



**US Army Corps
of Engineers®**

PUBLIC NOTICE

Applicant:
Kathryn Tunnell
Coastal Bend Bays and
Estuaries Program (CBBEP)

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Expires: **December 4, 2025**

**Galveston District
Permit Application No. SWG-2025-00276**

TO WHOM IT MAY CONCERN: The Galveston District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) **and** Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403). The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANT: Kathryn Tunnell
Coastal Bend Bays and Estuaries Program (CBBEP)
1305 N Shoreline Blvd, Suite 205
Corpus Christi, Texas 78401

AGENT: Renee Robertson
Anchor QAE
9783 Timber Circle
Daphne, Alabama 36695

WATERWAY AND LOCATION: The project would affect waters of the United States and navigable waters of the United States associated with Copano Bay. The project/review area is located at 0.33 miles east of the intersection of Rancho Grande and 1st Street, in Bayside, Refugio County, Texas at Latitude 28.120973 N and Longitude -97.172764 W.

EXISTING CONDITIONS: The project site is tidally influenced and located in Copano Bay stretching 1.7 miles at the confluence of Mullins Bayou and Copano Bay extending north toward the opening of Mission Bay. The landward side of the project is experiencing beach erosion. The breakwaters and proprietary habitat structures are to be fabricated out of concrete behind the concrete riprap to provide habitat for smooth cordgrass plantings.

PROJECT PURPOSE:

Basic: To construct breakwaters to reduce shoreline erosion and create marshlands of the northwestern shore of Copano Bay.

Overall: To install breakwaters to reduce shoreline erosion and to create a living shoreline behind the breakwaters and proprietary habitat structures.

PROPOSED WORK: The applicant requests authorization to construct a breakwater structure 1.7 miles long by 50 feet wide, 400 feet from the shore. The breakwater crest elevation is designed to be 4 feet above NAVD88 with a 4 horizontal to 1 vertical grade on the seaward side and a 2 horizontal to 1 vertical grade on the landward side. The crest width is designed to be 4 ft wide. The discharge of fill involves 76,000 cubic yards of riprap and 9,700 cubic yards of proprietary habitat structures into 11.5 acres of open water bottom. The proprietary habitat structures will be designed with stone, concrete, sediment and plants.

AVOIDANCE AND MINIMIZATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The applicant has stated that they have avoided and minimized the environmental impacts to 11.50 acres of jurisdictional waters of the U.S. to the greatest extent practicable. They stated the design and location of the living shoreline are oriented to avoid impacts to waters of the U.S. as much as possible and are designing the temporary workspace to be as close as possible to where the living shoreline material will be constructed yet still be located in unvegetated portions of the bay with no seagrass or oyster reefs. Non-coastal and upland alternatives were not considered because they do not meet the project goals of reducing shoreline erosion and protecting marsh habitat. Monitoring will be conducted for turbidity.

COMPENSATORY MITIGATION:

The applicant has provided the following explanation why compensatory mitigation should not be required: The applicant is not proposing to mitigate for the proposed impacts stating that the project will reduce or prevent future erosion of the vegetated habitat and the area between the breakwater and the shoreline will be the future site of placement of riprap material, that will be allowed to restore to a more naturalized and native state. Additionally, the installation of a hard substrate will allow for the natural colonization and recruitment of oyster reefs.

LEAD FEDERAL AGENCY:

The USACE has been identified as the lead federal agency for complying with Section 7 of the Endangered Species Act, National Historic Preservation Act, and (if needed) Magnuson-Stevens Fishery Conservation and Management Act. As such, please direct all comments, questions, or concerns regarding these Acts to the USACE.

