



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2022-00522
	Date Issued: _____	17 January 2023
	Comments _____	
Galveston District	Due: _____	16 February 2023

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 404 of the Clean Water Act (CWA).

APPLICANT: Texas Department of Transportation (TXDOT), Lufkin District
1805 North Timberland Drive
Lufkin, Texas 75901
POC: Kelly Morris
Telephone: 936-633-4321
Email: kelly.morris@txdot.gov

AGENT: Texas Department of Transportation (TXDOT), Lufkin District
1805 North Timberland Drive
Lufkin, Texas 75901
POC: Jennifer Adams
Telephone: 936-633-4383
Email: Jennifer.Adams@txdot.gov

LOCATION: The project site is located in Tarkington Bayou, multiple tributaries, and wetlands within the right of way of US Highway (US) 59 from Farm-to-Market Road (FM) 2914 to south of State Loop (SL) 573, between Shepherd and Cleveland, in Liberty and San Jacinto Counties, Texas. The project can be located on the U.S.G.S. quadrangle map titled: WESTCOTT and CLEVELAND, Texas.

LATITUDE & LONGITUDE (NAD 83):

Start **Latitude:** 30.44277° North; **Longitude:** 095.03104° West
End **Latitude:** 30.36091° North; **Longitude:** 095.08252° West

PROJECT DESCRIPTION: The applicant proposes to permanently discharge fill material into 1.947 acre of palustrine emergent (PEM) wetlands, 3.564 acre of palustrine forested (PFO) wetlands, and 0.441 acre of man-made ponds to improve approximately 6.63 miles of US 59 from FM 2914 to south of SL 573 in Liberty and San Jacinto Counties. The road improvement project will also temporarily impact 1.451 acres of PEM wetlands, 0.608 acre of PFO wetlands, 0.873 acre of man-made ponds, and 0.623 acre (1,074 linear feet) of tributaries, including Tarkington Bayou. All temporarily impacted areas will be restored to pre-construction contours once the work is complete.

The purpose of the project is to bring US 59 in the project area up to current interstate design standards by making US 59 a controlled access roadway with the project limits and reduce congestion and increase mobility.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by avoiding 3.923 acres of wetlands and other waters, including tributaries and streams. The applicant also designed the project to avoid and minimize impacts to waters of the US by tightening of the slopes on approaches from 4:1 to 3:1, minimizing the use of rip rap to the extent needed and shortening culverts based on further hydrologic analysis, minimizing necessary clearing and workspace, increased use of bridge spans for tributary and wetland crossings, and reduced the need for drainage regrading based upon updated hydrologic modeling. Impacts to 3.555 acres of wetlands and tributaries would be temporary, with all such areas restored to pre-construction contours. There will be no permanent impacts to tributaries.

MITIGATION: The applicant proposed to mitigate for the proposed impacts by purchasing mitigation credits from an approved mitigation bank for unavoidable impacts to waters of the US.

CURRENT SITE CONDITIONS: The project area consists of undeveloped mixed herbaceous and forested land with the existing US 59 roadway extending from south of FM 2914 to SL 573. Existing commercial development is present along the southbound side of US 59, near Cleveland. Additional mixed development exists near the middle portion of the project area. Various drainage features are present parallel to US 59 and occasionally crossing underneath the US 59 roadway.

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 47 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 project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management 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 the TCEQ and initiated the Section 401 CWA process, on 19 September 2022. 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>.

LEAD FEDERAL AGENCY:

The Texas Department of Transportation (TXDOT), acting as the Federal Highway Administration Pursuant to 23 U.S.C. 327 and a Memorandum of Understanding dated 9 December 2019, has been identified as the lead federal agency for complying with Section 7 of the Endangered Species Act, and National Historic Preservation Act. As such, please direct all comments, questions, or concerns regarding these Acts to TXDOT.

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:

TXDOT is receiving funding from Federal Highways Administration (FHWA) for this project. Therefore, FHA is the lead Federal Agency and all Section 106 consultation will be handled by TXDOT pursuant to the Programmatic Agreement between TXDOT, the Texas State Historic Preservation Officer, FHA, and the Advisory Council on Historic Preservation.

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 **16 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-2022-00522**, and should be submitted to:

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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS