



Public Notice

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

Galveston District

Permit Application No: _____

SWG-1991-01834

Date Issued: _____

11 May 2023

Comments _____

Due: _____

12 June 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 and Section 404 of the Clean Water Act (CWA).

APPLICANT: Bass Enterprises Production Company, LP (BEPCO, LP)
201 Main Street, Suite 3000
Fort Worth, Texas 76102
POC: Mr. James Biehl
Telephone: 817-390-8823
Email: wbiehl@basspet.com

AGENT: Anchor QEA, LLC
P.O. Box 741
Rockport, Texas 78382
POC: Ms. Sara Flaherty
Telephone: 361-450-6937
Email: sflaherty@anchorqea.com

LOCATION: The project site is located in Aransas Bay, at 1824 Shell Ridge Road, in Rockport, Aransas County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Rockport, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 28.002343° North; **Longitude:** 097.055744° West

PROJECT DESCRIPTION: The applicant proposes to discharge a total of 4,836 cubic yards of rock rip rap and shoreline restoration fabric or filter cloth in Aransas Bay along an existing harbor breakwater for a total distance of 1,503 linear feet. Specifically, the applicant proposes to discharge 2,397.3 cubic yards along 683 linear feet of the northside of the breakwater and 2,438.7 cubic yards along 820 linear feet of the southside of the breakwater. The rock will be placed vertically against the existing breakwater to a typical top elevation of +4 feet NAVD 88 and will extend out from the breakwater and crest with a variable side slope resulting in a base width between 13-26 feet.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by designing the footprint of the proposed project to be the minimal necessary to achieve restoration of the existing breakwaters. The applicant also stated they surveyed the project footprint for sensitive resources and designed the project to avoid the identified 0.008-acre seagrass bed.

MITIGATION: The applicant does not propose any compensatory mitigation. The applicant stated the project does not propose any impacts to submerged aquatic vegetation or other sensitive resources.

CURRENT SITE CONDITIONS: The project site is located in the waters of Aransas Bay at an existing harbor located at the end of the intersection of East 5th Street and Shell Ridge Road, in Rockport, Aransas County, Texas. The project site is surrounded by a mixture of commercial and residential development along the shoreline of Aransas Bay on the east and surrounded on the north, west, and south, by the waters of Aransas Bay. The applicant identified one 0.008-acre (366-square-foot) shoalgrass (*Halodule wrightii*) in the vicinity of the proposed project. The applicant stated they will avoid the boundaries of this seagrass bed during the discharge of rock rip rap. The applicant also identified scattered whole dead oyster shell found along the bay bottom within the area but no live oysters were found. The applicant assumed the scattered shell was a result of historical shell placement along the nearby 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 6 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 initiated the Section 401 CWA process, on 1 May 2023. If you have comments or questions on this proposed project's State water quality certification, 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 previous construction and maintenance of the breakwater 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: Threatened and/or endangered species or their critical habitat may be affected by the proposed work. Consultation with 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 **12 June 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-1991-01834**, and should be submitted to:

Southwest Division, Technical Regional Execution Center
Corpus Christi Field Office
Regulatory Division, CESWG-RD-CC
U.S. Army Corps of Engineers
Galveston District
5151 Flynn Parkway, Suite 306
Corpus Christi, Texas 78411-4318
409-766-3869 Phone
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS