



# Public Notice

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

**Galveston District**

Permit Application No: SWG-2012-00871

Date Issued: 14 July 2022

Comments

Due: 15 August 2022

---

## 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.

**APPLICANT:** KBB, INC.  
PO Box 81  
Port Aransas, Texas 78373  
POC: Mr. Jay Kenigsberg  
Telephone: 361-744-4264  
Email: [niteriters@aol.com](mailto:niteriters@aol.com)

**AGENT:** ERGIS  
PO Box 1072  
Claremore, Oklahoma 74018  
POC: Mr. Phil Hanley  
Telephone: 361-549-6699  
Email: [philh@ergis.us](mailto:philh@ergis.us)

**LOCATION:** The project is located in wetlands adjacent to the Corpus Christi Ship Channel and Corpus Christi Bay, northeast of the intersection of Avenue I and Alister Street, in Blocks 34, 47, and 48 within Port Aransas, Nueces County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Port Aransas, Texas.

**LATITUDE & LONGITUDE (NAD 83):**  
Latitude: 27.82743° North; Longitude: 97.06808° West

**PROJECT DESCRIPTION:** The applicant is proposing to place fill material into 0.58 acre of wetlands adjacent to Corpus Christi Bay and the Corpus Christi Ship Channel (CCSC)

on a 4.79-acre parcel in order to construct two separate pad sites for a mixed-use urban development project that will include a restaurant on the pad site fronting Alister Street (0.52 acre of fill into estuarine wetlands), and boutique hotel venue (0.06 acre of fill into estuarine wetlands) located on the pad site northwest of the existing CVS Pharmacy fronting Avenue G. The applicant states that the proposed project would provide both commercial venues with a direct view of the existing estuarine marsh system so patrons might enjoy the wildlife and bird populations. Both pad sites are designed to receive and treat urban stormwater discharge, while meeting state and federal water quality standards for its own runoff. The applicant further states that the restaurant and hotel would be connected by an elevated walkway that would have an observation deck and several educational plaques, helping to educate patrons on the local wildlife and birding populations.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by limiting the wetland impacts to what the applicant states are the lowest quality portions of the wetlands, along the edges adjacent to roadways, and to small isolated systems, where nuisance and exotic flora tend to dominate the natural community. The applicant also states that the proposed development plan also addresses stormwater management and water quality needs for the site and surrounding areas, as well as alleviates existing on-site hydrologic degradation due to wetland impounding from the adjacent roadways. For this plan, the restaurant was located adjacent to Allister Street and CVS to utilize desired mixed connectivity, while impacting lower quality wetlands. The hotel was located fronting Cut-Off Road to utilize limited impacts to the lower quality wetlands there. In addition, the plan includes an elevated walkway between the restaurant and hotel to allow for wildlife observation and natural resource education.

**MITIGATION:** No compensatory mitigation has been proposed for this project.

**CURRENT SITE CONDITIONS:** The project site is currently an undeveloped tract of land surrounded by commercial development to the northeast, State Highway 361 (S. Alister Street) to the southeast, and wetlands adjacent to the CCSC to the west and northwest. The wetland vegetation is dominated by sea oxeye daisy (*Borrchia frutescens*), with the presence of shoregrass (*Monanthochloe littoralis*), glasswort (*Salicornia virginica*), gulf cordgrass (*Spartina spartinae*), turtleweed (*Batis maritima*), and Brazilian pepper (*Schinus terebinthifolia*).

**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 five 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 Clean Water Act (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.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Commission for 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](mailto: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 has been so extensively impacted by previous earth moving activities 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:** 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 of Engineers, 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 of Engineers 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 of Engineers 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 Environmental Impact Statement 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 of Engineers 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 **15 August 2022**. 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-2012-00871**, and should be submitted to:

Corpus Christi Field Office  
Regulatory Division, CESWG-RD-R  
U.S. Army Corps of Engineers  
Galveston District  
5151 Flynn Parkway, Suite 306  
Corpus Christi, Texas 78411-4318  
361-814-5847 Phone  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS