



Public Notice

**U.S. Army Corps
Of Engineers**

Galveston District

Permit Application No: SWG-2012-00381

Date Issued: 4 March 2021

Comments

Due: 20 April 2021

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. 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 and Section 404 of the Clean Water Act (CWA).

APPLICANT: SPACE EXPLORATION TECHNOLOGIES, INC (SPACE X)
1 Rocket Road
Hawthorne, California 90250
POC: Matthew Thompson
Telephone: 310-970-3611

LOCATION: The project site is located in wetlands adjacent to Boca Chica Bay, at the existing SpaceX Vertical Launch Facility on State Highway 4, in Boca Chica, Cameron County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Mouth of Rio Grande, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 25.996 North; Longitude: -97.154 West

PROJECT DESCRIPTION: SpaceX proposed to modify the existing permit for the continued development of the SpaceX vertical launch area with the expansion and addition of test, orbital, and landing pads, integration towers, associated infrastructure, stormwater management features and vehicle parking. The proposed expansion will impact 10.94 acres of mud flats, 5.94 acres of estuarine wetlands, and 0.28 acres of non-tidal wetlands.

AVOIDANCE AND MINIMIZATION: The applicant has stated that measures to avoid and minimize impacts to jurisdictional waters of the US were incorporated into the project design. Opportunities for avoiding and minimizing potential impacts beyond those identified below were limited due to the nature of the project, the need to comply with FAA licensing regulations, and the location of jurisdictional resources in the vicinity of the project. It is possible that impacts to wetlands are reduced as the site design is refined.

1. The parking area would be located in a predominately upland area to avoid wetland impacts.
2. Located additional parking in other areas of installation to avoid additional wetland impacts.
3. Retaining walls were evaluated to minimize wetland impacts but do not meet site safety requirements.
4. Payload and processing facility would be sited to avoid wetland impacts.

MITIGATION: SpaceX stated they are developing a comprehensive, multifaceted mitigation strategy for the Boca Chica Launch Site. This information will be updated as the mitigation strategy is finalized.

CURRENT SITE CONDITIONS: The existing vertical launch area is located on privately-owned land in Cameron County, Texas, near the cities of Brownsville and South Padre Island, approximately 3 miles north of the U.S.-Mexico border. The vertical launch area and control center area are in a sparsely populated coastal area off the Gulf of Mexico characterized by sand and mud flats. The vertical launch area is directly adjacent to the eastern terminus 1 of State Highway 4 (Boca Chica Boulevard). This road provides the only access to Boca Chica Beach. The State of Texas owns and operates 200 feet in fee title as a right-of-way for State Highway 4 from the end of the road at the coast approximately 6 miles inland, adjacent to the proposed vertical launch area. The existing control center area consists of a parcel north of Boca Chica Boulevard and west of the proposed vertical launch area. Boca Chica Village, a small residential subdivision with a mostly transient population, is adjacent to the parcel that comprises the proposed control center area. Current infrastructure and utilities in this area are limited.

The land surrounding the proposed vertical launch and control center areas is primarily used for recreational purposes and includes Boca Chica State Park, the Lower Rio Grande Valley NWR (Boca Chica Tract), the South Bay Coastal Preserve, the Las Palomas Wildlife Management Area (Boca Chica Unit), Brazos Island State Park, Isla Blanca Park, and the Palmito Ranch Battlefield National Historic Landmark.

BACKGROUND: The Federal Aviation Administration (FAA) completed an Environmental Impact Statement (EIS) for the SpaceX Launch Site and issued its Record of Decision (ROD), dated 9 July 2014, providing the FAA's final environmental determination and approval to support the issuance of launch licenses and/or experimental permits. The Corps, Galveston District (Corps), is a cooperating agency on the EIS. A Department of the Army Permit was required for the applicant to construct a commercial space launch facility and was initially issued on 9 September 2014.

By letter dated 21 October 2015, SpaceX requested a modification to Special Condition 3 of the 15 September 2014 Department of the Army Authorization. Special Condition 3 required SpaceX transfer the compensatory mitigation site to the U.S. Fish and Wildlife Service (USFWS) prior to commencing work in waters of the United States. SpaceX stated that the long transaction time resulting from the complexities of the transfer, which includes title work and multiple surveys, had delayed the initiation of construction. As of the date of the SpaceX letter, SpaceX had been working with the Service for one year to complete this land transfer and had already completed the title examination, tax information and documentation, TellAll report (a top-level environmental report), the land survey and creation of metes and bounds. In order to complete the transfer to the USFWS, a USFWS Level 1 environmental review and final USFWS approval from their solicitor were required. SpaceX requested Special Condition 3 be modified to require the transfer be complete within one year of commencing work in waters of the United States. The administrative modification was authorized on 4 November 2015.

By letter dated 22 April 2015, SpaceX requested to modify the permit to fill an additional 2.25 acres of waters of the United States to create sufficient elevation for flood protection, site security, provide safety and operational efficiency, and stabilize the soil. To compensate for these additional impacts, SpaceX proposed a 19.125-acre compensatory mitigation site. A public notice was published on 7 May 2015. The Corps determined that the modification was in the public interest and authorized the modification on 29 January 2016 with additional special conditions requiring the 19.125-acre compensatory mitigation.

By letter dated 29 March 2016, SpaceX requested a modification to Special Conditions 3 and 6 of the 29 January 2016 Department of the Army Authorization. Special Conditions 3 and 6 requires SpaceX transfer the compensatory mitigation sites to the USFWS prior to commencing work in waters of the United States. SpaceX has stated that the long transaction time resulting from the complexities of the transfer, which includes title work and multiple surveys, has delayed the initiation of construction. As of the date of the SpaceX letter, SpaceX has been working with the USFWS for 18 months to complete the initial land transfer. After continued effort to transfer the compensatory mitigation site to the USFWS, the USFWS determined that the timeframes required will continue to delay construction. In lieu of transferring the property to the USFWS, SpaceX requested Special Conditions 3 and 6 be modified to require the transfer be made to Texas Parks and Wildlife Department (TPWD) rather than the USFWS. The administrative modification was authorized on 21 April 2016.

In their April 2017 request to modify their permit, Space X initially requested two modifications. The first modification is to the site perimeter and the second is a change in mitigation site for a previously authorized compensatory mitigation plan. A public notice was published 27 April 2017 to solicit comments on both proposed modifications. In response to comments, SpaceX withdrew the modification to the fence to resolve issues raised about compliance with the 404(b)(1) Guidelines and revised the proposed modification to the mitigation plan to propose a new 27.5-acre site. An Interagency Coordination Notice was published on 12 March 2018 to notify the commenting agencies of the proposed change. No objection to the site was received from the agencies and the modification was authorized on 17 April 2018.

In November of 2018, they requested to modify their permit to further reduce impacts from 5.5 to 5.31 acres based on Vertical Launch Area site plans which was administratively modified on 17 August 2020.

NOTES: This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. As of the date of this public notice, the Corps has received but not yet verified the wetland delineation. The applicant's plans are enclosed in 8 sheets.

A preliminary review of this application indicates that an addendum to the 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 CWA.

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. The FAA is the lead agency for consistency with the State of Texas Coastal Management Plan.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Commission on Environmental Quality 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 FAA is the lead agency for compliance with State water quality standards.

NATIONAL REGISTER OF HISTORIC PLACES: The FAA is the lead agency for compliance with Section 106 of the National Historic Preservation Act. FAA will be coordinating their compliance efforts with the Texas State Historic Preservation Officer and the National Park Service. For a detailed discussion on Section 106 coordination, see Appendix J of Final Environmental Impact Statement for the SpaceX Launch Site.

THREATENED AND ENDANGERED SPECIES: Threatened and/or endangered species or their critical habitat may be affected by the proposed work. The FAA is the lead agency for consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service. For a detailed discussion on threatened or endangered species that may be affected by this project see Chapter 3 and Appendix G of Final Environmental Impact Statement for the SpaceX Launch Site.

ESSENTIAL FISH HABITAT: The proposed project is subject to the Essential Fish Habitat consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The FAA is the lead agency for consultation with the National Marine Fisheries Service.

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 EIS 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 **20 April 2021**. 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 reference our file number, **SWG-2012-00381**, and should be submitted to:

Policy Analysis Branch
Regulatory Division, CESWG-RDP
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3869 Phone
409-766-3931 Fax
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS