



# Public Notice

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

**Galveston District**

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

SWG-2020-00266

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

7 July 2022

Comments \_\_\_\_\_

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

8 August 2022

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## U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT

**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:** Entergy Services LLC, OBO Entergy Texas, Inc.  
2623 Cameron Street  
Lafayette, Louisiana 70506  
POC: Andrew Guempel  
Telephone: 409-981-2507  
Email: aguempel@entergy.com

**AGENT:** Environmental Resources Management  
8875 Hidden River Parkway, Suite 359  
Tampa, Florida 33637  
POC: Wendy Conn  
Telephone: 941-544-8848  
Email: Wendy.Conn@erm.com

**LOCATION:** The project site is located in wetlands adjacent to the Neches River, at 1000 Powerhouse Road, in Orange, Orange County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Orangefield, Texas.

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

**Latitude:** 30.024432° North; **Longitude:** 093.872987° West

**PROJECT DESCRIPTION:** The applicant proposes to permanently discharge approximately 20,848 cubic yards of dredged or fill material into 1.81 acres of wetlands and 0.002 acre of other waters and temporarily discharge dredged or fill material into 0.95 acres of wetlands and 0.002 acre of other waters for the purpose of constructing the Orange County Advanced Power Station. This project includes construction of a power generating facility, administrative building, transmission line, substation and switchyard modifications, re-routing existing transmission line infrastructure, development of a new outfall ditch and outfall structure, constructing/improving new and existing access road(s), and construction of laydown areas. This project intends to utilize an existing boat ramp and barge dock.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts avoiding 21.28 acres of wetlands and 0.19 acres (1,921.76 linear feet) of waterbodies. In addition, the applicant will use a variety of construction techniques that will avoid or minimize impacts, including the use of temporary matting, the use of existing roadways for access roads, the use of existing culverts for waterbody crossings, and the implementation of best management practices such as installing erosion control devices and managing stormwater flow.

**MITIGATION:** To offset the proposed wetland impacts during construction of the project, the applicant has proposed to purchase 1.37 Functional Capacity Units (FCUs) of Temporary Storage and Detention of Surface Water (TSDSW) function, 1.49 FCUs of Maintenance of Plant and Animal Communities (MPAC) function and 0.95 FCUs of Removal and Sequestration of Elements and Compounds (RSEC) function of palustrine emergent wetland credits, from the Pineywoods Mitigation Bank. The applicant also proposes to purchase 0.14 FCUs of TSDSW function, 0.17 FCUs of MPAC function and 0.21 FCUs of RSEC function of palustrine forested wetland credits, from the PMB. The Project is located in the secondary service area of the PMB. Per the PMB mitigation banking instrument (MBI), Project impacts located within the bank's secondary service area will apply a 1:1.5 mitigation to impact ratio.

**CURRENT SITE CONDITIONS:** The project site has been used in the past as a bulk liquid storage facility. Currently the site is an undeveloped tract of land adjacent to an existing power generating facility. The approximate 202-acre tract contains eighteen man-made ditches totaling 12,882.38 linear feet (LF), thirty-three wetlands totaling 68.67 acres and two tidal canals totaling 12.40 acres.

Currently the site is bounded to the east and west by large undeveloped tracts containing wetlands, a forested wetland tract to the south, and developed residential areas to the north.

**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 wetland delineation has been completed and was verified by the Corps on 8 June 2022. The applicant's plans are enclosed in 23 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.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The TCEQ will review 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. The applicant has not yet reached out to the TCEQ to initiate the Section 401 CWA process. If you have comments or questions on this proposed project's State water quality certification, please contact [401certs@tceq.texas.gov](mailto:401certs@tceq.texas.gov). You may also find information on the Section 401 process here: <https://www.epa.gov/cwa-401/basic-information-cwa-section-401-certification>.

**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 was investigated for historic properties, and none were identified as documented in the report titled "Phase I Archaeological Survey Entergy Orange County Advanced Power Station," prepared for Entergy Texas, Inc. by ERM, and dated May 2022. The results of this investigation are currently being coordinated with the Texas State Historic Preservation Officer (SHPO).

**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 **8 August 2022**. 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-2020-00266**, and should be submitted to:

North Evaluation Unit  
Regulatory Division, CESWG-RDE  
U.S. Army Corps of Engineers  
Galveston District  
2000 Fort Point Road  
Galveston, Texas 77550  
409-766-3869 Phone  
409-766-3931 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS