



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-2018-00287
	Date Issued: _____	5 July 2018
	Comments _____	
<b>Galveston District</b>	Due: _____	6 August 2018

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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:** Texas Department of Transportation – Beaumont District (TxDOT)  
8350 Eastex Freeway  
Beaumont, Texas 77708  
POC: Mr. Jered Simpson  
Telephone: 409-898-5830  
[Jered.Simpson@txdot.gov](mailto:Jered.Simpson@txdot.gov)

**AGENT:** Spirit Environmental, LLC  
20465 State Highway 249, Suite 300  
Houston, Texas 77070  
POC: Mr. Ryan Robal  
Telephone: 281-664-2828  
[rrobol@spritenv.com](mailto:rrobol@spritenv.com)

**LOCATION:** The project site is located in wetlands, adjacent to Mayhaw Bayou, along State Highway (SH) 73 from Farm-to-Market 1663 to Kiker Road, in Winnie, Chambers and Jefferson Counties, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Hamshire, Texas.

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

Latitude: 29.825757° North;

Longitude: 94.343197° West

**PROJECT DESCRIPTION:** The applicant proposes to permanently discharge 3,755 cubic yards of fill material into 0.74 acre of palustrine forested (PFO), 0.04 acre of palustrine scrub/shrub (PSS) wetlands, and 2,125 linear feet of intermittent roadway ditches, during the roadway improvements along SH 73. Refer to the table on sheet 2 of 10 of the plans for specific details.

**AVOIDANCE AND MINIMIZATION:** The proposed project will be constructed within existing TxDOT-owned right-of-way (ROW) and will not require any additional land acquisition. The applicant will minimize impacts to aquatic resources by only disturbing portions of the ROW necessary to complete the project.

**MITIGATION:** The applicant proposes to compensate for the loss of aquatic resources due to the proposed project activities by purchasing credits from the Blue Elbow Swamp Mitigation Bank for wetland impacts (0.78 acres) and from the Houston-Conroe Stream Mitigation Bank for stream impacts (0.70 acres, 2,125 linear feet).

**CURRENT SITE CONDITIONS:** The project route is currently along existing SH 73. The project site receives regularly mowing, allowing mainly herbaceous vegetation to grow. The freshwater forested wetlands are dominated by Chinese tallow (*Triadica sebifera*), Water oak (*Quercus nigra*), and Sugar hackberry (*Celtis laevigata*). Some of the roadside ditches are connected to Mayhaw Bayou and are relatively permanent waters. The project area is already impacted by existing culverts.

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 10 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:** The project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management 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 is confined to an existing right-of-way that has been so extensively impacted by previous project activities that there is no potential for historic properties to exist within the permit area. Therefore, the proposed project has no potential to effect historic properties.

**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 **6 August 2018**. 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-2018-00287**, and should be submitted to:

Central Unit  
Regulatory Division, CESWG-RDE  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3869 Phone  
409-766-6301 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS