



Public Notice

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

Galveston District

Permit Application No: SWG-2012-00707

Date Issued: 23 March 2021

Comments

Due: 22 April 2021

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: U.S. Fish and Wildlife Service
2547 County Road 316
Brazoria, Texas 77422
POC: Jennifer Sanchez
Telephone: 979-964-4011
Email: jennifer_sanchez@fws.gov

LOCATION: The project site is located in the Gulf Intracoastal Waterway (GIWW), along a 1.4-mile section of the northern bank, adjacent to the San Bernard Wildlife Refuge, near Sargent, in Matagorda County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Cedar Lakes West, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 28.779603 North; Longitude: -95.601853 West

PROJECT DESCRIPTION: The applicant proposes to construct a rock breakwater along a 1.4-mile section of the northern bank of the GIWW. Approximately 12,556 cubic yards of 8-inch graded riprap will be placed within a 3.6-acre area of the GIWW. The toe of the breakwater will be at least 172.5 feet from the centerline of the channel in depths of 1.5 feet. The breakwater is intended to prevent shoreline erosion of the San Bernard Wildlife Refuge marsh complex adjacent to the GIWW. The breakwater will accrete marsh behind it and prevent saltwater intrusion.

BACKGROUND: The applicant was authorized by SWG-2012-00707, dated 30 July 2012, to construct 3.0 miles of breakwater immediately adjacent to the proposed project. The project plans depict the location of the proposed breakwaters in relation to the authorized breakwaters. The proposed new 1.4-mile segment of breakwater is identified on the project plans as Breakwater 5. Previously authorized breakwaters are identified on the project plans as Breakwaters 1 – 4. Breakwater 1 and 2 have been constructed and Breakwater 3 and 4 are currently being constructed.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by designing the project to have the smallest footprint possible while still providing wave suppression and erosion prevention. Impacts to special aquatic sites are avoided.

MITIGATION: The applicant is not proposing to mitigate for the proposed impacts. Emergent marsh will be allowed to develop between the breakwater and the existing earthen banks of the GIWW.

CURRENT SITE CONDITIONS: The project site is the open waters of the GIWW adjacent to the natural shoreline of Sargent Marsh, a part of the San Bernard National Wildlife Refuge. The site is tidally influenced and devoid of submerged vegetation due to high wave energy and lack of suitable substrate. The natural shoreline that protects adjacent freshwater and intermediate marsh in the refuge is eroding due to wave action generated by vessel traffic within the GIWW channel. Existing sections of rock breakwater are intermittently located along the shoreline.

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 8 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 contacted TCEQ and submitted a pre-filing meeting request, on 9 March 2021. If you have comments or questions on this proposed project's State water quality certification process, 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>.

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 construction and maintenance of the GIWW and subsequent erosion and subsidence 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, 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 **22 April 2021**. 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-2012-00707**, and should be submitted to:

Central Unit/Evaluation Branch
Regulatory Division, CESWG-RDE
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
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