



Public Notice

U.S. Army Corps Of Engineers Galveston District	Permit Application No: _____	SWG-2011-01225
	Date Issued: _____	4 December 2012
	Comments Due: _____	7 January 2013

**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 404 of the Clean Water Act (CWA).

APPLICANT: Friendswood Development Company
550 Greens Parkway, Suite 100
Houston, Texas 77067-4538

AGENT: Knudson, LP
8588 Katy Freeway, Suite 441
Houston, Texas 77024-1820
Telephone: 713-932-4003
POC: Mr. Aron Edwards

LOCATION: The project site is located in wetlands adjacent to Lake Houston, near Kingwood, in Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Moonshine Hill, Texas. LATITUDE & LONGITUDE (NAD 83): Latitude: 30.043 North; Longitude: -95.130 West

PROJECT DESCRIPTION: The applicant proposes to discharge 12,723 cubic yards of fill material into 4.34 acres of forested wetlands during the construction of a 66-acre residential development and the associated facilities. The project site will be cleared of vegetation and leveled using clean fill material from on-site locations in preparation for the residential development. Wetland A will be converted to a park for the residential development. The applicant also proposes to excavate 1.9 acres of forested wetlands within the proposed mitigation area to expand the southern edge of an existing floodplain mitigation area. The excavated forested wetland will be converted to an open water herbaceous fringed wetland.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by configuring the site development plan to avoid 2.85 acres of the total 7.19 acres of jurisdictional wetlands located within the tract. The applicant will also incorporate the use of reinforced filter fabric barriers around the construction site, install erosion control matting, and use hydromulch seeding to prevent short term and long term erosion of the disturbed areas. These best management practices will be used to minimize turbidity to waters of the United States.

MITIGATION: The applicant proposes to mitigate for impacts to a total of 6.24 acres which is comprised of 4.34 acres of direct fill impacts and 1.9 acres of excavation within the mitigation area. The applicant proposes to perform permittee-responsible mitigation by preserving, with a conservation easement, a 140-acre tract located 0.3 miles northwest of the project area. On 11 June 2002, the Corps verified that the mitigation tract contains 14.54 acres of palustrine forested wetlands. The applicant delineated the mitigation tract in May 2012 and determined the tract contains 17.08 acres of palustrine forested wetlands and 25.39 acres of existing floodplain mitigation area. The updated wetland delineation has not been verified by the Corps.

Due to City of Houston floodplain requirements, the existing floodplain mitigation area will be expanded on the proposed mitigation tract. The expansion of this floodplain mitigation area will result in excavation of 1.9 acres of forested wetlands located south of the existing floodplain mitigation area. These wetlands will be converted to an open water herbaceous wetland system. A 2-foot-tall berm will be placed along boundary of forested wetland and floodplain mitigation area to prevent impacts to the avoided forested wetlands during rainfall events. The hydrology to the avoided wetlands is maintained by overland sheet flood and periodic flooding events from the adjacent Lake Houston.

CURRENT SITE CONDITIONS: The project site is a peninsula within the easternmost portion of the Kingwood community that extends eastward into Lake Houston. This peninsula is surrounded on the west by suburban development (DA Permit#20321, SWG-1995-00707) and on the north, east, and south, by the waters of Lake Houston. Traces of cleared, but never constructed, subdivision roads are visible on recent aerial photographs of the area. The internal topography of the tract is marked by an isolated rise as high as 56 feet above mean sea level. This isolated hill drops off abruptly into the waters of Lake Houston to the north and east, and abruptly in the south near the approximate middle of the property. A rather level, lower portion of the tract at 50 feet above mean sea level separates the hill from a small gully at the southwestern limit of the property. This lower level ground may represent an old terrace of the San Jacinto River.

Field observations confirm the presence of two bald eagle nests at the site. Nest organization indicates that one nest appears to be inactive and one nest appears to be active. A breeding pair of bald eagles and their young was viewed at the site during field investigations in the late fall of 2010 and the spring and summer of 2011. Disturbances to the bald eagle will continue to be regulated under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. The project site has ongoing monitoring to verify nesting activity. The applicant has begun coordination with the local U.S. Fish and Wildlife Service (USFWS) Office for appropriate mitigation and submittal of a USFWS Migratory Bird and Eagle Permit.

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 verified, the wetland delineation. The applicant's plans are enclosed in 5 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.

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.

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 applicant conducted a cultural resources investigation of the project area and the results were summarized in a technical report entitled “*A Cultural Resource Survey of the 66-Acre Royal Shores Tract on Lake Houston, Kingwood Development, City of Houston, Harris County, Texas*”. The Texas State Historic Preservation Officer (SHPO) concurred with the Corps Staff Archeologist’s determination that the historical sites found are not eligible for inclusion in the National Register of Historic Places via letter dated 8 March 2012. The SHPO also confirmed, through the public notice process, that no historic properties are present and the project may proceed via letter dated 19 March 2012.

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 Environmental Impact Statement 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 **7 January 2013**. 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-2011-01225**, and should be submitted to:

Elizabeth Shelton
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
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