



Public Notice

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

Galveston District

Permit Application No: SWG-1999-02541

Date Issued: 16 May 2023

Comments

Due: 16 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: HMS 850 Holdings, LLC
7880 San Felipe Street, Suite #250
Houston, Texas 77063
POC: Lance Odom
Telephone: 713-800-9680
Email: lodom@averacompanies.com

AGENT: Orion Construction, LLC
323 23rd Street
Galveston, Texas 77550
POC: Jene Adler
Telephone: 409-771-0937
Email: jadler@orn.net

LOCATION: The project site is located in Burnet Bay, at 850 Independence Parkway North, in Baytown, Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: HIGHLANDS, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.766245° North; **Longitude:** 95.06856° West

PROJECT DESCRIPTION: The applicant proposes to modify Department of the Army (DA) Permit SWG-1999-02541 to add a 15.71-acre extension of the previously authorized 31.8-acre dredge footprint for the barge fleeting area, resulting in a total barge fleeting area footprint of approximately 47.51 acres. The applicant is also requesting a 10-year maintenance dredging authorization to mechanically and/or hydraulically remove approximately 105,300 cubic yards of dredge material from the extended dredge footprint to a depth of -12 feet Mean Lower Low Water (MLLW), including the associated return effluent from previously authorized dredge material placement areas (DMPAs). In addition, the applicant is requesting authorization to place the dredged material, and subsequent maintenance material, into the Burnet Bay Beneficial Use site (DA Permit SWG-2008-00127). The material would be tested according to Table 1 of the Sediment Sampling and Report Requirements for Beneficial Use Sites that was approved by the Environmental Protection Agency, Texas Commission on Environmental Quality, Corps, and the Port of Houston Authority in August 2020.

The applicant stated that the purpose of the proposed project is to expand the barge fleeting area to accommodate additional barges.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by limiting the expanded barge fleeting area to the minimum size needed to meet the purpose of accommodating additional barges.

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 consists of a portion of Burnet Bay, which is highly developed and experiences heavy vessel traffic. Burnet Bay is a tidal water body connected to Galveston Bay, and there are numerous structures such as piers, boat lifts, aids to navigation, boat ramps, etc., within the vicinity of the project site. There are no special aquatic sites located within the vicinity of the action area.

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 9 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 the TCEQ and initiated the Section 401 CWA process, on 20 March 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>.

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 was investigated for historic properties, and one was identified as documented in the report titled "Underwater Archaeological Survey of HMS Fleeting Area, Harris County, Texas" prepared by BOB Hydrographics and dated May 2018. The current project is avoiding the anomaly by 50 meters. Accordingly, the 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 **16 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-1999-02541**, and should be submitted to:

North Unit
Regulatory Division, CESWG-RDE
U.S. Army Corps of Engineers
Galveston District
2000 Fort Point Road
Galveston, Texas 77550
409-766-3869 Phone
409-766-3931 Fax
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS