



# Public Notice

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

**Galveston District**

Permit Application No: \_\_\_\_\_ SWG-2013-00136

Date Issued: \_\_\_\_\_ 12 May 2020

Comments

Due: \_\_\_\_\_ 12 Jun 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:** Vopak MODA Houston  
Wells Fargo Plaza  
1000 Louisiana, Suite 7100  
Houston, Texas 77002  
POC: Luis Perez  
Telephone: 832-559-0888

**AGENT:** Lloyd Engineering, Inc.  
6565 West Loop South, Suite 708  
Bellaire, Texas 77401  
POC: Marisa Weber  
Telephone: 832-426-4656  
Email: marisa@lloydeng.com

**LOCATION:** The project site is located in the Houston Ship Channel (HSC) and Tucker Bayou, at 1900 Tidal Road, in Deer Park, Harris County, Texas 77536. The project can be located on the U.S.G.S. quadrangle map titled: La Porte, Texas.

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

Latitude: 29.736949 North; Longitude: 095.116759 West

**PROJECT DESCRIPTION:** The applicant proposes new work as an addition to previously authorized permit (SWG-2013-00136). Justification and need for the proposed modifications stem from the request for comments from the Houston Pilots regarding the safety and feasibility of the proposed ship docks to be utilized by ship vessels up to 750-foot by 106-foot in size. The Houston Pilots issued a letter dated 24 June 2019, which emphasized the need to expand the dredge basin to the south and west and realign the dock structure in order to safely moor a vessel of this size on the shore side of Ship Dock No. 5. Based on the recommendation from the Houston Pilots, Vopak proposes to modify the previously authorized plans. New work includes expanding the dredge boundary to the west and south by an additional 7.6 acres (proposed depth -45 feet MLT +/-2 feet depth), set back the dock structure an additional 35 feet from the Houston Ship Channel (total set back distance is now 390 feet), and the installation of 1,306-linear-foot of bulkhead wall along the shoreline to stabilize the dredge basin near Ship Dock No. 5. Dredge material will be placed in the previously authorized placement areas.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by designing the project to involve the discharge of fill material into less than 1/10th of an acre of waters of the United States.

**MITIGATION:** Due to the creation of open water habitat and removal of contaminated sediment, compensatory mitigation is not proposed to offset minimal impacts to jurisdictional areas. The overall project will result in a benefit to the localized vicinity and the watershed by increasing water quality and conditions for aquatic resources within this watershed due to the removal of contaminated sediment washed downstream from Patrick Bayou.

**CURRENT SITE CONDITIONS:** The project site is located along a highly industrialized portion of the HSC. The upland portion of the project site is comprised of mowed areas and paved roads. The wetlands adjacent to Tucker Bayou include both palustrine forested (PFO) and estuarine emergent (EEM) vegetation communities. The PFO wetlands are dominated by holly (*Ilex deciduas*), water elm (*Planera aquatic*), and black willow (*Salix nigra*). The EEM wetland is dominated by gulf cordgrass (*Spartina spartinae*), saltgrass (*Distichlis spicata*), and eastern baccharis (*Baccharis halimifolia*). The open water portion of the project area is comprised of unvegetated shallow water habitat and previously dredged areas. The project site is located adjacent to and downstream from the Patrick Bayou Superfund Site.

**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 4 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 incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria. Tier I projects are those which result in a direct impact of three acres or less of waters of the state or 1,500 linear feet of streams (or a combination of the two is below the threshold) for which the applicant has incorporated best management practices and other provisions designed to safeguard water quality. The Corps has received a completed checklist and signed statement fulfilling Tier I criteria for the project. Accordingly, a request for 401 certification is not necessary and there will be no additional TCEQ review.

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.

**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 partially investigated and no historic properties were identified as documented in the report titled "A Marine Archeological Remote-Sensing Survey for the Vopak Terminal Deer Park West Project, Harris County, Texas" prepared by Atkins and dated 2013. The report also states "Shoreline features in the project area have produced large magnetic disturbances that prevent identification of significant anomalies for a majority of the survey area. Sonar data does not show significant targets; however site formation processes for submerged sites can bury or degrade a shipwreck to a degree that may make them undetectable with this equipment - especially in the absence of reliable magnetometer data. Due to the quality of data, the report results and conclusion cannot conclusively state that potentially significant submerged archeological are not present." A special condition will be placed on the permit requiring the applicant stop all work and contact the Corps Regulatory Archeologist and the State Historic Preservation Officer if unidentified potential historic properties are encountered during construction.

**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 **12 Jun 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-2013-00136**, 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