



Public Notice

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

Galveston District

Permit Application No: _____

SWG-1999-02529

Date Issued: _____

21 March 2023

Comments _____

Due: _____

20 April 2023

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, Section 404 of the Clean Water Act (CWA), and Section 103 of the Marine Protection, Research and Sanctuaries Act.

APPLICANT: Seaway Marine LLC dba Seaway Freeport Dock LLC
1100 Louisiana Street, 10th Floor
Houston, Texas 77002
POC: Michael P. Soupier
Telephone: 713-381-6757
Email: mpsouliere@eprod.com

LOCATION: The project site is located in Freeport Harbor Ship Channel and the Gulf of Mexico, at 151517 Old Quintana Road, in Freeport, Brazoria County, Texas 77541. The project can be located on the U.S.G.S. quadrangle map entitled: Freeport, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 28.938821 North; **Longitude:** -95.318136 West

PROJECT DESCRIPTION: Seaway is requesting a modification to their existing Department of the Army Permit to conduct new work dredging of approximately 1 million cubic yards (MCY) of material within Seaway's existing 33-acre basin to lower the depth to -59 feet mean lower low water (MLLW). Post dredge-event, Seaway is proposing the installation of 5,200 cubic yards of revetment along 2,440 linear feet of existing sheet pile. Material dredged from the basin is proposed for disposal in the Freeport New Work Offshore Dredge Material Disposal Site (ODMDS). Seaway also proposes to perform intermittent silt blade dredging to maintain dredge prism.

FREEPORT ODMDS: The Freeport Harbor New Work ODMDS is located approximately 6 miles offshore, with its area bounded by the following coordinates:

28°50'51"N, 95°13'54"W; 28°51'44"N, 95°14'49"W;
28°50'15"N, 95°16'40"W; 28°49'22"N, 95°15'45"W

The site occupies an area of approximately 2.64 nautical square miles (3.49 square statute miles), with depths ranging from 54 to 63 feet. Baseline conditions at the Freeport New Work ODMDSs were assessed during the site designation process. Details of baseline conditions, including descriptions of the marine environment in the site vicinity and the physical, chemical, and biological characteristics of the sediments and the water column at the site, are contained in the Final Environmental Impact Statement (EIS), Freeport Harbor 45-Foot Project (45-foot Project), Ocean Dredged Material Disposal Site Designation prepared by EPA, Region 6, in January 1990.

Since its designation in 1990, the site has been used for four dredge events with a total of 6,015,690 MCY of dredge material disposed. The most recent disposal event was in 2015 when 1,985,260 MCY were placed.

AUTHORIZED DISPOSAL EFFECTS: Dredged material deposited at the Freeport ODMDS disperse and erode quickly. There are no significant environmental resources delineated within or immediately outside of the designated ODMDS. Since this site is dispersive in nature, the primary concern of the use of the site is the potential short-term buildup of dredged material, such that a hazard to navigation is presented. Another concern is whether there is significant short-term transport of the dredged material beyond the ODMDSs boundaries; specifically, the benthic community can be impacted if significant rapid movement of material off the site occurs, resulting in burial of benthic populations outside the site.

CHARACTERISTICS AND COMPOSITION OF THE DREDGED MATERIAL: Core borings were collected in 2019 and tested for grain size characteristics. Sediment samples were determined to be mostly silty clays with very little sand from the sediment surface to a depth of approximately -59 ft MLLW in the facility.

Sediment, water, and elutriate sampling were conducted adjacent to the facility in 2021 to support the federal project to deepen and widen the federal channel in Freeport, Texas. Samples were collected from 19 substations and composited into 6 sediment samples, 1 to represent each DMMU (FP2-1, FP2-2, FP2-3, FP4, FP1-1, FP1-2). Six elutriate samples were also collected to represent each of the DMMUs. All sediment samples underwent chemical, physical, and toxicological/biological analysis. The material proposed for disposal from the federal project was determined to comply with the ocean disposal requirements of 40 CFR 227.

While dredged material has been tested in the Freeport Harbor Inner Channel and Basin, new testing at the Seaway Facility is required because material from the dock footprint itself has never been tested for its suitability for ocean disposal. A Sampling Analyses Plan (SAP)/Quality Assurance Project Plan (QAPP) will be approved by the Corps and EPA to analyze the material within the Seaway Facility and determine its suitability for offshore placement. This analysis will consist of all three analytical tiers (Tier I, Tier II, and Tier III) .

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by conducting an alternatives analysis of the potential material disposal options to determine the most practicable and feasible alternative for the placement of the dredged material. Based on the results of their analysis, Seaway concluded that the ODMDS had the least environmental impact.

MITIGATION: The applicant has not proposed to mitigate for the proposed impacts.

CURRENT SITE CONDITIONS: Historically, the Seaway Basin and surrounding land uses included commercial, residential, open land, and open water. Cattle grazing was the predominant land use within open land prior to the construction of the Seaway infrastructure. Currently, the Seaway Basin serves as an open water basin which allow vessel access to Seaway docks for loading and offloading of bulk products. As this site has already been heavily disturbed and has required numerous permits, consultation with the SHPO will have already been completed prior to authorization.

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 11 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:

The applicant has stated that the project is consistent with the Texas Coastal Management Program (CMP) goals and policies and will be conducted in a manner consistent with said Program. The Texas Railroad Commission will determine if the project is consistent with the goals and policies of the CMP and will review this application under Section 401 of the CWA to determine if the work would comply with State water quality standards.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The Texas Railroad Commission 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 Texas Railroad Commission to initiate the Section 401 CWA process. If you have comments or questions on this proposed project's State water quality certification, please contact leslie.savage@rrc.state.tx.us. 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 permit area has been so extensively impacted by previous dredging and placement of dredged material (in the ODMDS) that there is no potential for historic properties to exist within the permit areas. Therefore, the proposed project has no potential to effect historic properties.

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 **20 April 2023**. 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-1999-02529**, and should be submitted to:

Policy Analysis Branch
Regulatory Division, CESWG-RDP
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

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