



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2022-00540
	Date Issued: _____	10 January 2023
	Comments _____	
Galveston District	Due: _____	10 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: TxDOT Houston District
P.O. Box 1386
Houston, Texas 77251
POC: Sue Theiss
Telephone: 713-802-5070
Email: sue.theiss@txdot.gov

AGENT: TxDOT Houston District
P.O. Box 1386
Houston, Texas 77251
POC: Reina Gonzalez
Telephone: 713-802-5269
Email: reina.gonzalez@txdot.gov

LOCATION: The project site is located in Dickinson Bayou/Galveston Bay along State Highway (SH) 146 and SH 96 between Dickinson Bayou and Highway 518, near Kemah, in Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Texas City, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.462722 North; **Longitude:** -94.973337 West

PROJECT DESCRIPTION: The applicant proposes to widen the existing four-lane divided highway to a six-lane divided highway between Farm-to-Market (FM) Road 518 and SH 96 and construct a grade separated intersection at SH 146 and SH 96 near Kemah. The proposed roadway widening project would result in the permanent loss of 17.58 acres of jurisdictional wetlands (3.36 acres were previously permitted under SWG-2007-00769 in 2018) at 19 single and complete crossings. The purpose of the expansion is to accommodate future traffic volumes, increase availability for hurricane evacuation, and upgrade permeability and drainage; therefore, the overall project purpose is to increase safety of the traveling public and mitigate flooding. (3.36 acres were previously permitted under SWG-2007-00769 in 2018) at 19 single and complete crossings.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by minimizing the amount of right-of-way (ROW) needed for completion of construction, therefore decreasing impact on waters of the US (WOTUS). Additionally, all proposed improvements within the wetlands have been minimized to the extent practicable to still accomplish the project objectives.

MITIGATION: The applicant proposes to mitigate for the proposed impacts by purchasing 34.37 credits from the Coastal Bottomlands Mitigation Bank for 14.18 acres of permanent wetland impacts and 0.6 FCUs at Gulf Plains Mitigation Bank for tidal wetlands.

CURRENT SITE CONDITIONS: The project site is currently an existing highway ROW owned by the applicant and adjacent to Galveston Bay. The surrounding property use is a range of mixed use land including undeveloped, commercial, industrial and residential development. There were 3.36 acres of proposed permanent impacts that were approved under SWG-2007-00769, SH 146 roadway improvement project between Red Bluff Road and FM 518.

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 wetland delineation has been completed and was verified by the Corps on 6 January 2023. The applicant's plans are enclosed in 38 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 6 December 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:

TxDOT has been identified as the lead federal agency for complying with Section 7 of the Endangered Species Act, National Historic Preservation Act, and Magnuson-Stevens Fishery Conservation and Management 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.

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 **10 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-2022-00540**, and should be submitted to:

Central 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