



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2013-00680
	Date Issued: _____	3 January 2019
	Comments _____	
Galveston District	Due: _____	4 February 2019

**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 404 of the Clean Water Act.

APPLICANT: Grace Community Church
P.O. Box 8914909
Houston, Texas 77289
Telephone 713-363-2541
POC: Kevin Hayes

AGENT: Terracon Consultants, Inc.
11555 Clay Road, Suite 100
Houston, Texas 77043
Telephone 713-329-2513
POC: Ginger Horn

LOCATION: The project site is located in waters adjacent to Spring Creek, approximately 1-mile southeast of the intersection of Interstate 10 and Rayford Road, in Spring, Montgomery County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Spring, Texas.

LATITUDE & LONGITUDE (NAD 83):

Project Site Latitude: 30.11756 North; Longitude: -95.43486 West

PROJECT DESCRIPTION: The applicant proposes to modify Department of the Army (DA) Permit SWG-2013-00680 to discharge fill material into 25.14 acres of open waters during the construction of a mixed-use development. The development will be comprised of a church campus, commercial property, a community park, multi-family property, a hotel, and associated parking, positioned around a newly created 15.56-acre lake. Three roads and a land bridge would also be constructed on the project site (Attachment A, pages 15-29 and 31-34). The applicant also proposes to excavate two open water basins (approximately 21 acres) on the eastern portion of the project site, and create and restore additional riparian areas and plant communities around those basins, totaling approximately 10.5-acres of open water habitat and wetlands. The basins would be a component of the project and function in a storm water management capacity, not as mitigation, as previously proposed.

AVOIDANCE AND MINIMIZATION: During the development of the original, previously permitted project, the applicant avoided and minimized impacts by using a screening process that chose a site that predominately consisted of uplands with fewer aquatic resources than other available sites. The original Cathedral Lakes construction plan also changed prior to authorization. It initially involved a complete fill of the observed freshwater ponds and forested wetland area located on the project site. As originally designed, the proposed project would have involved a permanent loss of 40.7 acres of open water habitat and 3.4 acres of freshwater forested wetlands. The re-designed project that was ultimately permitted in 2015 resulted in the complete avoidance of the high quality forested wetland area located along the southern project boundary. Avoiding and minimizing impacts to these onsite aquatic resources would retain connectivity between onsite and offsite aquatic resources, which would help avoid fragmentation of aquatic resources habitats in the sub watershed.

PERMIT AND SITE HISTORY. In 1958, the proposed site contained British Petroleum oil and gas well pads. Sometime between 1989 and 1995, the majority of the site was cleared, disturbed and in 1996, apparent sand mining activities began. Sometime between 1996 and 2004, four ponds formed on the site as a result of apparent sand mining operations. In 2009, the Church facilities were constructed on a parcel adjacent to the site. The Church encountered vandalism and theft to their facilities soon after construction. In 2010, the Church purchased the majority of the adjacent site to aid in preventing further unauthorized use and the sand mining operations were abandoned. In October of 2012, the Church purchased additional property along Spring Creek Greenway (the remaining portion of the site) to aid in preventing further unauthorized use along the Spring Creek Greenway.

DA Permit SWG-2013-00680, issued on 18 June 2015, authorized construction of a 140-acre mixed-use development on the site which included the discharge of fill material into 8.35 acres of open water, excavation of 2.59 acres of upland to create open water, and discharge of fill material into 0.03-acre of Spring Creek for a culvert. To compensate for unavoidable impacts to open waters, the mitigation consisted of the creation and enhancement of a new lake, by combining the pre-existing sand mining ponds into a single lake area, and perpetual protection of 34.94 acres of aquatic areas, including a 1.42 acre enhancement area on the project site under a deed restriction. The permit expires on 31 December 2020.

The deadline for the completion of the previously authorized mitigation plan was 15 July 2017. However, work conducted to create the lake, as part of the authorized mitigation plan, revealed that soil profiles in the locations of the previous sand bits did not allow for a sustainable open water body. On 13 July 2017, the applicant requested to modify the authorized mitigation plan to instead, perform mitigation offsite. On 30 November 2017, the Compliance Division conducted a site inspection. On 2 February 2018, the Corps notified the applicant by letter of the applicant's non-compliance with the previously authorized mitigation plans and special conditions. On 30 April 2018, the applicant submitted a second revised permit application, which proposed a new mitigation plan on a 20-acre tract of undeveloped land directly east of the project site. First, the applicant would establish two open water habitat basins, identified as the east and west basins, totaling approximately 10.05 acres of open water habitat and wetlands. Second, the applicant would create, preserve, and plant riparian vegetation around the two open water basins. On 5 July 2018, the first Public Notice was initiated and comments were received that were coordinated with the applicant.

Between July 2017 and November 2018, the applicant continued to work in waters of the US) at the project site in an attempt to address the hydrogeomorphic challenges at the site and to address impacts from Hurricane Harvey. A portion of the levee separating the project site from a County owned ditch was broken during the hurricane. Subsequently, the church honored the County's request to place fill material in the location of broken levee for repairs. Fill was also placed in the proposed mitigation site adjacent to the project site as stockpile to continue repair of the levee between the County ditch and the two proposed water basins adjacent to the project site.

On 4 December 2018, the applicant submitted a general site development plan to clarify the nature and location of proposed development components and a second modified mitigation plan for consideration which involves the purchase of credits from a mitigation bank in lieu of conducting a Permittee Responsible Mitigation plan. This last development and mitigation plan is the subject of this public notice.

MITIGATION: The applicant proposes to mitigate for the project impacts to open water pond habitat by purchasing credits from Tarkington Bayou Mitigation Bank. The iHGM worksheet is found in Attachment A, page 30.

CURRENT SITE CONDITIONS: The project site is currently a disturbed, undeveloped 168-acre tract of land surrounded by commercial development to the north, onsite uplands and Interstate-45 to the west, railroad tracks and Lazy Lane to the east, and preserved forest cover and Spring Creek to the south. The central and north portions of the project site consist of an abandoned sand mining operation with four ponds. No wetlands are present within or around these ponds. An existing church campus is located on the west portion of the project site. An ornamental pond was excavated out of upland areas shortly after Grace Community Church (Church) constructed their facilities to serve as a detention pond and landscaping water feature; however, due to the soil in the area, the pond would not hold water. This pond is no longer present on the site.

NOTES: This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. As of the date of this public notice, the Corps has received but not yet verified the wetland delineation. The applicant's plans are enclosed in 36 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).

A Hydraulic Design and Analysis Study dated May 2018 and a Revised Drainage Impact Analysis dated June 2018 were completed and forwarded to the County Engineer of Montgomery County, Texas for review. These documents are available upon request.

OTHER AGENCY AUTHORIZATIONS:

The project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management Program.

This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with 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 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 previous earth moving activities 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: 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 **4 February 2019**. 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-2013-00680**, and should be submitted to:

Evaluation Branch, Central Unit
Regulatory Division, CESWG-RDE
U.S. Army Corps of Engineers
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409-766-3869 Phone
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS