



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2023-00667
	Date Issued: _____	12 December 2023
	Comments	
Galveston District	Due: _____	16 January 2024

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: Texas Department of Transportation - Houston District
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Houston, Texas 77008
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Telephone: 713-802-5075
Email: Sue.Theiss@txdot.gov

AGENT: Texas Department of Transportation - Houston District
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POC: Susanna Scott
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LOCATION: The project site is located within Chocolate Bayou and adjacent wetlands, on Farm-to-Market (FM) Road 2004 including an existing bridge structure, in Alvin, Brazoria County, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.212956 North; **Longitude:** - 95.206839 West

PROJECT DESCRIPTION: The applicant proposes to discharge 66,389 cubic yards of fill material which would in turn result in 14.42 acres of permanent wetland loss, 0.12 acres (453 linear feet) of tidal stream loss, and 0.16 acres (166 linear feet) of Chocolate Bayou loss. The fill material discharged will improve and replace approximately 0.7 mile (mi) or 3,480 feet (ft) of the FM 2004 bridge at Chocolate Bayou. The proposed Project includes an improved two-lane roadway with two 12-foot-wide travel lanes in each direction, two 13-foot-wide medians, and two 10-foot-wide shoulders. The overall width of the new bridge will be approximately 92.5-foot and will also incorporate a two-foot-wide barrier within the center of the bridge. Outside the limits of Chocolate Bayou, the roadway outer edges would have open-ditch drainage features. The proposed Project will completely replace the existing FM 2004 bridge with a concrete bridge structure immediately adjacent and west of the existing alignment, as well as reconstructing the associated approaches to the bridge. Haul roads will be installed for the transportation of materials for the new bridge and the removal of materials of the existing facility. The Project also includes deconstructing and relocating the existing boat ramp to the south (downstream) of the existing bridge. A permanent sheet pile closure wall, approximately 50 ft in overall length, would be installed at the entrance of the existing basin to facilitate dewatering and backfilling. Construction of the new boat ramp would consist of installing a new boat ramp and excavating a new basin and basin entrance. The dredge material from Chocolate Bayou would be placed in USACE-managed Dredge Material Placement Areas (DMPA) located nearby the Project Area. DMPAs include PA 1, 2, 3, 4, 5, 67, and 68 located within and adjacent to Chocolate Bayou upstream and downstream from the Project Area.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts to the most practicable extent by avoiding an estimated 2 acres (671 linear feet) of aquatic features and utilizing Best Management Practices (BMPs). BMPs utilized include measures to stabilize disturbed soils and installation of silt fencing to prevent sediment from flowing into protected wetland areas during storm events will be utilized throughout construction of the Project. The proposed project will comply with TPDES and will adhere to an approved Stormwater Pollution Prevention Plan.

MITIGATION: The Applicant proposes to purchase 45.773 Functional Capacity Units (FCUs) to mitigate impacts to wetlands and 9,490.93 credits for impacts to streams from Corps approved mitigation banks. Note that avoidance, minimization, and compensation for impacts to Chocolate Bayou are not included in this document as impacts to Chocolate Bayou will be authorized by a USCG bridge permit and will receive authorization under an NWP 15.

CURRENT SITE CONDITIONS: The Project Area is an existing highway FM Road 2004 with existing bridge crossing over Chocolate Bayou. The review area is largely limited to the existing Right of Way and immediately adjacent recreational boat ramp.

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 applicant's plans are enclosed in 27 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 construction of the bridge structure over Chocolate Bayou must be authorized by the United States Coast Guard (USCG) under Section 9 of the Rivers and Harbors Act of 1899. Discharges of dredged or fill material incidental to the construction of the bridge structure authorized by the USCG, will be authorized by Nationwide Permit (NWP) 15 – USCG Approved Bridges.

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 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 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. You may also find information on the Section 401 process here: <https://www.epa.gov/cwa-401/basic-information-cwa-section-401-certification>.

Pursuant to 33 USC 408, the proposed project will require Section 408 coordination and review. This is a requirement for activities that seek permission, to temporarily or permanently, alter, occupy, or use a federally authorized United States Army Corps of Engineers civil works project. Changes to the proposed project, from the Section 408 process, may warrant additional coordination.

LEAD FEDERAL AGENCY:

The Texas Department of Transportation, on behalf of Federal Highway Administration has been identified as the lead federal agency for complying with Section 7 of the Endangered Species Act, National Historic Preservation Act, and Magnuson-Stevens Fishery Conservation and Management Act. As such, please direct all comments, questions, or concerns regarding these Acts to the Texas Department of Transportation.

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 **16 January 2024**. 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-2023-00667**, and should be submitted to:

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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS