



# Public Notice

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

**Galveston District**

Permit Application No: \_\_\_\_\_

Date Issued: \_\_\_\_\_

Comments \_\_\_\_\_

Due: \_\_\_\_\_

SWG-2017-00654

3 November 2020

7 December 2020

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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.

**APPLICANT:** Accutrans Fleeting Services, LLC  
2740 Indiana Avenue, Suite 100  
Kenner, Louisiana 77062  
POC: Leonard Brusatori  
Telephone: 504-469-0500  
Email: lbrusatori@accutransinc.com

**AGENT:** BIO-WEST, Inc.  
1625 Cottonwood School Road  
Rosenberg, Texas 77471  
POC: Matthew Chastain  
Telephone: 832-595-9064  
Email: mchastain@bio-west.com

**LOCATION:** The project site is located in Old River Channel, near 17002 Market Street, in Channelview, Harris County, Texas 77530. This area is located in the region identified as the San Jacinto River Waste Pits. The project can be located on the U.S.G.S. quadrangle map titled: Highlands, Texas.

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

**Latitude:** 29.785828° North;      **Longitude:** 095.095301° West

**PROJECT DESCRIPTION:** The applicant requests to retain work via an after-the-fact (ATF) authorization for dredging activities performed in Old River Channel. Work to retain includes dredging and bulkheading affecting the navigable waters of Old River Channel. The applicant installed a bulkhead and dock in uplands then excavated the upland material to extend the Mean High Tide line to the bulkhead.

Specifically, the applicant proposes to retain 300-linear-feet (LF) of steel sheet piling, which will act as bulkheading for the development and armor the shoreline against potential daily tidal erosion. This bulkhead was installed above the high tide line in uplands. During the bulkhead construction, the applicant installed concrete pilings landward of the bulkhead to assist in the stabilization of the project site and to provide footing for other facilities. The area behind the bulkhead was then backfilled with earthen soil excavated during construction and grading activities from the remainder of the project site. These upland areas were graded to pre-determined elevations and paved with crushed gravel. A dock was also constructed behind the bulkheading in uplands for bulk material unloading and loading. All of this work was completed within uplands adjacent to the shoreline. After the upland work was complete, approximately 9,970 cubic yards (CY) (0.25 acre) was excavated 10-feet in front of the installed bulkhead, landward of the mean high tide line (MHT) to a depth of 12-feet below mean lower low water (MLLW) as part of the proposed barge terminal which extended the MHT to the bulkhead. Soil excavated from this upland portion of the project site was utilized on-site as backfill material for the bulkhead and upland fill material for the remainder of the proposed development.

Additional new work being proposed consists of dredging a 7.18-acre area to a depth of 10-feet below MLLW, with a two-foot over dredge, and proposed bi-annual maintenance dredging. Approximately 10,000 CY of material would be excavated during the proposed dredging. Dredging activities would utilize land-based, long-armed track hoes, and dredged material would be evenly spread in existing uplands on private property owned by the applicant. The proposed total dredging depth (12-feet) would match the existing bottom elevations of the adjacent Old River Channel and allow bulk material barges access to the dock area of the project site. Once dredging is complete, 30 CY of dolphins and moorings would be installed into the dredged area to provide barge tie-offs, navigation aids, and delineate the extended reach of the applicant's property. The overall project would deepen and widen the existing channel within the project site to accommodate barge traffic. A dredge material management plan has been added to the attached project plans.

**PROJECT HISTORY:** On 28 January 2018 the Corps Compliance Branch was forwarded a report from the Corps Permit Evaluation Branch that a permit application in review had started work prior to receiving any authorization and it was in the San Jacinto River Waste Pits Area. Subsequent meetings and correspondence with the applicant and/or their agent of record confirmed that work had occurred in and/or affecting the navigable waters of Old River. The applicant created a bulkhead in the upland area and then mechanically excavated in and affecting Old River so barges could access the new bulkhead. This project was coordinated with other Corps business lines in September 2018. An ATF application was received for evaluation on 16 October 2020.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized environmental impacts to the maximum extent practicable. No special aquatic sites, including oyster beds, seagrass beds, mud flats, or un-vegetated tidal flats, exist within the project site. Due to the historically developed nature of the project area, including the Old River Channel and the Houston Ship Channel, no special aquatic sites likely exist in areas surrounding the project site. The applicant anticipates that no special aquatic sites would be impacted by the project. The applicant has designed the project to incorporate best management practices (BMPs) to maintain water quality standards during and after construction. The design and construction would be subject to and based on local governmental regulations. BMPs identified in the Stormwater Pollution Prevention Plan (SWP3) for a Texas Commission on Environmental Quality (TCEQ) Construction General Permit would be implemented and maintained throughout construction to control turbid discharges into receiving waters. BMPs that could be utilized on uplands during construction and post-construction include filter berms and socks, diversion dikes, and silt fencing. BMPs that could be employed for dredging activities include utilizing land-based excavation equipment rather than barge-based dredges. All BMPs would be implemented at the discretion of the applicant and project engineer.

**MITIGATION:** The project involves dredging within a previously disturbed waterbody. Impacts to existing bay bottom/open water habitat within Area A (Old River Channel) resulting from dredging activities would be temporary. BMPs would be utilized during dredging activities to reduce potential temporary impacts. Due to extent of proposed dredging impacts to Area A, the lack of impacts to special aquatic sites, the historically developed nature of the project site, no compensatory mitigation is proposed.

**CURRENT SITE CONDITIONS:** When the project was original conceived in 2017, the 11.18-acre project site consisted of an undeveloped parcel of land located on the Old River Channel portion of the Houston Ship Channel. Public infrastructure, residential properties, and commercial and industrial properties are adjacent to the project site. The project area is located in the Gulf Coast Prairies and Marshes natural region of Texas. The project site currently consists of two distinct vegetative community types, including tidally influenced open water and herbaceous uplands. Upland vegetative communities within the project site consist of herbaceous habitats dominated by St. Augustine grass (*Stenotaphrum secundatum*), Bermuda grass (*Cynodon dactylon*), Johnsongrass (*Sorghum halepense*), bahia grass (*Paspalum notatum*), and powderpuff (*Mimosa strigillosa*). Currently, a small upland portion of the project site contains a commercial office space, parking areas, a communication tower, gravel access roads, and a barge fuel storage facility. The project site also contains a dock that was constructed in uplands and a bulkhead, which are both being requested to retain. The remainder of the project site is mowed and maintained without any development.

**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 14 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.

#### **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 was initiated without a Department of the Army permit and is considered an after-the-fact permit application. After-the-fact permit applications require review under the Tier II criteria. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with Corps processing of this application, the TCEQ is reviewing 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. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas, 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

The proposed project will trigger review under Section 401 of the Clean Water Act (CWA). The 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 will contact TCEQ and initiate the Section 401 CWA process as soon as possible. If you have comments or questions on this proposed project's State water quality certification process, 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>.

**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 previously investigated for historic properties and none were identified as documented in the reports titled “Cultural Resources Survey for the Proposed Accutrans Barge Terminal Project in Harris County, Texas” prepared by Gray & Pape and dated April 2020 and “Underwater Archaeology Survey of Russell Marine Barge Dock, Harris County, Texas: prepared by BOB Hydrographics, LLC and dated June 2019. The Texas State Historic Preservation Officer concurred with the findings in the reports on 12 June 2020 and 8 July 2019.

**THREATENED AND ENDANGERED SPECIES:** Threatened and/or endangered species or their critical habitat may be affected by the proposed work. Consultation with the U.S. Fish and Wildlife and/or 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 **7 December 2020**. 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-2017-00654**, and should be submitted to:

North 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