



# Public Notice

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

**Galveston District**

Permit Application No: SWG-1998-01818

Date Issued: 18 May 2023

Comments

Due: 20 June 2023

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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 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act (CWA).

**APPLICANT:** Port of Houston Authority  
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**LOCATION:** The project site is located in Bayport Ship Channel, at 12619 Port Road, in Seabrook, Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: LEAGUE CITY, Texas.

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

**Latitude:** 29.609198° North; **Longitude:** 095.013723° West

**PROJECT DESCRIPTION:** The applicant proposes to modify Department of the Army (DA) Permit SWG-1998-01818 (formerly 21520) to extend the authorized length of Wharf 1 at the Bayport Container Terminal (BPT) by 676 feet at the northeast end to be 1,676 linear feet. With the proposed Wharf 1 extension, there will be discharge of approximately 23,100 cubic yards of fill below mean high water (MHW) into 3.56 acres of the channel behind the existing bulkhead and to install a bulkhead extension. Project components also include the mechanical and/or hydraulic dredging approximately 177,000 cubic yards of material from 3.6 acres of the channel to a depth of -48.5 feet mean lower low water (MLLW), with a 2-foot allowable overdredge, as well as the use of bed-leveling, as needed, to maintain dredge depth across the entire length of the terminal wharfs. There would be surveys conducted before and after bed leveling activities to monitor that the silt does not enter the federal channel. Lastly, a pile-supported fire boat dock would be constructed at the northwest end of the terminal and consist of an approximately 6-foot-wide by 74.5-foot-long gangway and a 12-foot-wide by 72-foot-long floating pontoon for mooring.

The applicant stated that the purpose of the project is to maximize terminal and wharf efficiency and optimize productivity at the Bayport Container Terminal by providing a fast turnaround for container and cargo vessels to meet current cargo and supply chain demands.

**BACKGROUND:** DA Permit 21520 was issued to the Port of Houston Authority (POHA) on 5 January 2004 after preparation of an Environmental Impact Statement (EIS). Permitted development for the Bayport Ship Channel (BSC) Container/Cruise Terminal included facilities for docking, loading, and unloading container ships and cruise ships, including container terminal and cruise terminal berths, a cruise ship turning basin, upland container storage areas, an intermodal yard, warehousing facilities, and properties available for light-industrial development. The permit authorized dredging 127 acres of open water to construct a turning basin, berthing areas, and a transition area between the project wharves and the BSC, and construction of an up to 200-acre beneficial use (BU) site adjacent to Cell 14 of Atkinson Island. Approximately 12 million CY of material was authorized to be dredged and placed in approved placement areas (PAs). Approximately 19 acres of jurisdictional wetlands and 2 acres of open water and mudflats were authorized to be filled for construction of the terminal complex. Compensatory mitigation was required on the Memorial Tract and on a coastal prairie tract, and there were agreements between the POHA and the resource agencies that the POHA would provide compensatory mitigation at the Banana Bend Tract. The permit had a required construction completion date of 31 December 2009.

Nationwide Permit (NWP) 12 Verification No. SWG-05-12-031 was issued 5 October 2005 to the POHA for construction of underground pipelines within a Port Road right-of-way expansion. The project was located in temporarily impacted wetlands immediately south of and parallel to Port Road. NWP 14 Verification No. SWG-2005-01003 was issued 26 February 2009 to the POHA for the Port Road expansion project, impacting 0.165 acres of wetlands adjacent to Taylor Bayou along Port Road. The POHA used 0.33 acres of created and restored wetlands at the Memorial Tract to mitigate for the permanently impacted wetlands.

On 22 December 2009, the POHA was issued an amendment to Permit No. SWG-1998-01818 (formerly Permit 21520) authorizing an extension of the time limit for completion of construction to 31 December 2020, removal of the requirement to use turbidity curtains during hydraulic dredging (the requirement during mechanical dredging remains), removal of the requirement to monitor fugitive dust at the container terminal, consolidation of the container terminal pre-entry gate and main entry gate, and addition of PAs and BU sites where new work and maintenance dredged material from the BSC Container/Cruise Terminal project, with the exception of new work material from the Cruise Terminal Turning Basin, can be placed by hydraulic pipeline and mechanical means. The approved additional PAs and BU sites were the existing Alexander Island PA, existing Spilmans Island PA, existing Atkinson Island Marsh BU sites, three BU sites authorized for the HSC Deepening and Widening Project but not yet constructed (Atkinson Island BUS Marsh Cells 7, 8, and 9), PA 14/15 Connection (also called Dredged Material Placement Area (DMPA) 14 and 15 Upland Expansion Area), and existing Midbay PA.

On 29 September 2014, another amendment to DA Permit SWG-1998-01818 was issued to POHA and consisted of using hydraulic pipeline dredges to deepen all seven ship berths of the Bayport Ship Channel Container Terminal to -45 feet Mean Low Tide plus 2 feet of advance maintenance and 2 feet of allowable overdepth. Approximately 1,231,000 cubic yards of new work dredged material, and future maintenance dredged material, from the berths would be placed in the following existing dredged material placement areas (PAs) and beneficial use of dredged material (BU) sites: PA 14, PA 15, PA 14/15 Connection, Mid Bay PA, POHA's BSCCT Intermodal Yard/Upland PA 2, and Atkinson Island Marsh Cells M-5/6, M-7/8/9, and M-10. Periodic maintenance dredging of the deepened berths would be performed for a 10-year period with hydraulic pipeline dredges and/or mechanical dredges. The time for completion for construction was 31 December 2020 and maintenance dredging was authorized until 31 December 2024.

On 25 July 2021, DA Permit SWG-1998-01818 was further modified to grant an extension of time for maintenance dredging to previously authorized depths for a period of 10 years and to authorize mechanical and/or hydraulic dredging of a 1.3-acre extension to the west of the dock 7 berth to a depth of -49-feet MLT (-50.5-feet MLLW); to remove 20,000 cubic yards of dredged material from the 1.3 acres; to remove 5,000 cubic yards per annum of maintenance dredged material; and to place dredged material within designated PAs. Various special conditions were removed and/or replaced with this permit modification. The time for completion of work under this amendment is 31 December 2026.

DA Permit SWG-1998-01818 was last modified on 21 December 2021 to add the creation of a 402-acre beneficial use site, Three Bird Island Marsh Complex (3 Bird Island) as a PA. The 3 Bird Island Marsh Complex consists of a marsh/bird island and an oyster wave trip complex. The 3 Bird Island Marsh complex in the future will be filled with maintenance material from the surrounding navigation channels to create marsh and island habitat for plants, fish, and birds. The time for completion of work under this amendment is 31 December 2026.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by limiting the project footprint to the minimum needed to meet the purpose of maximizing terminal and wharf efficiency and optimizing productivity at the Bayport Container Terminal.

**MITIGATION:** The applicant has not proposed to mitigate for the proposed impacts because there will be no impacts to special aquatic sites.

**CURRENT SITE CONDITIONS:** The project site is located in the Bayport Ship Channel within an area consisting of industrial, commercial, and residential development. The Bayport Ship Channel is directly connected to Galveston Bay and is tidally influenced. This area experiences heavy vessel traffic, and there are numerous structures such as piers, boat lifts, aids to navigation, boat ramps, etc., within the project area. There are no special aquatic sites located within the vicinity of the proposed work.

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 20 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 has not yet reached out to the TCEQ to initiate the Section 401 CWA process. 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>.

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 industrial development and previous dredging and placement of dredged material 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 **20 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-1998-01818**, and should be submitted to:

North Unit  
Regulatory Division, CESWG-RDE  
U.S. Army Corps of Engineers  
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DISTRICT ENGINEER  
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CORPS OF ENGINEERS