CULTURAL RESOURCES:

The Corps evaluated the undertaking pursuant to Section 106 of the National Historic Preservation Act (NHPA) utilizing its existing program-specific regulations and procedures along with 36 CFR Part 800. The Corps' program-specific procedures include 33 CFR 325, Appendix C, and revised interim guidance issued in 2005 and 2007, respectively. The District Engineer consulted district files and records and the

latest published version of the National Register of Historic Places and initially determines that:

The permit area was investigated for historic properties as documented in the report titled Copano Bay Living Shoreline Project-Submerged Cultural Resource Survey, Refugio County, Texas prepared by SEARCH and dated November 2024. No historic properties (i.e., properties listed in or eligible for inclusion in the National Register of Historic Places) are present within the Corps' permit area; therefore, there will be no historic properties affected. The Corps has received concurrence from the SHPO.

ENDANGERED SPECIES: The Corps has performed an initial review of the application, the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC), National Marine Fisheries Service (NMFS) Southeast Region Section 7 Mapper, and the NMFS Critical Habitat Mapper to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur within the boundary of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project will not affect any listed species or critical habitat.

Table #1: ESA-listed species and/or critical habitat potentially present in the action area.

Species Common Name and/or Critical Habitat Name	Scientific Name	Federal Status
USFWS ESA-Listed Species/Critical Habitat		
Tricolored Bat	<i>Perimyotis subflavus</i>	Proposed Endangered
West Indian Manatee	<i>Trichechus manatus</i>	Threatened
Eastern Black Rail	<i>Laterallus jamaicensis</i>	Threatened
Northern Aplomado Falcon	<i>Falco femoralis septentrionalis</i>	Endangered
Piping Plover	<i>Charadrius melodus</i>	Threatened
Rufa Red Knot	<i>Calidris canutus rufa</i>	Threatened
Whooping Crane	<i>Grus americana</i>	Endangered
Green Sea Turtle	<i>Chelonia mydas</i>	Threatened
Hawksbill Turtle	<i>Eretmochelys imbricata</i>	Endangered

Kemp's Ridley Sea Turtle	<i>Lepidochelys kempii</i>	Endangered
Monarch Butterfly	<i>Danaus Plexippus</i>	Proposed Threatened
Black Lace Cactus	<i>Echinocereus reichenbachii</i> var. <i>albertii</i>	Endangered
NMFS ESA-Listed Species/Critical Habitat		
Green Sea Turtle	<i>Chelonia mydas</i>	Threatened
Kemp's Ridley Sea Turtle	<i>Lepidochelys kempii</i>	Endangered
Loggerhead Sea Turtle	<i>Caretta caretta</i>	Threatened
Giant Manta Ray	<i>Mobula birostris</i>	Threatened

This notice serves as request to the U.S. Fish and Wildlife Service and National Marine Fisheries Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

ESSENTIAL FISH HABITAT: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996, the Corps reviewed the project area, examined information provided by the applicant, and consulted available species information. Our initial determination is that the proposed action may have an adverse impact on Essential Fish Habitat or federally managed fisheries in the Gulf of America. 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.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION:

The applicant contacted TCEQ and initiated the Section 401 CWA process, on October 23, 2025. 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>.

COASTAL ZONE MANAGEMENT PROGRAM:

The applicant has stated that the project is consistent with the Texas Coastal Management Program (CMP) goals and policies and will be conducted in a manner consistent with said Program. The Texas Commission on Environmental Quality will determine if the project is consistent with the goals and policies of the CMP and will review this application under Section 401 of the CWA to determine if the work would comply with State water quality standards.

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.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has been verified by Corps personnel. The applicant's plans are enclosed in 6 sheets.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact 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 including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

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 determination, comments are used to assess impacts to 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 Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Galveston District will receive written comments on the proposed work, as outlined above, until **December 4, 2025**. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to the Regulatory Division at swg_public_notice@usace.army.mil. Alternatively, you may submit comments in writing to the Regulatory Division, U.S. Army Corps of Engineers, Galveston District, Attention: **SWG-2025-00276**, at 2000 Fort Point Road, Galveston, Texas 77550. Please refer to the permit application number **SWG-2025-00276** in your comments.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS