



Public Notice

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

Galveston District

Permit Application No: SWG-1993-00855

Date Issued: April 9th, 2025

Comments

Due: May 9th, 2025

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.

APPLICANT: Judge Jhiela "Gigi" Poynter
808 Commerce, Ste #104
Refugio, Texas 78377
Telephone: 361-526-4434
Email: lj.poynter@co.refugio.tx.us
POC: Jay Gardener, LJA Environmental Services, LLC.

AGENT: Jay Gardener
LJA Environmental Services, LLC.
5350 S. Staples, Ste. 425
Corpus Christi, Texas 78411
Telephone: 361-360-2138
Email: jgardner@LJA.com

LOCATION: The project site is located at Black Point in Copano Bay, along Copano Bay Drive and adjacent to FM Road 136, near Bayside, Refugio County, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 28.077742 North; Longitude: -97.221469 West

PROJECT DESCRIPTION: The applicant proposes constructing a 460 linear-foot limestone breakwater that will protect the boat ramp from future sediment deposition. Additionally, 300 linear feet of oyster reef balls (or comparable material) will be installed to protect nearby marsh from further erosion due to boat traffic. The project will also include planting of 0.21 acres of saltmarsh cordgrass (*Spartina alterniflora*) behind the reef balls to enhance habitat restoration. Together these features will allow for wave attenuation and, along with marsh plantings, will aid in the restoration of wetlands” and the protection of another 0.5 acres of marsh (CBBEP Project #2340 – Town of Bayside Shoreline Protection and Public Access, Phase II).

Contractor(s) will utilize the existing road, parking lot, and boat ramp to access the area. A small, shallow drafting barge is expected to be staged in one of the boat ramp stalls so that construction materials (oyster reef balls and limestone) and machinery can be loaded onto the barge. The barge will then be positioned by shallow drafting skiffs near both the proposed breakwater and the oyster habitat installation areas, so that onboard machinery can offload the limestone riprap and oyster reef balls. Only previously cleaned or original material will be used to prevent dirt and other materials from affecting water quality. The fill for the outer breakwaters involves 826 C.Y. of material for 0.27 acres of permanent impact. The oyster habitat involves 0.07 acres and approximately 153 C.Y. of oyster habitat. The total impact is 0.34 acres resulting from 979 C.Y. of fill. The transplanting of 0.21 acres of saltmarsh cordgrass plugs will occur after the oyster reef balls (or other approved materials) are installed adjacent to the marsh site. Saltmarsh cordgrass will be taken from a roadside ditch along FM 136 and transplanted into the proposed restoration area. During the restoration of the marsh, contractors will utilize a previously disturbed work corridor to prevent impacts from ingress/egress to the restoration area. Temporary board mats will be placed at the edge of the marsh adjacent to the boat ramp for contractors to haul wagons of collected plugs down the existing road to the planting site. This will allow for immediate planting of the plugs without the need to hold them or transport them offsite. These conditions will increase the survival of plugs and decrease disturbance to the adjacent marsh. The planting will occur with one (1) plug on three (3) foot centers. The planting schedule will be coordinated with Texas Parks and Wildlife, with a "Permit to Introduce Fish, Shellfish, or Aquatic Plants into Public Waters".

AVOIDANCE AND MINIMIZATION: The applicant stated avoidance of the proposed impacts would result in the continued need for reoccurring dredging, and the continued erosion of the marsh by boat traffic. Minimization of the proposed impacts was accomplished by reducing the original size of the proposed breakwater and oyster reef to what is currently proposed.

MITIGATION: That applicant has proposed no mitigation.

CURRENT SITE CONDITIONS: All areas of the site are considered Section 10 and Section 404 Waters except for the entrance road, parking lot, and boat ramp. Current site conditions include subtidal areas possessing an unconsolidated bottom and small areas of estuarine marsh consisting of species such as saltmarsh cordgrass, dwarf saltwort (*Salicornia bigelovii*), and sea oxeye (*Borrchia frutescens*). A pedestrian survey of the

entire area was performed by trained biologists and no oysters beds or seagrass were located.

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 Attachment 1.

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 Clean Water Act (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 not yet reached out to TCEQ to initiate the Section 401 CWA process. 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>.

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 state tracts proposed for work under this permit are included in the Texas Historical Commission's list of Sensitive state tracts. However, the scope and magnitude of the project is so minimal that a marine archeological investigation is not needed.

THREATENED AND ENDANGERED SPECIES: Threatened and/or endangered species or their critical habitat may be affected by the proposed work. Consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service will be initiated to assess the effect on endangered species.

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 of Engineers, 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 of Engineers 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 of Engineers 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 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.

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 of Engineers 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 , **May 9,2025**. 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-1993-00855**, and should be submitted through the RRS system or the physical address listed below: <https://rrs.usace.army.mil/rrs/public-notice> OR

Corpus Christi Field Office
Regulatory Division, CESWG-RDR
U.S. Army Corps of Engineers
Galveston District
2000 Fort Point Road
Galveston, Texas 77550
409-766-3869 Phone
swg_public_notice@usace.army.mil

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