



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2022-00527
	Date Issued: _____	7 February 2023
	Comments _____	
Galveston District	Due: _____	10 March 2023

U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT

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: Caracol Investors, LP
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Houston, Texas 77057
POC: Jay Bonano
Telephone: 713-412-8413
Email: info@caracolcoastal.com

AGENT: Triton Environmental Solutions, LLC
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POC: Andi Binion
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LOCATION: The project site is located in estuarine wetlands immediately abutting the Gulf Intracoastal Waterway (GIWW), south of Caracol Drive, in Port O'Connor, Calhoun County, Texas. The project can be located on the U.S.G.S quadrangle maps titled: Port O'Connor, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 28.442259 North; **Longitude:** -96.405445 West

PROJECT DESCRIPTION: The applicant proposes to permanently fill approximately 4.67 acres of estuarine wetlands, and excavate and permanently inundate an additional 1.36 acres of estuarine wetlands, during the construction of a residential subdivision consisting of five lots, two piers with T-Heads measuring 15-foot by 30-foot attached to 5-foot by 110- to 130-foot walkways, and a marina that will border an outfall into the GIWW.

AVOIDANCE AND MINIMIZATION: The applicant has designed the project to avoid and minimize onsite sensitive resources to the maximum extent practicable. Specifically, approximately 0.06 acres of estuarine high marsh wetlands, 0.71 acres of estuarine low marsh wetlands, 0.04 acres of unvegetated flats, and 0.37 acres of seagrass (shoalgrass) have been avoided.

MITIGATION: For unavoidable impacts to sensitive resources, the applicant is in the process of developing a permittee responsible mitigation plan and will submit it to the U.S. Army Corps of Engineers as soon as additional details are available for consideration. The Corps will assess the proposed mitigation plan to determine its compliance with the established National Mitigation Hierarchy prior to permit issuance.

CURRENT SITE CONDITIONS: The project area is currently a low wetland/marsh area directly adjacent to the GIWW that appears to be free of fill material and other human alterations within the review area. However, directly adjacent north, east, and west of the project area has been extensively impacted due to the GIWW construction and construction of residential and commercial developments.

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 12 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 and Section 10 of the Rivers and Harbors Act of 1899.

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.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Commission on Environmental Quality (TCEQ) will review 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. The applicant has not yet reached out to the TCEQ to initiate the Section 401 CWA process. If you have comments or questions on this proposed project's State water quality certification, please contact 401certs@tceq.texas.gov. You may also find information on the Section 401 process here: <https://www.epa.gov/cwa-401/basic-information-cwa-section-401-certification>.

Pursuant to 33 USC 408, the proposed project will 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 permit area has been so extensively impacted by construction of the GIWW, placement of dredged material, and previous residential development 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: Threatened and/or endangered species or their critical habitat may be affected by the proposed work. Consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service will be initiated to assess the effect on endangered species.

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 **10 March 2023**. 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-2022-00527**, and should be submitted to:

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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS