



Public Notice

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

Galveston District

Permit Application No: SWG-2023-00361

Date Issued: November 28, 2023

Comments

Due: December 28, 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.

APPLICANT: Adrien Hilmy
Coastal Ben Bays & Estuaries Program
1305 North Shoreline Boulevard
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Corpus Christi, Texas 78401
Email: ahilmy@cbbep.org

AGENT: Kelsea Heibert
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Corpus Christi, Texas 78401
Email: Kelsea.Heibert@hdrinc.com

LOCATION: The project site is located in the Corpus Christi Bay, adjacent to the JFK Causeway, in Corpus Christi, Nueces County, Texas. The project can be located on the U.S.G.S. quadrangle map(s) entitled: Oso Creek NE and Crane Islands NW, Texas.

LATITUDE & LONGITUDE (NAD 83):
Latitude: 27.65775 North; Longitude: -97.25130 West;

PROJECT DESCRIPTION: The applicant proposes to place fill within open water and modify an existing anthropogenically-created island to improve nesting habitat for

colonial waterbirds. Specifically, the applicant proposes to construct an erosion control structure erosion control structure around the perimeter of an existing island, and place fill in nearshore open waters to expand upland nesting habitat and tidal wetlands. As proposed, 1.35-acres of nearshore open water with bare bottom and 0.15-acres of tidal wetlands will be filled with sand to expand the upland portion of the island to 1.02-acres and create 0.33-acres of tidal wetlands, a net growth of 0.18-acres of tidal wetlands. Additionally, a 1,155 linear foot erosion control structure will be constructed with a crest elevation of +3.5 feet NAVD and 2:1 side slope, with a width of 10 feet wide at the crest and a width of 24 feet at the base. The erosion control structure is planned to have an approximately 20 feet wide gap located on the southwestern side of the island to facilitate juvenile bird entry and egress and long-term management by Coastal Ben Bays & Estuaries Program. The total project footprint is planned to be 1.64 acres with 2,600 cubic yards of sand and approximately 2,100 cubic yards of rock proposed to be placed. Fill material is proposed to be supplied from a third-party source and will be of clean and free of toxic materials. Native vegetation will be planted throughout the island to stabilize the sand fill and provide roosting birds with habitat and forage material.

AVOIDANCE AND MINIMIZATION: The applicant has stated that the project design for the placement of the proposed rock rip rap (erosion control structure) and associated fill avoids and minimizes impacts to the fullest extent practical. The applicant has supplied an alternatives analysis comparing the feasibility of potential alternatives to meet the project goals and believes the proposed project is the least environmentally damaging practical alternative. Shallow draft barges are proposed to be used during the project for the transport of construction equipment, the on-site work, and to act as safety barrier to prevent damage to seagrass and other aquatic vegetation adjacent to the proposed fill locations during construction. Turbidity and water quality impacts will be minimized during construction with the implementation of erosion control and best management practices, utilizing actions such as silt fences. Post construction, the erosion control structure and constructed wetlands are expected to stabilize the on-site fill. No excavation or dredging activities are proposed for this project.

MITIGATION: The applicant does not propose compensatory mitigation. The applicant has stated “the proposed project will result in net increases to ecological and aquatic resource functions and services through a conservative approximate 2.2 acre created tidal wetland habitat to 1 acre impacted wetland habitat (creation to impact ratio of 2.2:1)”; this statement has not been verified by the Corps.

CURRENT SITE CONDITIONS: Per the applicant “The Project Area consists of Tern Rookery Island, which was artificially formed from the placement of dredged material from artificial channels dredged for oil and gas exploration between 1956 and 1979, and surrounding water. The island is known to provide nesting habitat for various colonial waterbird species including both tree/shrub nesters (wading birds) and ground nesters (terns, gulls, skimmers). The island allowed for sufficient elevation for organic soils to develop over time and supported native herbaceous, scrub-shrub, and tree vegetation. However, the island has eroded over time, and is continuously experiencing erosion from hurricanes and wave and wind action. In 2017 the island experienced a loss of approximately 50 feet of shoreline on the southwestern site due to Hurricane Harvey.”

The Corps concurs the project area is an anthropogenically created island from dredged spoil material. The Corps further concurs that the project site has changed significantly from inception due to erosion and accretion from tropical storms and tidal action.

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 sheets 1-7.

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:

The applicant has stated that the project is consistent with the Texas Coastal Management Program (CMP) goals and policies and will be conducted in a manner consistent with said Program. The Texas Railroad Commission will determine if the project is consistent with the goals and policies of the CMP.

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. 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 state tracts proposed for work under this permit are not included in the Texas Historical Commission's list of Sensitive state tracts. Additionally, the scope and magnitude of the project are such that a marine archeological investigation is not warranted.

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 of Engineers, 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 of Engineers 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 of Engineers 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 Environmental Impact Statement 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 of Engineers 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 **December 28, 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-2023-00361** and should be submitted to:

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Corpus Christi Field Office
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS