



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2021-00041
	Date Issued: _____	25 May 2021
	Comments _____	
Galveston District	Due: _____	25 June 2021

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: Misho's Oyster Company
1515 10th Street
San Leon, Texas 77539
POC: Michael Ivic
Telephone: 281-850-4178
Email: misho318@aol.com

AGENT: Belaire Environmental, Inc.
P.O Box 741
Rockport, Texas 78371
POC: Chris Belaire
Telephone: 361-729-1241
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LOCATION: The proposed project is located within Copano Bay approximately 600 feet northeast of the applicant's property located at 5751 Loop 1781, 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: 28.118446 North; Longitude: -97.035338 West

PROJECT DESCRIPTION: The applicant proposes the construction of two long-shore breakwaters using repurposed concrete riprap in Copano Bay, Aransas County, Texas. The western breakwater is approximately 48-feet-wide by 550-feet-long with approximately 5,333 cubic yards (cy) and the eastern breakwater is approximately 45-feet-wide by 350-feet-long with approximately 3,521 cy of riprap within a .99-acre project area. Ingress and egress will be along an existing channel via watercraft vessels and all material will be loaded onto barge(s) and transported to the proposed work area via an existing channel as depicted on the plan sheets. The proposed commercial piling-supported pier consists of an approximately 330-foot long by 10-foot wide walkway with an approximate 100-foot by 10-foot T-head. In total, the proposed pier is approximately 4,300 square feet (0.09-acre). The pier, including the T-head will extend approximately 340-feet seaward from an existing bulkhead along the applicant's property. Wooden pilings used to support the pier structure will extend above the proposed walkway to act as mooring structures for the commercial oyster vessels. No additional mooring dolphins are currently proposed. Breakwater fill material is currently staged at the applicant's property located at 5751 Loop 1781, Rockport, Aransas County, Texas. Breakwater materials will be loaded onto barges from the applicant's property and transported to the work area. Access between the applicant's property/stockpile area and the proposed breakwaters will be via an existing channel as depicted on the 1972 National Oceanic and Atmospheric Administration (NOAA) nautical chart (Appendix D). According to the 1972 nautical chart, this channel had a representative depth of -12 feet Mean High Water (MHW) in 1960 and extended from a bulkheaded portion of the applicant's property to the north. Once transported to the proposed work area, fill material will then be placed mechanically consistent with the specifications provided herein.

AVOIDANCE AND MINIMIZATION: The applicant proposes to implement Best Management Practices (BMPs) to protect nearby sensitive resources. During breakwater construction, the applicant will install turbidity curtains around the work area prior to initiating work. One barge equipped with a long-reach excavator will be positioned within the turbidity curtain and will be used to place material mechanically. The turbidity curtain will be maintained and remain in place to protect all sensitive resources in the area. The curtain will not be removed until all turbidity has completely settled. The material currently stockpiled on the applicant's property will be loaded onto a barge using equipment operated from upland areas or from the transport barge. Once loaded, the transport barge will travel to the work area to be unloaded. Material will be placed within the bay using a barge equipped with the long-reach excavator and positioned within the turbidity curtain. Access between the applicant's property and the work area will rely on the existing channel, as identified on the 1972 NOAA Nautical Chart. This process will be repeated until all material is placed and each breakwater is constructed. Following the construction of the breakwaters, the turbidity curtain will be disconnected, and the long-reach barge will be removed from the work area. Immediately following the demobilization of the long-reach barge, the turbidity curtain will be reconnected and left in place until all turbidity has settled. It is expected that all substrates will settle within one to five days of project completion. Once all substrate settles, the turbidity curtain will be uninstalled and removed from the work area.

Pier construction is proposed to occur following all breakwater construction activities and will be completed by a licensed pier contractor. Pier supplies will first be stockpiled on the applicant's property in an upland area adjacent to the bulkheaded portion of the applicant's property. All pier construction activities will be completed via barge. Pilings associated with the pier structure will be jetted or driven into the unvegetated bay bottom. Turbidity curtains will be utilized and maintained to protect all sensitive resources in the area. Prior to initiating construction, the contractor will be required to submit an activity and site-specific stormwater pollution prevention plan (SWPP) for review and approval prior to commencing activities. The contractor will be required to keep the applicant's property and the associated material stockpile area free of debris during operations, remove all excess construction material upon completion, and appropriately dispose of any construction waste. Construction activity related sewage must be collected and disposed by a state approved contracting service, i.e., Waste Management Service or approved equivalent.

MITIGATION: The applicant has not proposed to mitigate for the proposed impacts.

CURRENT SITE CONDITIONS: The project site is currently within the open waters of Copano Bay. Existing breakwaters are located east by northeast of the project area. Most properties along this stretch of Copano Bay have shoreline protection (bulkheads) and private piers.

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 received but not yet verified the wetland delineation. The applicant's plans are enclosed in 9 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 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.

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.

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 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 **25 June 2021**. 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-2021-00041**, and should be submitted to:

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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS