



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-1997-01754
	Date Issued: _____	5 November 2019
	Comments _____	
Galveston District	Due: _____	9 December 2019

U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT AND

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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: The Port of Beaumont
1225 Main Street
Beaumont, Texas 77701
POC: Brandon Bergeron
Telephone: 409-835-5367
Email: bmb@pobtx.com

AGENT: Lanier & Associates Consulting Engineers, Inc.
595 Orleans Street, Suite 600
Beaumont, Texas 77701
POC: Joanne Scarf
Telephone: 409-212-1051
Email: jscarf@lanier-engineers.com

LOCATION: The project site is located in the Neches River, approximately 1.5 miles southeast of Beaumont, within Orange and Jefferson Counties, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Beaumont East, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 30.078208° North; Longitude: 094.081667° West

PROJECT DESCRIPTION: The applicant proposes to amend a previously authorized permit to increase three dredging footprint areas and to include dredging of a portion of the Federal Channel for a period of 10 years. Specifically, the applicant proposes to extend the previously authorized Orange County Cargo Wharf dredge pad footprint approximately 169 feet downstream, extend previously authorized Grain Dock dredge pad footprint approximately 134 feet downstream, and to add an additional dredge footprint east of the Ro-Ro Ramp to a -17 feet Mean Lower Low Water (MLLW) and dredge a portion of the Federal Channel to -36 feet MLLW. The proposed changes will increase the dredging footprint from 55.1 acres to 70.75 acres (50,000 cubic yards to 90,000 cubic yards). The applicant is requesting to remove the dredged material using the following methods for dredging: mechanical, hydraulic method and/or silt blade method, and place it in the following Dredged Material Placement Areas (DMPA): Any Federal DMPA, including but not limited to, Placement Area 23, Placement Area 24, Placement Area 25, and/or Placement Area 26. The applicant's plans are attached in 8 pages.

BACKGROUND/PERMIT HISTORY:

Department of the Army (DA) Permit No. 13434, issued on 13 June 1979, and expired on 31 December 1984, authorized hydraulic maintenance dredging of 40,000 cubic yards. The permit authorized maintenance dredging to a depth of 36 feet below mean sea level (msl) for Sheds 5, 6, and 7, maintenance dredging to a depth of 40 feet below msl for Shed 4, Wharves 2 and 3, and maintenance dredging to a depth of 32 feet msl for Wharf 1. The permit authorized placement of the dredged material into dredged material placement area (DMPA) 27B. Amendment (01), issued on 19 October 1987, and expired on 31 December 1997, authorized 10 years of hydraulic maintenance dredging of 100,000 cubic yards for Wharves 1 through 7, the Harbor Island Marine Terminal, the Carrol Street Wharf, and the Grain Wharf, and placement of the dredged material into DMPA 27B. Amendment (02), issued on 18 February 1992, and expired on 31 December 1997, authorized an additional DMPA 25 for placement of dredged material. Amendment (03), issued on 22 January 1998, and expired on 31 December 2008, authorized another 10 years of maintenance dredging. Amendment (04) issued 6 May 1998, and expired on 1 December 2008, authorized the addition of dredged material placement area (DMPA) No. 16 as an additional DMPA for placement of dredged material.

DA Permit No. 20023, issued on 25 July 1995, and expired on 31 December 1998, authorized dredging and placement of fill material into 10.1 acres of wetlands to facilitate the construction of two double ship layberths and associated docks. The permit authorized construction of one bulk or general cargo berth, a dock, and a bulkhead, eight concrete deadmen, nine mooring and breasting dolphins, onshore support facilities, and a 130-foot-wide access corridor (road and railway). To compensate for unavoidable impacts to waters of the US, the permittee conducted mitigation within the Old River Unit of the Lower Neches Wildlife Management Area. Mitigation consisted of placing two earthen plugs at marsh level into two existing borrow ditches which connected a 1,600-acre marsh to the Gulf States Utility Canal. The purpose of the mitigation was to control salt water intrusion into the marsh. Amendment (01), issued on 28 September 1998, and expired on 31 December 2001, authorized an extension of time to conduct work. Amendment (02), issued 17 August 2004, and expired on 31 December 2009, authorized an extension of time to conduct work.

DA Permit No. 13434 and 20023 were combined into DA Permit No. SWG-1997-01754 on 30 April 2009. DA Permit No. SWG-1997-01754, formerly DA Permit No. 13434(03) and 20023(02), issued on 4 May 2009, and expiring on 31 December 2019, authorized an extension of time for the former permits and 10 years of maintenance dredging.

DA Permit No. SWG-1998-02472 (formerly 20023 (03)), issued on 28 July 2011, and expired on 31 December 2016, authorized an extension of time to perform work that was authorized under DA Permit No. 20023(01). The permit authorized the discharge of 45,000 cubic yards of fill material into 13.81 acres of wetlands to develop a new facility consisting of docks, a new rail track, and additional access roadways at the existing dock. To date, 27.01 credits were purchased from Pineywoods Mitigation Bank as compensatory mitigation for the authorized impacts. This permit number was used in error. DA Permit No. SWG-1997-01754 is used for any future modifications and/or authorizations for this geographic location.

DA Permit No. SWG-1997-01754 was issued on 1 October 2013, and expires on 31 December 2018. It authorized a new 1,000-foot by 800-foot stockpile area, a new roadway, rail car unloading tracks, and a tank farm associated with the authorized construction of an unrefined crude oil and crude oil byproducts import and export bulk terminal containing a new bulk dock and liquids dock. Construction of the new bulk and liquids dock includes construction of a bulkhead, walkways, breasting dolphins, mooring dolphins, barge monopiles, a conveyor, and mechanical and/or hydraulically dredging a 7.71-acre area in the vicinity of the liquids dock to a depth of 36 feet below mean high tide plus 2 feet for overdredge and a portion to a depth of 40 feet below mean high tide plus 2 feet for overdredge and to dredge a 10.17-acre area in the vicinity of the bulk dock to a depth of 40 feet below mean high tide, plus two feet for overdredge. The dredged material was to be placed into DMPAs 23, 24, 25, 26, and 27.

DA Permit No. SWG-1997-01754, issued on 6 November 2014, and expiring on 31 December 2019, authorized the discharge of fill material into 9.59 acres of emergent wetlands adjacent to the Neches River during the construction of 10,307 linear feet of new railroad tracks. The construction of the new railroad tracks is associated with the expansion of the Port of Beaumont facility.

DA Permit No. SWG-1997-01754, issued on 31 August 2017, and expiring on 31 December 2019, authorized the amendment of DA SWG-1997-01754. It authorized the installation of a firewater pump atop an existing dock, with three intake pipes that will extend through the dock into the water to a depth of 10 feet below the mean high water line of Neches River.

DA Permit No. SWG-1997-01754, issued on 23 May 2019, and expiring on 31 December 2024, authorized the amendment of DA SWG-1997-01754 to modify Wharf dock area, modify Ship Dock OC2 area, construct a boat ramp, and dredge approximate 250 cubic yards of material from the vicinity of the boat ramp and place it at DMPA areas Placement Area 23, 24, 25, and/or 26.

AVOIDANCE AND MINIMIZATION: The applicant has avoided and minimized the environmental impacts by avoiding impacts to special aquatic sites (none are within the proposed dredged footprint) and expanding upon a previously authorized dredge area versus creating a new facility/infrastructure to accommodate the Beaumont Facility.

MITIGATION: The applicant has not proposed mitigation.

CURRENT SITE CONDITIONS: The project site is in a heavily developed and industrial portion of the Neches River. The project area is regularly maintenance dredged to retain authorized depths.

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 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 CWA.

OTHER AGENCY AUTHORIZATIONS:

This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with Corps processing of this application, the TCEQ is reviewing 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. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

The return water from the upland contained dredge material placement area(s) requires an independent certification by the Texas Commission on Environmental Quality (TCEQ). The applicant must obtain a Section 401 water quality certification from the TCEQ for the effluent or return water discharge. A copy of the 401 certification must also be furnished to the Corps prior to the Corps making a decision on the proposed project.

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.

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 use of an existing placement area, is of such limited nature and scope that it has no potential to effect historic properties. The areas of new dredging are in areas previously impacted by dredging or are so small that an archeological survey is not warranted. The proposed project has no potential to effect historic properties.

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 **9 December 2019**. 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-1997-01754**, and should be submitted to:

North Unit
Regulatory Division, CESWG-RDE
U.S. Army Corps of Engineers
P.O. Box 1229
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS