



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-2019-00251
	Date Issued: _____	5 December 2019
	Comments _____	
<b>Galveston District</b>	Due: _____	6 January 2020

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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:** Sabine Neches Navigation District  
8180 Anchor Drive  
Port Arthur, Texas 77642-8288  
POC: Matthew Kaufman  
Telephone: 409-729-4588  
Email: mkaufman@navigationdistrict.org

**AGENT:** HDR, Inc.  
4828 Loop Central Drive, Suite 800  
Houston, Texas 77081-2220  
POC: Jason Foltyn  
Telephone: 713-576-3570  
Email: Jason.Foltyn@hdrinc.com

**LOCATION:** The project site is located in Bairds Bayou (or unnamed canal) that connects to the Neches River and adjacent wetlands, at Flamingo Street, in Rose City, Orange County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Beaumont East, Texas.

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

**Latitude:** 30.0952° North;      **Longitude:** 094.051975° West

**PROJECT DESCRIPTION:** The applicant proposes to discharge approximately 6 million cubic yards of dredge material into five existing ponds that were once sand and gravel mining pits, to facilitate the construction of a proposed Dredge Material Placement Area (DMPA). The proposed project will be developed within five existing ponds/mining pits on a 277-acre property east of the Neches River. The total proposed impact is 118 acres of open waters of the United States. The applicant states that the emergent and forested wetlands within the project area will be avoided.

The proposed DPMA (“Stephenson Tract”) will include the following:

- Construction of containment dikes around the five existing ponds
- Dredging of the five existing ponds for the construction of the containment dikes
- Installation of a temporary pipe and culvert during construction for draining the ponds and transporting dredge material.

The proposed DMPA containment dikes around the existing ponds will allow a filling capacity up to 15 feet. The proposed containment dikes will be constructed in two phases to raise the elevation of existing embankments to an initial elevation of 10 feet and then a final elevation of 18 feet. The proposed dike dimensions will be 2:1 side slope, 2.5:1 exterior slope and 10-foot top width. The applicant is requesting that the borrow material for the containment dikes would be obtained through mechanical dredging of clay material inside the existing ponds (sand and gravel mining pits) and will be placed along the shorelines of the ponds.

The proposed dredge material will be transported to the DPMA via installation of a pipe with decant structures between the existing ponds and an outfall connecting the existing site drainage for excess water to leave the DPMA. Table 1 shown on sheet 7 identifies the different types fill material proposed to be discharged into waters of the United States and the type of impacts and activities associated with the construction of the DPMA.

The purpose of the construction of the DPMA on the Stephenson Tract is to serve as a future dredge material placement site for the Sabine-Neches Waterway. The applicant states that the proposed DPMA will be available for both federal and private users. The applicant also states that the Stephenson Tract DPMA is anticipated to be a long-term project that could be active over the next 10-20 years depending on dredging disposal needs within the area.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by locating the proposed DPMA in previously disturbed areas. The applicant states that the impacts to adjacent wetlands are avoided by locating dikes, a construction entrance, access road and staging area in upland areas and not in wetlands or forested sensitive areas.

**MITIGATION:** The applicant proposes to mitigate for the impacts to the fringe emergent wetlands within Ponds 2 and 3 by a combination of onsite mitigation through wetland creation and ecological lifts and/or purchase of emergent mitigation credits from a mitigation bank. The applicant has elected not to submit a mitigation plan at this time in favor of coordinating with the United States Army Corps of Engineers on an acceptable mitigation strategy.

**CURRENT SITE CONDITIONS:** The 277-acre property is located adjacent to the Neches River and was previously mined for sand and gravel until 2007, leaving several mining pits now filled with water that are referred to in the permit application as “ponds”. The project area is bordered to the north by a Union Pacific Railroad mainline, and to the west, south, and east by wetlands. Approximately half of the property consists of large open water ponds. Ponds 2 and 3 are currently hydraulically connected due to Hurricane Ike in September 2008. The artificial ponds are mostly disconnected from surrounding forested and tidal wetlands by embankments created from pit material left over from the mining activities. The habitat outside of the ponds to the west and south is Cypress and Tupelo Swamp, forested wetlands, and emergent wetlands. The Stephenson Tract includes 20.4 acres of non-tidal, freshwater forested wetlands, 13.9 acres of freshwater emergent wetlands, and 138.2 acres of open water (ponds).

**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 7 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.

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 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 the original construction of the sand pits 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 **6 January 2020**. 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-2019-00251**, and should be submitted to:

North Unit  
Regulatory Division, CESWG-RDE  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3869 Phone  
409-766-3931 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS