



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2021-00133
	Date Issued: _____	10 March 2022
	Comments _____	
Galveston District	Due: _____	11 April 2022

U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT

PURPOSE OF PUBLIC NOTICE: To inform you of a **MITIGATION BANK** proposal for work (PROSPECTUS) 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.

APPLICANT: ANAHUAC WETLANDS MITIGATION BANK
East Bay Farms, LLC
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Chevy Chase, MD 20815
Telephone 956-244-6263
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AGENT: THE EARTH PARTNERS
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LOCATION: The proposed bank is located adjacent to the Anahuac National Wildlife Refuge in southern Chambers County. It is west of Elm Bayou approximately 2 miles west of the intersection of Highway 124 and Farm to Market Road 1985, and 12 miles south of the City of Winnie in Chambers County, Texas.

Latitude & Longitude (NAD 83):
Latitude: 29.669556 North; Longitude: -94.407111 West

PROJECT DESCRIPTION: Proposed Mitigation Bank Prospectus. The applicant proposes the establishment and operation of a 168-acre mitigation bank wholly owned by East Bay Farms. The applicant's plan is to re-establish 121 acres of riverine herbaceous wetlands. The bank will also re-establish an additional 47 acres of coastal upland prairie. The project work is being conducted within the East Galveston Bay USGS Hydrologic Unit Code 12040202 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.

WATER RIGHTS ACQUISITION: Need for water rights (WR) will be based on the proposed bank need for surface water use (TX sites) per the CFR and not limited to only projects that are required to obtain WR under state rules. Per the Mitigation Rule, the ultimate Corps determination of site appropriateness may be contingent on the acquisition of water rights at the proposed bank location. Texas water rights application information can be found at

https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr_applications.html#p ermitting. The bank is immediately upstream of where freshwater meets tidal waters at a bank owned by this same entity and under a conservation easement for tidal water backflow. Therefore, this bank does not initially appear to need water rights recognized by the state to assure bank hydrology under the Code of Federal Regulations Mitigation Rule.

CURRENT SITE CONDITIONS: The site has historically been in agriculture for over 75 years. It is surrounded by agriculture land and accessed by a county road to the north. It is inside the 100-year flood zone of Elm Bayou and East Bay Bayou.

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. As a potential prior converted cropland and based on when this proposal was initially received by the Corps, the site baseline may not require a functional assessment verification to be considered complete for this proposal. The applicant's prospectus and associated documents are enclosed in 96 sheets.

A preliminary review of this application indicates that an Environmental Impact Statement (EIS) is not required. Since project and 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 Clean Water Act (CWA).

OTHER AGENCY AUTHORIZATIONS:

The bank Sponsor may need to coordinate their project with the Texas Parks and Wildlife Department (TPWD) Aquatic Resources Permitting and Consultation Program regarding the potential need for a TPWD sand and gravel permit.

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.

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 impacted by past farming activities that there is no potential for historic properties to exist within the permit area. Therefore, the proposed project has no potential to effect historic properties.

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 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 this proposed activity. 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 **11 April 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-2021-00133 Anahuac Mitigation Bank**, and should be submitted via e-mail to: swg_public_notice@usace.army.mil

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DISTRICT ENGINEER
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