



# Public Notice

<b>U.S. Army Corps Of Engineers</b>	Permit Application No: _____	SWG-2022-00162
	Date Issued: _____	15 September 2022
	Comments _____	
<b>Galveston District</b>	Due: _____	17 October 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:** Texas Parks and Wildlife Department  
JD Murphree Wildlife Management Area  
10 Parks and Wildlife Drive  
Port Arthur, Texas 77640  
POC: Michael Rezsutek  
Phone: 409-332-8489  
Email: [michael.rezsutek@tpwd.texas.gov](mailto:michael.rezsutek@tpwd.texas.gov)

**AGENT:** DESCO Environmental Consultants, LP  
P.O. Box 1490  
Magnolia, Texas 77353  
POC: Chris Little  
Phone: 281-252-9799  
Email: [clittle@descoenv.com](mailto:clittle@descoenv.com)

**LOCATION:** The project site is located adjacent to Keith Lake, Johnson Lake, Shell Lake, Salt Lake, and Salt Bayou, approximately 6 miles south of Port Arthur, in Jefferson County, Texas. The project can be located on the U.S.G.S. quadrangle maps titled: Big Hill Bayou, Port Arthur South, Clam Lake, and Sabine Pass, Texas.

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

**Latitude:** 29.748748° North; **Longitude:** 094.003184° West

**PROJECT DESCRIPTION:** The applicant proposes to beneficially use dredged material to restore approximately 1,951.02 acres of estuarine marsh in the JD Murphree Wildlife Management Area – Salt Bayou Unit. The restoration area will be comprised of nine separate cells. A perimeter berm will be created around each cell using borrow material mechanically dredged from the interior of the cell. Upon completion of cells, hydraulically dredged material will be beneficially placed to restore soil elevations within the cell to a level that will support emergent wetlands. The discharge of approximately 7,836,125 cubic yards of fill material into approximately 1,951 acres is necessary for the construction of the containment levees and training dikes, and to restore soil elevations within the cells.

**AVOIDANCE AND MINIMIZATION:** The applicant has stated that marsh restoration in this area will require placing fill material over the existing wetlands and benthic regions. While benthic organisms found in the existing bottom substrate at the time of construction will be covered, the newly deposited material will provide a sufficient source for benthic colonization, and recolonization is expected to occur quickly. No loss of wetlands is expected; conversely, all 1,352.25 acres of wetlands within the project area would be enhanced and are expected to increase in function and value, and an additional 598.52 acres of wetlands would be created in areas that are now open water. For these reasons, the applicant believes the project is self-mitigating and does not require alternate forms of compensation for the temporary impacts.

**MITIGATION:** The applicant is not proposing mitigation for this project.

**CURRENT SITE CONDITIONS:** The project site consists of an approximate 2,331.512-acre area that is predominantly comprised of brackish/estuarine marsh and open water. The project area contains two mapped soil types according to the Natural Resources Conservation Service (NRCS) Web Soil Survey. These soils consist of BaA - Bancker mucky peat, 0 to 1 percent slopes, frequently flooded, tidal, and CsA - Creole mucky peat, 0 to 1 percent slopes, frequently flooded, tidal. Approximately 0.676 acres of the project area is comprised of upland herbaceous/shrub habitats. Uplands within the project area consists of a shell midden, a levee, and a manmade canal berm. Wetlands identified within the project area (1,684.638 acres) consist of herbaceous marsh wetlands. Dominant vegetation species occurring within these wetlands include saltwater cordgrass (*Spartina alterniflora*), saltmeadow cordgrass (*Spartina patens*), saltgrass (*Distichlis spicata*), common reed (*Phragmites australis*), turtleweed (*Batis maritima*), Jesuit's-Bark (*Iva frutescens*), and woody saltwort (*Salicornia depressa*). Wetlands within the project area are at or near sea level elevation. The subject wetlands are adjacent to Keith Lake, Johnson Lake, Shell Lake, Salt Lake, and Salt Bayou.

**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 18 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 pre-filing process, on 23 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 project has avoid impacting historic properties by adhering to the avoidance plan titled "Archaeological Management Plan for Texas Beneficial Use/March Restoration at JD Murphree WMA Salt Bayou Unit, Jefferson County, Texas" prepared by DESCO Environmental Consultants and dated July 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 **17 October 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-2022-00162**, and should be submitted to:

North Unit Evaluation  
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