



# Public Notice

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

**Galveston District**

Permit Application No: SWG-2008-00922

Date Issued: 30 May 2024

Comments

Due: 1 July 2024

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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 (CWA).

**APPLICANT:** PBC Wetlands, LLC  
7131 Trailbrook Drive  
Sugarland, Texas 77479  
POC: Ed Duvall  
Telephone: 713-906-2772  
Email: eduvco@aol.com

**AGENT:** Berg-Oliver Associates, Inc  
14701 St. Mary's Lane, Suite 400  
Houston, Texas 77079  
POC: Susan Alford  
Telephone: 281-589-0898  
Email: salford@bergoliver.com

**LOCATION:** The project site is located on a 115.77-acre tract of land, adjacent to Port Bay, along FM 1069, in Rockport, Aransas County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Rockport, Texas.

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

**Latitude:** 28.0297 North; **Longitude:** -97.1159 West

**PROJECT DESCRIPTION:** The applicant is proposing to establish and operation of Coastal Bend Wetland Mitigation Bank (CBWMB). The goal of the CBWMB is to restore degraded wetlands, enhance existing wetland habitats, establish new wetlands, and protect tidal marsh and coastal tidal fringe wetland habitats throughout the Bank property to satisfy the needs of the watershed. The proposed mitigation bank will be used for compensatory mitigation for unavoidable impacts to waters of the United States, including wetlands, that result from activities authorized under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act, provided such activities have met all applicable requirements and are authorized by the U.S. Army Corps of Engineers (USACE). CBWMB will comply with 33 CFR Part 332 if they are to be used to provide compensatory mitigation for Department of the Army (DA) permits.

CBWMB proposes to enhance a total of 25.51 acres of existing high marsh wetlands, enhance a total of 14.85 acres of existing low marsh, and establish a total of 22.43 acres of adjacent wetland on the 115.77-acre property. The enhancement and establishment will be separated into two phases: Phase I- establish 13.00 acres of high marsh tidal fringe wetlands; enhance 3.35 acres of low marsh tidal fringe wetlands; and enhance 5.95 acres of high marsh tidal fringe wetlands. Phase II- will consist of establishing 9.43 acres of high marsh tidal fringe wetlands; enhancing 11.50 acres of low marsh tidal fringe wetlands; and enhancing 19.56 acres of high marsh tidal fringe wetlands.

**AVOIDANCE AND MINIMIZATION:** The specific objectives of the project are to restore the biological, botanical, physical, and chemical functional capacities of the site.

**MITIGATION:** N/A; The applicant proposes to construct a compensatory mitigation bank.

**CURRENT SITE CONDITIONS:** The project site is currently an undeveloped tract of land, bordered by Port Bay to the north, FM 1069 to the south, and existing undeveloped tracts of land to the east and west. The project lies within the 2016 100-year FEMA floodplain. Vegetation communities in wetland areas are dominated by smooth cordgrass (*Spartina alterniflora*), seashore saltgrass (*Distichlis spicata*), sand spikerush (*Eleocharis montevidensis*), Gulf cordgrass (*Spartina spartinae*), and broadleaf cattail (*Typha latifolia*).

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 verified the wetland delineation. The applicant's plans are enclosed in 231 sheets.

## **PRELIMINARY REVIEW OF SELECTED FACTORS:**

EIS DETERMINATION - 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.

COASTAL ZONE MANAGEMENT – 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.

WATER QUALITY – N/A, a WQC is not required for MBI approval.

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 an 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.

NATIONAL REGISTER OF HISTORIC PLACES – The staff archaeologist has not 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:

A review of the property was completed in 2008. The applicant has submitted reports documenting field investigations for the presence of historic properties. The reports are currently being reviewed. The results of this review and the Corps' determination of effect will be coordinated with the State Historic Preservation Officer independent of this public notice. Effects on historic properties will be resolved prior to the Corps authorization, or approval, of the work in connection with this project.

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 has been initiated to assess the effect on endangered species.

**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 **1 July 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-2008-00922**, and should be submitted to:

Regulatory Division, CESWG-RDP  
U.S. Army Corps of Engineers  
Galveston District  
2000 Fort Point Road  
Galveston, Texas 77550  
409-766-3869 Phone  
409-766-3931 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS