



Public Notice

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

Galveston District

Permit Application No: SWG-2023-00171

Date Issued: 25 May 2023

Comments

Due: 26 June 2023

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: City of Palacios
311 Henderson
Palacios, Texas 77456
POC: Cynthia Raleigh
Telephone: 361-404-9909
Email: craleigh@cityofpalacios.org

AGENT: Compass Environmental Solutions, LLC
1625 Cottonwood School Road
Rosenberg, Texas 77471
POC: Matthew Chastain
Telephone: 832-595-9064
Email: mchastain@compassenvs.com

LOCATION: The project site is located in Tres Palacios Bay, at two locations: the first being south of Fisherman's Memorial adjacent to Margerum Boulevard then southwest to the terminus of County Road 321; the second site runs parallel to a portion of East Bayshore Drive/County Road 305, in Matagorda County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Palacios, Texas.

LATITUDE & LONGITUDE (NAD 83):

North Project Site: **Latitude:** 28.731785 North;

South Project Site: **Latitude:** 28.694422 North;

Longitude: -96.201372 West

Longitude: -96.235024 West

PROJECT DESCRIPTION: The applicant proposes to install approximately 6,620 linear feet of 20-foot-wide breakwaters into open waters of Tres Palacios Bay for shoreline protection. The applicant proposes to discharge approximately 13,515 cubic yards of clean rock fill to a height of 3 feet above the mean high water line (MHWL) into approximately 1.68 acres of unvegetated open water for the northern breakwater which would be comprised of five individual segments.

The southern breakwater would require the discharge of approximately 8,850 cubic yards of clean rock fill to a height of 3 feet above the MHWL into approximately 1.34 acres of unvegetated open water which would be comprised of three individual segments. The dimensions of each segment are located within the plans.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by orienting the design and location of the breakwater reefs to avoid impacts to waters of the U.S. as much as possible and designing the temporary workspace to be as close as possible to where the breakwater reefs will be constructed, yet still be located in unvegetated portions of the bay with no seagrass beds or oyster reefs, and being located as close as possible to the marina boat channel so barges and equipment have convenient, close access to the project site.

MITIGATION: The applicant is not proposing mitigation since the project will serve to protect existing wetland habitat. The applicant has stated that although approximately 1.36 acres of potential oyster habitat may be impacted by the proposed project, the breakwaters would create an additional 3.28 acres of oyster habitat resulting in a net gain of 1.72 acres of oyster habitat.

CURRENT SITE CONDITIONS: The project site is located in open water in Tres Palacios Bay which is highly developed and experiences heavy vessel traffic. There are numerous structures such as piers, boat lifts, aids to navigation, boat ramps, etc. Adjacent property use consists of residential, commercial, and undeveloped properties as well as marinas.

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.

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.

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 reached out to the TCEQ to initiate the Section 401 CWA process on 24 May 2023. 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 permit area is unlikely to contain cultural resources that are eligible for inclusion in the National Register of Historic Places. No archeological investigation is warranted.

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, 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 **26 June 2023**. 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-2023-00171**, and should be submitted to:

Evaluation Unit
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Galveston District
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Galveston, Texas 77550
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS