



# Public Notice

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

**Galveston District**

Permit Application No: \_\_\_\_\_

Date Issued: \_\_\_\_\_

Comments \_\_\_\_\_

Due: \_\_\_\_\_

SWG-2022-00334

26 January 2023

27 February 2023

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## 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  
P.O. Box 1386  
Houston, Texas 77521-1386  
POC: Sue Theiss  
Telephone: 713-802-5070  
Email: [sue.theiss@txdot.gov](mailto:sue.theiss@txdot.gov)

**AGENT:** Ecosystem Planning and Restoration  
17575 North Eldridge Parkway, Building C  
Tomball, Texas 77377-8004  
POC: Sonny Kaiser  
Telephone: 832-399-8400  
Email: [skaiser@eprusa.net](mailto:skaiser@eprusa.net)

**LOCATION:** The project site is located in wetlands, in an unnamed tributary to Tabbs Bay, and Tabbs Bay, at a point south of State Highway (SH) 99/146 East, near Baytown, in Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Morgan's Point, Texas.

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

**Latitude:** 29.713123° North;      **Longitude:** 094.973746° West

**PROJECT DESCRIPTION:** The applicant proposes to temporarily discharge fill material into 0.15 acre of estuarine emergent wetlands and 0.8 acre of an unnamed perennial tributary to Tabbs Bay, and permanently discharge fill material into 3.85 acres of palustrine emergent wetlands, 0.14 acre of palustrine scrub/shrub wetlands, 0.01 acre of estuarine emergent wetlands, 0.27 acre of open water and 0.57 acre of perennial stream. Total volume of material proposed to be placed is approximately 9,142 cubic yards into a total of 5.07 acres of wetlands and waters of the United States. This fill is proposed for the construction of a drainage channel with a minimum width of 20 feet and a maximum width of 40-foot-wide. The drainage channel will begin at a point along SH 99/146 East and continue to a point south of Evergreen Road near Tabbs Bay.

**BACKGROUND:** Department of the Army (DA) Nationwide Permit (NWP) verification SWG-1992-01589 was issued on 16 December 2014, and authorized temporary placement of fill material into 0.06 acre of wetlands and 0.01 acre of waters of the United States, and permanent placement of fill material into 0.08 acre of wetlands and 0.21 acre of waters of the United States, at four separate single and complete crossings of aquatic resources, for the purpose of constructing roadway improvements along the Segment I-2 of State Highway 99.

A separate DA NWP verification for temporary access along the transportation corridor was issued 4 January 2016, and authorized temporary placement of fill material into 0.56 acre of Wetland B and Cedar Bayou, for construction access and dewatering activities, during the construction of roadway improvements along the project route of Segment I-2. These two authorizations expired on 19 March 2017. DA NWP verification was issued on 24 May 2018 and authorized the temporary discharge of fill material into 0.3 acre of wetlands and waters of the United States, and the permanent discharge of fill material into 0.31 acre of wetlands and waters of the United States. Additional, temporary access and a change in materials were necessary for this project. DA NWP verifications for this project were transferred to Grand Parkway Infrastructure, LLC on 13 May 2020 and were scheduled to expire on 22 March 2022.

The project currently proposed project is separate but related to the impacts listed in the background section above. The applicant proposed design modifications to State Highway 99 (Grand Parkway), Segment I-2, from SH 225 to I-10 in Chambers and Harris Counties, Texas. The Grand Parkway, Segment I-2 would consist of a 15-mile, controlled access throughway, with four main lanes, and intermittent frontage roads located within a variable width (250- to 400-foot) right-of-way. The Grand Parkway, Segment I-2 received a Record of Decision (ROD) for the Environmental Impact Statement (EIS) on 13 August 1998, and construction has started on this project. In 2021, changes were proposed to the project design, and include design changes to accommodate additional drainage. The proposed drainage design changes are located in Harris County, Texas, and are the subject of this permit application.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by utilizing an existing stream channel as a drainage way. The applicant has provided an alternative analysis and proposes to provide compensatory mitigation for the proposed impacts to aquatic resources.

**MITIGATION:** The applicant proposed to mitigate for the proposed impacts by constructing a permittee responsible mitigation (PRM) project. The PRM project includes enhancement and restoration of approximately 14 acres of wetlands and 5,407 linear feet of stream. The goals of the compensatory mitigation proposal are to maintain the aquatic ecosystem functions and hydrologic conditions within Galveston Bay watershed. Compensatory mitigation would replace the chemical, physical, and biological functions of wetlands and other aquatic resources that are lost or degraded as a result of the proposed project.

**CURRENT SITE CONDITIONS:** The project site currently consists of marsh and scrubby uplands in the northern portion and oak-dominated woods in the southern portion. An area of open water is present from a culvert beneath the existing highway along the northern boundary of the project area, extending south approximately 640 feet. A deeply incised stream is present from the central portion of the project area southward, flowing south underneath Evergreen Road and into Tabbs Bay. A small portion of estuarine wetlands are present along the stream south of Evergreen Road. The project area is within an active oil and gas field, with multiple active pumps nearby. Gravel roads are present within the oil and gas field.

**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.

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 contacted TCEQ and initiated the Section 401 CWA process, on 7 June 2022. If you have comments or questions on this proposed project's State water quality certification, please contact [401certs@tceq.texas.gov](mailto: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>.

**LEAD FEDERAL AGENCY:** The Texas Department of Transportation (TXDOT) under a Memorandum of Understanding, is acting as the Federal Highways Administration (FHWA) and has been identified as the lead federal agency for complying with Section 7 of the Endangered Species Act, National Historic Preservation Act, and the Magnuson-Stevens Fishery Conservation and Management Act. As such, please direct all comments, questions, or concerns regarding these Acts to the TXDOT acting as FHWA.

**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 **27 February 2023**. 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-2022-00334**, and should be submitted to:

North Evaluation Unit  
Regulatory Division, CESWG-RDE  
U.S. Army Corps of Engineers  
Galveston District  
2000 Fort Point Road  
Galveston, Texas 77550  
409-766-3869 Phone  
409-766-3931 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS