



Public Notice

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

Galveston District

Permit Application No: SWG-2022-00420

Date Issued: 14 July 2022

Comments

Due: 15 August 2022

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.

APPLICANT: US FISH AND WILDLIFE SERVICE (FWS)
22817 Ocelot Road
Los Fresnos, Texas 78566
POC: Mr. Brandon Jones
Telephone 956-748-3607
Email: brandon_jones@fws.gov

AGENT: FREESE AND NICHOLS, INC.
10431 Morado Circle, Bldg 5, Ste 300
Austin, Texas 78759
POC: Mr. Aaron Petty
Telephone 512-617-3124
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LOCATION: The project is located in the Bahia Grande Unit in the Laguna Atascosa National Wildlife Refuge (LANWR), approximately 1.1 miles southwest of Laguna Vista, Cameron County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Laguna Vista, Texas.

LATITUDE & LONGITUDE (NAD 83):
Latitude: 26.083669 North; Longitude: -97.302098 West

PROJECT DESCRIPTION: The applicant proposes to restore freshwater flows and moderate salinity levels within the Laguna Larga by modifying the existing culvert under SH-100 and excavating an approximate 1.6-mile earthen channel to allow for more

complete water passage from the drainage areas north of the highway into the wetlands complex and ultimately into the Laguna Larga. The total excavated area of the channel would be 10.75 acres that would include 9.34 acres of wetland habitat and 1.41 acres of upland vegetation. A water control structure consisting of an articulated concrete block mat weir would be constructed near the southern terminus of the channel to impound water during low rainfall events and further divert flows into the Laguna Larga during high rainfall events. This would impact 0.25 acre of jurisdictional waters of the U.S. Additionally, there is an existing ditch located to the east of the proposed channel that currently drains north toward SH-100 that would be filled level with the natural ground elevation to prevent flows from draining away from the wetlands complex. This project would also involve 50-foot work areas along the east and west sides of the proposed earthen channel and existing ditch and a portion of the access routes that are primarily located along the upland ridges within the basin.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by the use of best management practices, such as temporary road matting and silt fencing during construction to avoid permanent impacts in wetland within temporary work areas and access roads. Equipment staging and access would be from SH 100 or from area designated as upland to the maximum extent possible. Temporary fills would be removed in their entirety following completion of the project and the affected areas would be returned to pre-construction elevations and revegetated, as appropriate.

MITIGATION: No mitigation is proposed since the project would result in the restoration of natural hydrology in the project area that would benefit fisheries important to the Gulf region and provide enhanced foraging habitat for waterfowl, shorebirds, and wading birds.

CURRENT SITE CONDITIONS: The Bahia Grande Unit of the LANWR is a coastal ecosystem estuary and wetland complex that consists of three shallow water basins – Bahia Grande, Laguna Larga, and Little Laguna Madre. The unit is located at the southernmost tip of Texas between the towns of Laguna Vista and Brownsville, Texas and is currently bounded by State Highway (SH) 100 to the north and the Brownsville Ship Channel and SH-48 to the southeast. Construction of these roadways and the ship channel in the early to mid-1990s cut off the basins from their natural systems and significantly altered the overall hydrology of the area. High temperatures and the low and sometimes episodic rainfall patterns of the area have caused the basins to experience extreme high salinity. These developments ultimately resulted in severely degraded habitat with limited resources for fisheries and wildlife.

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 three 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.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Commission on Water Quality (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.

LEAD FEDERAL AGENCY: The FWS has been identified as the lead federal agency for complying with Section 7 of the Endangered Species Act, National Historic Preservation Act, and Magnuson-Stevens Fishery Conservation and Management Act. As such, please direct all comments, questions, or concerns regarding these Acts to the FWS.

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 US Fish and Wildlife Service is the lead Federal Agency for this project and will need to complete all Section 106 consultation before the Corps can issue the Department of the Army permit.

Project is within the area of interest for the following Tribes: the Apache Tribe of OK, the Comanche Nation of OK, the Kiowa Indian Tribe of OK, the Mescalero Apache Tribe, the Northern Arapaho Tribe, the Tonkawa Tribe of OK, and the Wichita and Affiliated Tribes.

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 **15 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-2022-00420**, and should be submitted to:

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Regulatory Division, CESWG-RD-R
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS