



Public Notice

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

Galveston District

Permit Application No: SWG-2022-00468

Date Issued: 24 January 2023

Comments

Due: 24 February 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 404 of the Clean Water Act (CWA).

APPLICANT: Texas Department of Transportation (TXDOT) - Beaumont District
8350 Eastex Freeway
Beaumont, Texas 77708
POC: Martin Gonzalez
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Email: Martin.Gonzalez@txdot.gov

AGENT: Texas Department of Transportation (TXDOT) - Beaumont District
8350 Eastex Freeway
Beaumont, Texas 77708
POC: Jered Simpson
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LOCATION: The project site is located in Hickory Creek, Village Creek, multiple unnamed tributaries, and wetlands along US Highway (US) 69 from Farm-to-Market Road (FM) 1003 to FM 1943 in Hardin and Tyler Counties, Texas. The project can be located on the U.S.G.S. quadrangle map titled: WARREN, VILLAGE MILLS, and KOUNTZE NORTH, Texas.

LATITUDE & LONGITUDE (NAD 83):

Start **Latitude:** 30.42953° North;

Longitude: 094.368915° West

End **Latitude:** 30.614803° North;

Longitude: 094.40294° West

PROJECT DESCRIPTION: The applicant proposes to permanently discharge fill into 0.2 acres of open water, 3.57 acres of palustrine emergent wetland, 5.295 acres of palustrine forested wetland, 200 linear feet (LF)/0.032 acre of erosional channels/drainage ditches, 1,279 LF/0.257 acre of ephemeral stream, 616 LF/0.091 acre of intermittent stream, and 69 LF/0.009 acre of perennial stream to expand US Highway (US) 69 in Hardin and Tyler Counties. A total of 31 distinctive crossings were identified within the project area, specifically including the perennial streams Hickory and Village Creeks, seven ephemeral tributaries, six intermittent tributaries, three erosional channels/drainage ditches, two open waters, 16 emergent wetlands, and 43 forested wetlands that contribute to the Village Creek/Neches River basin. The proposed project would widen and improve US 69 within the project limits to a four-lane divided roadway with shoulders, an evacuation lane on the northbound lanes, and a median, within an approximately 300-foot-wide right-of-way (ROW).

The purpose of the project is to improve safety and mobility along US 69 during emergency evacuations by reducing the number of conflict points and providing better access.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by designing the project to have the minimum footprint necessary to meet the purpose of improved safety and mobility along US 69. The applicant performed an alternatives analysis and determined that the current project design was the preferred alternative. Once the preferred alternative was selected, project design and construction methodology were evaluated further to reduce the amount of impacts to aquatic features identified within the project area to the maximum extent possible. A special emphasis was placed on minimizing impacts to streams through the utilization of cranes, crane matting, and placement of bridge bents and supports outside of the ordinary high water mark (OHWM). The final design of the project at stream crossings resulted in an 80% reduction in unavoidable stream impacts, specifically from 10,634 linear feet proposed in the initial project designs to 2,164 LF in the final design. During construction and operation of the project, best management practices (BMPs) will be in place to reduce the potential for erosion and water quality impacts to waters of the US outside of the project footprint.

MITIGATION: The applicant proposes to mitigate for unavoidable impacts to waters of the US by purchasing 64 mitigation credits from the Blue Elbow Swamp Mitigation Bank (BESMB).

CURRENT SITE CONDITIONS: The project site consists of the existing US 69 corridor within an approximately 300-foot-wide right-of-way (ROW). The area is mostly flat, and is comprised of pine plantations, a mix of single-family residential and commercial developments, and agricultural land. The dominant soil orders in the project area are Alfisols and Ultisols. They are generally very deep, moderately well drained to very poorly drained, and loamy or clayey. The area supports pine-hardwood forest vegetation characterized by longleaf pine. Sweetgum (*Liquidambar styraciflua*), black gum (*Nyssa sylvatica*), post oak (*Quercus stellata*), blackjack oak (*Quercus marilandica*), and southern red oak (*Quercus falcata*) are the principal hardwood species. Hawthorns

(*Crataegus spp.*), wax myrtle (*Morella spp.*) and shining sumac (*Rhus copallina*) make up the woody understory. Mid and tall grasses are dominant in open areas.

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 82 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:

The project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management 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 contacted the TCEQ and initiated the Section 401 CWA process, on 22 August 2022. 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>.

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 likely to contain terrestrial cultural resources that could be eligible for inclusion in the National Register of Historic Places. The applicant will need to investigate for 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 **24 February 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-2022-00468**, and should be submitted to:

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