



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2018-00957
	Date Issued: _____	4 December 2019
	Comments _____	
Galveston District	Due: _____	6 January 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). The project is being evaluated as an After-the-Fact (ATF) permit application because the project includes approximately 113.95 acres of wetlands that were filled without a Department of Army (DA) permit.

APPLICANT: Chevron Phillips Chemical Company LP
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The Woodlands, Texas 77380
POC: Casey Stark
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Email: starkcd@cpchem.com

AGENT: Jacobs Engineering
P.O. Box 53495
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POC: Karen Coopersmith
Telephone: 281-721-8438
Email: Karen.Coopersmith@jacobs.com

LOCATION: The project site is located in Cow Bayou, adjacent wetlands, and in unnamed jurisdictional tributaries, on a tract of land south of the intersection of Western Avenue and Foreman Road, in Orange, Orange County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Orangefield, Texas.

LATITUDE & LONGITUDE (NAD 83):**Latitude:** 30.065863° North; **Longitude:** 093.784248° West

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 506,403.63 cubic yards of earthen and concrete fill material into approximately 284.19 acres of wetlands to construct a petrochemical facility. The applicant proposed to temporarily impact 0.88 acres of wetlands. A breakdown of estimated permanent wetland impacts is listed in Table 1. A breakdown of estimated stream impacts is listed in Table 2.

Table 1: Proposed Project Impacts

	New	ATF	Total
Palustrine Emergent (PEM), acres	111.09	10.21	121.30
Palustrine Scrub Shrub (PSS), acres	4.51	8.93	13.44
Palustrine Forested (PFO), acres	18.59	92.86	111.45
	134.19	112.00	246.19
Unverified additional wetlands, acres			38.00
Total estimated impacts			284.19

Table 2: Stream Impacts

	New	ATF	Total
Streams (linear Feet)	23722.00	545.00	24267.00

The entire project site is approximately 1,810 acres in size. Construction will include the following features:

- Ethane Cracking Unit
- Polyethylene Units
- Rail and Truck Loading/Unloading
- Storage in Transit Rail Yard
- Wastewater Treatment Plant
- Wastewater outfall and pipe
- Borrow Pit
- Office Buildings
- Facility Access Roads
- Storm Water Management Features
- Pipeline Metering Station
- Utilities
- Construction Support Facilities - Laydown Areas, Contractor Service Areas, Parking and Access Roads, Barge slip, Dock, and Heavy Haul Road

The construction barge slip is proposed to be excavated from uplands, and mechanically dredged in a section of Cow Bayou. The slip is proposed to be 75-foot-wide and 260-foot-long, and dredged to a depth of -12.89 feet below mean lower low water, with a 2-foot overdredge. A 500-foot sheet pile bulkhead will be constructed at the shoreline, around the edge of the slip. Approximately 21,298 cubic yards of material, will be dredged from Cow Bayou. Approximately 10,914 cubic yards of fill, will be excavated from uplands to construct the barge slip. No maintenance dredging is proposed. Dredged material will initially be placed into an onshore decant area to dewater. Once dewatered, the material will be placed in a dredge material placement area on the CP Chem site, if it is suitable for placement. If it is not suitable for placement, it will be transported to an authorized disposal facility.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by avoiding impacts to 17.4 acres of wetlands and 424 linear feet of streams. The applicant stated that they considered eight alternatives, including a no-build alternative for the proposed project. The applicant's alternative analysis is included in 33 sheets.

MITIGATION: The applicant proposed to mitigate for the proposed impacts to wetlands, including ATF impacts, by creating two permittee responsible mitigation (PRM) sites within the Lower Sabine watershed. One PRM is proposed to restore PFO wetlands. One PRM site is proposed to restore PEM/PSS wetlands. The 246.2 acres of total wetland impacts would be mitigated with approximately 149.22 Physical Functional Credit Units (FCUs), 196.78 Biological FCUs, and 141.98 Chemical FCUs, over the two sites. No mitigation is proposed for temporary impacts to wetlands.

The applicant proposed to mitigate for the proposed impacts to 24,267 linear feet of streams, including ATF impacts, by creation of two stream PRM sites. The applicant's Conceptual Compensatory Mitigation Plan is included in 38 sheets.

CURRENT SITE CONDITIONS: The project site is located on an undeveloped tract of land, surrounded by commercial, industrial, and residential developments.

The project site includes 113.95 acres of wetlands that were filled by the previous owner of the project site, without a DA permit. This section is identified as Parcel 1 in the project plans. Because Parcel 1 was previously impacted without a DA permit, the entire proposed project is being evaluated as an ATF permit application.

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 284.19 acres, proposed to be impacted, includes 246.19 acres of wetlands reported in the project plans and approximately 38 acres of wetlands, which will be included as a result of an initial wetland delineation verification conducted by the Corps. The additional 38 acres of wetlands are not illustrated on the current project plans, and are yet to be verified. The applicant's plans are enclosed in 19 sheets. The Dredge Material Management Plan (DMMP) is enclosed in 24 sheets. The Conceptual Compensatory Mitigation Plan is enclosed in 38 sheets. The Restoration Plan for Temporary Impacts is 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 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 requires and ATF permit. As such it 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.

Pursuant to 33 USC 408, the proposed project may require Section 408 coordination and review. This is a requirement for activities that seek permission, to temporarily or permanently, alter, occupy, or use a federally authorized United States Army Corps of Engineers civil works project. Changes to the proposed project, from the Section 408 process, may warrant additional coordination.

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 Corps Staff Archeologist reviewed the draft report titled, *Intensive Archaeological Survey of the USGC 2 Orange Facility, Orange County, Texas*, dated January 2019, and determined that no historic properties are present/no effect. The Texas State Historic Preservation Officer concurred with the Corps assessment on 8 October 2019.

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, 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 **6 January 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-2018-00957**, and should be submitted to:

Policy Analysis Branch
Regulatory Division, CESWG-RDP
U.S. Army Corps of Engineers
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DISTRICT ENGINEER
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