



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2001-02279
	Date Issued: _____	25 April 2023
	Comments _____	
Galveston District	Due: _____	25 May 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 and Section 404 of the Clean Water Act (CWA).

APPLICANT: Sea Oats Investments II, LLC
1023 State Highway 361, Suite C #218
Port Aransas, Texas 78373-5052
POC: Mr. Michael Smith
Telephone: 770-335-5572
Email: michael@marinerholdings.net

AGENT: Perennial Environmental Services, LLC
13100 Northwest Freeway, Suite 150
Houston, Texas 77040-6343
POC: Mr. Josh Melnar
Telephone: 713-360-0603
Email: jmelnar@perennialenv.com

LOCATION: The project site is located adjacent to Corpus Christi Bay and State Highway 361 on Mustang Island, in Nueces County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Port Aransas, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 27.78049° North; **Longitude:** 97.10878° West

PROJECT DESCRIPTION: The applicant is requesting an extension of time to continue work on expired Corps Permit SWG-2001-02279 that authorized the construction of the Newport Marina Development, a resort complex for residential housing, retail establishments, channels and a marina to be sited within 30 acres of an existing 37-acre tidal basin and a proposed 61.47 acres (total) of excavated canals and 19.04 acres of created/shallow water habitat on a 435-acre tract of land located adjacent to Corpus Christi Bay and State Highway 361 on Mustang Island, Nueces County, Texas. To date, 46.26 acres of the proposed 91.47 acres of the excavated canal system and the portion of the tidal basin within the review area have been completed, with an estimated 45.21 acres remaining. In addition, the conversion of 19.04 acres of existing wetlands and sand flats into created shallow water habitat, installation of shoreline protection measures (bulkheading), and marina appurtenances remain to be completed.

AVOIDANCE AND MINIMIZATION: This action is for an extension of time for a previously authorized permit. No additional work is proposed to be done under this authorization.

MITIGATION: As compensatory mitigation for impacts to jurisdictional areas, the property owner established a deed restriction on 7 April 2008 to protect in perpetuity three preservation areas: Conservation Area A (28.26 acres), Conservation Area B (71.95 acres) and Conservation area C (2.8 acres of preserved habitat and 6.31 acres of created habitat).

CURRENT SITE CONDITIONS: The project site conditions consist primarily of relict pasture that contains uplands within the current project work area. Outside of the project boundary, these areas slope lower into saltwater coastal flat wetlands that include expansive mudflats, intermixed with intertidal emergent wetlands dominated by cordgrass (*Spartina alterniflora*) and black mangrove (*Avicennia germinans*) in the lower elevations.

DA Permit 23357 was issued on 12 December 2007 and authorized construction of a resort complex for residential housing, retail establishments, channels, and a marina to be sited within an existing 37-acre tidal basin. An amendment renumbered as SWG-2001-02279 was issued on 22 May 2008 and transferred the original permit to PA Waterfront, L.P. and reduced the project area from the original 835 acres to 435 acres. A second amendment was issued on 18 November 2010 and authorized additional changes to the permitted layout for the marina. These included the additional excavation of 10.77 acres of upland, while not excavating 8.76 acres of upland previously permitted to be excavated.

The amendment also authorized construction of a 75-foot by 36-foot boat ramp and floating boat slips for 68 vessels and extended the permit's expiration date to 31 December 2015. A third amendment, issued on 29 June 2016, authorized an extension of time to 31 December 2021.

Construction of the facility is still ongoing and was not completed within the previously authorized construction time window. A jurisdictional determination completed 21 November 2022 indicates that no new wetlands have developed within the unexcavated portion of the previously permitted canal network since the previous amendment issued in 2016. The applicant is making no changes to the design of the project and would continue to construct the project according to the previously permitted plans. No other changes to the original permit have been requested.

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 wetland delineation has been completed and was verified by the Corps on 21 November 2022. The applicant's previously approved plans are enclosed in 20 sheets, Attachment A (dissolved oxygen monitoring plan) in 2 sheets, and Attachment B (mitigation construction, monitoring and success criteria) in 1 sheet.

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 will trigger review under Section 401 of the Clean Water Act (CWA). The TCEQ will review 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. The applicant has not yet reached out to the TCEQ to initiate the Section 401 CWA process. 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>.

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, an extension of time to construct a previously authorized project, 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: Threatened and/or endangered species or their critical habitat may be affected by the proposed work. Consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service will be initiated to assess the effect on endangered species.

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 May 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-2001-02279**, and should be submitted to:

Corpus Christi Field Office
Regulatory Division, CESWG-RDR
U.S. Army Corps of Engineers
Galveston District
5151 Flynn Parkway, Suite 306
Corpus Christi, Texas 78411-4318
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS