



Public Notice

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

Galveston District

Permit Application No: SWG-2023-00326

Date Issued: 27 July 2023

Comments

Due: 28 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 404 of the Clean Water Act (CWA).

APPLICANT: Constellation Real Estate Partners
750 Town and Country Boulevard, Suite 970
Houston, Texas 77024
POC: Cody Adamek
Telephone: 281-698-5913
Email: CodyA@constellationrep.com

AGENT: Rowden Consulting, LLC
P.O. Box 978
Bullard, Texas 75757
POC: Jeremy Rowden
Telephone: 903-894-6410
Email: jeremy@rowdenconsulting.com

LOCATION: The project site is located in wetlands adjacent to Greens Bayou, approximately 0.25-mile southeast of the intersection of Mills Road and North Gessner Drive, in Houston, Harris County, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.949972 North; **Longitude:** 095.543266 West

PROJECT DESCRIPTION: The applicant proposes to permanently impact 2.8 acres of palustrine forested wetlands, by clearing, grading and discharge of 6,500 cubic yards of fill, for the construction of a 273,900-square-foot cross-dock distribution warehouse.

AVOIDANCE AND MINIMIZATION: The applicant stated that impacts have been avoided and minimized to the maximum extent practicable. All impacts to Greens Bayou will be avoided.

MITIGATION: The applicant is proposing to mitigate in-kind for the unavoidable loss of 2.8 acres of forested wetlands by purchasing 9.0 Functional Credit Units (FCUs) from Spellbottom Mitigation Bank; FUCs were calculated using Hydrogeomorphic functional assessment approach and a 1.5 secondary service area multiplier was applied.

CURRENT SITE CONDITIONS: The 23.6-acre project site is currently an undeveloped forested tract of land surrounded by commercial development to the north, a residential apartment complex to the west, Greens Bayou to the south and a previously disturbed herbaceous tract of land to the east. An approximate 350-foot-wide active utility corridor traverses the site from Mills Road to Green Bayou. Forested wetlands within the project site encompass a total area of 2.8 acres. The wetland vegetation generally consists of a plant community represented by pine (*Pinus taeda*), sweetgum (*Liquidambar styraciflua*), water oak (*Quercus nigra*), American elm (*Ulmus americana*), sycamore (*Platanus occidentalis*), Chinese tallow (*Triadica sebifera*), hackberry (*Celtis laevigata*), persimmon (*Diospyros virginiana*), bois d'arc (*Maclura pomifera*), Chinese privet (*Ligustrum sinense*), dwarf palmetto (*Sabal minor*), sawbriar (*Rubus argutus*), cat greenbriar (*Smilax glauca*) and greenbriar (*Smilax bona-nox*). The subject wetlands are adjacent to Greens Bayou, which covers 1.1 acres (885 linear feet) of the project site.

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 5 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:

The project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management Program.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Commission on Environmental Quality 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 Texas Commission on Environmental Quality and initiated the Section 401 CWA process, on 10 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 proposed project is located in an area unlikely to contain historic properties. No archeological survey is required.

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.

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 **28 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-2023-00326**, and should be submitted to:

Central Unit/Evaluation Branch
Regulatory Division, CESWG-RDE
U.S. Army Corps of Engineers
Galveston District
2000 Fort Point Road
Galveston, Texas 77550
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS