



# Public Notice

<b>U.S. Army Corps Of Engineers Galveston District</b>	Permit Application No: _____	SWG-2008-00255
	Date Issued: _____	12 December 2008
	Comments Due: _____	13 January 2009

## 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.

**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.

**APPLICANT:** Oiltanking Texas City, LP  
P.O. Box 29  
Texas City, Texas 77592-0029

**AGENT:** Lanier and Associates Consulting Engineers, Inc.  
4101 Magazine Street  
New Orleans, Louisiana 70115-2750  
Telephone: 504-895-0368  
POC: Brad Frischhertz

**LOCATION:** The project is located on the Texas City Channel, immediately west of the Texas City Industrial Turning Basin, in Texas City, Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Texas City, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 15; Easting: 314323; Northing: 3249481.

**PROJECT DESCRIPTION:** The applicant proposes to construct a new barge dock within an existing terminal. The construction includes installation of 134 feet of bulkhead, placement of fill material into 0.02 acre of open water, and dredge using mechanical and/or hydraulic excavation 0.55 acre of open water to a depth of 17 feet. The proposed barge dock will also require the installation of 6 new breasting/mooring dolphins. The applicant proposes to place the dredge material into the Shoal Point Dredge Material Placement Area.

**NOTES:** This public notice is being issued based on information furnished by the applicant. The applicant's plans are enclosed in 9 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 Clean Water Act (CWA).

**OTHER AGENCY AUTHORIZATIONS:** Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas 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 U.S. Army Corps of Engineers (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 dredged material placement area requires authorization under Nationwide Permit (NWP) 16. However, the Southwestern Division of the Corps administratively denied NWP 16, without prejudice, during the 2002 renewal of the NWP Program. Additionally, Section 401 water quality certification for the 2007 renewal of the NWP Program has not been issued. Therefore, individual Section 401 water quality certification from TCEQ for the return water from the upland contained disposal area is required. Prior to the performance of hydraulic dredging, the applicant will obtain a CWA Section 401 water quality certification from the TCEQ for the effluent or return water. A copy of the 401 certification must also be furnished to the Corps district office listing in this public notice prior to performing hydraulic dredging.

**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 has been so extensively modified that little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area.

**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 320-330, 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:** 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 whether the issues are substantial and should be considered in the permit decision. 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 **13 January 2009**. 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:

Kristi N. McMillan  
Regulatory Branch, CESWG-PE-RE  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3083 Phone  
409-766-6301 Fax

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS