



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-2012-00381
	Date Issued: _____	April 27, 2016
	Comments _____	
<b>Galveston District</b>	Due: _____	May 30, 2017

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**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT  
AND  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

**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.

**APPLICANT:** Space Exploration Technologies (SpaceX)  
1030 15th Street NW, Suite 220E  
Washington, DC 20005  
Telephone: 310-363-6253  
POC: Steve Davis, Director of Advanced Projects

**LOCATION:** The project site is located in tidal wetlands along the Gulf of Mexico. The vertical Launch Facility is located at the Terminus of State Highway 4 in Cameron County and the Launch Control Center is located approximately 2 miles west of the Vertical Launch Facility on Eichorn Boulevard in the Boca Chica Community, Cameron County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: MOUTH OF RIO GRANDE, Texas.

**LATITUDE & LONGITUDE (NAD 83):**  
Latitude: 25.996 North; Longitude: -97.154 West

**BACKGROUND:** Department of the Army Permit SWG-2012-00381 was issued on September 9, 2014 authorizing the placement of fill material in 3.3 acres of waters of the United States (U.S.) for the purpose of constructing a commercial space launch facility.

By letter dated 21 October 2015, SpaceX requested a modification to Special Condition 3 of the September 15, 2014 Department of the Army Authorization. Special Condition 3 required SpaceX transfer the compensatory mitigation site to the U.S. Fish and Wildlife Service (USFWS) prior to commencing work in waters of the United States. SpaceX stated that the long transaction time resulting from the complexities of the transfer, which includes title work and multiple surveys, had delayed the initiation of construction. As of the date of the SpaceX letter, SpaceX had been working with the Service for one year to complete this land transfer and had already completed the title examination, tax information and documentation, TellAll report (a top-level environmental report), the land survey and creation of metes and bounds. In order to complete the transfer to the USFWS, a USFWS Level 1 environmental review and final USFWS approval from their solicitor were required. SpaceX requested Special Condition 3 be modified to require the transfer be complete within one year of commencing work in waters of the United States. The administrative modification was authorized on November 4, 2015.

By letter dated 22 April 2015, SpaceX requested to modify the permit to fill an additional 2.25 acres of waters of the United States to create sufficient elevation for flood protection, site security, provide safety and operational efficiency, and stabilize the soil. To compensate for these additional impacts, SpaceX proposed a 19.125 5-acre compensatory mitigation site. A public notice was published on May 7, 2015. The Corps determined that the modification was in the public interest and authorized the modification on May 19, 2016 with additional special conditions requiring the 19.125-acre compensatory mitigation.

By letter dated 29 March 2016, SpaceX requested a modification to Special Conditions 3 and 6 of the 29 January 2016 Department of the Army Authorization. Special Conditions 3 and 6 requires SpaceX transfer the compensatory mitigation sites to the U.S. Fish and Wildlife Service (USFWS) prior to commencing work in waters of the United States. SpaceX has stated that the long transaction time resulting from the complexities of the transfer, which includes title work and multiple surveys, has delayed the initiation of construction. As of the date of the SpaceX letter, SpaceX has been working with the USFWS for 18 months to complete the initial land transfer. After continued effort to transfer the compensatory mitigation site to the USFWS, the USFWS determined that the timeframes required will continue to delay construction. In lieu of transferring the property to the USFWS, SpaceX requested Special Conditions 3 and 6 be modified to require the transfer be made to Texas Parks and Wildlife Department (TPWD) rather than the USFWS. The administrative modification was authorized on April 21, 2016.

The Federal Aviation Administration (FAA) has completed an Environmental Impact Statement (EIS) for the SpaceX Launch Site. The Corps, Galveston District (Corps), is a cooperating agency on the EIS. A Department of the Army Permit is required for the applicant to construct the launch facilities.

**PROJECT DESCRIPTION:** SpaceX has proposed two modifications to their existing permit. The first modification is to the site perimeter and the second is a change in mitigation site for a previously authorized compensatory mitigation plan.

SpaceX has identified a need to improve their safety infrastructure to better manage vehicular and pedestrian traffic at their site. SpaceX has proposed construction of 1,400 linear feet of security fence and approximately 800 linear feet of associated security road adjacent to the fence. The proposed fence crossing has three crossings (two crossings to the north and one crossing to the south) that will cross waters of the U.S. The far northern crossing includes approximately 50 linear feet of wetland, the northern crossing includes about 149 linear feet of wetland and the southern crossing includes 302 feet of wetland for a total of 501 feet of wetland. Based on the size and installation methods for the fence, SpaceX has calculated the fence will result in 0.0002 acres of fill. The security road would only cross the two northern wetlands resulting in 0.82 acres of fill when combined with the fence. SpaceX's plans are enclosed in 7 sheets.

SpaceX has also requested a modification to the approved mitigation plan. The additional impacts from this modification were conditioned to require 19.125 acres of wetlands be preserved. To date, SpaceX has secured and transferred to TPWD three tracts comprising 4.56 acres of the required 19.125. A 14.625 acre site, owned by the Port of Brownsville, has not been secured. SpaceX has proposed in their request a new 14.625-acre tract located 1.2 miles south of the launch facility. SpaceX's amended Compensatory Mitigation Plan is enclosed in 11 sheets.

**AVOIDANCE AND MINIMIZATION:** SpaceX has stated that they have avoided and minimized the environmental impacts by limiting the length and width of the security road as much as possible to avoid impacts to waters of the U.S. Culverts will be placed to maintain hydrologic connections and avoid induced pooling on the northern side of the road.

**MITIGATION:** The applicant proposed to mitigate for the impacts resulting from the fence and road by preserving 24 parcels of land totaling 6.4 acres by transferring them to TPWD. This proposal represents a 7.8:1 preservation ratio. SpaceX's Compensatory Mitigation Plan is enclosed in 5 sheets.

**CURRENT SITE CONDITIONS:** The proposed vertical launch area would be located on privately-owned land in Cameron County, Texas, near the cities of Brownsville and South Padre Island, approximately 3 miles north of the U.S./Mexico border. The proposed vertical launch area and control center area are in a sparsely populated coastal area off the Gulf of Mexico characterized by sand and mud flats. The proposed vertical launch area is directly adjacent to the eastern terminus 1 of State Highway 4 (Boca Chica Boulevard). This road provides the only access to Boca Chica Beach. The State of Texas owns and operates 200 feet in fee title as a right-of-way for State Highway 4 from the end of the road at the coast approximately 6 miles inland, adjacent to the proposed vertical launch area. The proposed control center area consists of a parcel north of Boca Chica Boulevard and west of the proposed vertical launch area. Boca Chica Village, a small residential subdivision with a mostly transient population, is adjacent to the parcel that comprises the proposed control center area. Current infrastructure and utilities in this area are limited.

The land surrounding the proposed vertical launch and control center areas is primarily used for recreational purposes and includes Boca Chica State Park, the Lower Rio Grande Valley NWR (Boca Chica Tract), the South Bay Coastal Preserve, the Las Palomas Wildlife Management Area (Boca Chica Unit), Brazos Island State Park, Isla Blanca Park, and the Palmito Ranch Battlefield National Historic Landmark.

**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 in September 2012.

A preliminary review of this application indicates that an addendum to the Environmental Impact Statement (EIS) is not required for the proposed modifications. 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 Clean Water Act (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.

This project would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with Corps processing of this application, the TCEQ is reviewing 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. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

**NATIONAL REGISTER OF HISTORIC PLACES:** The FAA is the lead agency for compliance with Section 106 of the National Historic Preservation Act. FAA will be coordinating their compliance efforts with the Texas State Historic Preservation Officer and the Corps. FAA must complete their Section 106 coordination prior to commencement of construction activities within the permit area. For a detailed discussion on Section 106 coordination, see Appendix J of Final Environmental Impact Statement for the SpaceX Launch Site.

**THREATENED AND ENDANGERED SPECIES:** Threatened and/or endangered species or their critical habitat may be affected by the proposed work. The FAA is the lead agency for consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service.

**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 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 **May 30, 2017**. 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-2012-00381**, and should be submitted to:

Policy Analysis Branch  
Regulatory Division, CESWG-RD-P  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3869 Phone  
409-766-6301 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS