Public Notice

U.S. Army Corps Of Engineers

Galveston District

Permit Application No: SWG-2017-00295

Date Issued: 17 July 2017

Comments Due: 16 August 2017

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 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

APPLICANT:
Texas Parks and Wildlife Department
Coastal Fisheries-Ecosystem Resources Program
6300 Ocean Drive, Mail Unit 5846
Corpus Christi, Texas 78410
Telephone: 361-825-3204
POC: Mr. Paul Silva

LOCATION: The project is located within the Dagger Island complex in Redfish Bay, approximately 4.5 miles south of Aransas Pass, in Nueces County, Texas. The project is located within the Redfish Bay State Scientific Area (RBSSA) designated by Texas Parks and Wildlife Department and owned by the Texas General Land Office, state submerged tracts 336 and 341. The project can be located on the U.S.G.S. quadrangle map entitled: Port Ingleside, Texas.

LATITUDE & LONGITUDE (NAD 83):
Site 1: Latitude: 27.840973 North; Longitude: 97.163606 West
Site 2: Latitude: 27.848083 North; Longitude: 97.153314 West

PROJECT DESCRIPTION: The applicant proposes to construct a nearshore breakwater at Site 1 and create a beneficial use area with a nearshore breakwater at Site 2.

At Site 1, the proposed work would involve constructing a rock breakwater with riprap scour protection parallel to the shoreline of the existing island. The applicant plans to

position a marsh excavator on the island shoreline with a long-reach bucket to place graded stone in shallow water (-1 to 0 feet deep). Shallow water barges would be utilized to transport the rock to the north end of the site through an existing channel and tracked carriers would move the stone along the shoreline to the excavator. Geotextile fabric would be placed on the bay bottom at a natural grade prior to the stone placement to reduce settlement of the structure.

At Site 2, the proposed work would involve constructing a 28-acre containment area on the historic island footprint to accept suitable dredged material for the creation of a beneficial use site. The project plans for this site also include the construction of a nearshore, rock breakwater structure with riprap scour protection along the southern shoreline. Construction activities would begin with placement of the breakwater structure and scour protection. Placement of the breakwater material would involve a similar procedure as detailed for Site 1. The applicant proposes to excavate a temporary access channel within the beneficial use footprint to facilitate placement of the breakwater in shallow water (-1 feet deep). This access channel would follow the planned path of containment levee 1 and would be backfilled following completion of the breakwater structure. The containment levees would be constructed using *in situ* materials excavated from borrow areas, parallel to the containment levees, within the containment area. The excavated borrow areas would serve as temporary access channels for barges used for levee construction. The outside (windward) slope of levee 2 would be covered with bio-degradable fabric to prevent erosion. Once the containment levees have settled and stabilized, dredge material would be discharged into the containment area to a final elevation of 4 feet (NAVD 88). The applicant has not identified the source of the dredged material, at this time. Following a settlement period of at least one year, the crown of the restored island would be shaped with heavy equipment to emulate the micro-topography of nearby Ransom Point Island.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by mapping significant stands of seagrasses and designing the project to avoid these areas. Temporary impacts to water quality would be minimized by implementing best management practices, including (but not limited to): silt fencing, containment levees, decant structures(s), protective fabric covering, and vegetation to prevent erosion. The applicant specified that all dredge material would be tested to ensure that no material is used that exceeds contaminant levels set by state or federal standards.

MITIGATION: The applicant does not propose to mitigate for the proposed impacts. They have stated that the proposed project is designed to provide benefits to aquatic resources through the prevention of shoreline erosion, creation of habitat for filter-feeding oysters and other mollusks, improvement of conditions for existing emergent and submergent vegetation and creation of elevations for additional emergent and submergent vegetation. Currently, this area is exposed to high energy waves and is experiencing high erosion rates resulting in losses of island area, deposition of eroded island sediments in adjacent stands of seagrass beds, and an increase in turbidity. The applicant stated that this situation, if allowed to continue, will result in the loss of island habitat that provides wave protection for seagrass beds and other aquatic wetlands. The

proposed project would protect and restore island habitat; and in turn, would benefit these adjacent seagrass beds and oyster reefs by providing a barrier against waves and improve water quality through the stabilization of island sediments. Approximately 1.5 acres of emergent marsh would be allowed to develop between the breakwater and islands (existing and restored). In addition, approximately 1 acre of submerged hard substrate would be created for colonization by filter-feeding oysters and other mollusks. Thus, it is the applicant's opinion that the proposed project will self-mitigate for any temporary effects from project construction activities.

CURRENT SITE CONDITIONS: The project site occurs in Redfish Bay, within the RBSSA. The site consists of 42.84 acres of estuarine water and wetland habitat, including submerged, open-bottom habitat (32.06 ac), sparse, transient and minor stands of seagrasses (1.73 ac), tidal flats (6.37 ac), and intertidal emergent marsh (2.18 ac). An additional 1.06 acres of island habitat is also within the project area footprint. Within the footprint of Site 2, there is a 0.31-acre area of randomly scattered oyster clusters and shell material. Approximately 889 acres of seagrass, composed of five native species, is present on the leeward side of the islands. Although the existing island does not serve as a rookery, it does play an important role in the daily activities of birds, such as loafing, feeding and resting. Federal trust species of waterfowl, including priority species listed in North American Waterfowl Management Plan (i.e. redhead and northern pintail), feed on the seeds and vegetation of seagrass in the RBSSA.

The nearest tide and water level station relevant to the project site is located approximately 14 miles to the north in Rockport, Texas. The elevations at the project site are generally between +1 and -2 feet (NAVD 88). Few deep water areas (-2 to -5 feet NAVD 88), associated with historic dredging activities, are present in the project sites. Islands in the project sites are low-lying; generally ranging above the mean higher high water (MHHW) mark at 2.5 feet (NAVD 88), with few elevation peaks over 3 feet.

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 applicant's plans are enclosed in 14 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 Clean Water Act (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 would result in a direct impact of greater than three acres to waters of the state, and as such would not fulfill Tier I criteria for the project. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with 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 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 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:

Site 1: The permit area has been so extensively impacted by previous placement of dredged material that there is no potential for historic properties to exist within the permit area.

Site 2: The permit area is composed of low-lying wetlands with no existing or subsided natural levee landforms and has a low potential for containing cultural deposits that may be eligible for inclusion in the National Register of Historic Places.

THREATENED AND ENDANGERED SPECIES: Threatened and/or endangered species or their critical habitat may be affected by the proposed work. Consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service will be initiated to assess the effect on endangered species.

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 of Engineers, 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 of Engineers 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 of Engineers 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 Environmental Impact Statement 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 of Engineers 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 August 2017.** 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-2017-00295**, and should be submitted to:

Corpus Christi Field Office
Regulatory Division, CESWG-RD-CC
U.S. Army Corps of Engineers
5151 Flynn Parkway, Suite 306
Corpus Christi, Texas 78411-4318
361-814-5847 Phone
swg_public_notice@usace.army.mil

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