



# Public Notice

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

**Galveston District**

Permit Application No: SWG-2007-01475

Date Issued: 31 August 2021

Comments

Due: 1 October 2021

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## 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:** Spoonbill Bay Holdings, L.P.  
10190 Katy Freeway, Suite 501  
Houston, Texas 77043  
POC: Charles T. Schwartz  
Email: [cshwartz@revcord.com](mailto:cshwartz@revcord.com)

**AGENT:** Berg-Oliver Associates, Inc.  
14701 St. Mary's Lane, Suite 400  
Houston, Texas 77079  
POC: Susan Alford  
Telephone: 281.589.0899  
Email: [salford@bergoliver.com](mailto:salford@bergoliver.com)

**LOCATION:** The project site is located in West Galveston Bay, at Farm-to-Market Road 3005; approximately 2.8 miles east of San Luis Pass, in Galveston Island, Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: San Luis Pass, Texas.

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

Latitude: 29.119120 North; Longitude: -95.083301 West

**PROJECT DESCRIPTION:** The applicant is proposing to excavate and discharge approximately 22,488 cubic yards of dredged and/or fill material into 2.73 acres of waters of the U.S. during the construction of a mixed-use marina development on a 98-acre tract. The proposed development will consist of a single use marina, water-front residential homes, access roads, and two circulation canals.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by designing the project to avoid approximately 32.42 acres of wetlands within the project area and proposing compensatory mitigation in the form of land preservation.

**MITIGATION:** The applicant proposed to mitigate for the proposed impacts by preserving a 20.33-acre tract adjacent to the impact site. The tract contains 2.9 acres of sand/salt flats, 7 acres of tidal wetlands, and 1.16 acres of adjacent freshwater wetlands. The total on-site avoidance and adjacent off-site preservation will provide greater than 10:1 overall compensation of critical habitat resources.

**CURRENT SITE CONDITIONS:** The project site is currently an undeveloped tract of land surrounded by West Galveston Bay to the north, a county road to the south, and undeveloped land to the east and west. The project site includes various habitat types, such as, open water, uplands, tidal and non-tidal wetlands, and sand flats. Dominant wetland vegetation consists of marsh seedbox (*Ludwigia palustris*), gulf cordgrass (*Spartina spartinae*), saltgrass (*Distichlis spicata*), dwarf saltwort (*Salicornia bigelovii*), and turtleweed (*Batis maritima*). The subject aquatic resources are adjacent to West Galveston Bay.

**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 has been completed and was verified by the Corps on 28 January 2021. 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 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 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 the 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](mailto: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 permit area was previously investigated for historic properties and none were identified as documented in the technical report titled "Cultural Resources Intensive Pedestrian Survey of 115 Acres Associated with the Spoonbill Bay Development Project in Galveston County, Texas" prepared by HRA Gray & Pape and dated April 2008.

**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 **1 October 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-2007-01475**, and should be submitted to:

Central 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