



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-2020-00274
	Date Issued: _____	4 June 2020
	Comments _____	
<b>Galveston District</b>	Due: _____	6 July 2020

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

**APPLICANT:** Texas Department of Transportation-Houston District (TxDOT)  
P.O. Box 1386  
Houston, Texas 77251-1386  
POC: Andrew Leske  
Telephone: 713-802-5885  
Email: [Andrew.Leske@txdot.gov](mailto:Andrew.Leske@txdot.gov)

**LOCATION:** The project route is located in waters of the US, including Galveston Bay, and adjacent wetlands, along Interstate Highway (IH) 45 from the from south of Farm-to-Market (FM) 519 to the Texas City Wye, approximately 2.65 miles in length, in Galveston County, Texas. The project can be located on the USGS quadrangle map titled: Virginia Point, Texas.

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

Begin Latitude: 29.355376° North;	Longitude: 94.97328° West
Ending Latitude: 29.343014° North;	Longitude: 94.951105° West

**PROJECT DESCRIPTION:** The applicant proposes to temporarily discharge cubic yards of fill material into 0.742 acres of wetlands and to permanently discharge acres of fill material into 7.194 acres of wetlands, of which 1,391 linear feet of streams will be filled, during the roadway improvements associated with the reconstruction and widening of IH 45. The total discharge for all impacts is cumulatively 11,571 cubic yards of fill material.

**BACKGROUND:** Discharges are directly from road construction materials (fill dirt and/or road bed material) being placed in wetlands, or culverts, as well as rip-rap and bridge pilings being placed into streams. Indirect impacts will occur from disturbances such as gradings or excavating.

The proposed project would consist of reconstructing and widening IH 45 from a six-lane interstate to an eight-lane interstate. Additionally, frontage roads would be reconstructed with a minimum of four 12-foot lanes (2 in each direction), with bicycle accommodations. The proposed project also includes the construction of detention ponds, as detailed in the attached project plans. Five-foot-wide sidewalks would be constructed where feasible.

The proposed improvements of IH 45 South would include reconstructing and widening approximately 2.65 miles of the existing six-lane divided highway. The proposed project would be mostly constructed within the existing 380-foot right-of-way (ROW) but does include areas of outside of existing ROW.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by not impacting tidally-influenced wetlands: Wetland 13, Wetland 14, and Wetland 15.

In addition, avoidance of jurisdictional waters in project design would be accomplished primarily by bridging, with 120-foot spans between columns to minimize disturbances to aquatic and wetland functions and habitats. The project is a widening project. As such, all streams that are being crossed were already impacted by the existing road and have been cleared and maintained, channelized, and culverted. Widening at this location is preferable to constructing another road that might result in greater impacts to these crossings or other wetlands. Excavation is an unavoidable temporary impact of crossing improvements. In areas where impacts were unavoidable, project design would minimize these impacts by specifying retaining walls rather than side slopes, where practicable.

**MITIGATION:** The applicant proposed to mitigate for the proposed impacts by the following purchase of credits at mitigation banks:

Freshwater wetlands: Using a 3:1 ratio, TXDOT is proposing to mitigate for the 6.981 acres of freshwater impacts with the purchase of 21 credits at the Brazoria Coastal Bottomlands Mitigation Bank.

Tidally-influenced wetlands: TXDOT proposes to mitigate for the potential losses of function for impacts to wetland 12 tidally-influenced, at the approved Gulf Coastal Plains Mitigation Bank (GCP). GCP has available credits for the proposed impacts and would be considered in-kind. The proposed mitigation in total is as follows:

- Biota: 0.058 credits
- Botanical: 0.051 credits
- Physical: 0.048 credits
- Chemical: 0.068 credits

Stream Mitigation: The proposed project impacts approximately 170 linear feet of channel, equating to a compensation requirement, per the USACE-Galveston District Level 1 Standard Operating Procedure for stream assessment, of 34 stream credits. At a 1.5:1 ratio this would equate to a total of 51 credits purchased from the Katy Prairie Stream Umbrella Bank to offset the potential impacts associated with the IH 45 project.

**CURRENT SITE CONDITIONS:** The project route is located along existing IH 45 in existing ditches, non-tidal and tidal wetlands, and tidally-influenced waters of the US. The project area receives regularly mowing, allowing mainly herbaceous vegetation to grow. The project area is located in very flat coastal plain. Surface water flow in and around the project area is generally from the northwest to the southeast, but has been altered through levees, culverts, and roadside drainage ditches. Modified streams and man-made drainage ditches carry water from the site generally south into second order streams. Areas with tidal influence are located at the southern end of the study area. The majority of surface water within the project area and on the existing roadway flows into roadside ditches and culverts located throughout the project area. Additional vegetation communities identified within the study area include coastal prairie, disturbed prairie, tidal marsh, and coastal scrub. Wetlands present within the site were primarily roadside maintained ditches, ephemeral ditches within detention basins, and man-made or manipulated resources. Eleven of the 15 wetlands identified within the project area (7.348 acres total) are considered freshwater wetlands. Ten of these wetlands are anticipated to be impacted during the project, totaling 6.981 acres. Wetlands 6 and 7 includes 6.337 acres of palustrine scrub/shrub wetlands. All wetlands within the project area are within the Federal Emergency Management Agency's designated 100-year floodplain.

This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. As of the date of this public notice, the Corps has received but not yet verified the wetland delineation. The applicant's plans are enclosed in 12 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.

This project would result in a direct impact of greater than three acres of waters of the state or 1,500 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.

Pursuant to 33 USC 408, the proposed project will require Section 408 coordination and review. This is a requirement for activities that seek permission, to temporarily or permanently, alter, occupy, or use a federally authorized United States Army Corps of Engineers civil works project. Changes to the proposed project, from the Section 408 process, may warrant additional coordination.

**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:

TXDOT is receiving funding from Federal Highways Administration (FHWA) for this project. Therefore, FHA is the lead Federal Agency and all Section 106 consultation will be handled by TXDOT pursuant to the Programmatic Agreement between TXDOT, the Texas State Historic Preservation Officer, FHA, and the Advisory Council on Historic Preservation.

**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 **6 July 2020**. 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-2020-00274**, and should be submitted to:

Policy Analysis Branch  
Regulatory Division, CESWG-RDP  
U.S. Army Corps of Engineers  
P.O. Box 1229  
Galveston, Texas 77553-1229  
409-766-3869 Phone  
409-766-3931 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS