



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2018-00742
	Date Issued: _____	22 March 2022
	Comments _____	
Galveston District	Due: _____	21 April 2022

U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT

PURPOSE OF PUBLIC NOTICE: To inform you of a **MITIGATION BANK** proposal for work (PROSPECTUS) 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.

APPLICANT: DELTA LAND SERVICES, LLC / MCCOY RANCH MITIGATION BANK
1090 Cinclare Drive
Port Allen, Louisiana 70767
POC: Winship Songy
Telephone 225-388-5187
Email: winship@deltaland-services.com

AGENT: DELTA LAND SERVICES, LLC
6750 W. Loop South, Suite 780
Bellaire, Texas 77401
POC: Chad Butler
Telephone 713-397-7313
Email: chad@deltaland-services.com

LOCATION: The proposed bank is a 1,297-acre site. It is located east of Cedar Bayou, approximately 3.4 miles southwest of the intersection of U.S. Highway 90 and Farm-to-Market 1413, and 4.50 miles east of the City of Crosby in Liberty County, Texas.

LATITUDE & LONGITUDE (NAD 83):

Parent Tract: Latitude: 29.932645 North; Longitude: -94.955410 West

PROJECT DESCRIPTION: Proposed Mitigation Bank Prospectus. The Sponsor proposes the establishment and operation of a mitigation bank to be named the McCoy Ranch Mitigation Bank. The Sponsor's plan is to re-establish 116.0 acres of forested wetlands, re-establish 42.0 acres of herbaceous/shrub wetlands, rehabilitate 223.3 acres of forested wetlands, rehabilitate 41.9 acres of herbaceous/shrub wetlands, enhance 57.4 acres of forested wetlands, and 374.1 acres of forested wetlands/oxbows. Additionally, the Bank will protect and manage 396.0 acres of non-wetland riparian forests. The project work is being conducted within the *North Galveston Bay* USGS Hydrologic Unit Code 12040203 to serve as compensatory mitigation for unavoidable, permitted impacts to waters of the United States.

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

MITIGATION: The applicant proposes to construct a compensatory mitigation bank.

WATER RIGHTS ACQUISITION: Need for water rights (WR) will be based on the proposed bank need for surface water use (TX sites) per the CFR and not limited to only projects that are required to obtain WR's under state rules. Per the Mitigation Rule, the ultimate Corps determination of site appropriateness may be contingent on the acquisition of water rights at the proposed bank location. Texas water rights application information can be found at https://www.tceq.texas.gov/permitting/water_rights/wr-permitting/wr-applications.html#permitting. The bank will not need diverted hydrology to be sustained in perpetuity. The Sponsor will include the full TCEQ application for water rights in the DMBI submittal to meet the CFR banking rule requirements and for Corps review for sufficiency.

CURRENT SITE CONDITIONS: The project site is currently forested and agricultural land with wetland and upland pine mixed hardwoods, wetland and upland hardwood forests, wetland and upland herbaceous habitats, and crop fields. The crop fields are in active production. The forested wetland vegetation consists of water oak (*Quercus nigra*), willow oak (*Quercus phellos*), green ash (*Fraxinus pennsylvanica*), red maple (*Acer rubrum*), sugarberry (*Celtis laevigata*), American elm (*Ulmus americana*), dwarf palmetto (*Sabal minor*), and deciduous holly (*Ilex decidua*). Wetland herbaceous vegetation communities occur in lower elevations of fallow crop land and pastures. Dominant species within the wetland herbaceous vegetation communities include prairie dogshade (*Limnoscium pumilum*), native sedges (*Carex* spp.), narrow-leaf carpet grass (*Axonopus fissifolius*), bog rush (*Juncus marginatus*), and broom-sedge (*Andropogon virginicus*). The subject wetlands are adjacent to Cedar 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 March 13, 2020. The applicant's prospectus is enclosed in 300 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:

This project has been coordinated with TPWD via IFpermits@tpwd.texas.gov and does not have a stream or stream diversion component and will not require TPWD permitting to proceed.

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 Certification: 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.

SECTION 408: Pursuant to 33 USC 408, the proposed project will not 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 portion of the permit area where earth moving activities will occur has been so extensively impacted by farming, excavation of ditches, and road construction that there is no potential for historic properties to exist. The portion of the permit area that has not been extensively impacted will be subject to activities that are of such limited nature and scope that they have no potential to affect historic properties even if present 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 **21 April 2022**. 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-2018-00742**, and should be submitted to:

Mitigation Banking Program
Regulatory Division, CESWG-RD-P
U.S. Army Corps of Engineers-SWG
2000 Fort Point Road
Galveston, Texas 77550
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DISTRICT ENGINEER
GALVESTON DISTRICT
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