



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-2014-00716
	Date Issued: _____	20 June 2017
	Comments _____	
<b>Galveston District</b>	Due: _____	20 July 2017

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**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 404 of the Clean Water Act.

**APPLICANT:** Aaron Concrete  
P.O. Box 27107  
Austin, Texas 78755  
POC: Aaron Cabaza

**AGENT:** Westward Environmental, Inc.  
P.O. Box 2205  
Boerne, Texas 78006  
Telephone: 830-249-8284  
POC: Eric Wallgren

**LOCATION:** The project is located in wetlands adjacent to McCampbell Slough on a 137.99-acre tract of property on the north side of State Highway (SH) 35 approximately 1.4 miles east of the intersection of SH 35 and Farm-to-Market (FM) Road 1069 in Aransas Pass, San Patricio County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled Aransas Pass, Texas.

**LATITUDE & LONGITUDE (NAD 83):**  
Latitude: 27.931950 North; Longitude: 97.202359 West

**PROJECT DESCRIPTION:** The applicant proposes to construct a concrete industrial recycling and production facility to provide municipalities and the general public with a source of aggregate and concrete to meet the local demand for such a facility in San

Patricio County. Local population growth and the natural shortage of the necessary raw materials to produce concrete has resulted in a shortage of available aggregate and concrete production in the county.

The proposed project would involve the discharge of approximately 33,685 cubic yards of fill material into 16.11 acres of waters of the United States (US); specifically, wetlands adjacent to McCampbell Slough. This fill material would be sourced from the uplands located within the project site. The applicant would remove the fill from one portion of the subject area via mechanical excavation and move it to where it will be placed via dump truck or other earth moving equipment. The applicant is also proposing to install a storm water drainage system onsite and would be conducted prior to installing the remaining infrastructure.

The proposed concrete recycling and production facility components and appurtenances would consist of a concrete crusher, pug mill, concrete batch plant, hot mix plant, concrete laydown yard, truck terminal with fuel-island, and a machine shop for maintenance activities.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by avoiding the discharge of fill material into Wetland A and only proposing to discharge fill material into portions of Wetlands B, C, and D by developing the associated appurtenances necessary to operate a concrete recycling and production facility in an unconventional manner to utilize the upland portions of the project site.

**MITIGATION:** The applicant is still developing a mitigation plan at this time; however, the applicant does propose to incorporate the storm water drainage system into the final mitigation plan as a source of hydrology for the mitigation project. The applicant will incorporate any constructive agency feedback on this topic in order to properly propose a 12-point compensatory mitigation plan that would best improve wetland and water quality for the watershed.

**CURRENT SITE CONDITIONS:** The proposed project site is located north of the North Corpus Christi Bay Watershed (HUC: 12110201) border in the southern section of the Aransas Bay Watershed (HUC 12110405). The central-most point on the proposed project is approximately ½ mile south of McCampbell Slough, which flows into Port Bay. The NRCS has mapped two types of soils on this proposed project site: Aransas clay and Narta fine sandy loam. The proposed project site is relatively flat with the central and southern locations of the site higher in elevation than the northern, eastern, and western extents. Historic vegetation located onsite ranges from upland plants such as prickly pear (*Opuntia erecta*), tasajillo (*Cylindropuntia leptocaulis*), and honey mesquite (*Prosopis glandulosa*) to more hydrophytic vegetation such as gulf cordgrass (*Spartina spartinae*), shoregrass (*Distichlis littoralis*), and sea ox-eyed daisy (*Borrichia frutescens*). Historically the site has been used for livestock grazing and other agricultural practices. It is surrounded by open prairie to the north, east, south, and west all of which are currently being utilized for livestock grazing or other agricultural purposes. SH 35 abuts the southern border of the project site. In August 2015, the Corps issued a final approved

jurisdictional determination (AJD) for the project site identifying four individual high marsh wetlands subject to jurisdiction pursuant to Section 404 of the Clean Water Act: Wetland Area A = 3.54 acres; Wetland Area B = 0.94 acre; Wetland Area C = 12.94 acres; and Wetland Area D = 3.61 acres.

The proposed project site has been disturbed in the past few years. In September 2014 the Corps opened an Unauthorized Activity (UA) Investigation over reports that wetlands adjacent to McCampbell Slough were being filled without a Department of the Army (DA) Permit. The Corps conducted many site visits and, in cooperation with the applicant and their consultant, it was determined that approximately 20.9 acres of high marsh wetlands were filled without DA authorization. The fill material that was used to fill the wetlands came from a borrow pit located onsite in the northern section of the tract. Current aerial photography indicates this borrow area has been inundated over the last two years; however, the borrow area is not considered a water of the US because it was excavated wholly from uplands and not enough time has passed for normal circumstances to exist. The unauthorized fill material was removed from the delineated wetlands and a 3-foot buffer zone was established around these areas to prevent further impacts. The wetland areas were determined to be reasonably restored to preconstruction contours and elevations in August of 2015 which resolved the Corps UA investigation.

Currently, the applicant is operating only a concrete recycling facility located in the central section of the tract in upland areas as a municipal solid waste (MSW) facility. The applicant has not and currently is not conducting any other operations or utilizing any of the above listed appurtenances on this project site. The applicant submitted a TCEQ Notice of Intent to Operate a Recycling Facility on 22 July 2016, and it was determined by the TCEQ on 27 September 2016 that the submittal complies with the notification and reporting requirements of Title 30 TAC Section 330.11(e)(2). The facility has been assigned the MSW Number 100451 by TCEQ to recycle construction and demolition debris.

**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 21 August 2015. The applicant's plans are enclosed in 4 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.

This project would result in a direct impact of greater than three acres of waters of the state or 1500 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.

**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: A historic properties investigation has been conducted within the permit area. No sites determined eligible for or listed on the National Register of Historic Places are within the permit area or affected area.

**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 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 **20 July 2017**. 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-2014-00716**, and should be submitted to:

Corpus Christi Field Office  
Regulatory Division, CESWG-RD-CC  
U.S. Army Corps of Engineers  
5151 Flynn Parkway, Suite 306  
Corpus Christi, Texas 78411-4318  
361-814-5847 Phone  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS