



# Public Notice

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

**Galveston District**

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

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

Comments \_\_\_\_\_

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

SWG-2014-00895

14 July 2016

15 August 2016

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**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT  
AND  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

**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:** Mitigation Management, LLC  
2557 State Highway 7 East  
Center, Texas 75935  
POC: Keith Webb  
Phone: 936-598-3053

**LOCATION:** The proposed site is located adjacent to the Sabine River, approximately 4.5 miles northeast of the community of Bon Weir, in Newton County, Texas. It can be depicted on the United States Geological Survey (USGS) 7.5 Minute Topographic Quadrangle Map Titled: MERRYVILLE NORTH, TEXAS.

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

Latitude: 30.8028° North;

Longitude: -93.5981° West

**PROJECT DESCRIPTION:** The applicant proposes the establishment and operation of an approximate 555-acre mitigation bank named the Lost Creek Brake Mitigation Bank (LCBMB). Mitigation Management, LLC is proposing to serve as the Sponsor of the LCBMB. The Sponsor proposes to preserve approximately 491 acres of high quality cypress-tupelo swamp and enhance approximately 63 acres of forested wetlands and upland buffer adjacent to the Sabine River to serve as compensatory mitigation of unavoidable, permitted impacts to waters of the United States.

**AVOIDANCE AND MINIMIZATION:** The specific objectives of the project are to preserve the physical, chemical, and biological characteristics of the site.

**MITIGATION:** The applicant proposes to construct a compensatory mitigation bank.

**CURRENT SITE CONDITIONS:** The LCBMB is currently comprised of high quality bald cypress-tupelo swamp adjacent to the Sabine River that has been largely undisturbed by human activities, with the exception of a high-grading timber harvest estimated to have occurred in the late 19th to early 20th century. The Sabine River was named by Spanish explorers in the early 1700's who noted the many large bald cypress trees observed along the river, hence Rio de Sabinas (TSHA 2010). Likely, many of the older bald cypress/tupelo trees presently found on the LCBMB were present during that time.

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 98 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.

Although this project may result in a direct impact to less than three acres of waters of the state or less than 1,500 linear feet of streams, the project would impact certain types of rare or ecologically significant wetlands. Therefore, the project is not eligible for inclusion in the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria and an individual water quality certification is required, even though the project is below the Tier I thresholds. Concurrent with U.S. Army Corps of Engineers (Corps) processing of this application, the TCEQ is reviewing 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. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of the work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

**NATIONAL REGISTER OF HISTORIC PLACES:** The staff archaeologist has not 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 proposed work and/or structures are of such limited nature and scope that little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area.

**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 **15 August 2016**. 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-2014-00895**, and should be submitted to:

Sam J. Watson  
Regulatory Division, CESWG-RD-P  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3946 Phone  
409-766-6301 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS