



Public Notice

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

Galveston District

Permit Application No: SWG-2018-00464

Date Issued: 16 July 2019

Comments

Due: 15 August 2019

**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: Port of Beaumont Navigation District
1225 Main Street
Beaumont, Texas 77701-3648
POC: Brandon Bergeron
Telephone: 409-835-5367
Email: bmb@portofbeaumont.com

AGENT: Lanier and Associates Consulting Engineers, Inc.
595 Orleans Street, Suite 600
Beaumont, Texas 77701-3227
POC: Christopher Guy
Telephone: 409-212-1051
Email: cguy@lanier-engineers.com

LOCATION: The project site is located in the Neches River on a tract located south of Interstate Highway 10 and Old Highway 90, in Vidor, Orange County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Beaumont East, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 30.079023° North; **Longitude:** 094.05859° West

PROJECT DESCRIPTION: The applicant proposes to hydraulically or mechanically dredge approximately 1,407,199 cubic yards (CY) of new material from the Neches River to an initial depth of 42.0 feet below Mean Lower Low Water (MLLW), to create a ship berthing area, a turning basin and a barge berthing area at a depth of 17.0 feet below MLLW. Approximately, 1,100,000 CY will be placed in Beneficial Use Sites. The remaining 307,199 CY will be placed in Placement Area 23, 24 or 25. The applicant also proposes to construct two ship docks and a barge dock. The two ship docks will consist of: a new platform measuring 130' x 60', a 20' x 80' long ship gangway platform, an approach-way, piperack support walkways, fire water platform, 6 breasting dolphins, 6 mooring dolphins and 3 barge monopiles. The new barge dock will accommodate river inland barges and will consist of a new barge dock platform measuring 60' x 40', approach-way, piperack supports, and 9 barge monopiles. The project will also include roads, shoreline protection, and containment levees. In the future, the ship berth and turning basin will be dredged to 48.0 feet below MLLW. The purpose of the project is to construct a new marine terminal with ship docks, a barge dock and tank storage on Port property to accommodate the loading and unloading of bulk liquid products. This project will discharge dredged or fill material into 20.6 acres of wetlands on the project tract.

AVOIDANCE AND MINIMIZATION: The applicant has stated that the project has been designed with the smallest footprint practicable to achieve the purpose and need described below. Due to space limitations as a result of compressing the project design, all wetlands within the footprint of the project will be impacted. Expanding the project to a more typical layout would significantly increase the amount of wetland impacts.

MITIGATION: The Port of Beaumont proposes to mitigate these impacts by Permittee Responsible Mitigation as outlined in the attached mitigation plan. The proposed mitigation plan will aid in stabilization and hasten the restoration of the larger BU area within the Rose City Marsh area that is being restored to marsh habitat through beneficial use of dredged materials by the project. The BU disposal plan by the Port of Beaumont for this project (see Dredged Material Management Plan) will provide the dredged materials to raise the floor elevation of subsided open water areas to suitable marsh contours (approximately +1.2 MSL). Prior to BU disposal, reference elevations of adjacent marsh will be acquired and used to determine the final elevation of the BU materials. The planting of marsh vegetation proposed herein will significantly aid stabilization of erosive edges and hasten marsh development and maturation with a resultant increase in the functional values of the entire area. The 25-acre mitigation parcel is part of a several-hundred acre tract owned by Mr. Edwin Arnaud. The Permittee will place dredged materials in approximately 300 acres of open water and degraded marsh in this area as part of their Dredged Materials Management Plan. The Permittee proposes to restore 25 acres of tidal marsh by planting suitable marsh species on the BU dredged materials.

CURRENT SITE CONDITIONS: The property's vegetation is relatively diverse, the non-wetland areas being dominated by an overstory of loblolly pine (*Pinus taeda*), sweetgum (*Liquidambar styraciflua*), southern red cedar (*Juniperus silicicola*), water oak (*Quercus nigra*) and a relatively dense understory of yaupon (*Ilex vomitoria*), Chinese privet (*Ligustrum sinense*) and Japanese privet (*Ligustrum japonicum*), southern dewberry (*Rubus trivialis*), and catbriar (*Smilax bona-nox*). The herbaceous wetland areas were found to be dominated largely by cattails (*Typha latifolia*) and scattered Chinese tallow (*Triadica sebifera*), but also with giant bulrush (*Schenoplectus californicus*), sedge (*Carex jorii*), and scattered bald cypress (*Taxodium distichum*). Some forested and shrub wetland areas were dominated by Chinese tallow, black willow (*Salix nigra*), baccharis (*Baccharis halimifolia*), and occasional bald cypress and red maple (*Acer rubrum*). Much of the property has previously been impacted by historical dredged material disposal and other uses. The percentage of invasive species (cattail, willow, Chinese tallow, privet, alligatorweed, *Salvinia*, *Phragmites*, etc.) is high due to previous disturbance of the site and surrounding area. As a result, the value of the wetlands is relatively low.

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 21 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 would result in a direct impact of greater than three acres of waters of the state or 1,500 linear feet of streams (or a combination of the two is above the threshold), 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.

The return water from the upland contained dredge material placement area(s) requires certification by the Texas Commission on Environmental Quality (TCEQ). The applicant must obtain a Section 401-water quality certification from the TCEQ for the effluent or return water discharge. A copy of the 401-certification must also be furnished to the Corps prior to the Corps making a decision on the proposed project.

Pursuant to 33 USC 408, the proposed project will require Section 408 coordination and review. This is a requirement for activities that seek permission, to temporarily or permanently, alter, occupy, or use a federally authorized United States Army Corps civil works project. Changes to the proposed project, from the Section 408 process, may warrant additional coordination.

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 likely to contain both terrestrial and marine cultural resources that could be eligible for inclusion in the National Register of Historic Places. The applicant will need to conduct both terrestrial and marine investigations for 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.

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, 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 2019**. 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-2018-00464**, and should be submitted to:

North Evaluation Unit
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