



Public Notice

U.S. Army Corps Of Engineers	Permit Application No:	SWG-2013-00670 (Formerly SWG-2004-01704)
	Date Issued:	15 December 2020
Galveston District	Comments	
	Due:	19 January 2021

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 (Section 10) and Section 404 of the Clean Water Act (CWA).

APPLICANT: Texas Department of Transportation - Houston District
P.O. Box 1386
Houston, Texas 77251-1386

LOCATION: The project site is located in 32 separate wetlands and 9 separate streams and open waters, including Jones Creek and the Brazos River; within the State Highway (SH) 36 right-of-way (ROW) from Farm-to-Market Road (FM) 2004 to FM 1495, in Brazoria County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Freeport, Jones Creek, and Cedar Lane, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 28.970469 North; Longitude: -95.450604 West

PROJECT DESCRIPTION: The applicant proposes to expand, or widen, 11.6 miles of SH 36 from a two-lane roadway to a four-lane roadway with a grassy center median in rural sections and a continuous center left-turn lane in urban areas. This will consist of permanently discharging fill material into approximately 17.598 acres (28,561 cubic yards) of waters of the United States (US), including non-tidal wetlands and waters subject to Sections 10 and 404, to facilitate the widening of SH 36.

Approximately 13,782 cubic yards of material will be excavated from waters of the US to be used as fill material onsite that are only jurisdictional under Section 404 of the CWA; as such, is a non-regulated activity.

BACKGROUND: This action is previously known as Department of the Army (DA) Permit SWG-2004-01704 and was issued on 31 October 2008 for the discharge of fill material into approximately 5.51 acres of waters of the US for the purpose of improvements along an 11.6-mile segment of the existing SH 36 corridor. The project was delayed due to costs which resulted in no work being conducted. The last permitted action expired 31 December 2013.

The project underwent additional development and design changes that led to increased impacts to waters of the US from the previously permitted designs. These additional 12.088 acres of impacts are required upgrade the existing two-lane SH 36 which adds a hurricane evacuation route to increase safety, access, and mobility of people and commercial goods in coastal areas during emergency situations. This project would also serve the local transportation needs of communities and towns within the project area which include Rosenberg, Pleak, Needville, Guy, Damon, West Columbia, Brazoria, Jones Creek, and Freeport.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by minimizing the ROW where feasible and maintaining the existing SH 36 alignment. Appropriate soil erosion and sediment controls will be used and maintained in effective operating condition during construction. All exposed soil and other fills, as well as any work below the ordinary high-water mark, would be stabilized at the earliest practicable date. No new construction is proposed at the Brazos River Bridge to reduce potential impacts to the river. Best Management Practices (BMPs) will be used during all facets of construction.

MITIGATION: The applicant has proposed to mitigate for the proposed impacts by purchasing twenty-eight in-kind and out-of-kind credits at the Coastal Bottomlands Mitigation Bank to mitigate for the permanent wetland impacts (9.096 acres). The amount of credits required was calculated using an average ratio of 3:1.

CURRENT SITE CONDITIONS: The project site currently lies within primarily rural areas. The ROW is characterized by residential and light commercial development. Tracts adjacent to the ROW are primarily agricultural in usage or natural forest. The project ROW receives regular mowing, allowing mainly herbaceous vegetation to grow. As a result, maintenance of the SH 36 ROW and periodic road improvement over time, many of the surface drainage ways along the ROW have been previously altered. These alterations have included grading of side slopes, the installation of water control structures, including culverts and cross drainages, and other impacts. Natural drainage in the project area includes Jones Creek and the Brazos River, both of which ultimately flow into the Gulf of Mexico. Jurisdictional wetland areas proposed to be impacted are emergent herbaceous wetlands with some Chinese tallow (*Triadica sebifera*) infestation. Dominant emergent wetland species include giant cutgrass (*Zizaniopsis miliacea*), smartweed (*Polygonum hydropiperoides*), sedges (*Cyperus* spp.) and rushes (*Juncus* spp.)

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 applicant's plans are enclosed as Attachment 1: Proposed Project Plans in 41 sheets and Attachment 2: Proposed Impact Tables in 3 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.

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 is confined to an existing right-of-way that has been so extensively impacted by previous project 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 **19 January 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-2013-00670**, 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
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