



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-2003-00921
	Date Issued: _____	1 April 2021
	Comments _____	
<b>Galveston District</b>	Due: _____	3 May 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 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

**APPLICANT:** Laguna Harbor, LLC  
P.O. Box 2299  
Friendswood, Texas 77549  
POC: Brad Ballard  
Telephone: 281-639-0451  
Email: brad@newcoastproperties.com

**AGENT:** Shelmark Engineering, LLC  
921 FM 517 Road, East  
Dickinson, Texas 77539  
POC: Marcus J. Michna  
Telephone: 409-935-9986  
Email: mjnichma@shelmark.net

**LOCATION:** The project site is located adjacent to the Gulf Intracoastal Waterway (GIWW), at approximately 5 miles north of the City of Galveston, within Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Port Bolivar, Texas.

**LATITUDE & LONGITUDE (NAD 83):**

**Latitude:** 29.386455° North;      **Longitude:** 094.765791° West

**PROJECT HISTORY:** On 19 March 2004 a Department of Army Permit, SWG-2003-00921 (formerly 23065) was issued to Laguna Resources LTD authorizing impacts to 29.64 acres of wetlands and GIWW during the construction of a canal subdivision, access roads, and an offsite wastewater treatment plant. To compensate for unavoidable impacts, two onsite wetlands (4.6 and 0.70 acres) and 3.88 acres of tidal beach were to be avoided and preserved. Additionally, 1.81 acres of onsite wetlands (within the 4.6-acre area) were to be enhanced, 2.45 acres of smooth cordgrass marsh to be created and a 368-acre tract of land located on the Bolivar Peninsula and on Goat Island to be preserved and deeded to the Houston Audubon Society. This permit expired on 31 December 2009.

On 22 April 2019 the permit was transferred from Laguna Resources Limited LTD to Laguna Harbor, LLC.

On 16 January 2020 the applicant applied to modify the previous authorized permit. On 24 March 2020 a public notice was issued. On 15 June 2020 the application was withdrawn for lack of applicant response to public notice comments. On 15 January 2021 the applicant submitted a response to the previous public notice comments along with a revised permit application that incorporated requested changes.

**REVISED PROJECT DESCRIPTION:** The applicant proposes to amend a previously authorized project to construct two 150-foot breakwaters along the western entrance of the project site and two 50- to 75-foot breakwaters along the eastern entrance to the project site. The proposed construction activities include the installation of steel sheet pilings/walers in open water with concrete riprap for toe protections. Any gaps between the land/water interface will be filled with submerged riprap per request from Texas Parks and Wildlife (TPWD). The applicant also proposes to plant *Spartina alterniflora* behind the proposed breakwaters (previously planned to place 0.36 acres of fill on the tidal flats and open water areas adjacent to the west entrance canal and adjacent to the GIWW which has now been removed from the project scope).

After construction of the breakwaters, the applicant proposes to mechanically dredge via land and barge (previously hydraulic and mechanical) the marina area to -10 feet Mean Low Tide (MLT) and remove approximately 29,667 (previously 50,000) cubic yards of material. The applicant proposes to place this material on adjacent upland sites surrounded by earthen berms and reinforced fabric silt fences with a 20-foot vegetation buffer until the dredge dries and can be spread within the placement area (previously planned to dispose onsite and offsite disposal areas). The material will be seeded once dry.

The applicant also proposes to install a new, 136-slip, transient marina facility which will include a community building with a restroom, laundry, shower facilities, walkways and finger piers, fuel dock, onsite security, dockside utilities, and protected water basin for transient boaters. This project will establish a waypoint destination along the GIWW for the purpose of increasing transient boat traffic to the Bolivar Peninsula.

The applicant will also relocate oysters from the existing rock riprap area where the breakwater extensions are to be constructed and has applied for and received a TPWD Aquatic Introduction Permit (AIP).

The changes made to the project scope were in response to comments from a prior public notice issued 24 March 2020 and are designed to reduce environmental impacts. The applicant's plans are enclosed in 33 sheets.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by employing best management practices (BMP's) whenever maintenance dredging activities commence. Additionally, the applicant has proposed to dispose of dredged material in upland areas.

**MITIGATION:** The applicant does not propose the loss of any special aquatic sites associated with the request to modify the previously authorized permit and therefore, has not proposed any compensatory mitigation.

**CURRENT SITE CONDITIONS:** The project site is located within a partially built canal subdivision on a 69-acre tract of land located within Port Bolivar, Galveston County, Texas. The individual lots within the project site receive regularly mowing, allowing mainly herbaceous vegetation to grow. The subject site is adjacent to the GIWW.

**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 33 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 will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Commission of Environmental Quality (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 contacted TCEQ and initiated the Section 401 CWA process and submitted a pre-filing meeting request, on 19 March 2021. If you have comments or questions on this proposed project's State water quality certification process, please contact [401certs@tceq.texas.gov](mailto: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 permit area has been so extensively modified that little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area.

Additionally, the applicant has received a clearance letter from the Texas Historical Commission.

**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 **3 May 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-2003-00921**, 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  
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DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS