



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-1992-00054
	Date Issued: _____	14 April 2020
	Comments _____	
<b>Galveston District</b>	Due: _____	14 May 2020

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**US 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. The US 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 404 of the Clean Water Act (CWA).

**APPLICANT:** Texas Department of Transportation-Houston District (TxDOT)  
P.O. Box 1386  
Houston, Texas 77251-1386  
POC: Carrington Wright  
Telephone: 713-802-5408  
Email: [Carrington.wright@txdot.gov](mailto:Carrington.wright@txdot.gov)

**LOCATION:** The project limits are from east of Farm-to-Market (FM) 1314 to west of FM 1485, in Montgomery County, Texas. The project can be located on the USGS quadrangle map titled: Outlaw Pond, Texas.

**LATITUDE & LONGITUDE (NAD 83):**

Latitude: 30.2143° North; Longitude: 95.3091° West

**PROJECT DESCRIPTION:** TxDOT proposes to construct two additional travel lanes parallel to the State Highway (SH) 242 roadway within the existing roadway right-of-way (ROW). The two new 12-foot travel lanes would be striped for westbound traffic. Once the westbound lanes are completed, the existing SH 242 roadway would be restriped for eastbound traffic resulting in a four-lane divided roadway separated by an approximately 36-foot-wide depressed grassy median. Culverts beneath the existing roadway would be extended as needed to maintain the flow of water within the project limits. Sidewalks would be constructed on the north side of SH 242 along the Lone Star Estates and Summerset Estates residential subdivisions. In addition to the proposed westbound roadway, a two-lane bridge at Dry Creek and a designated sidewalk area, would be constructed for westbound travel. The total length of the proposed project within the project limits, from east of FM 1314 to west of FM 1485, is approximately 3.46 miles. The existing SH 242 ROW varies within the project limits but ranges from 200 feet to 240 feet in width and is approximately 85 acres in size. No additional ROW would be required for the implementation of the proposed project.

The proposed SH 242 project, within the project limits, involves the following potential 2.510 acre of potential impacts to waters of the US, including wetlands:

- Permanent Impacts to Waters of the US - A total of 0.006 acre of permanent impacts to Area 2D may occur as a result of the removal and/or replacement of a culvert which conveys water from west to east beneath a commercial driveway.
- Permanent Impacts to wetlands - A total of 2.504 acres of direct/permanent impacts to Wetland Areas (WA) 2A, 2C, 2D, 2H, 2I, 2J, 2K, 2L, 2M and 2N may occur during the implementation of the proposed project. To ensure that any and all potential permanent impacts are identified and mitigated, this plan presumes that these 10 wetland areas will be eliminated in their entirety from the roadway ROW during the implementation of the proposed project.

**BACKGROUND:** The enclosed Overview Maps, on 1 and 2 of 7 sheets, depicts the project limits per roadway CSJ with construction notes were created to aid in understanding how the SH 242 project is divided by CSJ, where the overlapping areas are located and what construction activities have occurred in each CSJ area to date. The following wetland delineation maps, in 3 through 7 of 7 sheets, additionally indicate which wetland areas and observation points were covered by areas previously approved by the Corps in SWG-1992-00054, dated 21 February 2018, or SWG-2019-00092, dated 7 May 2019.

The DA Permit No 19241 was issued 15 July 1991, to TxDOT for the construction of SH 242, in Montgomery County, Texas. The following details describe the original authorization:

The approximately 17-mile-long SH 242 facility connects Interstate Highway (IH) 45 approximately 7.5 miles south of Conroe and US 59 three miles south of Splendora. Currently, the western section of the proposed project area, located between IH 45 and Lexington Drive, has already been constructed and consists of a four-lane divided facility.

The remaining portion of the proposed project, located between Lexington Drive and US 59, is currently a two-lane undivided roadway. In order to accommodate traffic demands, the proposed project will convert the existing two-lane undivided facility into a four-lane divided facility by constructing two westbound main lanes and converting the existing two-lane road into eastbound main lanes. The proposed project would also involve intersection improvements at the SH 242 and FM 1314 intersection. The existing ROW width along SH 242 varies from 200 feet to 240 feet wide. According to the plan sheets included in Permit No 19241, fills were authorized for five wetland areas and three minor stream crossings (Dry Creek, Caney Creek, and Spring Branch). The fill material was required to serve as base for the present two-lane roadway and base preparation for a future median and an additional future two lanes of roadway as future needs dictated. Thus the ultimate roadway width was developed to support two lanes westbound and two lanes eastbound with a median. The ultimate roadway width has been part of the regularly maintained SH 242 maintenance program. The fill materials were required to serve as road base for the constructed lanes and road base preparation within the expansion area of the ROW for the future westbound lanes. DA Permit No 19241 also authorized a 15.50-acre mitigation area to serve as compensatory mitigation for the fills authorized in the permit. Since 1991 and the completion of the authorized fill activities, wetland characteristics have developed in portions of two wetland areas that were filled in accordance with the permit. These wetlands are referred to as Wetland Areas (WA) 3 and 4 as shown on Sheets 8 and 9 of 18 from DA Permit No. 19241 (attached as Figures 2a and 2b). Figures 2a and 2b also showed the ultimate four-lane divided roadway anticipated in the original permit. Figure 3 depicts the current areas with wetland characteristics that coincide with WA 3 and WA 4 mapped on 2008 aerial photography. Additionally, an area between WA 3 and WA 4 within the road ROW has developed wetland characteristics. Because these wetlands are in areas which were authorized for fills and compensated for, TxDOT has sought the concurrence of the Corps that further fills within these features showing wetland characteristics have been permitted and compensated for under Permit No 19241 by the following Nationwide Permit (NWP) 3 authorization below:

A NWP 3 was verified by letter dated, 27 April 2009, for maintenance, provided no fill material is placed outside of the boundaries of the previously permitted areas. This authorization included discharge of fill material in wetlands previously filled during construction activities associated with DA Permit 19241.

A review of DA Permit No. SWG-2019-00092 is pending for a NWP authorization.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by the following construction design techniques: Avoidance and minimization strategies were considered during the early design phase of this project. The proposed bridge over Dry Creek will span the entire waterway and will not impact, change or impair the flow of water within the creek. Temporary impacts to waters of the US, including wetlands, may occur during construction activities though the original grades of wetland areas within the project limits would be restored following the implementation of the proposed project.

**MITIGATION:** For unavoidable permanent impacts to waters of the US, including wetlands, a total of 4.5 mitigation credits (1.5 physical credits, 1.5 biological credits, 1.5 chemical credits) would be purchased at the Tarkington Bayou Mitigation Bank, operated by The Earth Partners, LP, to compensate for potential impacts within the project limits. TxDOT provided a stream assessment for potential impacts to waters of the US, and the Corps is currently reviewing this information.

**CURRENT SITE CONDITIONS:** The project would be constructed entirely within existing mowed and maintained roadway ROW owned by the applicant. Construction activities have been initiated within the project limits for two related SH 242 projects, both of which have been reviewed and/or permitted by the Corps. The first project consists of a grade separation (overpass) which is currently under construction at the intersection of SH 242 and FM 1314. The area covered by this project was reviewed by the Corps, under SWG-1992-00054, dated 21 February 2018; and no permit was required. The second project will widen SH 242 to a four-lane divided highway configuration from Needham Road to 1.52 miles east of FM 1314; a NWP for this project was approved by the Corps, under SWG-2019-00092, dated 7 May 2019. Refer to the Background Section for more details.

**NOTES:** This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. The applicant's plans are enclosed in 17 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 US Environmental Protection Agency pursuant to Section 404 (b)(1) of the CWA.

**OTHER AGENCY AUTHORIZATIONS:** This project would not be located within the Texas Coastal Management Zone, therefore consistency with the State of Texas Coastal Management Plan is not required.

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 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.

**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:

TXDOT is receiving funding from Federal Highways Administration (FHWA) for this project. Therefore, FHA is the lead Federal Agency and all Section 106 consultation will be handled by TXDOT pursuant to the Programmatic Agreement between TXDOT, the Texas State Historic Preservation Officer, FHA, and the Advisory Council on Historic Preservation.

**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. Work proposed would be located within the existing mowed and maintained roadway ROW owned by the applicant.

**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 **14 May 2020**. 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-1992-00054**, 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  
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DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS