



Public Notice

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

Galveston District

Permit Application No: SWG-2016-00245

Date Issued: 10 November 2020

Comments

Due: 14 December 2020

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: Texas Department of Transportation (TxDOT)-Beaumont District
8350 Eastex Freeway
Beaumont, Texas 77708
POC: Donald Smith
Telephone: 409-892-7311
Email: donald.smith1@txdot.gov

LOCATION: The project site is located in waters of the US, including Adams Bayou, Little Cypress Bayou, Flood Conveyance (under Sabine River relief bridge), unnamed tributaries of Adams Bayou and Little Cypress Bayou, and adjacent wetlands, in Orange County, Texas. The project can be located on the U.S.G.S. quadrangle maps entitled: Orangefield, Orange, and Echo, Texas.

LATITUDE & LONGITUDE (NAD 83):

Begin Latitude: 30.119886 North;

End Latitude: 30.126158 North;

Begin Longitude: -93.785739 West

End Longitude: -93.704408 West

PROJECT DESCRIPTION: The applicant proposes to permanently fill, remove by grading, or permanently impact by clearing a total of 1.09 acres of palustrine emergent wetlands, 7.14 acres of palustrine forested wetlands, and 0.02 acres of waters of the US for the purpose of improving Interstate Highway (IH) 10 from Farm-to-Market 3247 eastward to the Sabine River Bridge, near the Texas/Louisiana state line. All work will occur within the existing TxDOT right-of-way (ROW). The overall improvement project includes two separate construction undertakings (CSJ 0028-14-108 and CSJ 0028-14-091), both located within the transportation corridor identified as the project area.

CSJ 0028-14-108 is currently under construction and involves reconstructing the main travel lanes of the four-lane freeway; removing the center vegetated median; replacing the IH 10 bridges over State Highway 87 and Business US Highway 90 and reconstructing those interchanges; replacing the two existing bridges at Little Cypress Bayou with a new single bridge; and making utility line improvements. The freeway completed for the CSJ 0028-14-108 undertaking will have four 12-foot-wide travel lanes with 10-foot-wide inside and outside shoulders. A concrete median barrier will separate the eastbound and westbound travel lanes.

CSJ 0028-14-091 has not commenced. It involves the widening of IH 10 from a four-lane freeway to a six-lane freeway between the project limits. The completed freeway will have six 12-foot-wide travel lanes with 10-foot-wide inside and outside shoulders and a concrete barrier separating eastbound and westbound travel lanes. The project includes widening the existing Adams Bayou mainlane bridges to accommodate the additional travel lanes, removing the Adams Bayou frontage road bridges, and installing flood gauges on the existing turnarounds on each side of Adams Bayou. Entrance ramps east and west of Adams Bayou will be relocated to improve safety and maintain access during flooding events. Additionally, the Sabine River relief bridge (Flood Conveyance) will be replaced. Both the eastbound and westbound bridges will have three 12-foot-wide travel lanes. The eastbound bridge will have 10-foot-wide inside and outside shoulders. The westbound bridge will have one 12-foot-wide acceleration lane, a 10-foot-wide inside shoulder, and a 6-foot-wide outside shoulder.

The overall project, including both construction undertakings, will result in discharge of materials and other work in waters of the US necessary to accommodate the proposed roadway improvements. Activities include clearing, grading, construction of embankments, equipment access, and the expansion and removal of existing bridges, as well as, the construction of new bridges.

BACKGROUND: Construction of CSJ 0028-14-108 began in 2014 and the utility line improvements and much of the transportation improvements have been completed.

Completed work in Stream 1 Culvert, Stream 8 Culvert, Stream 10, and Wetland 14 has been conducted under non-reporting nationwide permits (NWP) and under NWP 12/14 verification issued on 27 April 2016 (SWG-2016-00245).

Completed work in Wetlands 6, 7, 8, 9, 10, 11, 12, 13 and Stream 4 and Stream 5 has been conducted under the assumption that these aquatic features are non-jurisdictional (AJD pending).

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by limiting construction to the existing road ROW, minimizing the footprint of the roadway, and minimizing temporary disturbance areas within wetlands.

MITIGATION: The applicant proposes to mitigate for the proposed impacts by purchasing in-kind credits from the Blue Elbow Swamp Mitigation Bank (BESMB). The applicant proposes to withdraw 56 credits from BESMB to compensate for 8.19 acres of unavoidable losses of wetlands at crossing 7 (PEM Wetlands 14 and 15.1, totaling 1.05 acres and PFO Wetlands 15.2 and 18, totaling 7.14 acres). The applicant states that mitigation is not proposed for PEM Wetland 17 (0.04 acres) and Stream 10 (0.02 acres) because these impacts are no more than minimal.

CURRENT SITE CONDITIONS: The project area is a low, flat area that runs slightly downslope toward the east, crossing Adams Bayou, Little Cypress Bayou, and numerous shallow roadside ditches. It consists of well-maintained and mowed herbaceous vegetation throughout, as well as, unmaintained riparian habitat near the Sabine River. Much of the project area is within the 100-year and 500-year floodplains, which extends from the eastern terminus to the area adjacent to Adams Bayou. Residential, commercial, and undeveloped land uses surround the project area.

NOTES: 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 proposes that wetlands B2, B6, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and streams 3, 4, 5 are non-jurisdictional. The applicant's determination of project impacts and the associated mitigation plan assume Corps concurrence of the pending AJD. The applicant's plans are enclosed in 31 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 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 contacted TCEQ and submitted a pre-filing meeting request on 2 October 2020. A certification request was submitted to TCEQ on 2 November 2020. If you have comments or questions on this proposed project's State water quality certification process, 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 Federal Highway Administration is the lead Federal Agency for this project and has completed all Section 106 consultation.

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 **14 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-2016-00245**, and should be submitted to:

Central Unit/Evaluation Branch
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U.S. Army Corps of Engineers
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409-766-3869 Phone
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DISTRICT ENGINEER
GALVESTON DISTRICT
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