



Public Notice

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

Galveston District

Permit Application No: _____

Date Issued: _____

Comments _____

Due: _____

SWG-2024-00114

4 June 2024

8 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 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

APPLICANT: City of Port Lavaca
202 North Virginia
Port Lavaca, Texas 77979
POC: Jody Weaver
Telephone: 361-552-9793
Email: jweaver@portlavaca.org

AGENT: Triton Environmental Solutions
P.O. Box 1755
Rockport, Texas 78381
POC: Andrea Binion
Telephone: 361-205-7655
Email: abinion@tritonenv.com

LOCATION: The project site is located in Lavaca Bay, at East U.S. Highway 87 and South Commerce Street at Bayfront Peninsula Park, in Port Lavaca, Calhoun County, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 28.6173 North; **Longitude:** -96.618754 West

PROJECT DESCRIPTION: The applicant proposes to construct living shoreline protection consisting of a rock breakwater, a reef breakwater and two marsh creation islands with a total of 7.7 acres of permanent fill related impacts below the high tide line (HTL). The rock breakwater is proposed to be 2,120-foot-long by 70-foot-wide to 91-foot-wide at the ends resulting in the discharge of 33,500 cubic yards (CY) into 3.51 acres, which will be comprised of stone material and will be located along the southern portion of the project area. The reef breakwater is proposed to be 950-foot-long by 30-foot-wide, resulting in 4,000 CY into 0.63 acre, which will be comprised of concrete oyster reef breakwater units and located along the northern portion of the project area. The reef is being proposed as compensatory mitigation to offset potential oyster bed loss, as well as to offer protection for the proposed marsh islands.

The proposed marsh islands would be approximately 1.55 acres and 2.01 acres and situated along the western shoreline of Bayfront Peninsula Park. The marsh creation islands would be created utilizing approximately 10,000 CY of beneficial use dredge material (BUDM), sourced from nearby upland borrow areas owned by the applicant. The marsh creation islands will be contoured, graded, and planted with native vegetation species to provide additional habitat benefits to the project and aid in stabilization of newly placed material and shoreline. The BUDM will be transported via truck using street access routes and proposed temporary vehicle access routes.

Temporary impacts include dredging approximately 6,300 CY within a temporary access channel (1.84 acres). The dredge material will be temporarily placed into a 1.17-acre area below HTL within the temporary placement area boundaries, in association with the creation of a temporary dredge material placement area. This material will be returned to its original source location once the project features have been constructed. Additional temporary impacts are proposed to 0.19 acre of estuarine emergent wetlands from temporary vehicle access roads.

The applicant is also proposing to relocate 0.47 acre of oyster reef to the southern edge of the impacted reef and will be coordinated with TPWD through an aquatic resource relocation plan (ARRP).

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by designing to project to enhance adjacent special aquatic sites while also avoiding and minimizing impacts to special aquatic sites, as well as proposing to relocate 0.47 acre of existing oyster reef. Additionally, best management practices such as silt curtains, temporary matting and silt fences are proposed to be utilized during dredging and placement of permanent and temporary fill to minimize and/or avoid impacts to sensitive resources.

MITIGATION: The applicant proposed to mitigate for the proposed impacts by relocating an existing 0.47-acre oyster reef as well as the creation of a 0.63-acre oyster reef breakwater. The applicant is not proposing any further mitigation.

CURRENT SITE CONDITIONS: The project site is located in Lavaca Bay, east of Port Lavaca. The project area is surrounded by commercial and residential development to the north, south and west, and open water to the east. The project is directly adjacent to Bayfront Peninsula Park, Port Lavaca Fishing Pier and adjacent public marina. The wetlands adjacent to the project site consist of predominately estuarine emergent, with some estuarine scrub shrub and estuarine forested. The adjacent habitats also consist of unvegetated shoreline and riprap.

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 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.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Commission on 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 has not yet reached out to the TCEQ to initiate the Section 401 CWA process. 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>.

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:

The state tracts proposed for work under this permit are included in the Texas Historical Commission's List of Sensitive state tracts. Additionally, the scope and magnitude of the project is such that a marine archeological investigation is warranted.

THREATENED AND ENDANGERED SPECIES:

Threatened and/or endangered species or their critical habitat may be affected by the proposed work. Consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service will be initiated to assess the effect on endangered species.

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 **8 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-2024-00114**, and should be submitted to:

Evaluation Branch
Regulatory Division, CESWG-RDE
U.S. Army Corps of Engineers
Galveston District
2000 Fort Point Road
Galveston, Texas 77550
409-766-3869 Phone
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swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS