



Public Notice

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

Galveston District

Permit Application No: _____

Date Issued: _____

Comments _____

Due: _____

SWG-2018-00197

4 February 2020

6 March 2020

**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: Kingwood Exploration LLC
416 Travis Street, Suite 1100
Shreveport, Louisiana 71101
POC: Robert Braswell
Telephone: 318-946-8585
Email: Robert.braswell@kingwoodexploration.com

AGENT: BGE, Inc.
10777 Westheimer Road, Suite 400
Houston, Texas 77042
POC: Brandon Wieme
Telephone: 713-488-8217
Email: bwieme@bgeinc.com

LOCATION: The project site is located in Dutton Lake, in Chambers County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Cove, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.770731° North; Longitude: 094.812177° West

PROJECT DESCRIPTION: The applicant proposes to retain fill associated with 3 existing well pads (sites Miller B-3, Miller A-2, and Miller A-3) in Dutton Lake, and discharge 5,543 cubic yards of fill to expand the Miller B-3, Miller A-2, and Miller A-3 well pads. The existing well sites were originally drilled before 1970 and the pads reconfigured in between 1970 and 1972.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by proposing to fill minimal area required to safely drill and install a new exploration well on each well pad. An inflatable cofferdam will be installed around each well pad and each area will be pumped dry prior to fill being placed. The applicant will maintain the inflatable cofferdam until all fill and rip-rap has been placed in each respective location and then removed. This will avoid and/or greatly minimize any sedimentation and turbidity that may occur during construction activities. There are no special aquatic sites reported in the project area.

MITIGATION: The applicant has not proposed to mitigate for the proposed impacts because there is no discharge into any special aquatic sites.

CURRENT SITE CONDITIONS: The project site, Dutton Lake, is a 2,600-acre impoundment adjacent to Trinity Bay that is owned and operated by NRG Energy, Inc. and serves as a cooling reservoir for the Cedar Bayou Power Plant. The construction of the Dutton Lake project began in 1971, and involved the installation of levees and water control structures, which ultimately separated it from the Trinity Bay estuary system. Although the water control structures currently prevent daily tidal influence, Dutton Lake has been placed on the Section 10 waters list for Galveston District due to the fact that it would be tidally-influenced if the water control structures are removed. The Lake has a muddy substrate and brackish water condition, with salinity levels similar to that of Trinity Bay. Public access to this area is prohibited and no commercial or recreational fishing is allowed with Dutton Lake.

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 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 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 1,500 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 proposed project is of such limited nature and scope that it has no potential to affect historic properties, even if present within the project area.

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 **6 March 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-2018-00197**, 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