



Public Notice

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

Galveston District

Permit Application No: SWG-2016-01025

Date Issued: 4 October 2022

Comments

Due: 4 November 2022

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: Advario Texas Independent Deepwater Expansion, LLC
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Houston, Texas 77024
POC: Mario Ramon
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Email: mario.ramon@oiltanking.com

AGENT: Geosyntec Consultants
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Austin, Texas 78757
POC: Scott Walker
Telephone: 361-443-9454
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LOCATION: The project site is located in the Texas City Ship Channel and Galveston West Bay, at 2800 Loop 197 South, in Texas City, Galveston County, Texas 77590. The project can be located on the U.S.G.S. quadrangle map entitled: Virginia Point, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.359435 North; **Longitude:** -94.898121 West

PROJECT DESCRIPTION: The applicant proposes to construct a marine tanker terminal comprised of two berths bisected by a finger pier and associated marine industrial infrastructure including roadways, utilities and security facilities, with access to a deep draft navigation channel (minus 45 feet mean lower low water (MLLW) including an additional 2 feet of allowable over dredge). This includes hydraulic and mechanical dredging of approximately 2.95-million cubic yards (MCY). The upper 1.61 MCY of dredge material within the levee would be placed onsite, filling approximately 38.37-acres of onsite wetlands (delineation described below in current conditions), to facilitate future construction, and approximately 32.69-acres of onsite waters of the United States (WOTUS). Approximately 1.34 MCY would be placed into Shoal Point Island, specifically the portion owned by the General Land Office. The components to construct the marine terminal and supporting infrastructure include the following:

- Dredge marine dock (38-acres total: 36.88-acres WOTUS; 1.01-acres PEM and 0.07-acre EEM) and dredged access to the Texas City Terminal Ship Channel (34.5-acres of WOTUS)
- Roads and utilities corridors (9-acres total: 0.43-acre WOTUS; 0.46-acre PSS; 0.25-acre PEM; 0.01-acre PFO)
- Liquid Petroleum Gas (LPG) Plant, equipment and storage areas (35-acres total: 8.59-acres WOTUS; 1.63-acres PSS; 10.77-acres PEM)
- Chemical Plant, equipment and storage areas (27-acres total: 12.13-acres WOTUS; 8.57-acres PEM; 0.37-acre PFO)
- Guard house – administration, and substations (5-acres total: 3.52-acres WOTUS; 0.69-acre PSS; 0.47-acre PEM)
- Lake Institute Fill Area for future development (8.02-acres WOTUS; 12.62-acres PSS; 0.85-acre PEM; 0.60-acre PFO)

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by utilizing the smallest required area for docking and support facilities, avoidance of 8-acres of palustrine forested wetlands (PFO) and palustrine emergent wetlands (PEM) in the northwest corner of the property, and existing perimeter roadways will be used and improved to limit the need for additional disturbance or impacts outside of the expansion footprint.

MITIGATION: The applicant proposes to mitigate for the proposed impacts by reserving/purchasing 43.2 compensatory Functional Capacity Units (FCU) from the Gulf Coastal Plains Mitigation Bank (GCPMB) operated by East Bay Farms, LLC (a subsidiary of the Earth Partners, LP). 37.6 FCUs have been purchased with 5.6 FCUs being reserved with a down payment to cover the 38.37-acres of overall wetland impacts. The 37.6 FCUs are broken down as follows (0.1 physical units, 16.7 chemical units, and 20.8 biological units).

CURRENT SITE CONDITIONS: The project site, Advario North America facility (formerly Oiltanking North America), is located adjacent to the Texas Ship Channel and Galveston West Bay, south of the Texas City Dike. The project site is approximately 224-acres of undeveloped land composed of uplands, wetlands and open water surrounded by other industrial development. The wetland composition delineated onsite includes the following: EEM 2.5 acres; PEM 26.34 acres; PFO 2.25 acres; and PSS 16.06 acres. The project site is split between East Lagoon and Lake Institute.

Historically, the tract of land operated as a dredge placement area between 1963 and 1964, and later operated as a wastewater treatment facility and was used as a “flow through/retention time” basin between 1964 to 1983 for Union Carbide Corporation (UCC). A levee was constructed around the perimeter of the property as part of the wastewater treatment basin. The containment levee separates open water and wetlands from the adjacent Texas City Ship Channel and unnamed stormwater control canals. On 3 June 1994, EPA Region 6 approved clean closure of East Lagoon under 40 CFR Part 264, EPA I.D. No. TXD980626782 stating that a post-closure permit for the unit was not required.

The other portion of the property, designated as Lake Institute, operated as an approved dredge placement area between 1977 to 1991. Removal of industrial solid waste, hazardous waste and waste residues occurred in early 2000s. The TCEQ issued approval of remediation of hazardous waste on 20 November 2003 and released Lake Institute from post-closure care responsibilities on 9 August 2004 by complying with non-residential soil criteria under Risk Reduction Standard No. 2. The lagoons were closed as Resource Conservation and Recovery Act (RCRA) waste units and are not currently permitted for waste disposal.

The applicant is reapplying for authorization for the proposed TIDE project, consistent with the USACE requirements to provide an approved Sampling and Analysis Plan (SAP), after withdrawal 20 November 2019.

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 21 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 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>.

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 has been so extensively impacted by industrial development, dredging, and the placement of dredged material 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 **4 November 2022**. 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-2016-01025**, and should be submitted to:

Central Unit/Evaluation Branch
Regulatory Division, CESWG-RDE
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