



Public Notice

U.S. Army Corps Of Engineers Galveston District	Permit Application No: _____	SWG-2009-00945
	Date Issued: _____	13 October 2009
	Comments Due: _____	13 November 2009

**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.

AUTHORITY: This application will be reviewed pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act.

APPLICANT: White Stallion Energy Center, LLC
1302 Waugh Drive, Suite 896
Houston, Texas 77019-3908

AGENT: Whitenton Group, Inc.
3413 Hunter Road
San Marcos, Texas 78666-5864
Telephone: 512-353-3344
POC: Scott Jecker

LOCATION: The proposed project is located adjacent to the Colorado River (mile marker 14) off County Road 2668, near Bay City, in Matagorda County, Texas. The project can be located on the U.S.G.S. quadrangle maps entitled: Blessing SE and Wadsworth, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 15; Easting: 303969.315; Northing: 3193010.501

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 19,000 cubic yards of clean upland fill material excavated from the site into a total of 8.133 acres of jurisdictional waters of the United States; specifically 2.705 acres of emergent wetlands, 4.95 acres of open water, 0.017 acres of ephemeral stream and 0.461 acres of perennial stream for the construction of 2 outfall structure aprons, 2 barge facility supports with sheet piling and concrete and base material and concrete for a new low-emission solid fuel power plant. The barge dock will utilize approximately 1,200 linear feet of Colorado River waterfront. Approximately 1.19 acres (56,000 cubic yards) will be excavated in adjacent uplands. Approximately 2.42 acres (60,520 cubic yards) acres of Colorado River bottom will be excavated to a depth of 11 feet below low water.

Approximately 3,050 linear feet of perennial stream cannot be avoided, according to the applicant, and will be relocated for the plant site. Approximately 3,900 linear feet of stream with a 25-foot-wide OHWM will be recreated. The stated purpose of the project is to meet the growing demand for low cost power. Mitigation credits will be provided by an agreement with the National Fish and Wildlife Foundation to purchase ecologically sensitive areas and by the revegetation of relocated channels with native herbaceous wetland vegetation.

Approximately 25 acres of jurisdictional waters were identified on the site. The footprint of the plant site, access roads and rail line has been revised three times, according to the applicant, to avoid wetlands and minimize impacts. Initial impacts of 22 acres have been reduced to 8.13 acres.

NOTES: This public notice is being issued based on information furnished by the applicant. This information has not been verified. The applicant's plans are enclosed in 15 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: The project site is located within the Texas Coastal Zone and therefore, does require certification from the Texas Coastal Management Program.

STATE WATER QUALITY: This project would result in a direct impact of greater than three acres of waters of the state or 1500 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 U.S. Army Corps of Engineers (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. The TCEQ may conduct a public hearing to consider all comments concerning water quality if requested in writing. A request for a public hearing 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 permit area was inventoried for historic properties and none were identified as documented in the report titled “*Archaeological Reconnaissance of the White Stallion Energy Project, Matagorda County, Texas*” prepared by AR Consultants and dated July 2009. The results of the inventory are being coordinated with the Texas State Historic Preservation Officer.

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: 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 November 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:

Steven Walls
Regulatory Branch, CESWG-PE-RE
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