



Public Notice

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

Galveston District

Permit Application No: SWG-2003-02700

Date Issued: 12 March 2019

Comments

Due: 11 April 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 United States (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: Aransas County Navigation District
911 Navigation Circle
Rockport, Texas 78382
POC: Mr. Keith Barrett
Telephone: 361-385-0525
Email: aransasnav1@yahoo.com

AGENT: Atkins
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Houston, Texas 77094
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LOCATION: The project site is located in Little Bay and in Aransas Bay at the Rockport Harbor, in Rockport, Aransas County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Rockport, Texas.

LATITUDE & LONGITUDE (NAD 83):
Latitude: 28.019764 North; Longitude: 97.049436 West

PROJECT DESCRIPTION: The applicant proposes to modify their existing permitted breakwater and the associated compensatory mitigation area to address the Corps' determination that the mitigation site failed to meet the yearly and final success criteria specified in the permit. The permit, issued on 22 March 2011, authorized the discharge of fill material into approximately 0.85 acre of waters of the U.S. for the construction of an L-shaped stone/rock breakwater. Mitigation at a 3:1 ratio was required to compensate for 0.044 acre of seagrass impacted by construction of the breakwater. The applicant proposes to address the non-compliance state of their permit by abandoning the existing mitigation site and establishing approximately 0.25 acre of smooth cordgrass emergent marsh on the western shoreline of Little Bay, in accordance with the attached draft compensatory mitigation plan.

Additionally, the applicant proposes to further modify their existing permit to construct a new marina facility within the 5-acre site adjacent to the existing breakwater structure. The applicant's stated purpose of the proposed marina facility is to facilitate economic recovery from the effects of Hurricane Harvey in the Rockport area. The applicant proposes to: 1) construct a floating dock marina with 41 permanent slips supported by thirty-nine 50-foot-long and 14-inch-square ground-driven pre-cast concrete pilings; 2) install 810 linear feet of concrete bulkhead along the shoreline; and, 3) construct 810 linear feet of 10-foot-wide boardwalk parallel to the shoreline.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by selecting a site within the existing, actively maintained marina basin for the proposed project. Furthermore, the applicant states that the boardwalk will maintain a minimum height of 5-feet above the mean high water (MHW) line, deck boards will be spaced at a minimum of 1-inch apart, and pilings will be spaced at least 10-feet apart on center to maintain adequate sunlight penetration to the water. Discharge of fill material within water of the U.S. associated with the construction of the proposed bulkhead was minimized to the greatest extent possible, approximately 0.08 acre.

MITIGATION: Although a portion of the proposed permit modification involves modification of the existing compensatory mitigation, the applicant proposed no additional mitigation for the proposed impacts from construction of the marina facility.

CURRENT SITE CONDITIONS: The proposed compensatory mitigation site is located along the eastern shoreline of Little Bay, approximately 1.2 miles from the permitted breakwater structure. The site is within the Connie Hagar Wildlife Sanctuary and within the boundary of a previously authorized oyster reef and wetland restoration project. The site consist of unvegetated bay bottom, situated at higher elevations between the limit of the annual high tide (AHT) and MHW lines. Although the proposed site is currently unvegetated, the shoreline both to the north and south of the site currently sustain smooth cordgrass dominated wetlands. The site is located shoreward of the constructed oyster reefs, which would provide long-term protection from wind and wave action. Soils at the site are comprised predominantly of sand, with lesser amounts of silt and clay present. Little Bay is connected to Aransas Bay through two outlets, one to the north and one to the east. Little Bay is the primary recipient of storm water drainage from the town of Rockport through Tule Creek and multiple storm water outfalls, as well as runoff from the adjacent subdivision.

The proposed marina facility site is located within the previously authorized L-shaped breakwater structure, which establishes the western boundary of the Rockport Harbor. Approximately 4.5 acre of open water and 0.02 acre of estuarine emergent wetlands occur within the project site. Additionally, scattered oysters and small oyster clusters were identified along the shoreline of the site. Substrate within the site consists of moderately consolidated sand. The Rockport Harbor was built in 1935, but the project site is located within a portion of the Harbor that has only recently, since installation of the breakwater, been routinely maintenance dredged.

NOTES: 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 9 sheets and draft compensatory mitigation plan in 14 sheets.

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 proposed project [at the compensatory mitigation site] is of such limited nature and scope that it has no potential to effect historic properties, even if present within the project area.

The permit area [for the proposed marina facility] has been so extensively impacted by dredging, placement of dredged material, and previous construction 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: Threatened and/or endangered species or their critical habitat may be affected by the proposed work. Consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service will be initiated to assess the effect on endangered species.

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 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 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 **11 April 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-2003-02700**, and should be submitted to:

Corpus Christi Field Office
Regulatory Division, CESWG-RD-R
U.S. Army Corps of Engineers
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Corpus Christi, Texas 78411-4318
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DISTRICT ENGINEER
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