



# Public Notice

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

**Galveston District**

Permit Application No: SWG-2005-00696

Date Issued: 12 March 2025

Comments

Due: 26 March 2025

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## 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.

**APPLICANT:** Cape Velero Home Owners Association  
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Rockport, Texas 78382-7066  
POC: Ms. Elizabeth Maxfield  
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**LOCATION:** The project site is located in Port Bay, within an existing dredged canal and along the south and southwest shores of the Cape Velero Estates Development approximately 3 miles west of Rockport, Aransas County, Texas. The project can be located on the U.S.G.S. quadrangle maps titled: Bayside and Rockport, Texas.

**LATITUDE & LONGITUDE (NAD 83):**

Canal	<b>Latitude:</b> 28.04033° North; <b>Longitude:</b> 97.12442° West
DMPA 1 (upland, 1.3 acres)	<b>Latitude:</b> 28.04321° North; <b>Longitude:</b> 97.12712° West
DMPA 2 (upland, 2.3 acres)	<b>Latitude:</b> 28.04545° North; <b>Longitude:</b> 97.12324° West
Channel/Breakwater	<b>Latitude:</b> 28.03950° North; <b>Longitude:</b> 97.12780° West
Reef Ball Breakwater East End	<b>Latitude:</b> 28.03927° North; <b>Longitude:</b> 97.12637° West
Reef Ball Breakwater West End	<b>Latitude:</b> 28.03954° North; <b>Longitude:</b> 97.12758° West

**PROJECT DESCRIPTION:** This permit request was originally submitted for Public Notice on May 24, 2023 and withdrawn by the applicant on July 17, 2023. After review of the comments received during the initial Public Notice and modification to the previous design and draft mitigation plan, the applicant is requesting a permit for the following:

The applicant proposes to conduct maintenance dredging of 1.17 acres of an existing boat launch basin and boat canal. The boat launch basin and canal fronting the Cape Velero subdivision was originally excavated in the mid-1980s. The existing canal/basin area would be dredged to a depth of -3.0 feet mean sea level (MSL) and would yield an estimated 6,356 cubic yards (CY) of dredged material. In addition, the applicant proposes to establish a dredged-and-marked 30-foot-wide by 150-foot-long access channel into Port Bay from the existing boat canal. The proposed channel would confine boat traffic to a single channel until reaching navigable depths in Port Bay, thus minimizing possible seagrass and bay bottom damage by boat traffic where no channel currently exists. The proposed channel would have a 2- by 240-foot limestone breakwater installed on the southeast side to reduce wave energy and bay bottom creep, and to minimize sedimentation and reduce the frequency of future maintenance dredging requirements. This feature would affect 480 square feet of bay bottom. Four 8-inch-diameter pilings would be installed at 37-foot intervals along the edge of the breakwater as markers to aid navigation. The proposed 0.11-acre boat access channel would be dredged to a depth of -3.0 feet MSL. The calculated dredge material volume would be 292 CY of material for the boat access channel, for a total amount of 6,648 CY of material for the project.

The dredged material would be mechanically excavated using a Wilco amphibious excavator. The contractor unit is 16 feet wide and 32 feet long with two (2) 5-foot-wide pontoons and weighs 58,000 pounds. The drive system is hydraulic, powered by the Caterpillar 330 Excavator engine and hydraulic system, and has pyramid or flotation shoes on the drive system. This excavator floats in -4.5 feet of water and has a 50-foot operating reach. Dredging would start at the launch ramp basin and then proceed out the boat canal toward the open waters of Port Bay. Initially, the dredged material would be placed within a ring of hay bales on the uplands adjacent to the boat basin for dewatering until the excavator is beyond reach of the shoreline. A backhoe onshore would transfer the dewatered material to a dump truck that would transport the material to one of two upland disposal areas for unloading and leveling. Silt fencing would be utilized at the upland placement areas to hold the material in place until stabilized. When dredging beyond reach of the boat basin shoreline, and through the extent of the boat canal and proposed channel into Port Bay, the dredged materials would be placed on a set of small barges with sidewalls. When barge loading capacity is reached, the individual barges would be pushed by a small outboard motor to the launch ramp and offloaded by backhoe

into dump trucks. The dump trucks would relay the material to the upland disposal areas for unloading and leveling. Weighted sediment curtains would be used when working in open waters to minimize turbidity outside the work area. After the material has been placed within the upland disposal areas and one to two weeks of drying time has occurred, a small bulldozer would spread the material evenly within the disposal area. Based upon the anticipated dredge volume, an approximate 1-foot layer of material would be spread within each of the disposal areas. Once settling and conditioning of the materials is achieved over several months, the disposal areas would be seeded with a native grass species mix to establish vegetative cover.

The applicant also proposes to install fourteen breakwater structures 18 to 60 feet in length, consisting of a double row of 36-inch diameter reef balls installed on a staggered 3-foot offset with 15-foot wide front line gaps and 10-foot wide closure gaps, using approximately 148 reef balls, as part of the proposed mitigation plan described in the Mitigation section of this document.

In addition, the project would include launch ramp improvements through the addition of a 4- by-25-foot wing pier; a 4- by-60-foot walkway, and three 3- by-20-foot finger piers.

Approximately 5,615 square feet of submerged widgeon grass (*Ruppia maritima*) and a minor occurrence of turtle grass (*Thalassia testudinum*), found in small patches within the existing canal and within the proposed 0.11-acre boat access channel, would be directly impacted from the dredging and placement of the channel breakwater as currently proposed. No oysters were observed within the footprint of the project's proposed work area.

**AVOIDANCE AND MINIMIZATION:** The applicant provided an amended set of plans since the previous proposal, demonstrating a decrease of 0.89 acre of direct impacts to jurisdictional waters. These changes include:

- The canal excavation width has been reduced to 15 feet.
- The bay channel excavation width has been reduced to 15 feet.
- The launch and basin excavation area has been offset from the shoreline to avoid submerged aquatic resources.
- The bay channel breakwater has been reduced to 2 feet in width and extended to 240 feet total length.
- Pier construction has been noted to leave a 1-inch gap between deck boards, or to utilize Flow-Thru decking.

In addition, the applicant has stated that they have avoided and minimized the environmental impacts by the use of weighted sediment curtains during dredging operations to minimize turbidity outside the work area, and would use an upland contained disposal area for dewatering of dredged material.

**MITIGATION:** Out of Kind – On-Site mitigation is offered to offset the seagrass impacts summarized above. Mitigation would consist of installing fourteen breakwater structures 18 to 60 feet in length, consisting of a double row of 36-inch diameter reef balls installed on a staggered 3-foot offset with 15-foot wide front line gaps and 10-foot wide closure gaps, using approximately 148 reef balls. This breakwater system would dissipate wave

energy from the prevailing winds that impact this impaired shoreline and slow or stop scouring of the nearshore water bottom. The shadow effect of the breakwater should allow for the expansion and/or establishment of submerged aquatic vegetation in the shadow of the breakwater within the bare bay bottoms fronting the wetland shoreline, and bare bottoms within the shallow waters behind the wetland shoreline. This action is expected to restore water quality and aquatic function through the re-colonization of seagrasses within the wave energy shadow. The placement of the breakwater would be aligned where areas of bare bay bottom interface with existing submerged aquatic vegetation. An indirect effect of the breakwater would be to slow or stop the continuing loss of the emergent wetlands downwind of the structure and potentially allow for some recovery. The mitigation objective is to compensate for direct impact to submerged aquatic vegetation (SAV), primarily widgeon grass (*Ruppia maritima*), and a minor occurrence of turtle grass (*Thalassia testudinum*), assessed at a total of 5,615 square feet, at a minimum compensatory mitigation ratio of 3:1. The objective would be accomplished by creating improvement in water quality conditions at the mitigation site that results in a minimum increase of 16,845 square feet of additional SAV-covered submerged lands through expansion and colonization of existing SAV resources.

**CURRENT SITE CONDITIONS:** The project is located along the southern shoreline of Cape Velero, a residential community situated along the eastern shore of Port Bay. The existing canal is bordered by emergent estuarine wetlands dominated by cordgrass (*Spartina alterniflora*) in lower margin and sea ox-eye daisy (*Borrchia frutescens*) in the upper margin, with the canal itself containing inconsistent patches of SAV. The community never established a dredged and marked channel from the boat canal into Port Bay. Boaters used an open pass through the emergent wetlands to access the bay from the canal. The width of this pass has expanded over time due to erosion of the bay front shoreline and loss of the emergent wetlands. Under current conditions, boaters exiting the canal steer in their direction of choice, which results in prop washing and damages to the open bay bottom and seagrass beds between the opening of the canal and deeper water. The project site for the proposed breakwater consists of heavily eroding bare shoreline formerly inhabited by estuarine wetlands with a vegetative cover similar to what is found along the shoreline of the existing canal.

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 10 sheets, and the proposed mitigation plan (Attachment A) in 8 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 on 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 contacted TCEQ and initiated the Section 401 CWA process, on 19 April 2023. 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 proposed project, maintenance dredging and placement of dredged material in a previously disturbed area, is of such limited nature and scope that it has no potential to effect historic properties, even if present within the project area.

**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 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 **26 March 2025**. 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-2005-00696**, and should be submitted through the RRS system or the physical address listed below: <https://rrs.usace.army.mil/rrs/public-notices> OR

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