



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2019-00246
	Date Issued: _____	4 February 2020
	Comments _____	
Galveston District	Due: _____	6 March 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).

APPLICANT: Texas Parks & Wildlife Department
210 A West 1st Street
Freeport, Texas 77541
POC: David A. Butler
Telephone: 979-233-9548
Email: david.butler@tpwd.texas.gov

LOCATION: The project site is located in wetlands and surface waters adjacent to Jones Creek, within the Justin Hurst Wildlife Management Area (JHWMA), at 6233 Highway 36, in Freeport, Brazoria County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Jones Creek, Texas.

LATITUDE & LONGITUDE (NAD 83):
Latitude: 28.934806° North; Longitude: 095.41425° West

PROJECT DESCRIPTION: The applicant's proposed project consists of four components. The four components are replacement of an existing pump, construction of a new levee #1 and maintenance of two existing levees, excavation of an existing ditch and creation of a new ditch #1, and installation of new and replacement of existing water control structures. Some of the work and/or structures of these four components occurs outside of waters of the US and is described below in further detail.

The total impacts within waters of the US are the discharge of a total of 7,246.5 cubic yards of clay soil and rip rap into 2.17 acres of wetlands. The total impacts also include the excavation of 3,148 linear feet of an unnamed tributary of Jones Creek and excavation of 25.85 acres of wetlands adjacent to Jones Creek.

Replacement of an existing pump

The applicant proposes to discharge a total of 283 cubic yards of rip rap into 0.09 acre of wetlands during the armoring of the intake and discharge points of the replacement pump.

Construction of a new Levee #1

The applicant proposes to discharge 6,786 cubic yards of clay soil and 155 cubic yards of rip rap into 2.07 acres of wetlands during the construction of a new levee #1 and armoring of the levee's emergency spillway with rip rap. The new levee #1 will be a total of 3,181.59 linear feet in distance with 2,789.39 linear feet occurring within wetlands. The applicant proposes to excavate two borrow/enhancement areas, totaling 25.1 acres, to provide 4,010.5 cubic yards of material towards the construction of the new levee #1. The total 6,786 cubic yards of clay soil discharged will be comprised of 1,800 cubic yards of soil previously staged, 975.5 cubic yards excavated from creation of ditch #1, and 4,010.5 cubic yards excavated from two borrow/enhancement areas located north of the created levee #1.

Excavation of an existing ditch and creation of a new ditch #1

The applicant proposes to excavate 5,784 cubic yards of material to a depth of -1.5 feet for a distance of 3,148.43 linear feet from an existing ditch that lies between the existing roadway and the proposed new levee #1. The applicant also proposes to excavate 975.5 cubic yards of material from 0.75 acre of wetlands to create a new ditch #1. The new ditch #1 will be a total distance of 1,285 linear feet. The applicant proposes to discharge 22.5 cubic yards of rip rap into 0.01 acre of wetlands at the intake and discharge points of the new ditch #1.

BACKGROUND: The applicant has stated additional project components occur outside of waters of the US. These components involve replacement of the existing pump, maintenance of two existing levees, excavation of uplands to create a new ditch #1, and installation of new and replacement of existing water control structures. The replacement of the existing pump will consist of removal and replacement of the intake structures, relief pump, and discharge structures. The new pump will consist of a concrete riser with two 36-inch screw gates at the intake, two 34-inch HDPE pipes to deliver water to a 23-foot by 20-foot concrete vat or discharge basin that houses the Hydraflo pump.

The maintenance of two existing levees will involve resurfacing of existing levee #2 for 64 linear feet and existing levee #3 for 202 linear feet. A total of 355 linear feet of uplands will be excavated to create a new ditch #1. The applicant stated they will install five new and replace eight flashboard risers to deliver water to eight wetland units.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by maximizing their use of existing infrastructure.

The applicant will utilize existing roads for construction and the roadside ditches to deliver water to the management units versus constructing new canals or additional levees. To accommodate these avoidance and minimization measures, as stated previously, the applicant proposes to increase the depth of the existing roadside ditches. The applicant also stated they have avoided and minimized the environmental impacts by using the water collected on the backside of the existing levees as firebreaks to eliminate the need to construct firebreaks within wetland areas.

MITIGATION: The applicant does not propose to mitigate for the project impacts. The applicant proposes to enhance the 25.1 acres of excavated wetland areas north of the proposed levee #1, labeled as borrow areas on the enclosed plans. This enhancement will consist of utilizing a scrapper to cut a shallow depression with a 10:1 slope. This enhancement will increase flooding to palustrine emergent wetlands. The applicant stated the overall impacts of a discharge into wetlands is minimal to achieve the project purpose of efficiently managing the eight wetland units, totaling 955 acres, within the JHWMA.

CURRENT SITE CONDITIONS: The project site conditions are the wetlands adjacent and the unnamed tributaries of Jones Creek within the 10,311-acre JHWMA within Brazoria County, Texas. The soil in this area is mapped as Surfside clay with 0-1 percent slopes and is occasionally flooded. The waters and special aquatic sites within the JHWMA are generally considered to be removed from the tidal influence of Jones Creek and are freshwater palustrine emergent wetlands. The project is bounded on all sides by the lands of the JHWMA.

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 in 18 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 was investigated for historic properties and none were identified as documented in the report titled, "Intensive Cultural Resources Survey of Borrow Locations and a Water Delivery Ditch for the 1200 Acre Impoundment Pump Project at Justin Hurst Wildlife Management Area, Brazoria County, Texas" prepared by Texas Parks and Wildlife and dated March 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.

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 March 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-2019-00246**, and should be submitted to:

Central Unit/Evaluation Branch
Regulatory Division, CESWG-RDE
U.S. Army Corps of Engineers
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Galveston, Texas 77553-1229
409-766-3869 Phone
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