



Public Notice

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| U.S. Army Corps Of Engineers | Permit Application No: _____ | SWG-2013-00399 |
| | Date Issued: _____ | 24 October 2019 |
| | Comments _____ | |
| Galveston District | Due: _____ | 25 November 2019 |

**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. 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 404 of the Clean Water Act (CWA).

APPLICANT: The Kansas City Southern Railway Company
427 West 12th Street
Kansas City, Missouri 64105
POC: Steven Raiche
Telephone: 800-243-8624
Email: SRaiche@KCSouthern.com

AGENT: Headwaters, Inc
P.O. Box 2836
Ridgeland, Mississippi 39158
POC: J. Clay Cromwell
Telephone: 601-634-0097
Email: clay@headwaters-inc.com

LOCATION: The project site is located along the Sabine Neches Canal, at DD 7 Levee Road, in Port Arthur, Jefferson County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Port Arthur North, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.942325° North; Longitude: 093.876129° West

PROJECT DESCRIPTION: The applicant proposes to discharge 45,000 cubic yards of fill material into 13.99 acres of palustrine forested (PFO) wetlands and 0.07 acres of palustrine emergent (PEM) wetlands during the construction of a loop track and tank terminal facility at the Port Arthur Terminal. The terminal facility will allow for the storage and transloading of various types of crude oil, bitumen, distillates, residual oils, renewable fuels, natural gas liquids, and/or related petroleum products.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by designing the loop track and tank terminal facility footprint to avoid impacting as many wetlands and water bodies as possible, while still meeting the purpose and need of the project (See attached Alternatives Analysis).

MITIGATION: The applicant proposes to mitigate for the proposed impacts by completion of a permittee responsible mitigation (PRM) plan that re-establish forested wetlands within same watershed (Sabine Lake Hydrologic Unit Code [HUC] 12040201) as the project or the purchase of credits as they may become available within the watershed or service area of the project. Resource Environmental Solutions, LLC (RES) would serve as the Mitigation Agent and will prepare and submit a comprehensive PRM plan (See attached Summary of the PRM and iHGM calculations). The Riverine Forested HGM Interim Model was utilized to estimate that 10.2627 Physical, 9.4900 Biological, and 9.8292 Chemical functional credit units (FCUs) would be provided by forested wetland re-establishment (upland to wetland) within the PRM site.

CURRENT SITE CONDITIONS: The project site consists of an undeveloped area along the Sabine Neches Canal bordered by commercial and industrial development. Levees are also present along the eastern (Sabine Neches Canal) and northern boundaries of the project area. Current land-use within the project site is primarily for cattle grazing, but evidence of past borrow and spoil placement are present in the majority of the property. The project site is also characterized by a mix of PFO and PEM wetlands and open water features, as well as, the DD-7 lateral A-1 drainage feature for City of Port Arthur Drainage District 7. The PFO wetlands are dominated by Chinese tallow tree (*Triadica sebiferum*), sugar hackberry (*Celtis laevigata*), and American elm (*Ulmus americana*), while the PEM wetlands consist of *Carex spp.*, *Juncus spp.*, dallisgrass (*Paspalum dilatatum*), *Ranunculus spp.*, beaksedge (*Rynchospora corniculata*), curly dock (*Rumex crispus*), and bug blue stem (*Andropogon gerardii*).

This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. The wetland delineation has been completed and was verified by the Corps on 10 October 2019. The applicant's plans are enclosed in 14 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.

This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with Corps 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 proposed project is located in an area unlikely to contain historic properties. No archeological survey is required.

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 **25 November 2019**. 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-2013-00399**, and should be submitted to:

North Unit
Regulatory Division, CESWG-RD-E
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3869 Phone
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swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS