



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No:	SWG-1998-01818 (formerly 21520)
	Date Issued:	22 November 2020
<b>Galveston District</b>	Comments	
	Due:	21 December 2020

**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. This public notice is also for the purpose of notifying you that the applicant has proposed a general conformity determination for Air Quality. 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:** The Port of Houston Authority  
111 East Loop North  
Houston, Texas 77029  
(713) 670-2809  
POC: Ilana Harris or Trae Camble  
[lharris@poha.com](mailto:lharris@poha.com) or [tcamble@porthouston.com](mailto:tcamble@porthouston.com)

**LOCATION:** The project is located in Galveston Bay, adjacent to the Bayport Ship Channel, approximately 30 miles southwest of downtown Houston, in the City of Pasadena and the City of Seabrook, Harris County, Texas. The project can be located on the USGS quadrangle maps entitled: League City and Bacliff, Texas.

Latitude: 29.609198° N; Longitude: 95.013723° W

**PROJECT DESCRIPTION:** The Port of Houston Authority proposes to modify the previously authorized permit and requests an extension of time to complete previously authorized work. Specifically, the following is proposed:

- To perform maintenance dredging previously authorized depths for a period of 10 years

**Previously authorized work that has not been performed yet:**

- To mechanically and/or hydraulically dredge the berths at dock 1 to a depth of -49-feet mean low tide (MLT) (-50.5-feet (MLLW))
- To mechanically and/or hydraulically dredge the berths at dock 7 to a depth of -49-feet mean low tide (MLT) (-50.5-feet (MLLW))

**New proposed work:**

New Dredge area proposed, depicted on revised drawings, Sheet 7 and Sheet 9 of 30. Below are the details of the dredge area:

- To mechanically and/or hydraulically dredge a 1.3-acre extension to the west of the dock 7 berth to a depth of -49-feet (MLT) (-50.5-feet (MLLW)).
- To remove 20,000 cubic yards of dredged material from the 1.3 acres; to remove 5,000 cubic yards per annum of maintenance dredged material; and to place dredged material within DMPAs included in the drawing on sheets 24 and/or 30.

The following items are the proposed modifications to the language of the permit:

1. Remove Special Condition #22 to eliminate the requirement for the use of turbidity curtains.
2. Revise Special Condition #5 and Mitigation Condition #27 to remove the emission limitation and replace with general conformity determination.
3. Revise Special Conditions #6 and #12, and Mitigation Condition #6 which will allow more flexibility in how future available material will be beneficially used within the Bay.
4. Revise Mitigation Condition #10 to remove the word "uranium" and replace it with the word "iron".
5. Remove Mitigation Condition #22 to eliminate the permanent designated leaking container station areas.
6. Remove the voluntary eastern flush pond and replace it with the additional best management practices located in Exhibit 2.
7. Replace Sheet 2 to demonstrate the updated changes in operations and planning at the Terminal.
8. Remove Mitigation Condition #17 to eliminate the construction of Cruise Road.

The applicant's revised plans are enclosed in 30 sheets. The following sheets have been updated:

- Sheets 1 through 5 were added with updated construction information
- Sheets 7 and 18 were deleted

## Replacements

- Sheet 3 – Terminal Acreage
- Sheet 7 - Bayport Terminal Site Plan
- Sheet 9 – Berth Footprint Plan View and Cross Section
- Figure 8 (sheet 10) – Auto Terminal Dredge Cross Section
- Figure 9 (sheet 11) – Container Terminal Cross Section
- Figure 11 (sheet 13) – Auto Terminal Cross Section
- Figure 13 (sheet 14) – Railroad Corridor -Berm Cross Section
- Figure 14 (sheet 16) – Berm Detention Pond Cross Section
- Figures 18 – 22 (sheets 20 through 23) – replaced wetland information with updated construction information and wetlands
- Sheet 24 – previously authorized placement areas
- Addition of Figure 30 – Placement Area at Business Park 1

**BACKGROUND:** DA Permit No. 21520 was issued on 5 January 2004, and authorized the construction of a container/cruise terminal complex, including dredging approximately 127 acres of open water to construct a turning basin, berthing areas, and a transition area between the project wharves and the Bayport Ship Channel, construction of a BUS, placement of approximately 12 million cubic yards of dredged material in approved placement areas, and fill of approximately 19 acres of jurisdictional wetlands and 2 acres of open water and mudflats for construction of the terminal complex. The permit expired on 31 December 2009. The project is located in Galveston Bay, adjacent to the Bayport Ship Channel, approximately 30 miles southwest of downtown Houston, in the City of Pasadena and the City of Seabrook, Harris County, Texas.

DA Permit No. SWG-1998-01818 (formerly DA Permit No. 21520) was issued on 22 December 2009, and authorized the amendments, including a 10-year extension of the time limit for the permit; removal of the requirement to use turbidity curtains during hydraulic dredging; removal of the requirement to monitor fugitive dust at the container terminal; consolidation of the container terminal pre-entry gate and main entry gate; and addition of dredged material placement areas (DMPAs) and beneficial use sites (BUSs) where new work- and maintenance-dredged material from the Bayport Ship Channel Container/Cruise Terminal project, with the exception of new-work material from the Cruise Terminal Turning Basin, can be placed by hydraulic pipeline and mechanical

means. The approved additional DMPAs and BUSs are the existing Alexander Island DMPA, existing Spilman Island DMPA, existing Atkinson Island Marsh BUS, three BUSs authorized for the Houston Ship Channel Deepening and Widening Project but not yet constructed (Atkinson Island BUS Cells 7, 8, and 9), the Atkinson Island DMPA 14 and 15 Upland Expansion Area if its construction is authorized through a separate action, and the existing Midbay DMPA. New work material dredged from the Cruise Terminal Turning Basin must be used to construct the Bayport Marsh Cell BUs. Sheets 2 and 25, were superseded with new replacement sheets; and Special Condition Nos. 4, 7, and 11, were superseded by the new special conditions regarding turbidity curtains, air quality, and the additional BUSs. The permit amendment is authorized until 31 December 2020.

An amendment of DA Permit No. SWG-1998-01818 was issued on 29 September 2014, and authorized the deepening of existing berths and unconstructed berths from the originally permitted depths at the Bayport Ship Channel Container Terminal from -40 feet below mean low tide plus 1 foot of advanced maintenance and 1 foot for standard over-depth to -45 feet mean low tide plus 2 feet of advanced maintenance and 2 feet for standard over-depth from Station 50+00 to 120+00. The permit amendment will expire on 31 December 2020 for the work and for the 10 years of maintenance dredging will expire on 31 December 2024.

**AIR QUALITY:** An interagency coordination notice, dated 26 May 2020, was sent to resource agencies for comments. No adverse comments were received during this review. Subsequently, the General Conformity Determination was coordinated with Texas Commission on Environmental Quality (TCEQ), Air Quality Division.

In accordance with Title 40 Code of Federal Regulations (CFR) Chapter I, Subchapter C, Part 93, Section 93.156(b), the Corps requested concurrence of the General Conformity Determination for the for the Bayport Terminal Project. The TCEQ responded to our request letter that the project conforms to the Texas State Implementation Plan (SIP). The TCEQ's Concurrence letter and the FGCD are available for download on the Public Notice webpage.

The proposed project is located in the Houston-Galveston-Brazoria ozone nonattainment area, which is currently classified by the United States Environmental Protection Agency (EPA) as serious for the 2008 eight-hour ozone National Ambient Air Quality Standard (NAAQS) and marginal for the 2015 eight-hour ozone NAAQS. General conformity requirements apply according to the serious classification. The Corps presented data demonstrating that the proposed action would result in nitrogen oxides (NOX) emissions of 54.09 tons per year (tpy) in 2021, which is above the 50 tpy *de minimis* threshold for general conformity.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by limiting the work to the minimum needed to accomplish the goals of the project and expanding an existing dredging area located in approximation to wharf 7 with infrastructure in situ.

**MITIGATION:** The applicant does not propose any additional mitigation for dredging impacts.

**CURRENT SITE CONDITIONS:** The project site is located at the Bayport Terminal, within a developed portion of the Houston Ship Channel. Other properties along this stretch of Houston Ship Channel have performed dredging and placed material in an upland DMPA. There are no other types of special aquatic sites located within the expanded portion of project site.

**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 30 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 TCEQ will review the existing water quality certification letter for this permit modification. The return water from the upland contained dredge material placement areas requires authorization under Nationwide Permit (NWP) 16, which is currently being reviewed by this office.

Although this project would result in a direct impact of three acres or less of waters of the state or 1500 linear feet of streams (or a combination of the two is below the threshold), the best management practices (BMP's) available on the BMP checklist form are not applicable to this project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with 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.

**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 has been so extensively impacted by industrial development that there is no potential for historic properties to exist within the permit area. Therefore, 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 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 **21 December 2020**. 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-1998-01818**, and should be submitted to:

Policy Analysis Branch  
Regulatory Division, CESWG-RD-P  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3869 Phone  
409-766-6301 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS