



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2007-01694
	Date Issued: _____	16 January 2020
	Comments _____	
Galveston District	Due: _____	18 February 2020

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 Deepwater Partners Terminals I, LLC
811 Main Street, Suite 2800
Houston, Texas 77002
POC: Catherine Chinni
Telephone: 832-991-8578
Email: cchinni@usdg.com

AGENT: Schneider Engineering & Consulting, Inc.
323 23rd Street
Galveston, Texas 77550
POC: Jene Adler
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LOCATION: The project site is located in Buffalo Bayou, approximately 11.5 miles southeast of Houston, within Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Pasadena, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.741850° North; **Longitude:** 095.154936° West

PROJECT DESCRIPTION: The applicant proposes to modify their standard permit to dredge an additional 0.88 acres of palustrine emergent wetlands in order to accommodate an additional berthing slip, larger ship sizes, a barge dock, add a pier and trestle to extend one of the docks (thereby allowing ships to dock on either side), construct a 160-foot by 50-foot barge dock, install 4,600 linear feet of bulkhead, increase the dredge footprint by 9.4 acres (an additional 1.2 million cubic yards), utilize previously authorized dredge material placement areas (DMPAs), and acquire authorization to maintenance dredge for 10 years.

The following DMPAs are authorized: Filter bed, Glendale, Stimson-House Tract, Clinton, Rosa Allen, Wah Chang, Targa-Dynegy, East/West Jones, Green's Bayou, Spilman Island, Beltway 8 Tract, TDWP (formerly Pinto Lion), Houston Spoils, Houston Marine Service, Lost Lake, Adloy, Goat Island, Peggy Lake, and Alexander Island.

AVOIDANCE AND MINIMIZATION: The applicant has stated they have designed the project to avoid and minimize impacts to wetlands and waters of the United States.

MITIGATION: The applicant has proposed the following in lieu of additional compensatory mitigation:

"TDWP (the applicant) understands the expanded footprint will result in an additional 0.88 acres (ac) of impact to waters of the U.S. and understands the importance and value of wetlands, however, TDWP is requesting that the USACE take into consideration the extensive amount of mitigation that has been conducted on this site. TDWP is requesting that no further compensatory mitigation be required for the 0.88 ac of impact that would result from the proposed permit modification.

In 1990, USACE Permit No. 19164, issued to James H. Glanville Company, authorized the hydraulic and mechanical dredging of approximately 10,000,000 cubic yards of material for proposed berthing facilities. The permit authorized impacts to 26.10 ac of waters of the U.S. and the permittee was required to adhere to Special Condition No. 2 which stated that the permittee shall donate 120.08 acres as agreed upon with Texas Parks and Wildlife Department. As shown in the Declaration for Restrictive Covenants (1992), the permittee ultimately donated a total of 209.2 ac for preservation and conservation. This resulted in a compensation ratio of approximately 8:1.

Currently, this 209.25 ac preservation area is thriving and acts as a riparian buffer for Carpenters Bayou north of the TDWP site. It is vegetated with native hardwoods and in addition to the increase in flood attenuation for the area, it also provides increase biological habitat in an area dominated by industrial development. The value of the site to the local watershed has likely grown since it was preserved in perpetuity in 1990.

In addition, USACE issued Permit No. SWG-2007-01694 (2016) to P-L Jacintoport, LLC, authorized the dredging of a 72-ac area to accommodate four 100- by 100- foot concrete ship docks and berthing facilities. The permit authorized the permittee to convert 3.904 ac of tidally influenced wetlands to open water. Special Condition Nos. 1 and 2 required the permittee to purchase Tidal Fringe iHGM Functional Capacity Units from the Gulf Coastal Plains Mitigation Bank and to submit written documentation to the USACE verifying that the entire mitigation purchase was completed prior to start of construction within jurisdictional areas. A total of 14.2 FCU's were purchased totaling \$568,000 to offset unavoidable impacts.

The 0.88-ac area that currently exists at the TDWP site is a lentic system that has resulted from a man-made drainage feature. The adjacent wetland area has been heavily manipulated and a restrictive concrete pad is located approximately 10 inches below the surface throughout most of this area. TDWP is requesting that the USACE consider the thriving riparian preservation area that has been conserved in perpetuity, the previous banking credits purchased for the site, and the overabundance of mitigation performed in each instance, as ample compensation for the total proposed impacts.”

CURRENT SITE CONDITIONS: The project site is primarily a mowed, grassy field adjacent to the Houston Ship Channel and Beltway 8. Digital imagery indicates that some of the previously authorized work in uplands has begun.

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 27 November 2019. The applicant's plans are enclosed in 15 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 permit area was investigated for historic properties and none were identified as documented in the report titled "Phase I Cultural Resource Remote-Sensing Survey and Diving Assessment for the Proposed Pinto Lion Jacinto Docking Facility in Buffalo Bayou, Harris County, Texas" dated August 2015.

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 **18 February 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-2007-01694**, and should be submitted to:

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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS