



US Army Corps
of Engineers®

PUBLIC NOTICE

Galveston District
Permit Application
No. SWG-2025-00662

Published: April 16, 2026
Expires: April 25, 2026

Interested parties are hereby notified that the U.S. Army Corps of Engineers (USACE), Galveston District has received an application for a Department of the Army (DA) permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. § 1344), Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403), and Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 408 (Section 408)). In Executive Order (EO) 14156 the President declared a national emergency under the National Emergencies Act (50 U.S.C. 1621) based upon the finding that the United States' insufficient energy production, transportation, refining, and generation constitutes an unusual and extraordinary threat to our Nation's economy, national security, and foreign policy. The U.S. Army Corps of Engineers (Corps), Galveston District has found that this permit request meets the terms of EO 14156 and is therefore subject to special emergency permitting procedures to address an energy supply situation which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if corrective action requiring a permit is not undertaken within a time period less than the normal time needed to process the application under standard procedures. The Galveston District will implement the special processing procedures approved by Southwestern Division in accordance with 33 CFR § 325.2(e)(4). The purpose of this public notice is to solicit comments from the public and information necessary to evaluate the probable impact on the public interest regarding the proposed activity as described below and as shown on the enclosed drawings.

APPLICANT: Kenneth Berry
2802 N Shoreline Boulevard
Box 868
Corpus Christi, Texas 78402

LOCATION OF PROPOSED ACTIVITY: The project site is located in waters adjacent to the La Quinta Channel, at Berry Island, in Nueces County, Texas; at Latitude 27.832783 and Longitude -97.236538. Dredged material would be placed in the Berry Island Dredged Material Placement Area (DMPA) at Latitude 27.832783 and Longitude -97.236538, DMPA 10 at Latitude 27.808701 and Longitude -97.211318, or DMPA 13 at Latitude 27.854884 and Longitude -97.249332. All proposed DMPAs are located within Nueces County, Texas.

PROPOSED ACTIVITY: The applicant proposes to construct two 1200 linear-foot docks to provide docking for very large crude oil carriers (VLCCs), handymax vessels, and other similar vessels used for the transportation of energy resources. The docks would each consist of a steel sheet pile bulkhead and breasting structure, which would include

dead man/bulkhead tiebacks, walers, fenders, and pile caps. Each dock would have 10 mooring structures made of 8-foot-wide monopiles with 10-foot-wide bollards, and a loading arm at the center of each dock. Walkways would be constructed to access each dock. Project activities would result in the discharge of material into approximately 0.589 acres of open water, 0.546 acres of intertidal mud flats, and 0.095 acres of seagrass. Project activities would result in temporary impacts to 1.281 acres of open water and 1.236 acres of intertidal mud flats.

An approximately 48-acre area adjacent to the La Quinta Channel would be mechanically or hydraulically dredged to a depth of -50 feet MLLW, resulting in the removal of approximately 3,508,000 cubic yards of material. Dredging would impact 0.078 acres of intertidal mud flats and 0.174 acres of seagrass.

MITIGATION: The applicant has stated that they have avoided and minimized environmental impacts to waters of the United States associated with the proposed activity by minimizing the amount of fill to the greatest extent practicable and designing the project layout in a manner to minimize impacts to delineated resources. Temporarily impacted areas would be restored as near as possible to pre-emergency conditions. The applicant has not proposed compensatory mitigation at this time but has stated that they will perform all mitigation required by USACE. The USACE will determine the type and amount of compensatory mitigation necessary to offset losses of waters of the United States which may result from the proposed activity in accordance with 33 CFR § 332.

HISTORIC PROPERTIES/CULTURAL RESOURCES: Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. § 306108), requires Federal agencies to consult with the appropriate State and/or Tribal Historic Preservation Officers to take into account the effects of actions they undertake or permit on historic properties listed in or eligible for listing in the National Register of Historic Places.

The USACE evaluated the undertaking pursuant to Section 106 of the National Historic Preservation Act utilizing 36 CFR § 800 and program-specific regulations and procedures found at 33 CFR § 325, Appendix C, and revised interim guidance issued in 2005 and 2007, respectively. The District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

The permit area has been so extensively impacted by previous dredging, construction of the placement area and industrial development that there is no potential for historic properties to exist within the permit area. Therefore, the proposed project has no potential to cause an effect to historic properties.

The USACE's final eligibility and effect determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, federally recognized tribes, and other interested parties, and with full

consideration given to the proposed undertaking’s potential direct and indirect effects on historic properties within the USACE-identified permit area.

ENDANGERED SPECIES: Section 7 of the Endangered Species Act (ESA) (16 U.S.C. § 1536) requires federal agencies to consult with the National Marine Fisheries Service (NMFS) and/or U.S. Fish and Wildlife Service (USFWS) on all actions that may affect a species listed (or proposed for listing) under the ESA as threatened or endangered or that may adversely modify designated critical habitat (or critical habitat proposed such designation). USACE’s preliminary review indicates the described activity may affect a threatened or endangered species or designated critical habitat. USACE will complete the required consultation under Section 7 prior to finalizing a permit decision.

Table 1: Effects Determination for Federally Listed Threatened and Endangered Species.

Common Name	Scientific Name	Effect	
		USFWS	NMFS
MAMMALS			
Ocelot	<i>Leopardus pardalis</i>	NE	N/A
Blue Whale	<i>Balaenoptera musculus</i>	N/A	NE
Fin Whale	<i>Balaenoptera physalus</i>	N/A	NE
Humpback Whale	<i>Megaptera novaeangliae</i>	N/A	NE
Sei Whale	<i>Balaenoptera borealis</i>	N/A	NE
Sperm Whale	<i>Physeter macrocephalus</i>	N/A	NE
West Indian Manatee	<i>Trichechus manatus</i>	NLAA	N/A
Tri-Color Bat	<i>Perimyotis subflavus</i>	NE	N/A
FISH			
Giant Manta Ray	<i>Manta birostris</i>	N/A	NLAA
BIRDS			
Northern Aplomado Falcon	<i>Falco femoralis septentrionalis</i>	NE	N/A
Piping Plover	<i>Charadrius melodus</i>	NLAA	N/A
Red Knot (Rufa)	<i>Calidris canutus rufa</i>	NLAA	N/A
Whooping Crane	<i>Grus americana</i>	NE	N/A
Eastern Black Rail	<i>Laterallus jamaicensis jamaicensis</i>	NE	N/A
Attwater’s Greater Prairie Chicken	<i>Tympanuchus cupido attwateri</i>	NE	N/A
REPTILES			
Green Sea Turtle	<i>Chelonia mydas</i>	NE	NLAA
Hawksbill Sea Turtle	<i>Eretmochelys imbricata</i>	NE	NE
Kemp’s Ridley Sea Turtle	<i>Lepidochelys kempii</i>	NE	NLAA
Leatherback Sea Turtle	<i>Dermochelys coriacea</i>	NE	NE
Loggerhead Sea Turtle	<i>Caretta caretta</i>	NE	NLAA
CLAMS			

False Spike	<i>Fusconaia mitchelli</i>	NE	N/A
Guadalupe Orb	<i>Cyclonaias necki</i>	NE	N/A
INSECT			
Monarch Butterfly	<i>Danaus plexippus</i>	NE	N/A
PLANTS			
Slender Rush-pea	<i>Hoffmannseggia tenella</i>	NE	N/A
South Texas Ambrosia	<i>Ambrosia cheiranthifolia</i>	NE	N/A
Black Lace Cactus	<i>Echinocereus reichenbachii var. albertii</i>	NE	N/A

The Corps has determined that the proposed action is subject to Executive Order 14156, “Declaring a National Energy Emergency” issued 20 January 2025. As such, the permit application is being expedited using emergency regulations. The Corps is requesting the U.S. Fish and Wildlife and/or the National Marine Fisheries Service consult in an expedited manner described in 50 CFR 402.05 Emergencies. Pursuant to 50 CFR 402.06, the Corps is requesting consultation be consolidated with the public notice. To assure emergency consultation is completed in an expedited manner, the Corps is requesting the agency’s recommendations to minimize the effects of the emergency response action on listed species and critical habitat be provided no later than **20 days** from the issuance of the public notice.

Pursuant to 50 CFR 402.05(b), formal consultation shall be initiated for listed species or critical habitat that will be adversely affected as soon as practicable after the emergency is under control.

ESSENTIAL FISH HABITAT: Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) as amended (16 U.S.C. § 1855), requires Federal agencies to consult with the NMFS on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH). The Corps has determined that the proposed action is subject to Executive Order 14156, “Declaring a National Energy Emergency” issued 20 January 2025. As such, the permit application is being expedited using emergency regulations. Pursuant to 50 CFR 600.920(h), the Corps is requesting abbreviated consultation be completed no later than **20 days** from the issuance of the public notice.

The USACE’s preliminary review indicates the described activity would adversely affect EFH at the project location or in the vicinity. This notice initiates the EFH consultation requirements of the MSA. Implementation of the proposed project would directly impact approximately 0.589 acres of open water, 0.546 acres of intertidal mud flats, and 0.095 acres of seagrass due to the discharge of fill material, and 47.58 acres of open water, 0.078 acres of intertidal mud flats, and 0.174 acres of seagrass due to dredging. The effects of the project are determined to be minimal and permanent. These habitat(s) are utilized by the following species and their various life stages: red drum, triggerfishes (Balistidae), jacks (Carangidae), wrasses (Labridae), snappers (Lutjanidae), tilefishes (Malacanthidae), groupers (Serranidae), and coastal migratory pelagic species, shrimps,

stone crabs, and spiny lobsters. Dredging activities would cause a temporary disturbance to benthic habitat. The discharge of fill would cause a permanent loss of intertidal mud flats, which may be used for juvenile life history stages. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the NMFS. The USACE will complete the required consultation under Section 305(b)(2) prior to finalizing a permit decision.

NAVIGATION: Based on information provided by the applicant, the waterward edge of the proposed structure is approximately 575 feet away from the near bottom edge of the La Quinta federal channel.

SECTION 408: The applicant will require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 408) because the activity, in whole or in part, would alter, occupy, or use a USACE Civil Works project.

WATER QUALITY CERTIFICATION: The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Commission on Environmental Quality (TCEQ) will review 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. The applicant contacted TCEQ and initiated the Section 401 CWA process, on February 6, 2026. If you have comments or questions on this proposed project's State water quality certification, please contact 401certs@tceq.texas.gov. You may also find information on the Section 401 process here: <https://www.epa.gov/cwa-401/basic-information-cwa-section-401-certification>.

COASTAL ZONE MANAGEMENT: A federal consistency decision may be required from the state of Texas pursuant to Section 307 of the Coastal Zone Management Act of 1972 (16 U.S.C. § 1451). A permit for the described work will not be issued until a consistency decision has been issued from the state of Texas, if required.

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.

The applicant has stated that the project is consistent with the Texas Coastal Management Program (CMP) goals and policies and will be conducted in a manner consistent with said Program. The Texas Commission on Environmental Quality will determine if the project is consistent with the goals and policies of the CMP and will review this application under Section 401 of the CWA to determine if the work would comply with State water quality standards.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic

resources within the proposed project area that either are, or are presumed to be, within the USACE jurisdiction has not been verified by USACE personnel. The applicant's plans are enclosed in 13 sheets.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact 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 including cumulative impacts thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, Environmental Protection Agency (EPA), under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

COMMENTS: The USACE is soliciting comments from the public; Federal, State, and local agencies and officials; Tribal Nations; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the USACE to determine whether to issue, modify, condition, or deny a permit and to allow alteration of a federally authorized project for this proposed activity. To make this determination, comments are used to assess impacts to 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 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. Any comments or objections which are received during this period may be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested permit. Please note that all comments received will become part of the administrative record and are subject to public release under the Freedom of Information Act.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

The Galveston District will receive written comments on the proposed activity, as outlined above, until April 25, 2026. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs/public-notice> or to the Regulatory Division at swg_public_notice@usace.army.mil. Alternatively, you may submit comments in writing to the Regulatory Division, U.S. Army Corps of Engineers, Galveston District, Attention: **SWG-2025-00662**, at 5151 Flynn Parkway, Suite 306, Corpus Christi, Texas 78411. Please refer to **SWG-2025-00662** in your comments.

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS