



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2001-01994
	Date Issued: _____	7 July 2016
	Comments	
Galveston District	Due: _____	8 August 2016

**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 (CWA).

APPLICANT: Texas Barge and Boat, Inc.
4115 East Floodgate Road
Freeport, Texas 77541
Telephone: 979-233-5539
POC: Mr. Mickey Tiner

AGENT: A&M Wetland Consulting Services, LLC
502 Vivit
Angleton, Texas 77515
Telephone: 281-627-2659
POC: Mr. Andy Bouse

LOCATION: The project site is located in the Gulf Intracoastal Waterway (GIWW), at 4115 East Floodgate Road, in Freeport, Brazoria County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: JONES CREEK, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 28.900975 North;

Longitude: 95.379628 West

PROJECT DESCRIPTION: A public notice was issued on 17 November 2015 for an after-the-fact permit sought by the applicant to retain impacts to waters of the United States associated with the expansion of a barge storage, maintenance, and repair facility. The applicant dredged approximately 2,716,260 cubic feet of material from uplands in three areas, extending the high tide line and resulting in the creation of approximately 6 acres of open water. Approximately 7,770 cubic feet of the dredged material was placed into approximately 0.36 acre of wetlands, and approximately 54,000 cubic feet was placed into 0.44 acre of open water areas. The applicant also constructed approximately 856 linear feet of steel bulkhead, and placed approximately 8,220 cubic feet of rip-rap below the high tide line, for bank stabilization and erosion protection. The applicant also installed approximately 1,682 linear feet of pipe piling mooring structures within the project area. The applicant desires to establish a fleet area adjacent to a segment of the pipe piling mooring structures. The fleet area would be located along the GIWW in the northeast portion of the project site, and would be 1,100-foot-long by 200-foot-wide.

The 17 November 2015 public notice also described the applicant seeking authorization for proposed future activities, namely, to install an additional 486 linear feet of pipe piling mooring structures, and future maintenance dredging activities. Maintenance dredged material would be placed into an upland area, contained by a perimeter berm, for dewatering. When the maintenance material has sufficiently dried, it would be transferred to an adjacent upland placement area.

The purpose of this updated public notice is to inform you of additional proposed impacts within the project site. The applicant proposes to permanently impact 8,770 square feet (0.2-acre) of estuarine fringe wetlands located at the western terminus of the facility's main channel as a result of future dredging activities. The applicant also proposes to install additional steel bulkhead and rip-rap in non-jurisdictional areas adjacent to the facility's channels. This public notice is also to inform you of additional past wetland impacts that were determined to have occurred within the project site. An approximate 1.31-acre area was dredged in the northeast portion of the project site adjacent to the GIWW. Approximately 0.73 acre of the area dredged was comprised of estuarine emergent wetlands.

Impacts to wetlands from past and future activities totals 1.29 acres. The applicant has updated proposed mitigation to compensate for past and future wetland impacts, as described below.

AVOIDANCE AND MINIMIZATION: As this is an after-the-fact permit request, the applicant did not initially provide information on any avoidance and minimization efforts that were employed. The applicant did state, however, that the bank stabilization activities were employed to prevent continued erosion within the project area thus improving water quality.

MITIGATION: The applicant has stated that the 1.09 acres of past impacts to wetlands, and the proposed future impacts to 0.2 acre of wetlands, would be mitigated by the purchase of a tidally influenced tract of land that would be donated to the Cradle of Texas Conservancy, Inc. The current site that is being investigated is a 2.125-acre site in Brazoria County which contains *Spartina alterniflora*, *Batis maritima*, and *Sporobolus virginicus*.

CURRENT SITE CONDITIONS: The project site is a barge storage, maintenance, and repair facility located immediately northeast of the intersection of the Brazos River and GIWW. The site primarily contains upland and open water areas. The terminal end of the facility's main channel contains estuarine fringe wetlands.

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 16 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 was initiated without a Department of the Army permit and is considered an after-the-fact permit application. After-the-fact permit applications require review under the Tier II criteria. 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: As stated in the original public notice, 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 has been so extensively modified that little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area.

The Texas State Historic Preservation Office responded to the original public notice on 14 December 2015 indicating concurrence with our staff archaeologist's conclusion.

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: Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act were initiated by the original public notice, dated 17 November 2015. Comments were received from the National Marine Fisheries Service (NMFS) on 15 December 2015. The revised plans and proposed mitigation are a result of the applicant's attempt to address the EFH concerns raised by NMFS in response to the original public notice.

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 **8 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-2001-01994**, and should be submitted to:

Mark Garza
Regulatory Division, CESWG-RD-E
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3143 Phone
409-766-6301 Fax
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
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