



Public Notice

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

Galveston District

Permit Application No: SWG-2023-00653

Date Issued: 20 March 2024

Comments

Due: 19 April 2024

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: COASTAL BEND BAYS AND ESTUARIES PROGRAM
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Corpus Christi, Texas 78401-1537
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AGENT: HDR ENGINEERING, INC.
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Corpus Christi, Texas 78401-1537
POC: Kelsea Hiebert
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LOCATION: The project is located in the Laguna Madre, at Benny's Shack Rookery Island approximately 4.5 miles southeast of Port Mansfield, Willacy County, Texas and approximately 0.2 mile west of the Gulf Intercoastal Waterway. The project can be located on the U.S.G.S. quadrangle map entitled: Hawks Island, Texas.

LATITUDE & LONGITUDE (NAD 83):
Latitude: 26.490251 North; Longitude: 97.387526 West

PROJECT DESCRIPTION: The applicant proposes to expand Benny's Shack Rookery Island (the Island) by placing approximately 2.36 acres of fill material (24,480 cubic yards [CY]) northward of the Island. This fill material will come from a dedicated 138.38-acre borrow area approximately 1,300 feet northwest of the Island (approximately 263.490398, -97.392913). Material will be extracted through a combination of hydraulic and mechanical dredging. In addition, the project would place approximately 1.34 acres of fill material (6,543 CY) for the construction of an approximately 1,939-foot-long traditional riprap breakwater for shoreline stabilization. The breakwater would be approximately 5 feet wide at the top of the crest and would have an average width of 30 feet at the base. In total, the project would fill approximately 3.70 acres of shallow open water and approximately 0.0007 acre (30.5 square feet) of submerged aquatic vegetation.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by placing the majority of the breakwater outside of submerged aquatic vegetation areas and avoiding all oyster beds and wetlands located on the Island. In addition, the breakwater would be constructed first and will act as a containment berm for the Island fill material.

MITIGATION: No mitigation is proposed.

CURRENT SITE CONDITIONS: The project site contains an existing island that has approximately 2.07 acres of estuarine emergent marsh (E2EM) and 1.2 acres of tidal flats (E2US). The wetland vegetation consists of shore grass (*Distichlis littoralis*), sea purslane (*Sesuvium portulacastrum*), and seashore dropseed (*Sporobolus virginicus*). The island is surrounded by approximately 0.007 acre (305 square feet) of oyster beds and 32.27 acres of seagrass beds. The three species of seagrass found within the project site consists of manatee grass (*Syringodium filiforme*), turtle grass (*Thalassia testudinum*), and star grass (*Halophila engelmannii*). The remaining project site consists of open water, bare bottom habitat (approximately 221.43 acres). The Island has a shallow shelf with an elevation of +0 feet to -2 feet NAVD that extends 100 to 200 feet from the shoreline. The area north of the island is slightly deeper with elevations between -2 feet to -3 feet.

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.

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 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 State tracts proposed for work under this permit are not included in the Texas Historical Commission's list of Sensitive state tracts. Additionally, the scope and magnitude of the project is so minimal that a marine archeological investigation is not needed. The proposed project is of such limited nature and scope that it has no potential to impinge upon resources of interest to the Native American Tribes.

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 **19 April 2024**. 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-2023-00653**, and should be submitted to:

Corpus Christi Field Office
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DISTRICT ENGINEER
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