-acre area will house new liquefied petroleum gas processing units, approximately 4 refrigerated liquidized petroleum gas storage tanks, 27 aboveground storage tanks, a new pump manifold, and a 36-inch crude oil transfer pipeline which will connect Dock 7/8 to the existing Nederland Terminal.

The applicant proposes to modify the existing Dock C to accommodate Aframax-sized vessels and meet Sabine Pilot's association safety standards. As a component of this dock modification, the applicant will remove 9 breasting dolphins, the Dock C platform, two firewater pump foundations and associated firewater equipment, firewater intake support piles, the approachway, the dock house, a section of bulkhead, and product piping. Following removal, the applicant proposes to dredge 330,000 cubic yards of material within a 6.3-acre area to a depth of -43 MLLW +/- 2 feet (-43.9 Mean High Water). This dredged material will be placed on-site or within Placement Areas 18, 21, 22, 23, 24, or 25. The applicant will then construct a 135- by 80-foot pile supported platform, a gangway tower, a hose tower with hydraulic crane, 4 product loading arms, 4 ship breasting dolphins with walkways, 5 inshore mooring dolphins, an inshore valve containment foundation, firewater intake structure and equipment, dock house, pipe rack, product piping, and install approximately 1,160 linear feet of sheet pile bulkhead.

The applicant also requests 10 years of maintenance dredging. The applicant requests authorization to place all maintenance dredged material on-site within the new development area or within Placement Areas 18, 21, 22, 23, 24, and 25.

**PROJECT HISTORY:** On 21 November 2019, the Corps completed a consolidation request for all previously authorized permits, work, and structures within the Nederland Terminal property. As a component of this consolidation, the applicant requested authorization to maintenance dredge for 10 years, modify existing structures, and to fill 0.636 acres of PFO and 199 linear feet of perennial stream in order to construct a Butane Chiller Facility.

The work previously authorized under the consolidation includes:

Department of the Army (DA) Permit Number W-N-243-41-Permit-09855 was issued on 30 January 1974 and authorized the Sun Oil Company to dredge a basin (to -42.0 Mean Low Tide) and construct a wharf with breasting structures. This permit was modified on 17 June 1974 to revise sheet 3 of the proposed plans (moving the proposed wharf approximately 200 feet upstream). This permit was then modified on 24 October 1974, to authorize additional dredging of a 400- by 290-foot ship slip to a depth of -42 feet Mean Low Tide (MLT). This permit was modified on 9 December 1976 to allow the dredging of 1,080,000 cubic yards of material along the South Bank of the Neches River to allow vessels to moor outside of the channel, construction of two-tanker terminals each with a pile supported loading dock, four breasting dolphins, necessary mooring dolphins, and additional mooring dolphins at an existing adjacent dock. This permit was modified on 13 January 1977, which authorized the additional dredging of a basin and construction of a wharf with associated breasting structures and to include revised plans. This permit was modified on 15 August 1980, which allowed the permittee to maintenance dredge areas along existing docks 2, 3, 4, and 5 to a depth of -43 MLT. This permit was modified on 15 October 1985 to include an extension of time to perform maintenance hydraulic dredging for 10 years over previous docks and Dock 1. This authorization expired on 31 December 1995. On 29 January 1999 an extension of time to perform hydraulic maintenance dredging was authorized. On 4 August 1999 the permit was modified to include Dredge Material Placement Area No. 18. This permit expired on 31 December 2009.

DA Permit SWG-1998-01773 (formerly DA Permit 09855) was issued on 27 May 2010 and added upland disposal area 23 to the permit and extended the time to conduct 10 years maintenance dredging for Docks 1, 2, 3, 4, and 5 to a depth of -43 MLT and Layberths A & D to a depth of -42 MLT. This authorization will expire on 31 December 2020.

DA Permit SWG-2007-01401 (formerly DA Permit 09855) was issued on 28 May 2013 and authorized the construction of a 20- by 20-foot pile supported hose, four barge monopoles, and four mooring dolphins within the project boundary. This authorization expired on 31 December 2018.

DA Permit 12620 was issued on 28 April 1978 and authorized the removal of deteriorated portions of Ship Dock 1, perform maintenance dredging, and construct a dock with loading structure, walkways, and breasting dolphins. This permit was modified on 23 March 1981 to allow maintenance dredging and the placement of 72,200 cubic yards of uncontaminated earthen fill and 8,000 cubic yards of shell fill behind an existing 1,200-foot-long sheet pile bulkhead. This authorization expired on 31 December 1983.

DA Permit 11870 was issued on 2 June 1977 and authorized the dredging of a basin and placement of 710,000 cubic yards of material on the permittee's property behind levees. This authorization expired on 31 December 1980.

DA Permit SWG-2014-00141 was authorized on 1 April 2015 and authorized the dredging of 590,000 cubic yards of material, construct a 60- by 100-foot pile supported dock with 4 breasting dolphins, walkways, 6 onshore mooring dolphins, approximately 1,300 linear feet of articulated concrete block for shoreline stabilization, and discharging 13,000 cubic yards of fill material into 7.7 acres of wetlands to construct a 160-foot driveway, access road, onshore foundations, and containment areas. The dredged material was placed in placement areas 18, 21, 22, 23, 24, 25, or beneficial use areas. This permit was set to expire on 31 December 2020.

DA Permit SWG-2014-00315 was issued on 20 March 2015 and authorized the removal of an existing bulkhead and marine structures, performance of mechanical and hydraulic dredging of 55,000 cubic yards of material (to a depth of -15 MLT), construction of 900 linear feet of sheet pile bulkhead, install 11 new monopole breasting dolphins, construct a new access road, parking area, foundations for on-shore equipment, and relocate 2 existing drainage outfalls. Dredged material could be placed into placement areas 18, 21, 22, 23, 24, 25, or the Nelda Stark Unit of the Lower Neches Wildlife Management Area.

DA Permit 12269 was issued on 30 November 1977 and authorized the dredging of two ship berthing areas and one entrance channel. This authorization expired on 31 December 1980.

DA Permit 12269 was amended on 27 December 1990 to extend maintenance dredging for 10 years. This authorization expired on 31 December 2000.

DA Permit SWG-2007-00259 (formerly DA 12269) was authorized on 18 June 2007 and authorized maintenance dredging for 10 years. This authorization expired on 31 December 2012.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by designing the proposed project to impact the least wetlands and waterbodies possible while maintaining safety and meeting the project need and purpose. Specifically, the applicant will sample the dredge material to identify potential contaminants in accordance with federal standards prior to placement on-site. The applicant has stated that during construction, best management practices (BMPs) will be utilized to assist in the control of erosion and minimize transport of sediments. These BMPs will consist of silt fences, straw bales, and other measures. The applicant has stated that project design considerations included minimizing the amount of additional workspace needed for construction staging and equipment storage by utilizing the proposed permanent footprint for these activities when practicable and stating that the necessary temporary workspaces will be returned to pre-construction contours, as practicable and allowed to revegetate naturally. The applicant has provided a full on-site and off-site alternatives analysis consistent with the 404(b)(1) guidelines to the Corps. See attached "Nederland Terminal Buildout Alternatives Analysis" for more details.

**MITIGATION:** In order to compensate for the permanent and temporary loss of PFO wetlands within the Lower Neches watershed, the applicant has proposed to purchase 107.69 Physical Functional Credit Units (FCUs), 105.58 Biological FCUs, and 113.95 Chemical FCUs. To compensate for the permanent and temporary loss of PSS wetlands within the Lower Neches Watershed, the applicant has proposed to purchase 1.52 Physical FCUs, 1.72 Biological FCUs, and 1.54 Chemical FCUs. In order to compensate for the permanent loss of PEM wetlands within the Lower Neches watershed, the applicant has proposed to purchase 45.33 Physical FCUs, 28.75 Biological FCUs, and 32.10 Chemical FCUs. In order to purchase the required FCUs, the applicant may utilize the secondary service area of some mitigation banks. As such, the applicant will comply with the 1.5x secondary service area multiplier. See attached "Nederland Terminal Buildout iHGM Analysis" for more details.

**CURRENT SITE CONDITIONS:** The project site is currently an undeveloped tract of land adjacent to the Applicant's Nederland Terminal facility. The tract consists of wetland forest, open marsh, the Neches River, maintained transportation right of ways, utility right of ways, and industrial development. Within the utility rights of way, typical vegetative species include smut grass (*Sporobolus indicus*), Bermuda grass (*Cynodon dactylon*), and yellow bluestem (*Bothriochloa ischaemum*). Typical plants present within the forested areas include: Chinese tallow (*Triadica sebifera*), poisonbean (*Sesbania drummondii*), and black willow (*Salix nigra*). Typical plants within the forested wetlands include: Chinese tallow, red maple (*Acer rubrum*), and red mulberry (*Morus rubra*). Typical plants within scrub shrub wetlands include Chinese tallow, black willow, and alligatorweed (*Alternanthera philoxeroides*). Lastly, representative vegetation within emergent wetlands includes common reed (*Phragmites australis*), torpedo grass (*Panicum repens*), and alligatorweed.

The subject property is surrounded by industrial development to the west, residential neighborhoods to the south/southwest, a Corps managed dredge material placement area to the east, and a somewhat developed portion of the Neches River to the north.

**NOTES:** This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. As of the date of this public notice, the Corps has received but not yet verified the wetland delineation. The applicant's plans are enclosed in 49 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.

This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with Corps processing of this application, the TCEQ is reviewing 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. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

The return water from the upland contained dredge material placement area(s) requires an independent certification by the Texas Commission on Environmental Quality (TCEQ). The applicant must obtain a Section 401 water quality certification from the TCEQ for the effluent or return water discharge. A copy of the 401 certification must also be furnished to the Corps of Engineers prior to the Corps making a decision on the proposed project.

Pursuant to 33 USC 408, the proposed project will require Section 408 coordination and review. This is a requirement for activities that seek permission, to temporarily or permanently, alter, occupy, or use a federally authorized United States Army Corps of Engineers civil works project. Changes to the proposed project, from the Section 408 process, may warrant additional coordination.

**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 is likely to contain terrestrial cultural resources that could be eligible for inclusion in the National Register of Historic Places. The applicant will need to conduct an investigation for historic properties.

**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.

**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 **10 July 2020**. 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-2007-01401**, and should be submitted to:

North Unit  
Regulatory Division, CESWG-RDE  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3869 Phone  
409-766-3931 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS