



Public Notice

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

Galveston District

Permit Application No: SWG-2023-00029

Date Issued: 27 June 2023

Comments

Due: 28 July 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: Pelican Pointe Properties, LLC
555 Kings Drive
Oyster Creek, Texas 77541
POC: Doug Temple
Telephone: 832-444-3172
Email: Dtemple@usallianceinc.net

AGENT: Shelmark Engineering, LLC
921 FM 517 Road East
Dickinson, Texas 77539
POC: Marcus Michna
Telephone: 409-935-9986
Email: Mjmichna@shelmark.net

LOCATION: The project site is located in Oyster Creek, at 818 CR 792, in Oyster Creek, Brazoria County, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.010585 North; **Longitude:** -95.316803 West

PROJECT DESCRIPTION: The applicant proposes to mechanically excavate approximately 4,490 cubic yards of uplands and 65 cubic yards (CY) of open water to extend a residential canal off Oyster Creek. The applicant proposes to discharge the material onto a 1.84-acre immediately adjacent upland placement area. The applicant also proposes to install 3,240 linear feet of bulkhead within the extended canal and surrounding the existing peninsula. Approximately 595 CY of material will be placed below the High Tide Line (HTL) of Oyster Creek and 7,667 CY of material will be placed above the HTL for lot grading to support future residential infrastructure including concrete roads, private water systems, and electrical distribution lines. A total of 0.086 acres of special aquatic sites will be filled as a result of this project.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by keeping the total quantity of special aquatic sites filled to less than 0.1 acre. The project has also been sited, designed, and will be constructed to the greatest extent practicable to avoid and otherwise minimize potential for adverse effects from: construction and maintenance of other development associated with the facility; direct release to coastal waters and critical area of pollutants from oil or hazardous substance spills or stormwater runoff; and deposition of airborne pollutants in coastal waters and critical areas.

MITIGATION: Mitigation has not been proposed for this project.

CURRENT SITE CONDITIONS: The project site is currently an undeveloped peninsula tract of land surrounded by nearby marinas to the north, and residential lots on the southern peninsula below the project area. The impacted area includes largely an eroded shoreline surrounding the peninsula with little aquatic vegetation.

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 18 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.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA).

The 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>.

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 residential development, previous dredging and previous placement of dredged material 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.

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 **28 July 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-2023-00029**, and should be submitted to:

Central Unit
Regulatory Division, CESWG-RDE
U.S. Army Corps of Engineers
Galveston District
2000 Fort Point Road
Galveston, Texas 77550
409-766-3869 Phone
409-766-3931 Fax
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS