



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-2010-00942
	Date Issued: _____	11 June 2024
	Comments _____	
<b>Galveston District</b>	Due: _____	15 July 2024

## 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:** Batiste Woods Mitigation Answers LLC  
P.O. Box 217  
McHenry, Mississippi 39561  
POC: Dan O'Neal  
Telephone: 601-528-0546  
Email: danoneal@yahoo.com

**AGENT:** Wetland Consulting Services, Inc.  
21 Autumn Run  
Hattiesburg, Mississippi 39402  
POC: Robert Anderson  
Telephone: 601-550-2346  
Email: wetlandcs@comcast.net

**LOCATION:** The proposed 1,218-acre mitigation bank named Batiste Creek Mitigation Bank (BCMB) site is located 19 miles west of Beaumont Texas, lying approximately 4 miles north of US Highway 90 just east of Devers, in Liberty County, Texas. It can be depicted on the United States Geological Survey (USGS) STOWELL, TX 7.5 map.

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

**Latitude:** 30.0568° North;      **Longitude:** -94.5167° West

**PROJECT DESCRIPTION:** The applicant proposes the establishment and operation of a 1,218-acre mitigation bank named the Batiste Creek Mitigation Bank (BCMB). The Sponsor is proposing the restoration and establishment of forested and forested riparian wetlands to serve as compensatory mitigation of unavoidable, permitted impacts to waters of the United States. The proposed bank's official plans are enclosed.

**AVOIDANCE AND MINIMIZATION:** The specific objectives of the project are to restore the physical, chemical, and biological characteristics of the site.

**MITIGATION:** N/A; The applicant proposes to construct a compensatory mitigation bank.

**CURRENT SITE CONDITIONS:** The BCMB is currently comprised of approximately 252 acres of jurisdictional scrub-shrub and emergent wetlands and approximately 41,000 LF of intermittent stream channels. The Project site is approximately 1,218 acres of silvicultural impacted timberland. The forested project site is relatively homogenous, dominated by green ash (*Fraxinus pennsylvannica*) and Chinese tallow (*Triadica sebifera*), water oak (*Quercus nigra*), willow oak (*Quercus phellos*) with occasional red maple (*Acer rubrum*), sugarberry (*Celtis laevigata*), loblolly pine (*Pinus taeda*), slippery elm (*Ulmus rubra*), bald cypress (*Taxodium distichum*), laurel oak (*Quercus laurifolia*), dwarf palmetto (*Sabal minor*), and southern dewberry (*Rubus trivialis*).

This public notice is being issued based on information furnished by the applicant. This project information has been verified by the Corps. On 26 May 2016, a jurisdictional delineation was made on this project verifying the above information. The delineation was re-verified and extended by the Corps. The iHGM verification was verified by the Corps on 7 February 2023. Due to size constraints, this public notice only includes the applicant's plans and figures. All other appendices from the plans are available upon request.

#### **PRELIMINARY REVIEW OF SELECTED FACTORS:**

**EIS DETERMINATION** - 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.

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

**WATER QUALITY** – N/A, a WQC is not required for MBI approval.

**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 portion of the permit area where earth moving activities proposed activity has the potential to adversely affect historic properties. Therefore, a cultural resources investigation was required to determine if historic properties exist within the permit area. The staff archeologist reviewed the draft report titled, Batiste Creek Mitigation Bank Cultural Resource Assessment Negative Findings, prepared for H&T Environmental, Inc. by TAS, Inc., and dated June 2018. The draft report was submitted in response to our initial request for a cultural resource investigation of the permit area. As documented in the report, no historic properties were found in the permit area and further investigation is not justified. On 9 July 2018, the Corps requested SHPO concurrence with our determination that no historic properties are present and that the proposed permit action is in compliance with Section 106 of the National Historic Preservation Act. SHPO provided concurrence 24 July 2018. The Corps' letter and SHPO's stamped concurrence are attached.

**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** – The Project is not located in Essential Fish Habitat (EFH). Therefore, Corps preliminary determination indicates the proposed activity would not adversely affect EFH. Therefore, formal consultation under Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) is not required at this time.

**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 **15 July 2024**. 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-2010-00942**, and should be submitted to:

Regulatory Division, CESWG-RDP  
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