



Public Notice

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

Permit Application No: SWG-2013-00147
Date Issued: 7 September 2023
Comments Due: 10 October 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 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (MPRSA).

APPLICANT: Freeport LNG Development, L.P.
333 Clay Street, Suite 5050
Houston, Texas 77002
Telephone: 713-375-9886
POC: Erin Piper

AGENT: Lloyd Engineering, Inc.
6565 West Loop South, Suite 708
Houston, Texas 77401
Telephone: 832-426-4656
POC: Marisa Weber

LOCATION: The project site is located on the Freeport Harbor Ship Channel, near the City of Freeport, in Brazoria County, Texas. The Freeport Maintenance Offshore Dredge Material Disposal Site (ODMDS) is located approximately 3 miles offshore and about 1,000 feet southwest of the centerline of the Outer Bar Channel. The project can be located on the U.S.G.S. quadrangle map entitled: FREEPORT, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 28.982761 North; **Longitude:** -95.309178 West

PROJECT DESCRIPTION: Freeport LNG Development (FLNG) have requested a Department of the Army maintenance dredge permit to include the use of mechanical, hydraulic and hopper dredges and to dispose of the dredged material in the Freeport Harbor Maintenance Offshore Dredge Material Disposal Site (ODMDS). The maintenance dredge permit authorizes dredging of the entire FLNG Basin (both Dock 1 and Dock 2). Dredging conducted via a hydraulic cutter head dredge and/or mechanical clamshell will utilize to a dump scow barge. The barge will be transported to the Freeport Harbor Maintenance ODMDS where the material will be dumped. Maintenance dredge cycles utilizing a hopper dredge will not require a barge for transportation of the dredged material. Each maintenance dredging cycle is expected to take 3 months to complete. Submittals to evaluate effects of dredging and disposal of dredge material will be conducted, as required by Section 103 of the MPRSA. FLNG has estimated that maintenance dredge cycles will occur annually and are estimated to remove approximately 250,000 cubic yards.

FREEPORT MAINTENANCE ODMDS: The Freeport Maintenance ODMDS was designated by the Environmental Protection Agency (EPA) for maintenance dredging activities within the Freeport Harbor Channel. Previous environmental analyses for the Freeport Maintenance ODMDS were conducted by the EPA during the initial designation of the site in 1991, and by the Corps in the Final Environmental Impact Statement (EIS) for the Proposed Port Freeport Channel Widening Project in January 2008, and subsequently in the Final EIS for the Freeport Harbor Channel Improvement Project in September 2012. The Freeport Harbor Maintenance ODMDS is located approximately 3 miles offshore, and about 1,000 feet southwest of the centerline of the Outer Bar Channel. The site is rectangular in shape with corner coordinates located at:

28°54'00"N, 95°15'49"W; 28°53'28"N, 95°15' 16"W;
 28°52'00"N, 95°16'59"W; 28°52'32"N, 95°17'32"W.

Table 1 below describes the known dredge material discharges at Freeport Maintenance ODMDS.

Table 1. Freeport Maintenance ODMDS Disposal History

Project type	Work type	Disposal Method	Cubic Yards	Start date	End date
Federal	Maintenance	Hopper	1,987,232	08/14/2018	12/26/2018
Permit	Maintenance	Scow	1,005,855	04/03/2018	07/11/2018
Federal	Maintenance	Hopper	3,164,978	09/05/2017	12/03/2017
Federal	Maintenance	Hopper	1,104,227	09/03/2016	10/18/2016
Federal	Maintenance	Hopper	495,000	01/01/2015	02/08/2015
Federal	Maintenance	Hopper	2,096,850	09/12/2015	12/31/2015
Federal	Maintenance	Hopper	25,928	01/02/2014	01/04/2014
Federal	Maintenance	Hopper	500,000	11/21/2014	12/27/2014
Federal	Maintenance	Hopper	1,682,299	09/04/2013	10/22/2013
Federal	Maintenance	Hopper	1,477,371	09/12/2012	10/09/2012
Federal	Maintenance	Hopper	1,084,534	12/26/2011	01/17/2012

Federal	Maintenance	Hopper	212,891	11/02/2012	11/13/2012
Federal	Maintenance	Hopper	1,547,600	01/01/2011	02/05/2011
Federal	Maintenance	Hopper	7,500	01/17/2010	01/18/2010
Federal	Maintenance	Hopper	429,900	12/22/2010	12/31/2010
Federal	Maintenance	Hopper	2,420,755	10/30/2009	11/25/2009
Federal	Maintenance	Hopper	1,577,096	10/21/2008	12/03/2008
Federal	Maintenance	Hopper	1,415,421	10/12/2007	12/04/2007
Federal	Maintenance	Hopper	1,012,300	01/01/2007	02/20/2007
Federal	Maintenance	Hopper	1,503,700	10/07/2006	12/31/2006
Federal	Maintenance	Hopper	1,722,891	01/01/2006	02/20/2006
Federal	Maintenance	Hopper	188,200	12/27/2005	12/31/2005
Federal	Maintenance	Hopper	1,908,831	09/04/2004	11/29/2004
Federal	Maintenance	Hopper	1,726,186	08/11/2003	10/11/2003
Federal	Maintenance	Hopper	1,996,354	05/01/2002	08/24/2002
Federal	Maintenance	Hopper	2,479,249	06/01/2001	09/01/2001
Federal	Maintenance	Hopper	338,800	01/01/2000	01/10/2000
Federal	Maintenance	Hopper	1,859,847	07/30/2000	11/28/2000
Federal	Maintenance	Hopper	1,863,488	10/30/2000	12/31/2000
Federal	Maintenance	Hopper	1,555,615	09/03/1999	12/31/1999
Federal	Maintenance	Hopper	2,344,436	10/11/1998	11/26/1998
Federal	Maintenance	Hopper	2,489,108	01/02/1997	04/21/1997
Federal	Maintenance	Hopper	1,053,157	11/11/1997	12/10/1997
Federal	Maintenance	Hopper	579,500	06/27/1996	08/05/1996
Federal	Maintenance	Hopper	2,674,026	09/26/1995	12/31/1995
Federal	Maintenance	Hopper	2,599,267	08/03/1994	12/20/1994
Federal	Maintenance	Hopper	1,415,742	07/09/1993	09/04/1993
Federal	Maintenance	Hopper	2,884,532	08/28/1992	11/24/1992
Permit	Capital	Scow	1,172,640	02/06/2016	04/13/2016
Federal	Maintenance	Hopper	3,164,978	9/5/2017	12/3/2017
Federal	Maintenance	Hopper	1,987,232	8/14/2018	12/26/2018
Permit	Maintenance	Scow	1,005,855	4/3/2018	7/11/2018
Federal	Maintenance	Hopper	1,082,333	12/6/2019	12/31/2019
Permit	Maintenance	Scow	201,965	6/15/2019	8/9/2019
Federal	Maintenance	Hopper	1,082,233	1/1/2020	3/17/2020
Federal	Maintenance	Hopper	1,948,199	1/22/2021	4/28/2021
Federal	Maintenance	Hopper	1,200,000	11/20/2021	12/31/2021
Permit	Maintenance	Hopper	94,426	2/21/2021	4/22/2021

AUTHORIZED DISPOSAL EFFECTS: Dredged material deposited at the Freeport Maintenance ODMDS disperse and erode quickly. There are no significant environmental resources delineated within or immediately outside of the designated ODMDS. Since this site is dispersive in nature, the primary concern of the use of the site is the potential short-term buildup of dredged material, such that a hazard to navigation is presented. Another concern is whether there is significant short-term transport of the dredged material

beyond the ODMDs boundaries; specifically, the benthic community can be impacted if significant rapid movement of material off the site occurs, resulting in burial of benthic populations outside the site.

CHARACTERISTICS AND COMPOSITION OF THE DREDGED MATERIAL: In May 2013, chemical analysis of water, sediment, and elutriate samples; suspended particulate phase (SPP) and solid phase (SP) bioassays; and bioaccumulation studies were conducted on maintenance material located in the Freeport Harbor – Inside Channel and Basins to determine its suitability for ocean placement. During this assessment, twelve channel sites, three Placement Area (PA) sites, and three Reference Area (REF) sites were sampled for water and sediment. Of those, the channel sites were composited into four channel samples, the PA sites were composited into one PA sample, and the REF sites were composited into one REF sample.

Based on the results of the analysis, none of the channel station water samples collected had exceedances of any acute Texas Water Quality Standards (TWQS) or EPA Water Quality Criteria (WQC) (Criteria Maximum Concentration [CMC]), except for the CMC for cyanide which occurred at all channel stations, REF stations, and PA stations. As stated in the contaminant assessment report, the analytical results reported are for total cyanide whereas the CMC and TWQS are for free cyanide as only free cyanide is considered to be a biologically meaningful expression of cyanide toxicity (Eisler, 1991). The relationship between total cyanide and free cyanide in natural waters varies with receiving water condition, types of cyanide compounds present, degree of exposure to daylight, and presence of other chemical compounds. Comparing total cyanide values to free cyanide benchmarks is a very conservative approach and even if all of the cyanide were present as free cyanide, the WQS would not be exceeded. Additionally, all values are qualified “J”, meaning the values are estimated concentrations with high uncertainty. Given the low levels present, the well oxygenated and high electrolyte marine environment, and the lack of industrial sources, this finding was not considered significant.

Based on a review of the sediment analysis, the only trends in the sediment data were (1) the metals concentrations in the F-EC-13-PA1 sample are generally lower than at the other stations and (2) the REF station concentrations were neither higher nor lower than those of the channel stations. The trends noted above are consistent with the grain size data since F-EC-13-PA1 had the highest percent sand and gravel (37.1% sand and gravel) and the reference station was similar to the channel stations. The concentrations of all organics were below detection limits, except for total organic carbon (TOC), bis (2-ethylhexyl) phthalate, and diethyl phthalate. The concentration of bis (2-ethylhexyl) phthalate was similar at the REF and channel stations, while the concentrations of diethyl phthalate were highest in the REF station sediments. There are several different guidelines that are used to look for a cause for concern in sediment samples, one of which is the Effects Range Low (ERL) developed by a technique that demonstrates no cause and effect from the chemicals in the data set, and are used only to determine a possible “cause of concern.” Results of the sediment analysis conducted indicated that no ERL was exceeded in any channel, PA, or REF sample.

In August 2016, FLNG collected surficial sediment and ambient water for the purposes of conducting chemical and grain-size analysis for the maintenance dredging of approximately 150,000 cubic yards (CY) of material from Dock 1 of the FLNG Basin for disposal at the Federal DMPA 85. Based on the results of this data, there were no exceedances of chemical concentrations or indications that would suggest a cause for concern for significant impacts to special aquatic resources as a result of the placement of material at the Freeport Maintenance ODMDS.

FLNG conducted field sampling of the material which was to be dredged and disposed of in the Freeport Maintenance ODMDS, in accordance with the Corps and USEPA approved SAP in May 2017. Furthermore, based on sampling conducted by the USACE for Permit Modification Application – Offshore Disposal of Maintenance Dredged Material Environmental Analysis 5-19 May 2020 material located in the Freeport Harbor Channel, directly adjacent to the FLNG Basin, the material that would be dredged from the Basin during maintenance activities is suitable for offshore disposal.

Subsequently, a Tier I Analysis was submitted in December 2019 in anticipation of a dredging event. The Tier I Analysis included a reassessment of all new and previously evaluated data in order to provide supporting evidence to reasonably conclude that the material proposed to be dredged within the FLNG Basin remains in compliance with the existing Section 103 of the MPRSA. The Tier I analysis referenced the 2017 sediment chemistry report approved by and conducted in accordance with the USACE and USEPA. Since that time, no evidence of significant spills or other potential sources of contamination have been identified near the Project area which would indicate a cause for concern. As such, the material within the FLNG Basin met the criteria for ocean disposal outlined in 40 CFR § 227.13(b)(3).

The EPA, Region 6 and the USACE, New Orleans District and Galveston District have determined that biological and chemical data greater than 5 years old may not be adequate to conduct evaluations. Therefore, FLNG will be required to collect and test proposed dredge material in accordance with the February 1991 *Evaluation Of Dredged Material Proposed for Ocean Disposal - Testing Manual*, (the Green Book) to demonstrate compliance with the Section 103 of the Marine Protection, Research and Sanctuaries Act criteria.

AVOIDANCE AND MINIMIZATION: FLNG has conducted an alternatives analysis and concluded that the proposed offshore disposal avoids and minimizes impacts to water of the U.S. to the greatest extent practicable.

MITIGATION: The applicant has not proposed compensatory mitigation for the maintenance dredging and use of the Freeport Maintenance ODMDS.

CURRENT SITE CONDITIONS: The U.S. Army Corps of Engineers (Corps), Galveston District issued Permit No. SWG-2013-00147 under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act (Section 404/10) to Freeport LNG (FLNG) for the Liquefaction Project and Phase II Developments (Project) on 23 September 2014. The Corps issued an amendment to Permit No. SWG-2013-00147 on 9 September 2015

adding the Freeport New Work ODMDS as a placement area. Under the original permit and subsequent amendment, 1,188,000 CY of new work material was dredged from the Phase II LNG berthing area for placement into the New Work ODMDS. The FLNG Berth encompasses the Phase II LNG berthing area (authorized under SWG-2013-00147) and the Phase I LNG berthing area (authorized under SWG-2003-02110). The authorized depth of the FLNG berth is 46.5 feet plus 2 feet over dredge.

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 6 sheets.

A preliminary review of this application indicates that an 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.

The proposed project Texas Railroad Commission 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 Commission to initiate the Section 401 CWA process. If you have comments or questions on this proposed project's State water quality certification, please contact leslie.savage@rrc.state.tx.us. 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 Freeport Harbor Maintenance ODMDS has been fully surveyed and the no historic properties were identified.

THREATENED AND ENDANGERED SPECIES: NOAA Fisheries concluded, in 15 July 2004 letter, concurred that the dredging activity associated with the project is not likely to adversely affect listed sea turtles. Subsequent to that concurrence, FLNG modified their project to dispose of dredge material in the ODMDS. Although FERC did not docket a subsequent concurrence letter for this modification, FERC notified FLNG by letter dated 17 October 2014, that they had confirmed the receipt of all federal authorizations relevant to the approved activities. The Corps has reviewed the documentation provided by the agency and determined it is sufficient to confirm Section 7 ESA compliance for this permit authorization, and additional consultation is not necessary. However, this determination by NOAA Fisheries did not include hopper dredging which may also affect sea turtles. The use of hopper dredges for maintenance dredging will be conditioned in accordance with the regional biological opinion *Dredging*

of Gulf of Mexico Navigation Channels and Sand Mining ("Borrow") Areas Using Hopper Dredges by COE Galveston, New Orleans, Mobile, and Jacksonville Districts (Consultation Number F/SER/2000/0 1 2 87).

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 due to the temporary nature of the activity. 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 modification. 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 **10 October 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-2013-00147**, and should be submitted to:

Policy Analysis Branch
Regulatory Division, CESWG-RDP
U.S. Army Corps of Engineers
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
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