



Public Notice

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

Galveston District

Permit Application No: _____

Date Issued: _____

Comments _____

Due: _____

SWG-2022-00550

25 August 2022

26 September 2022

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 404 of the Clean Water Act (CWA).

APPLICANT: City of Patton Village
16940 Main Street
Splendora, Texas 77372
POC: Scott Anderson, Mayor, City of Patton Village
Phone: 281-689-9511
Email: s.anderson@pattonvillage.us

AGENT: Berg Oliver Associates, Inc.
14701 St Marys Lane, Suite 400
Houston, Texas 77079
POC: Jeff Dunn
Phone: 281-582-9367
Email: jdunn@bergoliver.com

LOCATION: The project site is located in wetlands and waterbodies, with a center location near 17300 Main Street, in Patton Village, Montgomery County, Texas 77372. The project can be located on the U.S.G.S. quadrangle map titled: Splendora, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 30.19799° North; **Longitude:** 095.180558° West

PROJECT DESCRIPTION: The applicant proposes to permanently impact approximately 0.18 acre of palustrine emergent wetlands (PEM), 0.13 acre of palustrine forested wetlands (PFO), and 18.26 acres of palustrine scrub-shrub wetlands (PSS) by means of mechanical clearing and re-grading activities associated with the restoration of a previously existing detention area and the establishment of new detention areas alongside existing streams within the project corridor to support reduced flooding risks within the City of Patton Village, as well as assist with overall flood reduction in the East Fork San Jacinto watershed. The proposed excavation activities will be performed outside of the ordinary high water mark (OHWM) of the delineated streams within the project area.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts to the greatest extent practicable while maintaining the purpose and need for the project. The applicant has shifted the design to avoid 15,718 linear feet of waters of the US, primarily a tributary of Peach Creek, located on the project site. All work around streams will be done above their respective OHWM.

MITIGATION: The 18.56 acres of delineated wetlands proposed to be impacted were evaluated by Berg Oliver Associates, Inc. using the Interim Hydrogeomorphic (iHGM) Wetland Functional Assessment for Herbaceous/Scrub-Shrub and Forested wetlands. It was determined that the total impacts in functional capacity units (FCUs) for forested wetlands are: 0.08 physical/temporary storage of surface water (TSSW), 0.09 biological/maintenance of plant and animal communities (MPAC), and 0.07 chemical/removal and sequestration of elements and compounds (RSEC). For herbaceous/scrub-shrub, the impact FCU's are: 9.31 TSSW, 13.85 MPAC, and 8.35 RSEC. In total, the applicant proposes to purchase 14.0 TSSW FCUs, 14.0 MPAC FCUs, and 14.0 RSEC FCUs from the Tarkington Bayou Mitigation Bank (TBMB) subject to availability and anticipated release of credits.

CURRENT SITE CONDITIONS: The subject property is a 200-acre tract located within the City of Patton Village in Montgomery County, Texas. A majority of the project area is in the FEMA 100-year floodplain. The proposed project area is a drainage easement within a residential community. A majority of the project area is wooded, dominated by loblolly pine (*Pinus taeda*) trees. The hardwoods mixed throughout the site include post oak (*Quercus stellata*), live oak (*Quercus virginiana*), willow oak (*Quercus phellos*), water oak (*Quercus nigra*), southern red oak (*Quercus falcata*), American elm (*Ulmus americana*), and cedar elm (*Ulmus crassifolia*). The upland understory is dominated by yaupon (*Ilex vomitoria*), Chinese privet (*Ligustrum sinense*), and American beautyberry (*Callicarpa americana*). Hogwort (*Croton capitatus*) and western ragweed (*Ambrosia psilostachya*) were found in more open areas. Although not as common, additional understory vegetation included southern arrow wood (*Viburnum dentatum*), sawtooth greenbrier (*Smilax bona-nox*), roundleaf greenbrier (*Smilax rotundifolia*), and southern dewberry (*Rubus trivialis*). In wetland areas, the subject property was dominated by maidencane (*Panicum hemitomon*), willow oak (*Quercus phellos*), woolly panic grass (*Dichanthelium acuminatum*), swamp marigold (*Bidens aristosa*), and lizard's tail (*Saururus cernuus*). Several detention ponds are within the project area, which are relatively shallow with a mix of emergent and floating vegetation.

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 plans are enclosed in 12 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:

The project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management Program.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Commission on 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 stated they contacted TCEQ and initiated the Section 401 CWA process, on 18 August 2022. If you have comments or questions on this proposed project's State water quality certification, please contact 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 impacted by previous construction of detention areas 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, 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 **26 September 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-2022-00550**, and should be submitted to:

North Evaluation Unit
Regulatory Division, CESWG-RDE
U.S. Army Corps of Engineers
Galveston District
2000 Fort Point Road
Galveston, Texas 77550
409-766-3869 Phone
409-766-3931 Fax
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS