



Public Notice

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

Galveston District

Permit Application No: SWG-2018-00620

Date Issued: 29 January 2019

Comments

Due: 1 March 2019

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).

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LOCATION: The project site is located in Cold Pass (Christmas Bay) on San Luis Island on the Stephen F. Austin Peninsula League (Abstract 29) on the north side of Highway 257, in Brazoria County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Christmas Point, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.067628°North; Longitude: -95.137574°West

PROJECT DESCRIPTION: The applicant proposes to conduct clearing, excavation, and earthwork to construct a 500-foot-long and 8-foot-wide boardwalk, a boardwalk/dock that is 120-foot-long and ranges from 8- to 20-foot-wide, a 25-foot-long by 25-foot-wide boathouse, and an 800-foot-long bulkhead. Approximately 0.131-acre of wetlands will be filled by approximately 810 cubic yards of fill material to construct the bulkhead structure. The pilings for the boathouse and pier will be installed via a barge and a water jet. The boardwalk will be installed with an auger.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by having considered numerous alternatives in designing the project. The proposed plans offers the least amount if wetland impacts, while meeting the need and purpose for the project. The boardwalk will be elevated approximately 3 to 4 feet above grade and will be constructed to allow sunlight to penetrate between cross members resulting in vegetation beneath the boardwalk. The bulkhead will reduce erosion and will allow more stable areas for vegetation. The bulkhead will be approximately 6 inches above the mean high water line. The following best management practices will be implemented during construction: silt fences to minimize stormwater runoff and temporary construction and staging areas outside of jurisdictional areas.

CURRENT SITE CONDITIONS: The action area consists of undeveloped uplands that are surrounded by estuarine open water (E1UBL) and estuarine emergent (E2EM1N) wetlands. This portion of Christmas Bay/Cold Pass is highly developed and experiences heavy vessel traffic. There are numerous structures such as piers, boat lifts, aids to navigation, boat ramps, etc. in the Christmas Bay/Cold Pass community northeast of the proposed action area. There are no special aquatic site located within the vicinity of the action area. According to NOAA, the average salinity of Christmas Bay/Cold Pass is approximately 32 ppt. Therefore, Cold Pass is considered to be a brackish water body.

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 10 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 incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria. Tier I projects are those which 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) for which the applicant has incorporated best management practices and other provisions designed to safeguard water quality. The Corps has received a completed checklist and signed statement fulfilling Tier I criteria for the project. Accordingly, a request for 401 certification is not necessary and there will be no additional TCEQ review.

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 composed of low-lying wetlands with no existing or subsided natural levee landforms and has a low potential for containing cultural deposits that may be eligible for inclusion in the National Register of Historic Places. No cultural resource survey is warranted.

THREATENED AND ENDANGERED SPECIES: Preliminary indications are that the proposed activity may affect, but is not likely to adversely affect, piping plover (*Charadrius melodus*) and rufa red knot (*Calidris canutus rufa*) based on the likelihood that these species would be present within the project area during construction activities, which are likely to affect these species during their nesting, foraging, and other activities. Designated critical habitat for these species does not occur within the project area and, therefore, the proposed activities will not result in the destruction or adverse modification of critical habitat. Based on this determination, consultation will be initiated with the U.S. Fish and Wildlife Service.

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 **1 March 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-2018-00620**, and should be submitted to:

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