



# Public Notice

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

**Galveston District**

Permit Application No: SWG-2021-00152

Date Issued: 5 November 2024

Comments

Due: 9 December 2024

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## 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:**

Iron Horse Terminals, LLC  
9805 Katy Freeway, Suite 900  
Houston, Texas 77024  
POC: Steve Birdwell  
Telephone: 713-800-1510  
Email: s.birdwell@gtomniport.com

**AGENT:**

BGE, Inc.  
10777 Westheimer, Suite 500  
Houston, Texas 77042  
POC: Amanda Gregory  
Telephone: 713-488-8105  
Email: agregory@bgeinc.com

**LOCATION:** The project site is located in Taylor Bayou and adjacent wetlands, approximately 0.85 miles south of 1998 TX-73, in Port Arthur, Jefferson County, Texas. The mitigation site is located north and adjacent to the Willow Slough Marsh, approximately 9 miles southwest from the proposed impact site, approximately 5 miles southeast of the intersection of LaBelle Road and State Highway (SH) 73 west of Port Arthur, in Jefferson County, Texas.

## **LATITUDE & LONGITUDE (NAD 83):**

Project site: Latitude: 29.872372° North ; Longitude: 093.999299° West  
PRM site: Latitude: 29.87175° North ; Longitude: 094.1345° West

**PROJECT DESCRIPTION:** The applicant proposes to permanently discharge a total of 1,200,000 cubic yards (CY) of fill material into 128.1 acres of Palustrine Emergent Wetland (PEM), 26.29 acres of Palustrine Scrub Shrub Wetland, 37.1 acres of Palustrine Forested Wetland, and 13.92 acres of other waters in association with the construction of the Iron Horse Terminals rail facility, access road, utility lines, and associated pipelines. Additionally, the applicant proposes to temporarily impact 4.06 acres of PEM, 0.34 acre of PSS, 1.13 acres of PFO, and 0.21 acre of other waters. Additionally, the applicant proposes to dredge approximately 21,000 CY of sediment from a 1-acre area of PEM and Taylor Bayou in association with the construction of a barge dock area. The dredged material will be placed in adjacent uplands to the northwest of the dredge site. This proposed project is in relation to the previously issued Standard Permit SWG-2021-00152 which authorized the construction of a rail facility, access road, utility lines, and barge dock. The proposed project has a net decrease in the overall impacts compared to the previously issued Standard Permit SWG-2021-00152. The applicant proposes to utilize the previously authorized permittee responsible mitigation plan which mitigates for 215.6 total acres of PEM, PSS, and PFO.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by utilizing best management practices such as erosion and sediment controls. This permit will result in a net decrease in permanent impacts to wetlands of 24.23 acres from the previously permitted impacts.

**MITIGATION:** The applicant proposed to mitigate for the proposed impacts by utilizing a previously authorized permittee responsible mitigation (PRM) plan which mitigates for 215.6 total acres of PEM, PSS, and PFO.

**CURRENT SITE CONDITIONS:** The project site contains existing infrastructure from an energy facility. Approximately 186.42 acres within the tract possess the three criteria for wetlands and were mapped within the vicinity of the project area. The proposed project area is dominated by historic spoil disposal cells, pastures, and a maintained flood protection levee. Historical spoil disposal are mostly poorly drained forested habitat. The majority of the present pasture has little relief and is poorly drained. Six major vegetation communities were identified within the project area: palustrine emergent wetlands (PEM), palustrine scrub-shrub wetlands (PSS), palustrine forested wetlands (PFO), scrub-shrub uplands, forested uplands, and herbaceous uplands. PEM wetlands are located predominately in the pasture area. PSS and PFO wetlands are in historical spoil disposal cells, and along the base of the levee. The forested uplands observed are located predominately on high areas within spoil disposal cells and other fill areas. The subject wetlands are adjacent to Taylor Bayou.

**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 32 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 contacted the TCEQ and initiated the Section 401 CWA process, on 31 October 2024. If you have comments or questions on this proposed project's State water quality certification, please contact [401certs@tceq.texas.gov](mailto: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 was investigated for historic properties and none were identified as documented in the report titled, *An Intensive Cultural Resource Survey for the Cormorant Clean Energy Project, Jefferson County, Texas*, prepared for 8 Rivers Capital, LLC. by BGE, Inc., and dated May 2024. The results of this investigation were coordinated with the Texas State Historic Preservation Officer who concurred with our determination of no historic properties present/no effect.

**THREATENED AND ENDANGERED SPECIES:** Threatened and/or endangered species or their critical habitat may be affected by the proposed work. Consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service will be initiated to assess the effect on endangered species.

**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 2024**. 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-2021-00152**, and should be submitted to:

North Unit  
Regulatory Division, CESWG-RDE  
U.S. Army Corps of Engineers  
Galveston District  
2000 Fort Point Road  
Galveston, Texas 77550  
409-766-3869 Phone  
409-766-3931 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS