



Public Notice

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

Galveston District

Permit Application No: SWG-2024-00709

Date Issued: 14 November 2024

Comments

Due: 16 December 2024

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-Beaumont District
8350 Eastex Freeway
Beaumont, Texas 77708
POC: Martin Gonzalez
Telephone: 409-898-5731
Email: Martin.Gonzalez@txdot.gov

AGENT: Texas Department of Transportation-Beaumont District
8350 Eastex Freeway
Beaumont, Texas 77708
POC: Colton Johnstone
Telephone: 409-896-5731
Email: Colton.Johnstone@txdot.gov

LOCATION: The project site is located within palustrine emergent wetlands and perennial stream, directly abutting Farm-to-Market Road 365, approximately 11 miles south of Beaumont and 5 miles west of Nederland, in Jefferson County, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.914235 North; **Longitude:** 094.041702 West

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 2,447 cubic yards (CY) of fill material into regulated aquatic resources. This fill material will result in the permanent loss of 1.076 acres of palustrine emergent wetland with an additional temporary loss of 0.428 acres of palustrine emergent wetland and 0.003 acres of perennial stream. The proposed project at FM 365 is to extend an existing bridge crossing over Rhodair Gully/Gallier Canal approximately 1.3 miles, expanding the project 100 feet to the west of Bordages Road to Jade Avenue. The existing right-of-way is 13.35 acres and 4.23 acres of additional proposed right-of-way is necessary for the project. The proposed right-of-way will include an additional 5 feet south and west of Rhodair Gully for a total of 45 feet south of the existing right-of-way. The portion of the project located south and east of Rhodair Gully will be extended up to 110 feet.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by designing the bridge extension in a way to avoid wetlands and waters to the greatest extent possible, specifically reducing the side slopes from 3:1 to 2:1 and re-designing a driveway access point to avoid impacts to aquatic resources.

MITIGATION: The applicant proposed to mitigate for the proposed impacts by purchasing a total of 3.228 palustrine emergent credits from the Blue Elbow Mitigation Swamp Bank.

CURRENT SITE CONDITIONS: The project site is currently an existing roadway (FM 365) and immediately adjacent right-of way. There is some residential infrastructure to the west end of the project and commercial infrastructure to the east end. The impacts associated with the project are largely within the existing right-of-way and as such are routinely maintained via mowing, grading, and other human conducted alterations.

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 17 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 has not yet reached out to the TCEQ to initiate the Section 401 CWA process. 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>.

Pursuant to 33 USC 408, the proposed project will require Section 408 coordination and review. This is a requirement for activities that seek permission, to temporarily or permanently, alter, occupy, or use a federally authorized United States Army Corps of Engineers civil works project. Changes to the proposed project, from the Section 408 process, may warrant additional coordination.

LEAD FEDERAL AGENCY: The Texas Department of Transportation has been identified as the lead federal agency for complying with Section 7 of the Endangered Species Act, National Historic Preservation Act, and the Magnuson-Stevens Fishery Conservation and Management Act. As such, please direct all comments, questions, or concerns regarding these Acts to the Texas Department of Transportation.

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 **16 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-2024-00709**, and should be submitted to:

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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS