



Public Notice

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

Galveston District

Permit Application No: _____

Date Issued: _____

Comments _____

Due: _____

SWG-2018-00811

26 February 2019

28 March 2019

**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: Dutko Family Partnership, LTD
1002 Gemini Street, Suite 130
Houston, Texas 77058
POC: Corrie Dutko
Telephone: 832-867-0394
Email: corriedutko@aol.com

AGENT: Phase Engineering Inc.
5524 Cornish Street
Houston, Texas 77007
POC: Tracy Watson
Telephone: 713-854-8670
Email: Tracy@phaseengineering.com

LOCATION: The project site is located in wetlands adjacent to Taylor Bayou and Galveston Bay, on a 107-acre tract, on the southeast corner of State Highway 146 and McCabe Road, in La Porte, Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: League City, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.628270° North;

Longitude: 95.029684° West

PROJECT DESCRIPTION: The applicant proposes to discharge fill material into 6.37 acres of palustrine forested wetlands during the construction of a commercial development.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by limiting the impacts to the minimum necessary to accomplish the purpose of the project.

MITIGATION: The applicant proposes to restore approximately 13 acres of in-kind wetlands on a 26.3-acre portion of the tract. The permittee responsible mitigation plan is also enclosed in Attachment A, in 17 sheets.

CURRENT SITE CONDITIONS: The project site is currently an undeveloped tract of land surrounded by commercial development to the northwest, West Fairmont Parkway to the northwest, McCabe Road to the south, and Shore Acres subdivision land to the southeast.

The property is on a woodland terrace at the upstream end of Taylor Bayou, on the west bank of the bayou channel, at elevations ranging from approximately 16 to 10 feet above mean sea level (MSL). The land slopes gradually from north to south, with a higher berm along the eastern property boundary at the bank of the bayou. As described in the applicant's designated agents' 2015 Wetland Delineation Report for the property, within the 107.3-acre project area, there are approximately 27.1 acres of PFO wetlands contained within approximately 67.61 acres of undulating, mosaic habitat that is on average 40% wetlands.

The tallest and most mature trees are located within these areas and are distinguishable in aerial photography. Common tree species include loblolly pine, willow oak (*Quercus phellos*), sweetgum (*Liquidambar styraciflua*), Chinese tallow tree (*Triadica sebifera*), and yaupon holly (*Ilex vomitoria*). Herbaceous species are very limited within the uplands; vines, including sawtooth blackberry (*Rubus argutus*), are more common. The dominant vegetation within the mosaic PFO areas primarily consists of facultative (FAC) plant species with the exception of a few spikerush (*Eleocharis*) and sedge (*Cyperus*) species found near shallow pools of standing water in the depressions on the far southeast corner of the property. Woody vegetation comprised of species including loblolly pine, sweetgum, and Chinese tallow tree.

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 5 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 is likely to contain terrestrial cultural resources that could be eligible for inclusion in the National Register of Historic Places. The applicant will need to conduct an investigation for 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 **28 March 2019**. 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-2018-00811**, 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
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS