



Public Notice

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

Galveston District

Permit Application No: SWG-2007-00485

Date Issued: 25 August 2020

Comments

Due: 25 September 2020

**U.S. 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 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: Sand on Floor, Inc.
1520 West 29th Street
Austin, Texas 78703
POC: Mr. John Street
Telephone: 512-577-5646
Email: jehs@aol.com

AGENT: Hollaway Environmental + Communications Services
2500 Summer Street, Suite 1130
Houston, Texas 77007
POC: Ms. Ally Altemose
Telephone: 713-868-1043
Email: ally@hollawayenv.com

LOCATION: The project site is located in coastal dune swale wetlands adjacent to the Gulf of Mexico, at 12083-12135 Bluewater Highway, near the City of Freeport, in Brazoria County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Christmas Point, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.068941° North; Longitude: 095.128453° West

PROJECT DESCRIPTION: The applicant proposes to discharge fill material into a total of 2.51 acres, 0.44 acre temporary and 2.07 acres permanently, of coastal dune swale wetlands adjacent to the Gulf of Mexico during the construction of a residential development. Of the 0.44 acre of temporary impacts, 0.21 acre is due to utility installation and stormwater conveyance and 0.23 acre is due to roadway construction. Of the 2.07 acres of permanent impacts, 0.16 acre is due to utility installation and stormwater conveyance, 0.77 acre is due to roadway construction, and 1.14 acres is due to the residential development.

AVOIDANCE AND MINIMIZATION: The applicant has stated they have avoided and minimized the environmental impacts by constructing the various project components, utilities, roadway, and residential lots, in an orientation and placement that will result the least amount of permanent impacts. The applicant stated that no lots will be constructed north of the roadway. The applicant also stated the roadway will be designed with a V-shape to direct stormwater flow down the middle of the street to the perpendicular stormwater conveyance ditches. This design feature minimizes the need for roadside ditches on the proposed main roadway. The roadside ditches will be constructed only on the portion of the main entrance roadway. The applicant stated that a single roadway proposed to be constructed parallel to the highway will provide connectivity to all residential lots avoiding the need for multiple perpendicular roads.

MITIGATION: The applicant proposes to mitigate for the permanent loss of 2.04 acre of impacts by purchasing the applicable number of credits at a Galveston District approved mitigation bank. The purchase of these credits will be out of kind and out of the secondary service area for the impact area. Therefore, the applicant proposes to purchase additional credits at a 2:1 ratio to provide additional compensation for the out of kind out of service area purchase of mitigation bank credits.

CURRENT SITE CONDITIONS: The project site is an undeveloped tract, 49.55 acres, of land bordered on the north by the waters of Cold Pass, on the south by the waters of the Gulf of Mexico, and on the east by residential development at the northernmost tip of San Luis Island, and on the west by undeveloped land. The undeveloped tract is comprised of 11.66 acres of wetlands adjacent to Cold Pass, 9.35 acres of coastal dune swale wetlands, 3.13 acres of tidal beach below the high tide line of the Gulf of Mexico, and 25.41 acres of uplands.

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 wetland delineation and approved jurisdictional determination has been completed and was verified by the Corps on 13 November 2017. The applicant's plans are enclosed in 8 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.

Although this project would result in a direct impact to less than three acres of waters of the state or less than 1,500 linear feet of streams, the project would impact certain types of rare or ecologically significant wetlands, namely coastal dune swale wetlands. Therefore, the project is not eligible for inclusion in the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria and an individual water quality certification is required, even though the project is below the Tier I thresholds. Concurrent with U.S. Army Corps of Engineers (Corps) processing of this application, the TCEQ is reviewing 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. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas, 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

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 permit area has been so extensively impacted by flooding and erosion in the 1940s that there is no potential for historic properties to exist within the permit area. Therefore, the proposed project has no potential to effect historic properties.

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, 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 **25 September 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-2007-00485**, and should be submitted to:

Central Unit/Evaluation Branch
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