



US Army Corps
of Engineers®

PUBLIC NOTICE

Applicant:
Paul Altheide
Ed Rachel Foundation

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Galveston District
Permit Application No. SWG-2024-00684

TO WHOM IT MAY CONCERN: The Galveston District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) **and** Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403). The purpose of this public notice is to solicit comments from the public regarding the work described below:

APPLICANT: Paul Altheide
Ed Rachel Foundation
555 North Carancahua Street
Corpus Christi, Texas 78401

AGENT: Joe Fox
Palacios Marine Agriculture Research
130 Rainbow Lane
Corpus Christi, Texas 78411

WATERWAY AND LOCATION: The project would affect waters of the United States and navigable waters of the United States associated with Tres Palacios Bay. The project/review area is located in wetlands adjacent to Tres Palacios Bay, south of the intersection of Main Street and Margerum Boulevard; at Latitude 28.697706 and Longitude -96.2359216; in Palacios, Matagorda County, Texas.

EXISTING CONDITIONS: The 53.85-acre project site is an estuarine wetland complex interconnected by canals and ponds draining into Tres Palacios Bay. It is bordered by a marina to the west, the bay to the south, commercial development to the east, and Highway 35 to the north, with undeveloped land beyond the highway. A natural stream that has been historically manipulated for drainage runs along the western property line, passing under Highway 35. Raised areas adjacent to the project site, and developments north, allow for rainwater drainage into the complex. The topography of the area is flat and allows for the collection and over accumulation of rainwater, resulting in freshwater inundation of the wetland complex.

PROJECT PURPOSE:

Basic: Drainage Improvements

Overall: To improve drainage within and promote intertidal water exchange within the estuarine marshland habitats in Palacios, Texas.

PROPOSED WORK: The applicant requests authorization to excavate 19,053 cubic yards (CY) of material from within a wetland complex to improve drainage within and near wetlands associated with Tres Palacios Bay. This includes excavating 18,333 CY of material from 2.423 acres of wetland complex associated with widening a drainage channel from a surface width of 15-foot to 60-foot and a bottom width of 15-foot to 30-foot with a 3:1 slope along its edges and deepening it from 1-foot to 5-foot for its full 2,200-foot length. A side channel connecting to the main channel will have 472 CY of material excavated from a 0.293-acre area. Existing runnels will have 53 CY of material excavated from 0.033-acre and new runnels created by excavating 195 CY from 0.121-acre within the wetland complex. Excavation will occur using a hydraulic dredge utilizing a 10-inch cutter head.

The applicant also proposes to discharge 9,058 CY of the excavated material into 4.491 acres of neighboring wetlands to increase platform height and vegetative cover. This includes the discharge of 5,087 CY into 2.522 acres for Panne area enhancement and the discharge of 3,971 CY into 1.969-acre for the enhancement of *Spartina alterniflora* habitat. All discharge for wetland complex enhancement will be spread throughout a thin layer as to not inhibit or damage any existing vegetation and allow for the establishment of native species within the discharge areas.

The remaining 9,995 CY of excavated material will be discharged in a 4.842-acre upland area owned by the applicant.

AVOIDANCE AND MINIMIZATION: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The project places only 50% of the 20,000 CY of excavated material in a constructed upland dewatering facility. The remaining material will be strategically applied to approximately 5.32 acres of the 41.13-acre tidal wetlands to improve its function and resilience. This thin-layer placement will increase wetland platform height, enhance vegetative cover, and improve drainage to reduce flooding and prevent further degradation. Areas of adequate elevation and existing vegetation are being avoided to retain sediment and biodiversity.

COMPENSATORY MITIGATION: The applicant has provided the following explanation why compensatory mitigation should not be required: Compensatory mitigation is not required because the entire project is restorative in nature.

CULTURAL RESOURCES: The Corps evaluated the undertaking pursuant to Section 106 of the National Historic Preservation Act (NHPA) utilizing its existing program-specific regulations and procedures along with 36 CFR Part 800. The Corps' program-specific procedures include 33 CFR 325, Appendix C, and revised interim guidance issued in 2005 and 2007, respectively. The District Engineer consulted district files and records and the latest published version of the National Register of Historic Places and initially determines that:

The proposed project is of such limited nature and scope that it has no potential to affect historic properties, even if present within the project area.

ENDANGERED SPECIES: The Corps has performed an initial review of the application, the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) to determine if any threatened, endangered, proposed, or candidate species, as well as the proposed and final designated critical habitat may occur within the boundary of the proposed project. Based on this initial review, the Corps has made a preliminary determination that the proposed project may affect species and critical habitat listed in Table 1. No other ESA-listed species or critical habitat will be affected by the proposed action.

Table 1: ESA-listed species and/or critical habitat potentially present in the action area.

Species Common Name and/or Critical Habitat Name	Scientific Name	Federal Status
USFWS ESA-Listed Species/Critical Habitat		
Eastern Black Rail	<i>Laterallus jamaicensis</i>	Threatened

This notice serves as request to the U.S. Fish and Wildlife Service for any additional information on whether any listed or proposed to be listed endangered or threatened species or critical habitat may be present in the area which would be affected by the proposed activity.

ESSENTIAL FISH HABITAT: Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act 1996, the Corps reviewed the project area, examined information provided by the applicant, and consulted available species information.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. Our initial determination is that the proposed action may adversely affect EFH and/or fisheries managed by Fishery Management Councils and the National Marine Fisheries Service (NMFS). Implementation of the proposed project would indirectly impact approximately 41.13 acres of tidal wetlands. The effects of the project are determined to be minimal and permanent given the increased waterflow and promotion of tidal water exchange within the wetland complex. These habitat(s) are utilized by the following species and their various life stages: red drum, triggerfishes (*Balistidae*), jacks (*Carangidae*), wrasses (*Labridae*), snappers (*Lutjanidae*), tilefishes (*Malacanthidae*), groupers (*Serranidae*), and coastal

migratory pelagic species, shrimps, stone crabs, and spiny lobsters. 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.

NAVIGATION: The proposed structure or activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act of 1899 (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

WATER QUALITY CERTIFICATION: 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 has not yet reached out to the TCEQ to initiate the Section 401 CWA process.

COASTAL ZONE MANAGEMENT PROGRAM: 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.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The geographic extent of aquatic resources within the proposed project area that either are, or are presumed to be, within the Corps jurisdiction has not been verified by Corps personnel. The applicant's plans are enclosed in 21 sheets.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact 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 including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

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 determination, comments are used to assess impacts to 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 Assessment (EA) and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act (NEPA). Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

The Galveston District will receive written comments on the proposed work, as outlined above, until **February 25, 2026**. Comments should be submitted electronically via the Regulatory Request System (RRS) at <https://rrs.usace.army.mil/rrs> or to the Regulatory Division at swg_public_notice@usace.army.mil. Alternatively, you may submit comments in writing to the Regulatory Division, U.S. Army Corps of Engineers, Galveston District, Attention: **SWG-2024-00684**, at 2000 Fort Point Road, Galveston, Texas 77550. Please refer to the permit application number **SWG-2024-00684** in your comments.

PUBLIC HEARING: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Requests for a public hearing will be granted, unless the District Engineer determines that the issues raised are insubstantial or there is otherwise no valid interest to be served by a hearing.

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS