



Public Notice

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

Galveston District

Permit Application No: SWG-2018-00490

Date Issued: 24 January 2019

Comments

Due: 25 February 2019

**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: The Nature Conservancy
P.O. Box 81439
Corpus Christi, Texas 78468
POC: Julie Sullivan
Telephone: 409-356-3163
email: Julie_Sullivan@TNC.org

AGENT: Freese and Nichols, Inc.
10431 Morado Circle, Building 5, Suite 300
Austin, Texas 78759
POC: David Buzan
Telephone: 512-617-3164
email: David.Buzan@Freese.com

LOCATION: The project site is located along the Gulf Intracoastal Waterway (GIWW) near Matagorda Bay, begins approximately 1.5 miles east of the intersection of Pr 300 and the GIWW, and ends approximately 0.5 miles southwest of the Mad Island Wildlife Management Area, in Matagorda County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Palacios NE, Texas.

LATITUDE & LONGITUDE (NAD 83):

East Boundary: Latitude: 28.637556° North; Longitude: -96.075194° West

West Boundary: Latitude: 28.6265° North; Longitude: -96.109944° West

PROJECT DESCRIPTION: The applicant proposes to construct a living shoreline/breakwater to stabilize and protect approximately 12,000 feet (2.3 miles) of TNC's Mad Island Marsh Preserve bank and shorelines along the GIWW with a base width of 34 feet and a height above the bottom of 4 feet. The structure will be placed with TNC's Mad Island Marsh Preserve and Texas Parks and Wildlife Department's Mad Island WMA properties meet and extend westward ending at the west boundary of TNC Property. The breakwater will be placed at variable distances from 160 to 225 feet from the centerline of the GIWW and located landward of the designated GIWW offset boundary. The proposed bank stabilization would result in the discharge of approximately 32,160 cubic yards of limestone or clean concrete rubble as reef material over approximately 8.6 acres. The length of the shoreline to be protected is 12,300 feet and will include 10,300 feet of living shoreline to be constructed in 10 segments of different lengths with length determined by locations of marsh to be protected. These segments would be separated by 10, 100-foot-wide gaps to allow tidal exchange and ingress and egress of marine organisms between marsh behind the breakwater and the GIWW. The breakwater will incorporate a 3H:1V side slope.

Also, an underwater rock sill will be placed at the mouth of the Mad Island Bayou breakwater gap to prevent further scouring of the mouth and bank erosion, and will be the width of the bayou mouth at the time of construction. The rock sill will not impede access to the bay by boat. Reefblk was installed as bank stabilization around the mouth of the bayou in 2007. The Reefblk currently contains oysters. The project proposes relocating these damaged sections of Reefblk to areas to keep the oyster alive, provide shoreline protection and avoid interference with recreational or commercial navigation in the bayou or the GIWW. It will incorporate 1,000 feet of previously installed Reefblk material and 1,000 feet of 10, 100-foot wide gaps. Gaps will allow tidal exchange and the ingress and egress of marine organisms between marsh behind the breakwater and the GIWW.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by designing the project to reduce shoreline erosion, sediment transport from the shore to the GIWW, and impacts from maintenance dredging. The applicant states that the project will not have negative impact on deep-draft commercial navigation. Discharges will not occur within the GIWW setback, and the GIWW will be unaffected by the structures. To avoid potential navigation hazards, the newly constructed breakwater will be marked with navigation aids that meet the USCG specifications.

Previous surveys have shown that there are no sea greases of marsh habitats in the project footprint. Materials to construct the reef would be transported to the site along the GIWW. The breakwater structure will be constructed outside of the designated GIWW offset boundary and will not interfere with GIWW traffic.

MITIGATION: The applicant stated that no mitigation would be required due to the ecological restoration function of the project.

CURRENT SITE CONDITIONS: The Mad Island Marsh Preserve is 7,063 acres owned by TNC. The preserve contains many different habitats including upland coastal prairies and freshwater, brackish and tidal wetlands. The preserve serves as an important stopover site for birds with 320 recorded species (TNC 2018). The marshes provide habitat for marine species such as Red Drum, blue crab, brown shrimp, Southern Flounder, and Spotted Sea trout. Research has documented fish and shellfish use of Mad Island Lake and Mad Island Bayou to its confluence with GIWW. The Matagorda Section of the GIWW was constructed in 1941.

Hurricanes and storms between 1964 and 1995 created a new channel for Mad Island Bayou, which connects the GIWW to Mad Island Lake. Both the Mad Island Bayou Channel and the GIWW have since widened, and a new mouth was created between 2009 and 2011. The GIWW has since widened and the new mouth now accommodates most of the flow between Mad Island Lake and the GIWW. There is very little water exchange between the former mouth to the east and Mad Island Bayou.

The Mad Island Bayou breach has implications to the environment. The new bayou mouth is vulnerable to erosive forces from the GIWW. The new mouth may be more susceptible to potential enlargement from erosion. If the new mouth enlarges, tidal exchange with the marsh and Mad Island Lake may increase, increasing salinity and expediting erosion of the marsh in Mad Island Lake. Increased erosion in Mad Island Lake and the bayou may increase sediment accumulation in the GIWW, affecting maintenance dredging needs. The purpose of the project is to design and implement bank stabilization and shoreline protection for TNC's Mad Island Marsh Preserve with emphasis on protecting the new mouth of Mad Island Bayou and adjacent shoreline from eroding.

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 applicant's plans are enclosed in 15 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.

Although this project would result in a direct impact of three acres or less of waters of the state or 1,500 linear feet of streams (or a combination of the two is below the threshold), the applicant has not elected to incorporate the best management practices and other provisions designed to safeguard water quality. The Corps has not received a completed checklist and signed statement, fulfilling Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with 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.

The proposed project may require Section 408 coordination and review. This is a requirement for activities that seek permission from the US Army Corps of Engineers pursuant to 33 USC 408 because the proposed project will alter or temporarily or permanently occupy or use a US Army Corps of Engineers federally authorized 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 is located within the Gulf Intercostal Waterway which was created in modern times and has had no historic shipping activities. 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 and may not be affected by the proposed work.

First, the proposed action and its interrelated and interdependent actions would not directly or indirectly affect the following species or destroy/adversely modify their designated critical habitat: Sea Turtles and the West Indian Manatee. Therefore, the proposed action would have no effect on the referenced species. These species do not occur within the action area and the proposed activity is not proposed within designated critical habitat.

Second, consultation with the U.S. Fish and Wildlife will be initiated to assess the effect on endangered species the following species: the Whooping Crane.

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 **25 February 2019**. 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-2018-00490**, 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
GALVESTON DISTRICT
CORPS OF ENGINEERS