



Public Notice

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| U.S. Army Corps Of Engineers | Permit Application No: _____ | SWG-2015-00175 |
| | Date Issued: _____ | 14 April 2022 |
| | Comments _____ | |
| Galveston District | Due: _____ | 16 May 2022 |

U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT

PURPOSE OF PUBLIC NOTICE: To inform you of a proposed revision of the applicant's compensatory mitigation plan, and 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.

APPLICANT: TEXAS LNG BROWNSVILLE, LLC
2800 North Loop West, Suite 910
Houston, TX 77092-8838
POC: Pawandeep Singh
Telephone: 443-771-5990
Email: psingh@txlng.com

AGENT: Ecosystem Investment Partners, LLC
5550 Newbury St, Suite B
Baltimore, Maryland 21209-3673
POC: Stephanie Freed
Telephone: 443-921-9441
Email: stephanie@ecosystempartners.com

LOCATION: The proposed compensatory mitigation site is located adjacent to the Lower Laguna Madre, approximately 7 miles northwest of Port Isabel, near the eastern terminus of Schafer Rd in Los Fresnos, Cameron County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: La Coma, Texas.

LATITUDE & LONGITUDE (NAD 83):
Latitude: 26.147711 North; Longitude: -97.303287 West

COMPENSATORY MITIGATION PROJECT DESCRIPTION: Texas LNG Brownsville, LLC, proposes to mitigate unavoidable wetland impacts resulting from the proposed construction of a liquified natural gas (LNG) terminal facility ("Terminal") at the Port of

Brownsville. Construction of the LNG Terminal would result in permanent impacts to 41.8 acres of tidal mudflats and 1.1 acres of palustrine emergent marsh (PEM). Construction of the Terminal is also anticipated to result in temporary impacts to an additional 1.8 acres of tidal mudflats and 0.5-acre of PEM in association with a temporary construction basin and equipment/material laydown areas. All permanent impacts associated with the Terminal will be mitigated under this attached Laguna Madre Permittee Responsible Mitigation (LMPRM), all temporary impacts will be addressed via a separate Habitat Restoration Plan (HRP). No permanent impacts are proposed by the construction of the lateral pipeline (LP) portion of the proposed project, and as with the Terminal all temporary impacts associated with the LP (61.5 acres) will be addressed in a separate HRP.

Due to limitations in available acreage at the Terminal, on-site compensatory mitigation measures were deemed insufficient to meet the compensatory mitigation needs; therefore, an offsite in-kind, and a small amount of offsite out-of-kind, permittee responsible mitigation approach was determined to be the most environmentally preferable. Since the LMPRM is located within the same river basin (the Nueces-Rio Grande Coastal Basin) as the Terminal site and is characterized by similar geologic influences and ecological composition, the site was selected as the most practicable alternative to meet the requirements of 33 CFR § 332. As the mitigation provider, EIP IV Credit Co., LLC (EIP) would construct, monitor, and manage the established wetland preserve for a period of five years in the manner presented in the attached draft compensatory mitigation plan, as well as place a permanent conservation easement over the LMPRM and act as Long-Term Steward.

Under the proposed activities associated with constructing the LMPRM, an approximately 117-acre tidal mudflat would be established within the footprint of a preexisting commercial aquaculture farm impoundment complex to offset permanent losses of tidal mudflats and PEM at the Terminal. Additional buffer acreage is also being included to better protect the proposed mitigation site long term. Cumulatively, 154.74 acres will be included in this mitigation plan to offset a total of 42.9 acres of PEM impacts at the Terminal. The entirety of the 154.74 acres will be placed under a permanent conservation servitude. Since existing resources within the LMPRM have been altered by man-made structures (i.e., drainage canals, berms, aquaculture stock ponds, piping, weirs, and roadways), existing habitats at the LMRPM are considered to be degraded. Thus, implementation of the LMPRM would not only offset losses in aquatic resources at the Terminal, but would also provide topographical variations and tidal connectivity necessary to facilitate restoration of the highly modified coastal habitat within the LMPRM, and ultimately, ensure a substantial increase in ecological productivity and biodiversity at the LMPRM.

CURRENT SITE CONDITIONS: The compensatory mitigation site is comprised of an approximately 154.74-acre subset of a larger 506-acre tract located near the eastern terminus of Schafer Rd in Los Fresnos, Cameron County, Texas. In general, conditions at the LMPRM consist of previously disturbed coastal lands associated with the former occupancy and use of the site as a commercial aquaculture farm. The entirety of the LMPRM site is located within the 100-year floodplain associated with the Lower Laguna Madre (LLM). With exception of the Port Isabel-Cameron County Airport and the Port

Isabel Detention Center located to the west-northwest of the LMPRM, the general site setting is characterized by rural, coastal lands. The Laguna Atascosa Wildlife Refuge (LANWR) and other protected tracts are located adjacent to the northern and southern boundaries of the site, while the LLM bay abuts the LMPRM's eastern boundary. The western adjoining property consists of aquaculture stock ponds that have been incorporated into the LANWR system to provide foraging areas for avifaunal species during periods of inundation.

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 compensatory mitigation plan is enclosed in 138 sheets.

An Environmental Impact Statement (EIS) was completed for the proposed Texas LNG project. The Federal Energy Regulatory Commission (FERC) was the Lead Federal Agency for the preparation of the EIS, and the Corps was a cooperating agency. The FERC's Final EIS for the Texas LNG Project was issued on March 15, 2019. The FERC docket number for the project is CP16-116-000. The Final EIS is available on their website at: <https://www.ferc.gov/final-environmental-impact-statement-texas-lng-project>

Our evaluation will also follow the guidelines published by the U.S. Environmental Protection Agency pursuant to Section 404 (b)(1) of the Clean Water Act (CWA).

OTHER AGENCY AUTHORIZATIONS: The applicant has stated that the compensatory mitigation project is consistent with the Texas Coastal Management Program (CMP) goals and policies and will be conducted in a manner consistent with said Program. The Texas Railroad Commission will determine if the project is consistent with the goals and policies of the CMP and will review this application under Section 401 of the CWA to determine if the work would comply with State water quality standards.

The Texas Railroad Commission will review this application under Section 401 of the CWA to determine if the work would comply with State water quality standards.

This public notice will serve as the notification to the Environmental Protection Agency (EPA) Regional Administrator pursuant to Section 401(a)(2). The Regional Administrator is responsible for performing a review of the application/certification to determine if there is reason to believe that a discharge may affect the quality of the waters of any State or States other than the State in which the discharge originates. If EPA determines that the proposed discharge may affect the quality of the waters of any state other than the state in which the discharge will originate, it will so notify such other state, the district engineer, and the applicant. If such notice or a request for supplemental information is not received within 30 days of issuance of this public notice, the district engineer will assume EPA has made a negative determination with respect to section 401(a)(2).

NATIONAL REGISTER OF HISTORIC PLACES: The State Historic Preservation Officer has reviewed the proposed project and made the following determinations: no historic properties are present or affected by the project, as proposed. However, if plans change and the loma landform will be impacted with ground-disturbing activities, additional consultation with the agency will be required.

THREATENED AND ENDANGERED SPECIES: Threatened and endangered species or their critical habitat may be affected by the proposed compensatory mitigation plan. Consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service will be initiated to assess the effect on these 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 compensatory mitigation plan 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 of Engineers, 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 of Engineers 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 the proposed compensatory mitigation plan. Any comments received will be considered by the Corps of Engineers 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 Environmental Impact Statement 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 of Engineers 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 **16 May 2022**. 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-2015-00175**, and should be submitted to:

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Regulatory Division, CESWG-RD-R
U.S. Army Corps of Engineers
Galveston District
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS