



# Public Notice

<b>U.S. Army Corps Of Engineers Galveston District</b>	Permit Application No: _____	SWG-2012-00151
	Date Issued: _____	19 February 2013
	Comments Due: _____	21 March 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 10 of the Rivers and Harbors Act of 1899, Section 404 of the Clean Water Act.

**APPLICANT:** Sims Metal Management  
110 Fifth Avenue, Suite 700  
New York, New York 10011-5614

**AGENT:** Crouch Environmental Services, Inc.  
402 Teetshorn Street  
Houston, Texas 77009-7532  
Telephone: 713-868-1043  
POC: Mr. Ryan Robol

**LOCATION:** The project site is located approximately 0.60 mile south of the intersection of Clinton Drive and Mayo Shell Road, adjacent to the Houston Ship Channel (HSC), in Houston, Harris County, Texas. The project can be located on the U.S.G.S. quadrangle maps entitled: Pasadena, Texas

**LATITUDE & LONGITUDE:** (NAD 83):  
Latitude: 29.723340° North;      Longitude: 95.245947° West

**PROJECT DESCRIPTION:** The applicant proposes to conduct dredging and construct structures in waters of the of the United States (U.S.) during the development of a metal recycling facility, including ship and barge berth, warehouses, bulk material handling area, associated buildings and infrastructure. The proposed project would be constructed on a previously developed 73.17-acre property. Prior to construction and dredging, the applicant proposes to demolish all existing structures on the project site, and within the existing basin, utilizing land-based construction equipment or barge-mounted trackhoes and cranes. No discharges of fill material, or other adverse environmental impacts, are anticipated from proposed demolition.

After demolition of existing structures, the applicant would dredge 8.90 acres within an existing onsite basin, and impact (by dredge and fill activities) 1.01 acres of adjacent wetlands, to expand the existing basin for the import and export of bulk metal materials. The newly expanded basin would be bulkheaded with 1,685 linear feet of steel sheet pilings, and include two berths, one for Panamax bulk cargo vessels, and the other for bulk cargo hopper barges. The steel sheet piling bulkhead would be installed to accommodate a wharf for bulk metal loading and unloading.

The applicant also proposes to construct interior roadways, access gates, laydown areas, utilities related structures (water, sewer, fire, lighting, communication, and security), and buildings. There would be installation of equipments such as metal shredders, grapples, magnetic cranes, and front-end loaders. Stormwater conveyance structures such as pipes, ditches, detention pond, and oil/water separators would be installed to treat runoff from the facility.

In summary, the proposed project would result in impacts a total of 9.91 acres of jurisdictional waters of the U.S., including wetlands (8.90 acres jurisdictional waters, and 1.01 acres of wetlands). A total of 231,900 cubic yards of dredged material would be dredged from the existing man-made basin. Impacts to two jurisdictional freshwater wetlands consist of excavating a 0.88-acre portion, and filling a 0.13-acre portion with 1,100 cubic yards of clean soil to accommodate the proposed development.

No other special aquatic sites would be impacted by the proposed project. Dredging activities would utilize a hydraulic, cutter/suction dredger, and dredged material would be transported, via slurry pipe, to either Filter Bed dredged material placement area (DMPA), Glendale DMPA, Stimson DMPA, House Tract DMPA, Rosa Allen DMPA or Clinton DMPA. The proposed dredge depths within the basin would range from -15 mean low lower water (MLLW) to -40 MLLW. Current depths at the facility range from 0 MLLW to -35 MLLW. The dredged depth would match the bottom elevations of the adjacent HSC to allow Panamax bulk cargo ship access to the berth and wharf area of the proposed project site. Prior to transporting dredged material, the applicant would abide by all applicable sediment testing procedures required by the Port of Houston Authority.

Stormwater runoff from the project site would be directed into an on-site sediment/retention basin and oil/water separator prior to discharge into the adjacent HSC. Proposed roadways, parking areas, and bulk material handling areas would be graded to direct runoff into on-site municipal separate storm sewer systems.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that the proposed project would minimize impacts to jurisdictional waters of the U.S. by using Best Management Practices (BMPs) during construction operations to the greatest extent practicable.

**MITIGATION:** To compensate for proposed impacts to jurisdictional wetlands, the applicant performed a functional assessment of the existing freshwater wetlands on site using an Interim Hydrogeomorphic functional assessment model. The applicant proposes to purchase credits from the Spellbottom Mitigation Bank, 0.6 credits for Temporary Storage of Surface Water, 0.6 credits for Maintenance of Plants and Animal communities, and 0.6 credits for Removal and Sequestration of Elements and Compounds.

**CURRENT SITE CONDITIONS:** The 73.17-acre project site consists of a previously developed industrial shipping terminal, an existing man-made basin, a bulk materials handling facility, and a large sand and gravel lot. The HSC is adjacent to the southern project boundary. Public infrastructure, commercial and industrial properties, and rail lines are located within and adjacent to the project site. Oil tanks and aboveground pipelines are located on the project site. Adjacent property use includes bulk handling and cargo facilities, industrial complexes, petroleum and natural gas storage facilities, and other industry.

**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 11 sheets.

**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 BMPs 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 being sought due to the return water from the upland disposal area.

The return water from the upland contained DMPAs requires authorization under Nationwide Permit (NWP) 16. However, Section 401 water quality certification from the Texas Commission on Environmental Quality (TCEQ) for NWP 16 has been administratively denied by the Corps, Southwestern Division, due to conditions placed upon it by the TCEQ. Prior to the performance of hydraulic dredging, 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 prior to performing hydraulic dredging.

**AIR CONFORMITY:** The project site is located in Harris County, which is within a non-attainment area for the criteria pollutant ozone. Applicant is required to ensure the activity does not exceed the de minimis emission for this criteria pollutant.

**NATIONAL REGISTER OF HISTORIC PLACES:** The proposed work is of such limited scope and nature that there is no potential for the project to affect a Historic Property, even if present within the permit area.

**THREATENED AND ENDANGERED SPECIES:** The applicant performed a threatened and endangered species survey of the proposed project site on 14 December 2011. The results of the threatened and endangered species survey concluded that one (1) Federally-listed species, Smalltooth Sawfish (*Pristis pectinata*); and four (4) state-listed species, American Eel (*Anguilla rostrata*), Rafinesque's Big-eared bat (*Corynorhinus rafinesquii*), Southeastern Myotis bat (*Myotis austroriparius*), and Alligator snapping turtle (*Macrolemys temmincki*), may be present at the project site. Therefore, 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 the National Marine Fisheries Service (NMFS) 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 NMFS.

**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 may be reasonably 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 **21 March 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 be submitted to:

Tosin Sekoni  
Regulatory Branch, CESWG-PE-RE  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3114 Phone  
409-766-6301 Fax  
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DISTRICT ENGINEER  
GALVESTON DISTRICT  
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