



Public Notice

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

Galveston District

Permit Application No: SWG-2023-00560

Date Issued: 5 September 2024

Comments

Due: 7 October 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 404 of the Clean Water Act (CWA).

APPLICANT: Pine Bayou Holdings LLC
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LOCATION: The proposed 287.86-acre project is located in Hardin County, Texas within the Pine Island Bayou watershed (within Neches River basin) and located in the South-Central Plains Level III Ecoregion. The project is located in the U.S.G.S. 7.5' quadrangle map entitled: Thorson Gully, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 30.228802 North; **Longitude:** -94.564978 West

PROJECT DESCRIPTION: The applicant proposes the establishment and operation of a 214-acre mitigation bank named the Pine Island Mitigation Bank (PIMB). The Sponsor is proposing to re-establish stable stream characteristics (pattern, profile, and dimension) utilizing Natural Channel Design to 8,721 linear feet and the enhancement of 14,565 linear feet of streams. Enhancement of physical functions to the stream channels would be achieved through streambank plantings or other stabilization measures in any areas that exhibit high bank erosion or channel instability. The Sponsor proposes to provide stream credits to Pine Island Bayou watershed (HUC 12020007), Village watershed (HUC 12020006) and the Lower Neches watershed (HUC1202003) to serve as compensatory mitigation for unavoidable, permitted impacts to waters of the United States.

AVOIDANCE AND MINIMIZATION: The specific objectives of the project are to restore the physical, chemical, and biological characteristics of the site.

MITIGATION: The applicant proposes to construct a compensatory mitigation bank.

CURRENT SITE CONDITIONS: The proposed PIMB is in Hardin County. Hardin County has a warm and relatively humid, subtropical climate characterized by relatively low rainfall. The growing season in the county is longer than most, averaging over 200 days. The Natural Resource Conservation Service (NRCS) indicates that lands associated with the Bank are located within Land Resource Region T (Atlantic and Gulf Coast Lowland Forest and Crop Region), and Major Land Resource Area 150A (Gulf Coast Prairies). The Bank boundary contains Pine Island Bayou, a perennial stream, along with its' adjacent tributaries and riverine forests (Prospectus, Attachment A, Figure 3). Streams within the proposed PIMB are hydrologically sustained by a combination of precipitation, sheet runoff, microrelief ponding, and seasonally perched water tables.

The current site conditions at the proposed Bank site can best be described as forested timberland (planted pine plantations and mixed hardwood/pine) with impaired streams and riparian buffer communities (both wetland and upland). Four tributaries (Thorson Gully, Unnamed Tributary 1, Unnamed Tributary 2, and Pine Island Bayou) are located within the Bank. Thorson Gully flows southeast and converges with Pine Island Bayou within the Bank site. Unnamed Tributary 1 flows northeast and converges with Pine Island Bayou within the Bank site. Unnamed Tributary 2 is depicted as a relic channel of Pine Island Bayou and flows southeast. Pine Island Bayou then flows southeast, eventually merging with the Neches River roughly 30 miles southeast of the Bank.

Historic timber management activities (e.g. pine monoculture, timber harvesting, debris removal, etc.) have resulted in the degradation of Thorson Gully and Unnamed Tributary 1. These stream channel impacts have increased erosion, deeply incised channels, increased sedimentation loads, and reduced water quality. Pine Island Bayou appears to be relatively high functioning, even with historic management activities, resulting in less degradation to the stream channel than its adjacent tributaries. Riparian buffers along the stream channels within the Bank have been impacted by historic management activities, resulting in invasive species encroachment and reduced species diversity.

The current habitat within the proposed Bank boundaries is best described as pine plantations dominated by loblolly pine (*Pinus taeda*). Several portions of the Bank experience significant flooding/ponding due to outbanking from Pine Island Bayou and tributaries, resulting in significant die-off of pines, and proliferation of early successional species such as Chinese tallow (*Triadica sebifera*) and green ash (*Fraxinus pennsylvanica*). Scattered throughout the bank site are various cleared areas used for trails/access, wildlife food plots, debris removal, etc.

This public notice is being issued based on information furnished by the applicant. As of the date of this public notice, the Corps has verified the wetland delineation and functional assessment. The applicant's plans are enclosed in 683 sheets.

PRELIMINARY REVIEW OF SELECTED FACTORS:

EIS DETERMINATION - 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.

COASTAL ZONE MANAGEMENT – The project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management Program.

WATER QUALITY – N/A, a WQC is not required for MBI approval.

Essential Fish Habitat – The Project is not located in Essential Fish Habitat (EFH). Therefore, Corps preliminary determination indicates the proposed activity would not adversely affect EFH. Therefore, formal consultation under Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) is not required at this time.

NATIONAL REGISTER OF HISTORIC PLACES – The staff archaeologist has not reviewed the latest published version of the National Register of Historic Places (NRHP), lists of properties determined eligible, and other sources of information.

A desktop evaluation for the proposed Bank footprint was conducted in February 2024 by Stone Point Services, provided in Attachment C in the Prospectus. As part of this desktop evaluation, the Texas Archeological Sites Atlas, and the NRHP database were reviewed to identify previous surveys and recorded archeological sites within 1.6 kilometers (1-mile) of the Bank footprint. The purpose of this investigation is to identify the likelihood of encountering cultural resources within the Bank boundaries.

No archeological surveys and no archaeological sites have been previously identified within one mile of the Bank. No NRHP listed per eligible historic resources are located within one mile of the Bank. Due to the presence of potable water and aquatic resources within the Bank boundary, a high potential exists for prehistoric resources within the proposed Pine Island Mitigation Bank project area. A low potential for historic archeological sites due to the lack of historic structures directly in the Bank boundary.

A full field survey will be conducted and submitted with the draft MBI in accordance with requirements specified in the 2008 CMLAR, Final Rule, as well as the National Historic Preservation Act.

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.

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 **7 October 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-2023-00560**, and should be submitted to:

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