



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-1998-00151
	Date Issued: _____	11 December 2018
	Comments _____	
<b>Galveston District</b>	Due: _____	14 January 2019

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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.

**APPLICANT:** Shell Oil Products Co., LLC  
5900 Hwy 225  
Deer Park, Texas 77536  
POC: Kathy Daniels  
Telephone: 281-817-2421

**AGENT:** Lanier & Associates Consulting Engineers, Inc.  
595 Orleans St., Suite 600  
Beaumont, Texas 77701  
Telephone: 409-212-1051  
POC: Joanne E. Scarf

**LOCATION:** The project site is located in Buffalo Bayou, near the Houston Ship Channel, approximately 14 miles east of Houston in Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Pasadena, Texas.

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

Latitude: 29.73194° North; Longitude: -95.13028° West

**PROJECT DESCRIPTION:** The applicant proposes to install a new 970-foot steel bulkhead approximately 10-feet channelward from the existing bulkhead and backfill the gap. As a component of this work, the applicant will pump water from the bulkhead gap and release it into Buffalo Bayou. The applicant also proposes to repair areas along the

existing cofferdam by adding bent plates and fill an existing depression (scour hole/trough). As a result of this project, 6,670 cubic yards of crushed stone will be used to fill a portion of Buffalo Bayou.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by repairing the minimum length of cofferdam that is required to create a safe workspace for Shell employees.

**MITIGATION:** The applicant has not proposed mitigation.

**CURRENT SITE CONDITIONS:** The action area consists of a highly developed portion of Buffalo Bayou, adjacent to the Houston Ship Channel and Boggy Bayou Basin. There are numerous structures such as piers, bulkheads, and aids to navigation within the project area. The project area is located within the Buffalo Bayou Channel and has been dredged periodically since at least 1974. The area is considered tidal and a brackish water body.

This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. 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 Clean Water Act (CWA).

**PERMIT BACKGROUND INFORMATION:** SWG-1998-00151 authorized additional work related to Department of the Army (DA) permit 10243.

- DA Permit 10243 was originally issued to the Shell Oil Company on 4 October 1974 and authorized the construction of mooring facilities, loading platforms, a bulkhead, and dredging activities at the Shell Deer Park location. Permit 10243 expired on 31 December 1977.
- DA Permit 10243-1 was issued on 5 March 1979 and authorized maintenance dredging near the previously authorized dock. Dredge material would be placed in the Lost Lake Disposal Area. DA Permit 10243-1 expired on 31 December 1983.
- DA Amendment 10243(1) was issued on 31 January 1984 and authorized an extension of time for DA Permit 10243-1. The extension of time expired on 31 December 1994.

- DA Amendment 10243(2) was issued on 21 November 1990 and authorized the use of the Peggy Lake Disposal Area for dredge material. This amendment included the following special conditions:
  - Use of the Peggy Lake Disposal Area only for the current request for disposal of approximately 126,000 cubic yards of hydraulically dredged material in November-December of 1990.
  - The use of the Peggy Lake Disposal Area was coordinated with the Fort Point Area Engineer. The placement of dredged material was to be placed at locations as directed by the Area Engineer.
- A second DA Amendment 10243(02) was issued on 9 April 1993 and authorized the transfer of the permit to Shell Oil Company and Deer Park Refining Limited Partnership, Tenants in Common, along with the obligations, terms, and conditions of the permit issued.
- DA Amendment 10243(03) issued on 26 August 1994 authorized the addition of the Glanville Disposal Area as an alternate site for dredged material and extended the time for completing the authorized maintenance dredging. This amendment expired on 31 December 1997.
- DA Amendment 10243(04) was issued on 23 December 1994 and authorized the addition of Water Injection Dredging as an alternative method of dredging. Amendment 10243(04) expired on 31 December 1997. This amendment was authorized with the following special conditions:
  - A pre-dredging survey was conducted and included all of the channel along the front of the permittee's property.
  - The permittee was required to provide pre- and post- dredging surveys at intervals of every 100 feet.
  - Daily hydro-geographic surveys of the entire project area throughout the dredging operation to monitor any potential accumulation of sediments within the Houston Ship Channel.
  - The permittee was required to provide post-dredging surveys along 3 cross sections.
  - In the event that the survey indicates encroachment on the authorized dimensions of the Houston Ship Channel, the permittee must immediately contact the Fort Point Area Office and rectify the problem to the Corps of Engineers satisfaction.
- DA Amendment 10243(05) was issued on 30 November 1999 and authorized the addition of the East Jones Material Placement Area as an alternative site for placement of dredged material and the performance of hydraulic maintenance dredging for a period of 10 years. Amendment 10243(05) expired on 31 December 2009. This amendment was authorized with the following special conditions:
  - The permittee must coordinate the use of the East Jones Dredge Material Placement Area with the Area Engineer, Northern Area Office, and the Navigation Branch, Operations Division at least 60 days prior to conducting any work in order to ensure that the activities do not conflict with the US Government or Port of Houston dredging or disposal area management activities.

- The permittee will only use hydraulic methods of discharging dredge material into the East Jones Dredge Material Placement Area. The end of the discharge pipe must be beyond the inside toe of the disposal area levee and the location of the discharge must be coordinated with the Area Engineer.
- Amendment 10243(06) issued on 28 June 2005 authorized an operating depth of the existing crude oil dock from -42 feet Mean Low Tide (MLT) to -48 feet MLT. Amendment 10243(06) expired on 31 December 2009.

**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 incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria. Tier I projects are those which result in a direct impact of three acres or less of waters of the state or 1500 linear feet of streams (or a combination of the two is below the threshold) for which the applicant has incorporated best management practices and other provisions designed to safeguard water quality. The Corps has received a completed checklist and signed statement-fulfilling Tier I criteria for the project. Accordingly, a request for 401 certification is not necessary and there will be no additional TCEQ review.

**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 dredging and industrial development 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.

**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 **14 January 2019**. 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-1998-00151**, and should be submitted to:

North Unit, Evaluation Branch  
Regulatory Division, CESWG-RD-E  
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