



Public Notice

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

Galveston District

Permit Application No: SWG-2016-00356

Date Issued: 1 February 2018

Comments

Due: 5 March 2018

**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 404 of the Clean Water Act (CWA).

APPLICANT: Harris County Flood Control District
9900 Northwest Freeway
Houston, Texas 77092
POC: Mr. Andy Newman
713-684-4000, Andrew.Newman@hcfcd.org

AGENT: R.G. Miller Engineers, Inc.
16340 Park Ten Place, Suite 350
Houston, Texas 77084
POC: Mr. Michael Bloom
713-461-8455, MBloom@rgmiller.com

PROJECT DESCRIPTION: The proposed mitigation bank will be known as the Crosby Eastgate Mitigation Bank (CEMB). The Sponsor proposes the establishment and operation of a large-scale wetland complex available for regional wetland compensation that would be managed and maintained in perpetuity. The goal of the CEMB is to re-establish and enhance self-sustaining forested wetland resources.

The primary objectives of creating the CEMB are to protect the water quality of the downstream Cedar Bayou watershed and North Galveston Bay; provide diverse habitat for fauna; protect genetic diversity of uncommon regional flora; establish stable forested communities resistant to invasive plant species; and protect the forested wetland community via long-term conservation measures. These objectives will be achieved via the following measures: Restoration, re-establishment, and enhancement of forested wetlands and uplands across the 240-acre property; Re-establish site hydrology to allow for physical retention and chemical sequestration of local site runoff and Cedar Bayou floodwaters; Promote stand diversity via selective plantings and forest management techniques to increase site flora and fauna biodiversity.

The service area for CEMB is based on connectivity to the Cedar Bayou floodway, ecoregion setting, and floristically diverse remnant bottomland hardwood communities. Based on the size of the property and its location within the watershed, HCFCD proposes a primary service of North Galveston Bay (HUC #12040203). The Service Area is encompassed entirely within the Western Gulf Coastal Plain Level III EPA Ecoregion. Impacts within the service area will be debited on a 1:1 basis. At this time, HCFCD is not requesting a secondary service area. See Exhibit 6 for a map of the proposed service area. On a case-by-case basis, the USACE, after coordination with the IRT, may authorize use of the site outside the service area, when unique circumstances make use of the site appropriate, practicable, and environmentally preferable. Alternate debiting ratios may be required on a case-by-case basis by the USACE for a project located outside of the service area. All U.S. Fish and Wildlife Service (USFWS) and Texas Parks and Wildlife Department (TPWD) properties, as well as wetlands and waterbodies located on Texas barrier islands and peninsulas, are excluded from the service area. In addition, the service area excludes all National Wildlife Refuges, National Forests, State Parks, and Wildlife Management Areas.

LOCATION: The site of the proposed CEMB is in rural eastern Harris County, Texas, approximately 4.5 miles southwest of Huffman, Texas, and 6.1 miles northeast of Crosby, Texas. Specifically, it is an approximately 240-acre tract located immediately north of the intersection of Crosby Eastgate Road and Louis Road. The approximate center of the site is located within the geographic limits of the Crosby, Texas U.S. Geological Survey (USGS) 7.5-minute quadrangle at approximately 29.993619 degrees latitude and -95.016515 degrees longitude (1983 North American Datum).

See Exhibit 1 for a location map.

AVOIDANCE AND MINIMIZATION: The specific objectives of the project are enhancement, restoration, and establishment of the physical, chemical, and biological characteristics of the site.

MITIGATION: The applicant proposes to construct a compensatory mitigation bank.

CURRENT SITE CONDITIONS: Historically, the 240-acre CEMB site was presumably forested bottomland hardwoods located entirely within the active floodplain of Cedar Bayou. Based on the size of existing trees within the eastern portion of the site, it is presumed that the entire area was timbered approximately 100 years ago. A review of historic aerial photography indicates that the western third of the site was utilized as row crops and pastureland after being cleared. The western portion of the site has reverted from agriculture back to a mixture of pine and hardwood forest since the mid-1980s. The remaining portion of the site has not been cleared since the advent of aerial imagery, with 1930's imagery showing a completely closed canopy. This is further supported by the scarcity of non-native tree species and the prevalence of uncommon native subcanopy species such as upland swamp privet (*Forestiera ligustrina*), farkleberry (*Vaccinium arboreum*), and swamp dogwood (*Cornus foemina*).

Surrounding land use is primarily agricultural and low density housing. Since the channelization of Cedar Bayou in the 1950's, a majority of riparian bottomland hardwood forest associated with the Cedar Bayou floodplain has been timbered. A large proportion of this cleared land was converted to rice production and several above ground water storage reservoirs were constructed immediately adjacent to the channelized Cedar Bayou alignment. Starting in 1980s, rice production in the area has diminished reverting to sod grass production and cattle grazing. A single private land owner controls the entire eastern, western and a majority of the southern boundary with the CEMB site. See Exhibit 3 for a current aerial map. Harris County Precinct 2 has ownership of the eastern portion of the southern boundary and this property is anticipated to be used as a public cemetery.

Based on an approved wetland delineation completed in July 2016, the site contains seven palustrine forested wetlands (PFO) totaling 46.82 acres and three open waters (historic Cedar Bayou oxbows) totaling 2.73 acres. All wetlands and open waters are considered jurisdictional and verified by an Approved Jurisdictional Determination SWG-2016-00356.

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 mitigation bank prospectus and checklist are enclosed in 28 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: 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 proposed ground disturbing activities associated with the establishment of this mitigation bank are either of such limited nature and scope or are in areas that have been extensively impacted by contemporary drainage or rice farming that they have no potential to effect historic properties, even if present within the project area. The staff archaeologist will review the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information.

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 **5 March 2018**. 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-2016-00356**, addressed to Mr. Dwayne Johnson or submitted to:

swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS