



# Public Notice

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

**Galveston District**

Permit Application No: SWG-2016-01066

Date Issued: 27 December 2018

Comments

Due: 29 January 2019

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**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.

**APPLICANT:** Calhoun Port Authority  
P.O. Box 397  
Point Comfort, Texas 77978  
Telephone: 361-987-2813  
POC: Mr. Charles Hausmann

**LOCATION:** The project is located in Lavaca and Matagorda Bays, and adjacent wetlands, at the Port of Port Lavaca-Point Comfort approximately 2.4 miles south-southwest of the intersection of Texas State Highway 35 and Farm-to-Market (FM) Road 1593, Point Comfort, Calhoun County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Point Comfort, Texas.

**LATITUDE & LONGITUDE (NAD 83):**  
Latitude: 28.638473 North; Longitude: -96.561418 West

**PROJECT DESCRIPTION:** The applicant proposes to dredge and discharge fill material into tidal waters of the United States (WOUS) and adjacent wetlands associated with constructing a new marine terminal. The terminal will consist of 3 deep-water liquid product docks, 6 liquid product barge docks, and related appurtenant shore facilities. The proposed work includes the following: 1) installation of approximately 3,430 linear feet of steel sheetpile bulkhead; 2) mechanical dredging of approximately 2.615 million cubic yards (mcy) of material from the project site and the adjacent Matagorda Ship Channel

to -47 feet mean lower low water (MLLW), plus an allowable 2-foot advanced maintenance and 2-foot over-dredge for the deep-water docks, and -14 feet MLLW, plus an allowable 2-foot advanced maintenance and 2-foot over-dredge for the barge docks; 3) construction of an approximate 61-acre (940-foot-wide by 2,800-foot-long) dredge material stockpile area (DMSA); 4) relocation and repair on the southern levee of the applicant's existing Dredge Material Placement Area (DMPA) 1, located approximately 2,700 feet west-northwest of the proposed new terminal, across the Matagorda Ship Channel. Project impacts will include the following: dredging of approximately 40.75 acres of other WOUS and 0.83 acre of adjacent estuarine emergent (EEM) wetlands, and the permanent discharge of fill material into approximately 11.53 acres of adjacent recently developed EEM wetlands and approximately 20.6 acres of other WOUS.

Dredge material will be utilized to construct the DMSA. Future maintenance dredge material will be placed within DMPA 1.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by revising the design to avoid and minimize impacts to WOUS as much as practicable. The applicant stated that they considered both onsite and offsite alternatives for the proposed project, in addition to alternative facility configurations. The applicant indicated that they selected the proposed site because the site contains a lower percentage of tidal wetlands (compared to other sites considered), a higher percentage of upland area, and includes an area that is and has been heavily influenced by dredge material placement into existing adjacent open-bay DMPAs. Surveys of the project site identified approximately 2 square feet of oysters within the proposed dredge footprint. The applicant proposes to relocate the oyster patch to an adjacent location outside of the proposed project impact footprint.

**MITIGATION:** The applicant proposes to mitigate for the proposed impacts by permittee responsible mitigation (PRM) to restore estuarine emergent wetlands. The applicant is considering two alternative mitigation sites. Site 1 is located on Powderhorn Lake at the Texas Parks and Wildlife Department Powderhorn Ranch, and includes creation of approximately 6.4 acres of tidal marsh, five 40-foot-wide water circulation channels, and approximately 2,500 linear feet of breakwater to protect the new marsh from prevailing wave action. Site 2 is located on Lavaca Bay and includes creation of approximately 6.32 acres of low tidal marsh and approximately 0.26 acre of high tidal marsh, approximately 2,530 linear feet of variable width water circulation channels, and approximately 1,250 linear feet of breakwater.

**CURRENT SITE CONDITIONS:** The project site is largely undeveloped land comprised of a previously authorized upland placement area, an area that was historically open water, and upland portions of existing federal Open Bay Placement Areas (OBPA) 18 and 19. A large portion of the area for the proposed DMSA has been heavily impacted by past and present dredge placement in the adjacent OBPA's. As a result, much of the area that was historically open water has been filled with sediment to an elevation close to or above the annual high tide line. The approximate 11.5 acres of EEM wetlands proposed to be filled by the project has only recently developed during the last growing season. Port developed land is located east and north of the proposed project 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. The project site wetland delineations have been completed. The proposed dredge and bulkhead area was verified by the Corps on 25 September 2018. The proposed DMSA is currently under review. The applicant's plans are enclosed in 16 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.

This project would result in a direct impact of greater than three acres of waters of the state or 1500 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.

The return water from the upland contained dredge material placement areas requires an independent certification by the Texas Commission on Environmental Quality (TCEQ). The applicant must obtain a Section 401-water quality certification from the TCEQ for the effluent or return water discharge. A copy of the 401-certification must also be furnished to the Corps of Engineers prior to the Corps making a decision on the proposed project.

**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 dredging and placement of dredged material 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.

**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 **29 January 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-2016-01066**, and should be submitted to:

Evaluation Branch, Central Unit  
Regulatory Division, CESWG-RDE  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3869 Phone  
409-766-6301 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS