



Public Notice

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

Galveston District

Permit Application No: SWG-2016-00832

Date Issued: 6 April 2021

Comments

Due: 21 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: LBC Houston, L.P.
11666 Port Road
Seabrook, Texas 77586
POC: Patrick McKinney
Telephone: 281-291-3448
Email: p-mckinney@lbctt.com

AGENT: Lloyd Engineering, Inc.
6565 West Loop South, Suite 708
Bellaire, Texas 77401
POC: Marisa Weber
Telephone: 832-426-4656
Email: marisa@lloydeng.com

LOCATION: The project site is located in Bayport Ship Channel, at 11666 Port Road, in Seabrook, Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: LEAGUE CITY, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.614189° North; Longitude: 095.023169° West

PROJECT DESCRIPTION: The applicant requests an extension of time to conduct maintenance dredging activities to previously authorized depths for all docks at the LBC Houston, L.P. terminal (Ship Docks 1-5 and Barge Docks 1-5), until 31 December 2030. All maintenance dredge material is proposed to be placed within existing confined placement areas, as previously authorized. Maintenance dredging depths for Ship Docks 1 and 2 would be -41.57 feet Mean High Water (MHW), while maintenance dredging depths for Ship Docks 3, 4 and 5 would be -45.57 feet MHW +2-foot overdredge. The maintenance dredge depths for all of the LBC Barge Docks (1-5) would be -16 feet MHW. The applicant's plans are enclosed in 7 sheets.

BACKGROUND: Department of the Army (DA) Permit SWG-2002-01382 [formerly 20679(04) and 20684(03)] was issued to LBC Houston, L.P. on 27 December 2010 and authorized combining amendments 20679(04) and 20684(03), as well as an extension of time to perform maintenance dredging previously authorized under amendments for Permit No. 20679 (Ship Docks 2 and 3 and Barge Docks 3,4,5) and Permit No. 20684 (Ship Dock 1 and Barge Docks 1 and 2). Amendment (01) to SWG-2002-01382 was issued on 12 December 2012 and authorized an expansion of the existing Ship Dock 3 basin, the addition of Ship Dock 4, installation of new bulkhead wall, new barge berths, four mooring dolphins, and four breasting dolphins. The amendment authorized the expanded Ship Dock 3 and 4 basins to be dredged to -45 feet mean low tide (MLT) +2-foot overdredge. Amendment (02) was issued on 29 January 2014 and authorized the reorientation of four previously authorized breasting dolphins, installation of two additional mooring dolphins, and modifications to the dimension of the previously authorized Ship Dock 4 to measure 100-foot by 60-foot. The modification also extended maintenance dredging of the Ship Dock 3 and 4 basin depth of -45 feet MLT +2-foot overdredge for an additional year.

DA Permit SWG-2016-00832 was issued to LBC Houston, L.P. on 11 January 2018 and authorized new work construction of Ship Dock 5 and dredging of ship basin to depth of -45 feet mean lower low water (MLLW) with 2-foot overdredge. This permit also authorized dredging of 0.16 ac. of palustrine wetlands and 0.14 ac. of estuarine emergent wetlands and discharge dredged or fill material into 5.41 ac. of palustrine wetlands on the project site. Mitigation for impacts to Waters of the U.S. are mitigated under the permit authorization through the purchase of credits and the construction of a permittee responsible mitigation (PRM) site. Amendment (01) was issued on 4 May 2020 and consisted of revising the language of the LBC Dock 5 Permittee Responsible Mitigation (PRM) plan in accordance with USACE White Paper, "Implementing Financial Assurance for Mitigation Project Success." LBC revised the PRM Plan (authorized under SWG-2016-00832, Special Conditions 6-11) by adding financial assurances details and a modified Performance Security Instrument. A Performance Security Instrument in the form of a Cash in Escrow Agreement will be implemented in accordance with the revised Section 13.2 of the PRM Plan. LBC has named Lloyd Engineering Inc. (LEI) as the environmental management entity to receive payments and conduct monitoring and adaptive management as needed. Payments will be allocated to LEI from the escrow account according to the schedule presented in Table 7 of PRM Plan Section 13.2. LBC remains responsible for any costs and actions beyond those described in Section 13.2 to ensure the success of the site according to the performance standards in the PRM Plan and DA Permit.

DA Permits SWG-2002-01382 and SWG-2016-00832 were consolidated under one permit tracking number SWG-2016-00832 on 22 December 2020. The expiration date for consolidated permit SWG-2016-00832 is 31 December 2024.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by minimizing the size and volume of dredged area while ensuring navigational safety at the docks.

MITIGATION: The applicant has not proposed to mitigate for the proposed impacts. There are no special aquatic sites within the project area and dredged material will be placed in an upland location.

CURRENT SITE CONDITIONS: The project site is currently in an industrialized portion of the Bayport Turning Basin at the LBC Houston, L.P. marine terminal with five ship docks and five barge docks authorized by Department of the Army (DA) Permit SWG-2016-00832. There are no special aquatic sites within the project area.

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 7 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 contacted the TCEQ and submitted a pre-filing meeting request, on 17 March 2021. 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, maintenance dredging and use of an existing placement area, is of such limited nature and scope that it has no potential to affect historic properties, even if present within the project 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 320-332, 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 **21 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-2016-00832**, and should be submitted to:

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409-766-3869 Phone
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DISTRICT ENGINEER
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