



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2007-01866
	Date Issued: _____	13 March 2018
	Comments _____	
Galveston District	Due: _____	12 April 2018

**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: Houston Fuel Oil Terminal Company
1201 S. Sheldon Road
Houston, TX 77015
POC: Mr. Nathaniel Grace
Telephone: (713) 948-7540

AGENT: The WCM Group, Inc.
110 Bender Avenue
Humble, TX 77338
POC: Ms. Desiree D. Westcott
Telephone: (281) 446-7070

LOCATION: The project is located in waters and wetlands adjacent to Carpenters Bayou within a facility located at a point 0.70-mile northeast of the intersection of Sheldon Road and Jacintoport Boulevard, near the City of Channelview, in Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Highlands, Texas.

LATITUDE & LONGITUDE (NAD 83):
Latitude: 29.756685° North; Longitude: 95.115681° West

PROJECT DESCRIPTION: The applicant proposes to discharge an estimated 120,000 cubic yards of dredged material into 4.11 acres of wetlands and 784.5 linear feet of waters adjacent to Carpenters Bayou to construct a dredged material placement cell and an above ground storage tank facility within the applicant's facility. The return water from the constructed dredged material placement cell will be discharged into Carpenters Bayou. The applicant also proposes to perform maintenance dredging to a depth of -20 feet mean low tide (mlt) for a period of 10 years. The dredge area begins at the 227-foot-wide public right of way, starting at the mouth of Carpenters Bayou, and continues west to conclude at the turning basin. The dredged material will be placed at the following dredged material placement areas (DMPAs): East and West Jones, Pinto Lion, Jacintoport Dredge Material Storage and Reclamation Facility (Glanville Facility), Clinton, Rosa Allen, Stimson Tract, House Tract, Dorsett, Glendale, Greens Bayou, Beltway 8 Tract, Targa, Filter Bed, Wah Chang, Lost Lake, Goat Island, Peggy Lake, Alexander Island, Spillman Island, Atkinson Island, Hog Island, and onsite locations per Department of the Army (DA) Permits SWG-1997-01189 and SWG-2007-01866, formerly 22404. The applicant also proposes to discharge fill material within the return water from placement of hydraulically dredged material within the above listed upland contained dredge material placement areas.

BACKGROUND: Department of the Army (DA) Permit SWG-1997-01189, formerly 14153, issued on 24 April 1980, and expired on 31 December 1985, authorized construction of a dock facility by dredging an area, construction of a T-head dock, placement of 4 breasting dolphins, and placement of a concrete revetment along the bank line. The plans indicate a primary DMPA located south of the Carpenters Bayou turning basin and adjacent to Sheldon Road, and a secondary DMPA located north of Jacintoport Blvd. and south of the second bend in Carpenters Bayou traveling east from the turning basin. Amendment (01), issued on 6 January 1981 and expired on 31 December 1985, authorized dredging of an additional 5,300 cubic yards of material from an area located along 200 linear feet of the shoreline, placement of a petramat revetment along the bank at the dredging location, and the installation of a breasting dolphin. The plans indicate a primary DMPA located south of the Carpenters Bayou turning basin and adjacent to Sheldon Road, a secondary DMPA located north of the primary situated adjacent to the turning basin, and a tertiary DMPA located north of Jacintoport Blvd. and south of the second bend in Carpenters Bayou traveling east from the turning basin. Amendment (02) authorized an extension of time to complete maintenance dredging until 31 December 1993. Amendment (02) was revised on 7 June 1995 to extend the maintenance dredging request for a period of 10 years until the expiration of 31 December 2000.

DA Permit SWG-1997-01185, formerly 14827, issued on 6 January 1981 and expired on 31 December 1984, authorized construction of a barge dock facility consisting of breasting dolphins, a pier addition, dredging to a depth of -13 feet mlt along 600 linear feet of the shoreline, and placement of a petramat revetment along the dredged shoreline. The plans indicate a primary DMPA located south of the Carpenters Bayou turning basin and adjacent to Sheldon Road, a secondary DMPA located north of the primary situated adjacent to the turning basin, and a tertiary DMPA located north of Jacintoport Blvd. and south of the second bend in Carpenters Bayou traveling east from the turning basin.

DA Permit SWG-2007-01910, issued on 12 August 2008 and expired on 31 December 2013, authorized dredging to a depth of -15 mlt from the public right of way, starting at the mouth of Carpenters Bayou and working west to the turning basin.

DA Permit SWG-2007-01910, issued on 18 February 2009 and expired on 31 December 2014, authorized corrections to the dredge area. This permit authorized hydraulic dredging of Carpenters Bayou to a depth of -15 feet mlt from the 227-foot-wide public right of way, starting at the mouth of Carpenters Bayou and working west to the turning basin. DA Permit SWG-2007-01910, issued on 29 December 2009 and expired on 31 December 2015, authorized hydraulic and/or mechanical dredging to a depth of -20 mlt from the 227-foot-wide public right of way, starting at the mouth of Carpenters Bayou and working west to the turning basin. DA Permit SWG-2007-01910, issued on 27 October 2014 and expired on 19 March 2017, verified consolidation of the dredging elements of DA Permits SWG-1997-01189, SWG-2008-00044, and SWG-2007-01910 into one set of Nationwide Permits for future maintenance dredging operations at the facilities within Carpenters Bayou. The verified DMPAs are as follows: Dorsett, Glendale, Stimson, House, Clinton, Rosa Allen, Greens Bayou, Beltway 8 Tract, Pinto Lion, East and West Jones, Targa, Lost Lake, Goat Island, Peggy Lake, Alexander Island, Spillman Island, Atkinson Island, Filter Bed, Hog Island, Wah Chang, Jacintoport, and onsite locations per DA Permits SWG-2007-01866, formerly 22404, and SWG-1997-01189.

DA Permit Number SWG-2008-00044, issued on 15 April 2009 and expired on 31 December 2014, authorized dredging of 0.60 acres of wetlands and impacts to 0.08 acres of wetlands during the construction of an access bridge and pipe rack, construction of twelve 48-inch mooring dolphins, and two 30- by 60-foot docks associated with construction of a new barge dock, and to place dredged material into the following DMPAs: Jacintoport Dredge Material Storage and Reclamation Facility (Glanville Facility), Lost Lake, Peggy Lake, East Jones, Goat Island, Clinton, Stimson/House Tract, Glendale, Filter Bed, Rosa Allen, Spillman, and Hog Island. Amendment (01), issued on 16 October 2014 and expiring on 31 December 2019, authorized an extension of time.

DA Permit Number SWG-2008-00275, was withdrawn on 24 March 2009, and consolidated with DA Permit Number SWG-2008-00044.

DA Permit Number SWG-2007-01866, formerly 22404, issued on 13 May 2002 and expired on 31 December 2007, authorized the discharge of fill material into 4.15 acres of wetlands to construct a dredge material placement cell and above ground storage tank facility. Amendment (01), issued on 19 May 2003 and expired on 31 December 2007, authorized an extension of time to complete the permitted mitigation and a modification to the special conditions of the permit. DA Permit SWG-2007-01866, formerly 22404, issued on 12 March 2008 and expired on 31 December 2013, authorized an extension of time to construct a dredge material placement cell and above ground storage tank facility.

The Corps acknowledges that the previously determined aquatic resources were all identified as wetlands. The Corps has verified the provided wetland delineation, dated 21 August 2017, and determined that there are three jurisdictional wetlands totaling 4.11 acres and an unnamed tributary, totaling 785.1 linear feet, located within the 11 acre tract.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts to the maximum extent practicable.

MITIGATION: The applicant has completed mitigation, in May 2002, under DA Permit SWG-2007-01866, formerly 22404, for the proposed impacts to 4.11 acres of wetlands and 784.5 linear feet of waters. The applicant has paid The Nature Conservancy to facilitate the enhancement, restoration, and creation of 29.05 acres of wetlands on a 65-acre site at The Nature Conservancy's Seawall Tract, located adjacent to Dickinson Bayou, near the City of Texas City, in Galveston County, Texas. The Nature Conservancy mitigation was designed to compensate for the impacts to wetlands at a 7:1 ratio. The Nature Conservancy assumed all responsibility for the mitigation, including construction and monitoring, and ensuring the success of the mitigation as outlined in the mitigation plan. The mitigation plan was to enhance 15.2 acres of existing emergent/scrub-shrub wetlands by vegetation management, create 1.5 acres of palustrine emergent wetlands by converting existing scrub-shrub upland to palustrine emergent wetland (0.5 acre) and converting Chinese tallow tree uplands to palustrine emergent wetland (1.0 acre), enhance 2.4 acres of existing palustrine forested wetlands by removing Chinese tallow trees and replacing with more desirable tree species, create three oak mottes totaling approximately 2.0 acres, enhance 0.8 acres of three existing oak mottes, enhance 28.7 acres of existing upland coastal prairie by restoring to native prairie, restore 6.8 acres of existing Chinese tallow tree uplands to native coastal prairie, and preserve 8.1 acres of intertidal marsh within the 65-acre tract.

CURRENT SITE CONDITIONS: The project site is currently an undeveloped tract of land surrounded by the commercial development of the applicant's facility to the east, south, and west, and an undeveloped tract of land and the waters of Carpenters Bayou to the north. The subject waters and wetlands are adjacent to Carpenters Bayou.

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 2017. The applicant's plans are enclosed in 17 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.

The applicant has obtained a Section 401-water quality certification from the TCEQ for the effluent or return water discharge from the following upland contained dredge material placement areas: Dorsett, Glendale, Stimson, House, Clinton, Rosa Allen, Greens Bayou, Beltway 8 Tract, Pinto Lion, East and West Jones, Targa, Lost Lake, Goat Island, Peggy Lake, Alexander Island, Spillman Island, Atkinson Island, Filter Bed, Hog Island, Wah Chang, Jacintoport Dredge Material Storage and Reclamation Facility (Glanville Facility), and onsite locations per DA Permits SWG-2007-01866, formerly 22404, and SWG-1997-01189. A copy of the 401-certification, dated 12 February 2018, was received by the Corps of Engineers.

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 permit area has been so extensively impacted by previous excavations (2006-2007 aerial photos) that there is no potential for historic properties to exist within the permit area. Therefore, the proposed project has no potential to effect historic properties.

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 **12 April 2018**. 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-2007-01866**, and should be submitted to:

North Unit/Evaluation Branch
Regulatory Division, CESWG-RD-E
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3869 Phone
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swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS