Public Notice

U.S. Army Corps Of Engineers

Galveston District

Permit Application No: SWG-2021-00152

Date Issued: 28 September 2021

Comments Due: 28 October 2021

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 404 of the Clean Water Act (CWA).

APPLICANT:
Iron Horse Terminals, LLC
P.O. Box 7406
Beaumont, Texas 77726

AGENT:
Ecosystem Planning Restoration, LLC
17575 North Eldridge, Building C
Tomball, Texas 77377
POC: Sonny Kaiser
Telephone: 832-399-3400
Email: skaiser@eprusa.net

PROJECT LOCATION: The project site is located in Taylor Bayou, next to Big Hill Reservoir at the GT OmniPort Facility, near Port Arthur, in Jefferson County, Texas. The project can be located on the U.S.G.S. quadrangle maps titled: PORT ARTHUR SOUTH & BIG HILL BAYOU, Texas.

PROJECT SITE LATITUDE & LONGITUDE (NAD 83):
Latitude: 29.872372 North; **Longitude:** 93.999299 West

PROJECT DESCRIPTION: The applicant proposes to discharge approximately 370,488 cubic yards (CY) of sand, gravel, and/or other structural fill material into 215.61 acres of palustrine wetlands and 14.03 acres of other waters such as ditches, streams, and ponds for the expansion of an existing vacant rail facility that consists of rail construction, renewable fuels plant, barge dock, infrastructure, and wastewater treatment plant.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts within the footprint of the proposed project by demonstrating efforts of implementing all practicable measures for expanding a currently existing facility within a previously disturbed and vacant industrial site ultimately avoiding and minimizing impacts to approximately 10.25 acres of wetlands and 2.05 acres of waters.

MITIGATION SITE LOCATION: The mitigation site is located north and adjacent to the Willow Slough Marsh, approximately 9 miles southwest from the proposed impact project site, approximately 5 miles southeast of the intersection of LaBelle Road and State Highway (SH) 73 west of Port Arthur, in Jefferson County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: ALLIGATOR HOLE MARSH, Texas.

MITIGATION SITE LATITUDE & LONGITUDE (NAD 83):
Latitude: 29.778248 North; **Longitude:** 94.134503 West

MITIGATION: The applicant will compensate for the unavoidable impacts to 215.61 acres of wetlands by conducting enhancement and creation at the Labelle II Permittee Responsible Project (PRM) Project Site. The goals of the PRM Plan are to maintain the aquatic ecosystem functions and hydrologic conditions within Taylor Bayou watershed. Compensatory mitigation would replace the chemical, physical, and biological functions of wetlands and other aquatic resources that are lost or degraded because of the proposed project. A total of 215.61 acres of wetlands will require mitigation.

CURRENT SITE CONDITIONS: The proposed project action area is dominated by historic spoil disposal cells, pastures, and a maintained flood protection levee. Historical spoil disposal cells are mostly poorly drained forested habitat. The majority of the pasture has little relief and is poorly drained. The maintained flood protection levee is well drained and dominated by herbaceous communities. Approximately 186.42 acres of the 250-acre tract possessed the three criteria for wetlands (hydrophytic vegetation, wetland hydrology and hydric soils) and were mapped within the project area. Twelve waters possessing an OHWM were observed within the project area totaling approximately 15.86 acres. The waters observed within the project area consisted of Taylor Bayou, and manmade canals and ditches.

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. Most herbaceous uplands are located on fill areas including flood protection levees and historic spoil disposal containment levees that have been maintained as primitive roads. There is an absence of primary and sufficient (two) secondary wetland hydrology indicators within upland areas. In wetland areas, a minimum of one primary wetland hydrology indicator was present and/or the presence of sufficient (two) secondary wetland hydrology indicators. Hydrology indicators observed within wetland areas

included surface water (A1), high water table (A2), saturation (A3), oxidized rhizospheres along living roots (C3), crayfish burrows (C8) and the FAC neutral test (D5). Hydric soils observed in wetland areas within the project area included depleted matrix (F3) and loamy gleyed matrix (F2). There are three soils mapped by NRCS within the project area: Franeau clay, 0 to 1 percent slopes, occasionally flooded (FraA); Harris clay, 0 to 1 percent, frequently flooded, tidal (HarA); and Urban land (URLX).

The mitigation site comprises approximately 220 acres of mixed-use land historically used for rice cultivation and as an industrial facility, 225 acres being PEM wetlands. The Willow Slough Marsh forms the entire southern boundary of the mitigation site, which is the largest freshwater marsh remaining on the Texas coast and is part of the 58,861-acre McFaddin National Wildlife Refuge. Historical resources available such as historic aerials and land use data indicate the mitigation site hydrologically manipulated through the excavation of ditches and canals to control the movement and storage capacity of water presumably to facilitate flooding and drainage techniques associated with rice cultivation. It is believed that the surrounding landscape was likely altered over 100 years ago, when the rice production industry gained popularity in the area in the late 1800s. Rice production onsite most likely ended prior to the 1960's. Therefore, while drainage features still exist, most have become overgrown with vegetation. This condition has led to much of the mitigation site being frequently saturated/inundated with water making much of the southern portion accessible only by boat. Surface waters identified onsite are determined to be ephemeral and intermittent ditches.

The mitigation site lacks the vegetative diversity of the wet coastal prairies historically found in this region due to many years of human disturbance and the invasion of both native and non-native woody vegetation species. Two main vegetative communities are identified to exist onsite: palustrine emergent (PEM) wetland, and palustrine scrub-shrub (PSS) wetland. In addition, there are very small areas of herbaceous uplands along historic roads and spoil piles. PEM vegetation on the Site is characterized by species typical of wet coastal prairies, including square-stem spikerush (*Eleocharis quadrangulata*), salt meadow cordgrass (*Spartina patens*) marsh millet (*Zizaniopsis miliacea*), maiden cane (*Panicum hemitomon*), common spikerush (*Eleocharis palustris*), and taper-tip flat sedge (*Cyperus accuminatus*). In addition, there is a large component of large-flower primrose willow (*Ludwigia grandiflora*), which is non-native to Texas but is not considered a noxious weed by the Texas Department of Agriculture. Noxious and invasive species identified within the mitigation site include Chinese tallow tree (*Triadica sebifera*), Macartney rose (*Rosa bracteata*), Alligator weed (*Althernanthera philoxeroides*), water hyacinth (*Eichhornia crassipes*), and common salvinia (*Salvinia minima*). The PSS wetlands are typified by a canopy of groundsel tree (*Baccharis halimifolia*) and Chinese tallow tree, with annual marsh-elder (*Iva annua*), rice cutgrass (*Leersia oryzoides*), and smooth rush (Juncus effusus) in the understory. Also included in the PSS vegetative community are larger concentrations of alligator weed. Upland areas are limited to small, linear areas characterized by herbaceous vegetation such as Bermuda grass (*Cynodon dactylon*), western ragweed (*Ambrosia psilostachya*), Cuban jute (*Sida rhombifolia*), and annual marsh-elder (*Iva annua*).

The mitigation area consists of quaternary-age deltaic sands, silts, and clays, comprising gently sloping, mostly flat, coastal plains. Drainage in the area is typically poor, leading to saturated soils most of the year. Soils identified onsite are comprised of: Franeau clay, 0-1% slopes, occasionally flooded; Meaton-Levac complex, 0 to 1 percent slopes, rarely flooded; Meaton-Spindletop complex, 0 to 1 percent slopes, rarely flooded; and Zummo muck, 0 to 1% slopes, frequently flooded and ponded.

NOTES: This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. As of the date of this public notice, the Corps has received but not yet verified the wetland delineation. The applicant's plans are enclosed in 21 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 application will trigger review under Section 401 of the Clean Water Act (CWA) and will be reviewed pursuant to 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 initiated the Section 401 CWA process. If you have comments or questions on this proposed project's State water quality certification process, you may 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 is likely to contain terrestrial cultural resources that could be eligible for inclusion in the National Register of Historic Places. The applicant will need to conduct an investigation for historic properties.

The Galveston District Tribal Liaison has provided project information and a request to participate in consultation to the Alabama-Coushatta Tribe of TX, the Alabama-Quassarte Tribal Town, the Apache Tribe of OK, the Coushatta Tribe of LA, the Kiowa Indian Tribe of OK, the Northern Arapaho Tribe, the Tonkawa Tribe of OK, the Wichita and Affiliated Tribes, and the Jena Band of the Choctaw Indians."

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 **28 October 2021**. 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:

Central Unit
Regulatory Division, CESWG-RDE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3869 Phone
409-766-3931 Fax
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS