



# Public Notice

**U.S. Army Corps  
Of Engineers**

**Galveston District**

Permit Application No: SWG-2019-00450

Date Issued: 31 August 2021

Comments

Due: 1 October 2021

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## 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:** David L. Ezzell  
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Heath, Texas 75032  
Telephone: 806.228.3561  
Email: [davidezzell50@gmail.com](mailto:davidezzell50@gmail.com)

**LOCATION:** The project site is located in Gator Point Canal, at 1115 Gator Point, in Crystal Beach, Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Flake, Texas.

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

**Latitude:** 29.451737 North; **Longitude:** -94.671894 West

**PROJECT DESCRIPTION:** This is an After-the-Fact permit application request. The applicant proposes to retain unauthorized discharges of dredged and fill material into jurisdictional waters of the U.S. for the purposes of commercial development and erosion shoreline protection. Such activities included the use of a backhoe to dredge a 0.27-acre area of open tidal canal and discharging 165 cubic yards of dredged material into 0.10-acre of open tidal water, and 1,480 cubic yards of dredged material into 0.97-acre of tidal wetlands, and installation of 400-linear-foot vinyl bulkhead.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by installing a bulkhead to limit erosion of the canal shoreline.

**MITIGATION:** The applicant proposed to mitigate for the proposed impacts by proposing a one-time payment to the Houston Audubon Society (HAS) for the restoration and enhancement a 1.40-acre tract within the Bolivar Flats Shorebird Sanctuary, a globally important bird area. The applicant will provide a one-time payment to the HAS for the physical removal and chemical treatment of invasive species within the entire 1.40-acre tract. Both wetland and upland areas will be treated in order to maximize the effectiveness of the treatment. Eliminating the seed source in upland areas will aid in reducing the potential encroachment of invasive species into the wetland areas. All invasive species will be physically removed where practicable.

**CURRENT SITE CONDITIONS:** The project site is currently an undeveloped tract of land surrounded by undeveloped land to the north and west, a tidal canal to the east, and residential houses to the south. The project site receives regularly mowing, allowing mainly herbaceous vegetation to grow. The wetland vegetation consists of smooth cordgrass (*Spartina alterniflora*) and chicken claws (*Sarcocornia ambigua*). The subject wetlands are adjacent to an unnamed tidal canal.

**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 30 October 2019. The applicant's plans are enclosed in 6 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 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](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 constructed project is of such limited nature and extent that an archeological survey would not have been requested. The constructed project had no potential to effect historic properties even if present within the permit 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 Service will be initiated to assess the effect on endangered species.

**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 **1 October 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-2019-00450**, and should be submitted to:

Central Unit  
Regulatory Division, CESWG-RDE  
U.S. Army Corps of Engineers  
P.O. Box 1229  
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409-766-3869 Phone  
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DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS