



Public Notice

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

Galveston District

Permit Application No: _____

Date Issued: _____

Comments _____

Due: _____

SWG-2005-00409

11 October 2018

13 November 2018

**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 and Section 404 of the Clean Water Act (CWA).

APPLICANT: Phillips 66 Pipeline, LLC
2331 CityWest Boulevard
Houston, Texas 77042
POC: Matt Nelson
Telephone: 832-765-1651
Email: matt.c.nelson@p66.com

AGENT: Perennial Environmental Services, LLC
13100 Northwest Freeway, Suite 150
Houston, Texas 77040
POC: Jonathan Fredland
Telephone: 713-462-7121
Email: jfredland@perennialenv.com

LOCATION: The project site is located along the Phillips 66 Terminal on the Neches River, at 128 Magnolia Avenue, in Nederland, Jefferson County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Terry, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 30.010435 ° North;

Longitude: 93.969027° West

PROJECT DESCRIPTION: The applicant proposes to modify the permit for the extension of time and consolidate previously authorized permits; and to conduct new work associated with a new dredging cut and a new marine ship dock (Dock 4). Refer to previously authorized permitting in Attachment A, in 4 sheets, for a Regulatory Permit History Table. Specifically, the applicant also proposes the following new work:

- To remove an existing concrete boat ramp and install a new boat launch constructed of dual steel rails and an adjacent walkway at a location approximately 2,850 feet upstream from its current location;
- To install 950 linear feet of bulkhead at or above the ordinary high watermark; To permanently discharge of 1,827.21 cubic yards of fill material into 3 wetlands, totaling 1.10 acres, and temporarily discharge fill material into 0.11 acre of wetlands during the construction of a new 120-foot by 70-foot marine Ship Dock (Dock 4), 4 breasting dolphins, 4 mooring dolphins, protection piles, utilities, supply infrastructure, equipment area, laydown areas, and pipe racks;
- To dredge to -42 mean lower low water plus 2 foot overdraft by removing 155,000 cubic yards from a new area for Ship Dock 4 area (8.7 acre);
- To perform maintenance dredging by hydraulic or mechanical means, within an 8.7-acre area for new Ship Dock 4, for an additional 10 years and remove approximately 50,000 cubic yards per event (about every two years); and
- To utilize dredge material placement areas 13, 14, 17, 18, 21, 22, 23 (preferred), 24, and/or 25 for the effluent discharge of return water.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by limiting the work to the minimum needed to accomplish the goals of the project and expanding an existing dock with infrastructure in place.

MITIGATION: The applicant is proposing to mitigate the permanent loss of 1.10 acres of herbaceous wetlands by the purchase of in-kind mitigation credits from Pineywoods Mitigation Bank.

CURRENT SITE CONDITIONS: The project area consists of approximately 37.94 acres of undeveloped open land/pasture and existing industrial facilities along the Neches River and is currently surrounded by industrial development. The area contains many structures and experiences much vessel traffic. The subject wetlands are adjacent to Neches River.

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 19 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.

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.

The return water from the upland contained dredge material placement area(s) requires an independent certification by the TCEQ. The applicant must obtain a Section 401-water quality certification from the TCEQ for the effluent or return water discharge. A copy of the 401-certification must also be furnished to the Corps prior to the Corps making a decision on the proposed project.

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 placement of dredged material and subsequent industrial development 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 **13 November 2018**. 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-2005-00409**, and should be submitted to:

Central Unit
Regulatory Division, CESWG-RDE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3869 Phone
409-766-6301 Fax
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS