



# Public Notice

<b>U.S. Army Corps Of Engineers Galveston District</b>	Permit Application No: _____	23551
	Date Issued: _____	1 October 2004
	Comments Due: _____	1 November 2004

**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. We hope you will participate in this process.

**AUTHORITY:** This application will be reviewed pursuant to Section 404 of the Clean Water Act.

**APPLICANT:** Dow Chemical Company  
2301 North Brazosport Boulevard, #B101  
Freeport, Texas 77541-3203  
Telephone: 979-238-4811  
POC: Randy Reed

**LOCATION:** The project is located in wetlands adjacent to Oyster Creek, east of the City of Lake Jackson, west of FM 523, in Brazoria County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Oyster Creek, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 15; Easting: 270472; Northing: 3213717.

**PROJECT DESCRIPTION:** The applicant proposes to install, operate, and maintain structures and equipment necessary for a brine well (Well J) and an access road. The proposal includes a 380-foot by 210-foot (1.83-acre) permanent fill for the pad and a permanent fill of 465-foot by 30-foot (0.32 acre) for an access road in jurisdictional wetlands. An additional 0.58 acre of jurisdictional wetlands will be temporarily impacted with the installation of a temporary board road and workspace. No earthwork is proposed with the temporary board road and workspace such that the applicant anticipates the area will recover and recolonize upon project completion. Any rutted or disturbed areas will be returned to pre-project contours.

The wetlands impacted are dominated by Chinese tallow (*Sapium sebiferum*), beakrush (*Rhynchospora corniculata*), bushy bluestem (*Andropogon glomeratus*), and marshhay cordgrass (*Spartina patens*). The applicant proposes to designate 5 acres from Dow's prior contribution to the Texas Parks and Wildlife Department's Peach Point WMA for Project #8's Moist Soil Wetland as compensation for unavoidable impacts of the proposed project. The applicant's plans are enclosed in 7 sheets.

**NOTES:** This public notice is being issued based on information furnished by the applicant. This information has not been verified.

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 Railroad Commission certification is required.

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.

**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:

A historic properties investigation has been conducted within the permit area. No sites determined eligible for or listed on the National Register of Historic Places are within the permit area or 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 of Engineers, 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 of Engineers 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 of Engineers 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 of Engineers 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 **1 November 2004**. 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:

Jeff Hill  
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P.O. Box 1229  
Galveston, Texas 77553-1229  
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DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS