



Public Notice

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

Galveston District

Permit Application No: SWG-2023-00269

Date Issued: 11 July 2023

Comments

Due: 10 August 2023

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 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

APPLICANT: Matagorda Bay Foundation
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Brazoria, Texas 77422
POC: William "Bill" Balboa
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AGENT: Atkins North America
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Houston, Texas 77024
POC: Rhonda Gregg-Hirsch
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LOCATION: The project site is located near Oliver Point, approximately 3 miles south-southwest of the City of Palacios at the confluence of Matagorda, Tres Palacios, and Coon Island Bays, in Matagorda County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Palacios, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 28.643259 North; **Longitude:** -96.234927 West

PROJECT DESCRIPTION: The applicant proposes to discharge a total of 85,626 cubic yards of fill material into approximately 30.4 acres of open water within Matagorda/ Tres Palacios/ Coon Island Bays below the mean high water (MHW) for the purposes of restoring a degraded oyster reef and installing shoreline protection near Oliver Point.

Specifically, the applicant proposes to discharge 37,390 cubic yards of armor stone and bedding stone within 7.2 acres to install 22 angled rows of oyster reef, each 300 feet long and spaced 120 feet apart. In addition, the applicant will place 13,317 cubic yards of cultch between the oyster reef rows for additional surface area for spat accumulation and to prevent scour at toes of reef rows, within 16.5 acres. The applicant will place approximately 34,919 cubic yards of armor and bedding stone within 6.7 acres for shoreline protection consisting of 25 breakwaters, each 250 feet long and spaced 25 feet apart. Shoreline protection will be installed approximately 500 feet from the existing shoreline in open water.

AVOIDANCE AND MINIMIZATION: No wetlands will be filled and no SAV or oyster impacts are associated with this project. The breakwater and reef structures have been designed to minimize impacts to the greatest extent practicable. Remnant shell is expected as the survey site includes the footprint of the legacy reef and there is oyster habitat in areas outside of the project area. Wave energy influences the scattered shell that is in the project area, and that, along with the lack of larger material prohibits shell massing. The submerged portions of the proposed project (both reef rows and breakwaters) provide hard substrate suitable for oyster spat settlement. The proposed project will create 6.7 acres of hard rock surface area substrate and 16.5 acres of cultch surface area (both) below mean high water suitable for colonization by oysters and other sessile organisms.

MITIGATION: The applicant does not propose mitigation compensation for this proposed project, as the breakwaters are a component of a living shoreline restoration activity, and the oyster reef restoration proposes to restore 23.7 acres of resource habitat and provide additional storm risk management benefits.

CURRENT SITE CONDITIONS: This nearshore/ open water portion of Matagorda Bay is an estuarine system that contains unconsolidated bottom sediments and is subtidally influenced. Matagorda Bay is moderately developed and experiences moderate to heavy vessel traffic from the adjacent navigation channel. Oliver Point has experienced the cumulative habitat loss of more than 40 acres of wetlands, more than 30 acres of oyster reef, and 10 acres of shell ridge around Oliver Point since 1965. There are no recreational or commercial structures located within the vicinity of the action area. There are no special aquatic sites, critical habitats, or oysters present within the project area.

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 20 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 Texas Commission of Environmental 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 contacted the TCEQ and initiated the Section 401 CWA process, on 6 July 2023. If you have comments or questions on this proposed project's State water quality certification, please contact 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 three (3) potential shipwrecks were identified as documented in the report titled Submerged Archaeological Assessment of a Reef Restoration and Living Shoreline Project at Oliver Point in Tres Palacios Bay, Matagorda County, Texas, prepared for Atkins North America, Inc. by BOB Hydrographics, LLC., and dated September 2022. The applicant is proposing to avoid the anomalies and the avoidance plan is currently being coordinated with the Texas State Historic Preservation Officer.

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 **10 August 2023**. 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-2023-00269**, and should be submitted to:

Evaluation Branch
Regulatory Division, CESWG-RDE
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2000 Fort Point Road
Galveston, Texas 77550
409-766-3869 Phone
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS