



Public Notice

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

Galveston District

Permit Application No: SWG-1992-02709

Date Issued: 12 September 2023

Comments

Due: 13 October 2023

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.

APPLICANT: Cedar Marine Terminals (subsidiary of Vertex Energy)
200 Atlantic Pipe Line Road
Baytown, Texas 77523-9561
POC: Neil Ligertwood
Telephone: 832-392-8129
Email: neilligertwood@vertexenergy.com

LOCATION: The project site is located in Cedar Bayou, at 200 Atlantic Pipeline Road, in Baytown, Chambers County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Morgan's Point, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.673146° North; **Longitude:** 094.929803° West

PROJECT DESCRIPTION: The applicant proposes to modify an existing permit to perform mechanical maintenance dredging within a 440-foot-long by 134-foot-wide (1.35 acre) area of Cedar Bayou to a total depth of 13.5 feet below mean lower low water for a total of 15,142 cubic yards of material proposed to be dredged. The dredged material for this upcoming maintenance dredging cycle is proposed to be placed within Chambers County Navigation District's existing dredged material placement area (DMPA) #6. This application also requests to add the Adloy DMPA as an optional authorized DMPA for this project for future maintenance dredging.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by designing the project to limit the area proposed to be dredged to the minimum needed to insure safe ingress and egress of vessels at the existing terminal, and avoiding all discharges of dredged or fill material into any special aquatic site.

MITIGATION: No loss of waters of the United States will occur as a result of this project. No special aquatic site is proposed to incur a decrease of function and value as a result of this project. Therefore, no compensatory mitigation is proposed for this project.

CURRENT SITE CONDITIONS: The project site is currently a maintained barge dock located adjacent to Cedar Bayou and Fisher Marsh. This project site is located just south of an oyster reef mitigation site. The mitigation is protected from barges by pilings.

BACKGROUND: Department of the Army (DA) Permit 14297 was issued to U.S. Steel Corporation on 4 June 1980 and authorized the construction of a bulkhead and placement of backfill. This authorization expired 31 December 1985. U.S. Steel Corporation merged into USX Corporation on 24 June 1986. DA Permit 14297 was amended on 12 March 1993. DA Permit Amendment 14297(01) was issued to USX Realty Development (a division of USX Corporation), and authorized modification of the bulkhead configuration, placement of backfill behind the bulkhead and pilings, and the installation or repair of six mooring dolphins. This authorization expired 31 December 1996. DA Permit Amendment 14297(01) was transferred to Cedar Point Terminal, Inc. on 15 March 1994. DA Permit Amendment 14297(01) was transferred to TRW Trading, Inc. on 11 May 1999. This permit transfer was also assigned action ID Number 19202709. DA Permit Amendment 14297(02) was issued on 12 May 1999 and authorized the addition of a dolphin cluster at the existing facility. This authorization expired 31 December 2002. Department of the Army Permit 14297(03) was issued on 8 September 1999 and authorized maintenance dredging at the existing dock and the utilization of Chambers County Navigation District's Dredge Material Placement Area No. 6. This authorization expired 31 December 2009. DA Permit Amendment 14297(03) was transferred to Cedar Marine Terminals on 22 February 2007. DA Nationwide Permit Verification SWG-1992-02709 (Formerly 14297) was issued 26 July 2011 and verified authorization of maintenance dredging until the NWP was modified, reissued or revoked. DA Nationwide Permit Verification SWG-1992-02709 was issued 19 December 2022, to Vertex Energy, Inc. (parent company of Cedar Marine Terminals) and verified authorization of mechanical maintenance dredging of total of 5,055 cubic yards of material from a 0.48 acre of Cedar Bayou to a depth of 12.5 feet below mean lower low water (MLLW) with 1 foot of over dredge. This permit authorized the dredged material to be placed in Chambers County Navigation Districts DMPA No. 6, until the NWP was modified, reissued or revoked.

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 6 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.

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.

No water quality certification is required.

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, increasing the volume of material during maintenance dredging and adding the use of an existing placement area, is of such limited nature and scope that it has no potential to effect historic properties, even if present within the project area.

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 **13 October 2023**. 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-1992-02709**, and should be submitted to:

North Evaluation 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
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS