



Public Notice

U.S. Army Corps Of Engineers	Permit Application No: _____	SWG-2016-00658
	Date Issued: _____	18 May 2021
	Comments	
Galveston District	Due: _____	18 June 2021

**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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 (10) and Section 404 of the Clean Water Act (404).

APPLICANT: Clear Creek Point, LP
5339 Alpha Road, Suite 300
Dallas, Texas 75240
POC: Michael Guerrero

AGENT: SWCA Environmental Consultants (SWCA)
10245 West Little York Road, Suite 600
Houston, Texas 77040
POC: Richard Howard
Telephone: 281-617-3217
Email: rhoward@swca.com

LOCATION: The project site is located in Clear Creek, at 350 North Wesley Drive, in League City, Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: LEAGUE CITY, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.50987 North; **Longitude:** 95.11171 West

PROJECT DESCRIPTION: The applicant proposes to develop a marina that will result in the creation of 100 boat slips, attendant access roads, parking, and pedestrian boardwalks within an existing backwater of Clear Creek. The slips would be placed off 11,790-square-foot of floating docks located along five access gangways that are supported by 92 pilings installed within the marina basin. The gangways will be anchored on the shore of the basin above the high tide line (HTL) and behind soil erosion prevention bulkheads. Approximately 1,330 cubic yards (cy) of material will be mechanically and/or hydraulically dredged to deepen portions of the marina for placement of the docks as well as deepen the inlet from Clear Creek for vessel access. Dredged material will be placed in a designated upland placement area (PA).

For the construction of 2.18 acres of roads and parking areas, the applicant is proposing to permanently discharge fill material into 0.14 acres of palustrine (PEM) wetlands and temporarily discharge fill material into 0.05 acres of PEM wetlands to fulfil the project's purpose and need. Temporary impacts to wetlands would be restored to preconstruction contours and elevations once work has ceased in these areas.

Vehicle access to the marina will be from roadways with roadside parking that connect to the adjacent community. Three parking lots, including one boat trailer parking area, will branch from the main roadway for additional parking. Approximately 0.22 miles of 10-foot-wide wood planked boardwalks will be constructed over the existing bulkheads of the marina to allow for access between gangways, parking, and viewing areas.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by minimizing the required footprint and reducing the impact to the functional capacities of wetlands and waterbodies. In this respect, approximately 0.134 acre of the 12.204 acres of wetlands are proposed to be permanently affected by the project.

MITIGATION: The applicant conducted an interim hydrogeomorphic (iHGM) functional assessment on the 0.134 acre of wetlands. The iHGM for riverine herbaceous/shrub wetlands was determined to be the appropriate model for the projects impacts. The iHGM uses multiple variables to evaluate three ecological functional capacity indices (FCI). In turn, these are used to calculate credits and debits for each Wetland Assessment Area (WAA) associated with a project. The FCIs quantify Temporary Storage and Detention of Storage Water (TSSW), Maintain Plant and Animal Community (MPAC), and Removal and Sequestration of Elements and Compounds (RSEC) values for each to determine the respective physical, biological, and chemical functions. The functional assessment of proposed permanent impacts to PEM wetlands were calculated to result in the expected loss of 0.071 for TSSW, 0.080 for MPAC, and 0.068 for RSEC FCUs. To compensate for the unavoidable impacts to 0.14 acres of PEM wetlands, the applicant will purchase, at a 1.5:1 ratio, 0.107 TSSW, 0.120 MPAC, and 0.102 RSEC wetland mitigation credits from the Gulf Coastal Plains Mitigation Bank (GCPMB).

CURRENT SITE CONDITIONS: The applicant submitted a wetland delineation within the proposed project area to the Corps for an approved jurisdictional determination (AJD) that was issued on 12 March 2020. The AJD determined jurisdiction on 10.48 acres of palustrine emergent (PEM) wetlands and 1.72 acres of palustrine forested (PFO). The AJD also did not claim jurisdiction on 0.14 acres of wetlands due to lack of adjacency to navigable waters. Dominant vegetation in PEM wetlands include coco yam (*Colocasia esculenta*), woodrush flatsedge (*Cyperus entrerianus*), fragrant flatsedge (*C. odoratus*), smallfruit spikerush (*Eleocharis microcurpa*), annual marsh elder (*Iva annua*), common rush (*Juncus effusus*), creeping primrose-willow (*Ludwigia repens*), swamp smartweed (*Persicaria hydropiperoides*), curly dock (*Rumex crispus*), grassy arrowhead (*Sagittaria graminea*), black willow (*Salix nigra*) seedlings, and broadleaf cattail (*Typha latifolia*). The PFO wetland communities include canopies dominated by mature sugarberry (*Celtis laevigata*) and green ash (*Fraxinus pennsylvanica*). The sapling stratum of these areas are dominated by immature specimens of these same species. The shrub stratum are dominated by common buttonbush (*Cephalanthus occidentalis*) and dwarf palmetto (*Sabal minor*). Dominant herbaceous stratum species include Cherokee sedge (*Carex cherokeensis*) creeping primrose-willow, and a few other minor components. Additionally, the proposed project area houses one stream, two ditches, one backwater, and one marina totaling approximately 2,805 linear feet and 6.92 acres.

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 wetland delineation has been completed and was verified by the Corps on 12 March 2020. The applicant's plans are enclosed in 10 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 Clean Water Act (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.

This project incorporates the requirements necessary to comply with the Texas Commission on Environmental Quality's (TCEQ) Tier I project criteria. Tier I projects are those which result in a direct impact of three acres or less of waters of the state or 1,500 linear feet of streams (or a combination of the two is below the threshold) for which the applicant has incorporated best management practices and other provisions designed to safeguard water quality. The Corps has received a completed checklist and signed statement fulfilling Tier I criteria for the project. Accordingly, a request for 401 certification is not necessary and there will be no additional TCEQ review.

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 (prior to 1969) 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 **18 June 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-2016-00658**, and should be submitted to:

Evaluation Branch, Central Unit
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
CORPS OF ENGINEERS