



# Public Notice

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

**Galveston District**

Permit Application No: SWG-2020-00804

Date Issued: 31 March 2022

Comments

Due: 2 May 2022

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## 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 404 of the Clean Water Act (CWA).

**APPLICANT:** Waste Management of Texas, Inc.  
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Houston, Texas 77494  
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**AGENT:** Golder Associates, Inc.  
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**LOCATION:** The project site is located in wetlands and waterbodies, approximately 0.3-miles northeast of 2325 Atascocita Road, in Humble, Harris County, Texas 77396. The project can be located on the U.S.G.S. quadrangle map titled: Harmaston, Texas.

**LATITUDE & LONGITUDE (NAD 83):**

**Latitude:** 29.973074°North;      **Longitude:** 095.232889° West

**PROJECT DESCRIPTION:** The applicant proposes to permanently discharge fill material into 0.63-acre of palustrine forested (PFO) wetlands, 0.16-acre of palustrine shrub scrub (PSS) wetlands, 1.13-acres of palustrine emergent (PEM) wetlands, 0.16-acre of manmade ponds, and 2,103-linear-feet of streams. Additional temporary impacts include the discharge of fill material into 0.07-acre of PFO wetlands, 0.03-acre of PSS wetlands, 0.09-acre of PEM wetlands, 0.8-acre of manmade ponds, and 1,409-linear-feet of streams on a 32-acre tract for a multi-use, commercial waste management facility, including amenities such as a two-story office building, refueling stations, a maintenance shop, visitor and employee parking lot, container shop, container storage area, and two stormwater water retention/detention basins.

**BACKGROUND AND PROJECT HISTORY:** Golder received a preliminary jurisdictional determination (PJD) from USACE on 27 December 2021, in response to the initial approved jurisdictional determination (AJD) request submitted by Golder in December 2020. The initial December 2020 AJD request was switched to a PJD request on 29 September 2021, per the changes to the guidance regarding the definition of the “Waters of the United States.” Upon further review, Golder is requesting an AJD for some of the features located within the proposed project site.

**AVOIDANCE AND MINIMIZATION:** The project layout underwent several design changes to minimize and avoid impacts to wetlands and waterbodies onsite. The facility footprint was moved, along with the location and design of the retention ponds, to avoid impacting the largest wetland on the property. The majority of the wetlands impacted by the project are small and of low quality. Per the applicant’s opinion, all of the streams and ponds identified on the project site were determined to be manmade. Additionally, the applicant has stated that they have avoided and minimized the environmental impacts by revising the facility footprint and design to minimize impacts to wetlands, streams, and ponds onsite. The design changes reduced impacts to wetlands from 4.55-acres to 2.11-acres, reduced impacts to ponds from 0.83-acre to 0.34-acre, and reduced impacts to stream channels from 3,731-linear-feet to 3,511-linear-feet. Short-term turbidity and suspended solids will be controlled to the best practicable extent using best management practices (BMPs) such as vegetative buffers left in place near the edges of the site, avoiding impacts to some wetlands and waterbodies, and the use of erosion control devices during construction and stabilization. The soil onsite that will be disturbed is primarily clayey soils. Long term turbidity and suspended solids will be controlled by the use of retention ponds that will receive stormwater runoff from the project area. Suspended solids within the stormwater will be able to settle to the bottom of the retention ponds and will help prevent an increase in turbidity.

**MITIGATION:** The applicant proposes to mitigate for the proposed impacts to wetlands by purchasing credits from the Gin City Mitigation Bank. Since no mitigation banks serve the project area that offer PEM and/or PSS wetland credits for purchase, credits for PFO wetlands will be purchased to offset the impacts to PEM and PSS wetlands. A secondary service area multiplier will be applied to the credits required for purchase since the project is located within the Gin City Mitigation Bank’s secondary service area.

Additionally, onsite mitigation has been proposed to mitigate for impacts to stream channels resulting from the project. The applicant is proposing to offset the impacts on ephemeral ditches by constructing new channels onsite rather than purchasing credits from a mitigation bank. Based on the USACE Regulatory In-Lieu Fee and Bank Information Tracking System (RIBITS), the project appears to be located within the primary service area of the Katy Prairie Stream Mitigation Bank. However, recent communication with the bank sponsor determined that there are currently not enough available stream credits for anticipated project impacts. No other stream mitigation banks service the project's location with a primary or secondary service area. Approximately 4,931-linear-feet of stream channels would be constructed around the perimeter of the facility in two stream sections. Both stream channels would connect to a retention pond located on the east side of the project. The applicant proposes to use the bank full bench creation, lay back bank, stream bank plantings, preservation, and buffer planting stream improvement techniques to achieve 3.05-credits per linear-foot of streambank creation. Based on these stream improvement techniques and the Galveston District Determination of Compensation guidance, approximately 15,039.55-stream-credits would be constructed onsite to offset the 13,675.55-stream-debits that would be impacted from the construction of the project. Monitoring events would take place for ten years following the completion of the onsite stream mitigation. Monitoring will be performed by qualified personnel and will ensure all mitigation design methods are successful. An annual report will be submitted to the USACE Galveston District to show the progress of the restoration and conditions of the constructed channel over the course of the monitoring period.

The applicant proposes to construct approximately 6- to 7-acres of retention ponds at a depth of 10- to 15-feet onsite to offset the 0.16-acre of permanent impacts that would result from the construction of the project to ponds onsite. The constructed ponds would serve as stormwater retention basins to contain the stormwater outflows generated by new impervious surfaces associated with the project. The retention ponds would receive stormwater through drainage systems as well as the onsite streams that are proposed to offset project impacts. No monitoring events or reporting is proposed for the onsite pond mitigation.

**CURRENT SITE CONDITIONS:** The project site is predominantly an undeveloped, 32-acre tract of land surrounded by undeveloped land to the north, and residential subdivisions to the east, south, and west. The project survey area is located within one watershed (Hydrologic Unit Code [HUC] 8, 12040104 – Buffalo-San Jacinto). Primary hydrologic indicators observed within the project survey area include saturated soils, standing water, sediment deposits, and water-stained leaves. Secondary hydrologic indicators observed include geomorphic position, and crayfish burrows. An onsite wetland delineation resulted in identifying eleven PEM wetlands that encompass approximately 3.18-acres, three PSS wetlands that encompass approximately 0.21-acre, ten PFO wetlands that encompass approximately 1.47-acres, ten ephemeral ditches, one intermittent ditch that encompass approximately 0.62-acre, seventeen manmade ponds encompassing approximately 0.84-acre, and one intermittent stream encompassing approximately 0.40-acre.

The wetland vegetation within PSS wetlands consisted of Chinese tallow (*Triadica sebifera*), shortbristle horned beaksedge (*Rhynchospora corniculata*), yaupon (*Ilex vomitoria*), and Cherokee sedge (*Carex cherokeensis*). Wetland vegetation within PEM wetlands consisted of Cherokee sedge, shortbristle horned beaksedge, swamp smartweed (*Persicaria hydropiperoides*), and Vasey's grass (*Paspalum urvillei*). Wetland vegetation within PFO Wetlands consisted of Chinese tallow, swamp smartweed, sweetgum (*Liquidambar styraciflua*), American elm (*Ulmus americana*), roughleaf dogwood (*Cornus drummondii*), shortbristle horned beaksedge, Cherokee sedge, and common rush (*Juncus effusus*). Eight subject wetlands contain a nexus to an unnamed tributary on the west side of the survey area. The unnamed tributary shows a direct connection to Williams Gully, which is a tributary to Greens Bayou.

Land use types within the upland areas consisted of pine and mixed hardwood forests, pipeline rights-of-way, and open areas. Characteristic vegetation observed within uplands consisted of Chinese tallow, yaupon, sweetgum, American elm, sawtooth hackberry, mock strawberry (*Duchesnea indica*), bermudagrass (*Cynodon dactylon*), and King Ranch bluestem (*Bothriochloa ischaemum*).

The proposed project site was historically used for oil and gas exploration activities and contains previously used infrastructure and land disturbance. According to historic aerial imagery, roads, impoundments, and drainage ditches, and other modifications were made throughout the project site prior to the wetland delineation. In addition, recent excavation activities throughout the site have created shallow manmade ponds. The eastern boundary of the project site contains an intermittent drainage ditch that serves as the primary hydrologic feature in the project area.

**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 5 sheets. Also attached is a conceptual wetland and waterbody mitigation plan 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 CWA.

#### **OTHER AGENCY AUTHORIZATIONS:**

The project site is not located within the Texas Coastal Zone and therefore, does not require certification from the Texas Coastal Management 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 the TCEQ and submitted a pre-filing meeting request, on 31 January 2022. If you have comments or questions on this proposed project's State water quality certification, please contact [401certs@tceq.texas.gov](mailto: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>.

This public notice will serve as the notification to the Environmental Protection Agency (EPA) Regional Administrator pursuant to Section 401(a)(2). The Regional Administrator is responsible for performing a review of the application/certification to determine if there is reason to believe that a discharge may affect the quality of the waters of any State or States other than the State in which the discharge originates. If EPA determines that the proposed discharge may affect the quality of the waters of any state other than the state in which the discharge will originate, it will so notify such other state, the District Engineer, and the applicant. If such notice or a request for supplemental information is not received within 30 days of issuance of this public notice, the District Engineer will assume EPA has made a negative determination with respect to Section 401(a)(2).

**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 was investigated for historic properties and none were identified as documented in the technical report titled "Intensive Archeological Survey of 65 Acres Associated with the Atascocita Road Property, Harris County, Texas" prepared by Cox|McLain Environmental Consulting, Inc. and dated December 2020.

**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.

**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 **2 May 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-2020-00804**, and should be submitted to:

North Unit Evaluation  
Regulatory Division, CESWG-RDE  
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