



# Public Notice

**U.S. Army Corps** Permit Application No: SWG-2016-00635  
**Of Engineers** Date Issued: 8 December 2016  
Comments  
**Galveston District** Due: 9 January 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 (CWA).

**APPLICANT:** Magellan Terminal Holdings, L.P.  
One Williams Center, OTC-8  
Tulsa, Oklahoma 74172  
Telephone: 918-574-7367  
POC: Mr. Doug Mitchell

**AGENT:** Zephyr Environmental Corporation  
2600 Via Fortuna, Suite 450  
Austin, Texas 78746  
Telephone: 512-579-3803  
POC: Mr. Michael Horvath

**LOCATION:** The project site is located in wetlands and in open water of Buffalo Bayou abutting the Houston Ship Channel (HSC) at approximately Corps Station No. 765+00, approximately 7,000 feet northwest of the Sam Houston Tollway (Beltway 8) and State Highway 225 (Pasadena Freeway) intersection, in Pasadena, Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Pasadena, Texas.

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

Latitude: 29.729 North;

Longitude: -95.159 West

**PROJECT DESCRIPTION:** The applicant proposes to construct a new 188-acre petroleum hydrocarbon bulk storage marine terminal facility to receive, store, and transport petroleum hydrocarbons. The applicant proposes to place fill and construct up to 86 bulk storage tanks with associated pumps, piping, pipe racks, manifolds, secondary containment structures, roads, stormwater controls, and other necessary infrastructure. Proposed waterside improvements would include dredging Buffalo Bayou and abutting upland area for development of an approximately 2,083-foot-long by 1,026-foot-wide berthing area that includes:

- Four ship berths mechanically and/or hydraulically dredged to a depth of -46.5 feet mean lower low water (MLLW) plus 2 feet of overdepth
- One 1,020-foot-diameter turning basin mechanically and/or hydraulically dredged to a depth of -46.5 feet MLLW plus 2 feet of overdepth
- One barge berth dredged to a depth of -26.5 feet MLLW
- Breasting and mooring dolphins
- 4,000 linear feet of bulkheads, and riprap shoreline protection
- Two 80-foot by 140-foot dock platforms and support piers
- One 1,350-foot pipe and approach trestles and support piers outfitted with pipe racks, marine loading arms, and docking fenders.

The proposed project would require excavation of a total of 5,457,700 cubic yards (CY) of mixed mud, silt, sand and shell, including 1,200,700 CY excavated in the dry, and 4,257,000 CY excavated by hydraulic and/or mechanical dredging and transportation by barge and/or pipeline. Approximately 1,000,000 CY of material would be used on-site to increase base elevation, with the remainder of the material placed in one or more of the following approved dredged material placement areas (PAs): East/West Jones, Pinto Lion, Adloy, and Magellan GP. The applicant proposes to use hydraulic and/or mechanical dredges to excavate approximately 30,000 CY of maintenance dredged material every three years. The PAs used for maintenance dredging material placement would be evaluated on a case-by-case basis depending on the availability of PAs, and could include East/West Jones, Greens Bayou, Pinto Lion, Adloy, Beltway 8 Tract, Wah Chang, Stimson Tract, House Tract, Glendale, Rosa Allen, Clinton, Lost Lake, Peggy Lake, Laughlin-Thyssen, Targa, and Magellan GP. The applicant would relocate a navigation beacon (light #149), in accordance with U.S. Coast Guard coordination.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that location and construction methods are limited due to project constraints including property size, and practicability; the proposed project has been designed to avoid and minimize adverse effects to waters of the United States (including wetlands) to the maximum extent practicable. Wetland 5, located on the south edge of the tract, will be avoided. The Alternatives Analysis provides details into alternative locations and project configurations that were considered for the proposed project. Best management practices (BMPs) will be utilized during all stages of construction to control off-site sedimentation and negative effects to water quality. These BMPs would include filter berms and socks for water discharges and diversion dikes, silt fencing and hay bales for stormwater control. Construction areas adjacent to wetlands and waterbodies not impacted by construction would have BMPs installed where effective and appropriate.

**MITIGATION:** The applicant proposed to mitigate for the proposed direct permanent impacts to 17.5 acres of jurisdictional wetlands (14.03 acres of excavation and 3.02 acres of fill) by purchasing 55.92 credits from an existing Corps of Engineers-approved commercial mitigation bank, Gin City Mitigation Bank.

**CURRENT SITE CONDITIONS:** The project site is currently an undeveloped 188-acre tract of land directly abutting the HSC within a highly industrialized area with existing industries bordering the site to the east and west. Approximately 2,065 linear feet of the HSC forms the northern boundary of the project site. The northern half of the project along the HSC had been highly disturbed in the past and includes a previously permitted, and subsequently closed, diked PA, existing storage tank, parking area, small warehouse and fill material. The southern portion of the project is almost entirely characterized as woodlands dominated by Chinese tallow (*Triadic sebifera*), with occasional sugar hackberry (*Celtis laevigata*), American elm (*Ulmus americana*) and box elder (*Acer negundo*).

**NOTES:** This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. A wetland delineation was completed and an approved jurisdictional determination (AJD), SWG-2013-00868, was issued by the Corps on 26 March 2014. The AJD stated that the tract contains 18.7 acres of waters of the United States, specifically adjacent wetlands subject to Section 404 of the Clean Water Act. Additionally, Buffalo Bayou/Houston Ship Channel is a navigable water of the United States subject to Section 404 and Section 10 of the Rivers and Harbors Act. The applicant's plans are enclosed in 16 sheets, the proposed compensatory mitigation plan is enclosed in 11 sheets, and the applicant's alternatives analysis is enclosed in 9 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.

The applicant analyzed their preferred alternative, four off-site alternatives, on-site design to avoid and minimize impacts, and a no-action alternative. A description of the applicant's alternatives analysis and a table comparing the four off-site alternatives is attached.

#### **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.

The return water from the upland contained dredge material placement area(s) requires authorization under Nationwide Permit (NWP) 16. However, we have determined that the conditioned Section 401 certification, placed upon NWP 16 by TCEQ, is not reasonably implementable or enforceable, according to 33 CFR 325.4(c). Prior to the performance of hydraulic dredging, the applicant must obtain a Section 401 water quality certification from the TCEQ for the effluent or return water discharge. A copy of the 401 certification must also be furnished to the Corps prior to performing hydraulic dredging.

**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 is likely to yield resources eligible for inclusion in the National Register of Historic Places. An investigation for the presence of potentially eligible historic properties is justified.

**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, 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 **9 January 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-2016-00635**, and should be submitted to:

Galveston District  
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