



# Public Notice

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

**Galveston District**

Permit Application No: \_\_\_\_\_ SWG-2022-00314

Date Issued: \_\_\_\_\_ 4 October 2022

Comments \_\_\_\_\_

Due: \_\_\_\_\_ 4 November 2022

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

**APPLICANT:** Orange County Drainage District  
8081 Old Highway 90  
Orange, Texas 77630  
POC: Don Carona  
Telephone: 409-745-3225  
Email: dcarona@orangecountydrainage.com

**AGENT:** LJA Environmental Services, LLC  
1507 South IH 35  
Austin, Texas 78741  
POC: Lee Sherrod  
Telephone: 512-431-3562  
Email: lsherrod@lja.com

**LOCATION:** The project site is located in wetlands within the Bessie Heights subbasin and adjacent to the Neches River at an area approximately 0.6-mile west of the intersection of Round Bunch Road and West Bridgefield Drive, near Bridge City, in Orange County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: TERRY, Texas.

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

**Latitude:** 30.043659° North; **Longitude:** 093.903456° West

**PROJECT DESCRIPTION:** The applicant proposes to permanently convert approximately 2.054 acres of estuarine emergent wetlands (EEM) and 1.452 acres of palustrine forested (PFO) wetlands to open water, and to deepen and widen approximately 1.409 acres of tidal open water to improve and extend the Bessie Heights Drainage Ditch. The proposed drainage ditch extension will be approximately 4,965 feet in length, have a varying width of 45 feet to 64 feet, and a depth ranging from -2.9 feet to -7.3 feet (NAV '88). Approximately 2,291 cubic yards of material will be dredged from tidal open waters, 9,246 cubic yards of material excavated from estuarine emergent marsh, and 3,307 cubic yards of material excavated from palustrine forested wetlands to construct the new drainage channel. The 14,844 cubic yards of dredged and excavated material will either be removed to uplands, thin spray discharged into the adjacent marsh for beneficial use, and/or utilized for marsh creation as part of a permittee responsible compensatory mitigation plan. The purpose of the project is to improve stormwater flow through the northern portion of the Bessie Heights Marsh that allows the Bessie Heights Drainage Ditch to reach open water with minimal effects to the marsh.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that they have avoided and minimized the environmental impacts by designing the proposed drainage ditch to be the minimum needed to meet the purpose of alleviating flooding and drainage issues in the Bessie Heights area of Orange County. The applicant also conducted an alternatives analysis for three possible project designs with the proposed drainage ditch extension selected as the preferred alternative due to lesser impacts to wetlands in the Bessie Height Marsh and Nelda Stark Unit of the Lower Neches WMA as compared to the two other alternatives.

**MITIGATION:** The applicant proposed to mitigate for the permanent conversion of 2.054 acres of EEM wetlands and 1.452 acres of PFO wetlands to open water by implementing an in-kind and out-of-kind permittee responsible mitigation plan that would create approximately 5 acres of marsh and restore 5 acres of marsh within an area of the Nelda Stark Unit of the Lower Neches Wildlife Management Area. The proposed mitigation site is located approximately 0.5-mile west of the project site. This proposed mitigation has been modeled with the Riverine herbaceous and forested interim hydrogeomorphic model (iHGM). The applicant stated that, while this portion of the Bessie Heights Marsh is subject to weak lunar tides, the wetlands are far greater influenced by riverine hydrology and wind driven water levels. The applicant's proposed permittee responsible mitigation plan is enclosed in 19 sheets.

**CURRENT SITE CONDITIONS:** The project site consists of estuarine emergent wetlands and palustrine forested wetlands within the Bessie Heights Marsh of the Nelda Stark Unit of the Lower Neches Wildlife Management Area, which is under the management of the Texas Parks and Wildlife Department. The tidal wetlands are a mixture of fresh and brackish water species such as giant cutgrass (*Zizaniopsis mileacea*), bull tongue (*Sagittaria lancifolia*), rice cutgrass (*Leersia orizoides*), seedbox (*Ludwigia peploides*), sedge (*Carex spp*), cattail (*Typha spp.*), California bulrush (*Schoenoplectus californicus*), pickerel weed (*Pontederia cordata*), saltmeadow cordgrass (*Spartina patens*), giant cane (*Phragmites australis*), and alligatorweed (*Alternanthera philoxeroides*). Forested

wetlands occur as a generally narrow band at the marsh-upland interface where inundation is frequent. Typical species include red maple (*Acer rubrum*), Chinese tallow (*Triadica sebifera*), sweetgum (*Liquidambar styraciflua*), and occasional water oak (*Quercus nigra*) with palmetto (*Sabal minor*), buttonbush (*Cephalanthus occidentalis*), and amorpha (*Amorpha fruticosa*) in the understory.

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 22 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 contacted the TCEQ and initiated the Section 401 CWA process, on 25 August 2022. If you have comments or questions on this proposed project's State water quality certification, 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 investigated for historic properties and none were identified as documented in the report titled "Intensive Cultural Resources Survey for the Proposed Bessie Heights Drainage Improvements Project, Bridge City, Orange County, Texas" prepared by Horizon Environmental Services, Inc and dated April 2022.

**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-2022-00314**, and should be submitted to:

North Unit  
Regulatory Division, CESWG-RDE  
U.S. Army Corps of Engineers  
Galveston District  
2000 Fort Point Road  
Galveston, Texas 77550  
409-766-3869 Phone  
409-766-3931 Fax  
swg\_public\_notice@usace.army.mil

DISTRICT ENGINEER  
GALVESTON DISTRICT  
CORPS OF ENGINEERS