



Public Notice

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

Galveston District

Permit Application No: SWG-2013-00399

Date Issued: 15 April 2021

Comments

Due: 30 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 404 of the Clean Water Act (CWA).

APPLICANT: The Kansas City Southern Railway Company
427 West 12th Street
Kansas City, Missouri 64105
POC: Steven Raiche
Telephone: 800-243-8624
Email: SRaiche@KCSouthern.com

AGENT: Headwaters, Inc
P.O. Box 2836
Ridgeland, Mississippi 39158
POC: J. Clay Cromwell
Telephone: 601-634-0097
Email: clay@headwaters-inc.com

LOCATION: The project site is located in the Sabine-Neches Canal, at DD 7 Levee Road, in Port Arthur, Jefferson County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Port Arthur North, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.942325° North; Longitude: 093.876129° West

PROJECT DESCRIPTION: The applicant proposes to modify an existing permit to remove previously authorized impacts to 2.39 acres of palustrine forested (PFO) wetlands, and add impacts to 0.84 acre of PFO wetlands during the construction of a track and loop facility at the Port Arthur Terminal. The rail spur located near State Highway 73 in the northwestern portion of the project site was originally included in the permit as permanent PFO impacts (2.39 acres). The original design called for this area to be cleared and filled to accommodate future track expansion options. The applicant has determined that this portion of the project design will not be constructed at this time. The 0.84-acre area of wetlands within the southwest corner of the facility, referenced as PFO 3 (sheet 4 of 4 in the attached plans), will now be adversely impacted due to grading and drainage improvements between the lead track and the loop track. This change in project design results in an overall net decrease in permanent PFO wetland impacts from 13.99 acres to 12.44 acres, but the new proposed impacts to 0.84 acres of PFO would be in an area that was to be previously avoided.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by altering the track and loop design of the rail terminal such that it results in a net overall reduction of impacts to waters of the US.

MITIGATION: Although there is an overall reduction in impacts to waters of the US from the re-designed track and loop facility, the applicant has not proposed to change the Permittee Responsible Mitigation (PRM) plan that was authorized for the original project. This PRM plan establishes 27.49 acres of PFO wetlands at an off-site location, near Cheek, Texas to compensate for the loss of 13.99 acres of PFO wetlands and 0.07 acres of PEM wetlands. The expected physical, biological, and chemical Functional Capacity Units (FCUs) for Year 10 following planting on the PRM Site were calculated as follows: 10.82 physical FCUs, 16.00 biological FCUs, and 9.88 chemical FCUs. These FCUs for Year 10 represent a slight lift in functional capacity as compared to the wetlands lost at the project site (Lift: +0.55 physical FCUs; +6.49 biological FCUs; and +0.04 chemical FCUs).

CURRENT SITE CONDITIONS: The project site consists of an undeveloped area along the Sabine-Neches Canal bordered by commercial and industrial development. Levees are also present along the eastern (Sabine-Neches Canal) and northern boundaries of the project area. Current land-use within the project site is primarily for cattle grazing, but evidence of past borrow and spoil placement are present in the majority of the property. The project site is also characterized by a mix of PFO and PEM wetlands and open water features, as well as, the DD-7 lateral A-1 drainage feature for City of Port Arthur Drainage District 7. The PFO wetlands are dominated by Chinese tallow tree (*Triadica sebiferum*), sugar hackberry (*Celtis laevigata*), and American elm (*Ulmus americana*), while the PEM wetlands consist of *Carex spp.*, *Juncus spp.*, dallisgrass (*Paspalum dilatatum*), *Ranunculus spp.*, beaksedge (*Rynchospora corniculata*), curly dock (*Rumex crispus*), and bug blue stem (*Andropogon gerardii*).

This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. The wetland delineation has been completed and was verified by the Corps on 10 October 2019. The applicant's plans are enclosed in 4 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 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 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 has reached out to the TCEQ to initiate the Section 401 CWA process. If you have comments or questions on this proposed project's State water quality certification process, 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>.

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:

The proposed project is located in an area unlikely to contain historic properties. No archeological survey is required.

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 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 **30 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-2013-00399**, and should be submitted to:

North Unit
Regulatory Division, CESWG-RDE
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