



Public Notice

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

Galveston District

Permit Application No: _____

Date Issued: _____

Comments _____

Due: _____

SWG-2023-00293

26 September 2023

27 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 404 of the Clean Water Act (CWA).

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LOCATION: The project site is located in wetlands and surface waters adjacent to Gangs Bayou, Sweetwater Lake, and West Bay, within the tract located at 11314 Homrighaus Road, in Galveston, Galveston County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Virginia Point and Lake Como, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.252473° North; **Longitude:** -94.897818° West

PROJECT DESCRIPTION: The applicant's proposed project consists of six components, as discussed further below. The applicant's proposal is for the discharge of non-beach quality sand material for thin layer dredged material placement, fill material placed for construction of elevation improvements (oak motte), fill material placed for temporary construction access paths, temporary thin layer dredged material pipe placement, a temporary staging/laydown area, excavation of four ponds to obtain beach quality sand material, enhancement of the four ponds with wetland creation and vegetative shelves, construction of moist soil management areas, and fill material placed for the construction of berms, berm bumpouts, excavation of swales, and placement of three separate culvert systems, and one manual water control structure. Some of the work and/or structures of this proposal occurs outside of waters of the US. The six components are described below in further detail.

The applicant's proposed project will temporarily impact a total of 12.28 acres of wetlands and 13.24 acres of open water by the discharge of fill material and excavation activities to create the berms, berm bumpouts, elevation improvements, culverts, swales, and four ponds. The details are as follows:

- 4.11 acres of wetlands and 0.18 acre of open water (4.29 acres) from the berms, berm bumpouts, elevation improvements, and culverts
- 4.94 acres of wetlands and 13.05 acres of open water (17.99 acres) from the swales and four ponds
- 2.47 acres of wetlands and 0.01 acre of open water (2.48 acres) from the temporary access path
- 0.76 acre from the temporary thin layer dredged material placement pipeline

The applicant's proposed project will permanently impact a total of 57.45 acres of wetlands and 0.26 acre of open water by the discharge of fill material and excavation activities to create the berms, berm bumpouts, elevation improvements, culverts, swales, and four ponds. The details are as follows:

- 10.31 acres of wetlands and 0.16 acre of open water (10.47 acres) from the berms, berm bumpouts, elevation improvements, and culverts
- 47.14 acres of wetlands and 0.10 acre of open water (47.24 acres) for the swales and four ponds

Thin layer dredged material placement

The estimated 23,898 cubic yards of non-beach quality sand or top layer of material excavated from the ponds will be hydrolyzed and pumped through dredge pipes and placed in a thin layer over the northwest 22 acres of the tract situated parallel to Sportsman Road.

Elevation improvements (oak motte)

A portion of the non-beach quality sand or top layer of material excavated from the ponds will also be utilized as grade improvements to support construction of 16.31 acres of oak mottes that provide habitat diversity. These elevation improvements (oak mottes) will be situated around Pond 2 and located beneath Pond 3 before the moist soil management area and Pond 4. An estimated 25,278 cubic yards of material will be utilized to elevate uplands, to an elevation of 4.3 feet, for 10.38 acres of prairie plantings.

Temporary access paths, pipe placement, staging/laydown area

- An estimated 9,405 linear feet of temporary access paths will impact 2.48 acres of wetlands and open water. The temporary access path will be constructed through the tract to allow for construction of the various components of the proposed project.
- An estimated 0.76 acre of temporary impacts will occur from temporary placement of the thin layer dredged material dispersment pipeline.
- A temporary staging/laydown area will occur in the southern portion of the tract and be situated adjacent to the moist soil management area and west of the elevation improvement (oak motte).

Ponds with vegetative shelves

The excavation of 1,049,986 cubic yards of beach quality sand from the proposed locations of the four ponds will be utilized for previously authorized and/or proposed beach nourishment projects for Galveston Island beaches. This excavation will create four separate ponds which will be enhanced with vegetative planting consisting of floating/submerged, tall emergent marsh, shallow emergent marsh, and marsh margin.

- Pond 1, 20.89 acres and 20 feet deep, will be a saltwater pond with a 1.03 acres of vegetative edge of fringe marsh.
- Pond 2, 15.31 acres and 20 feet deep, will be a brackish/intermediate pond with 0.99 acre of vegetative edge fringe marsh. The elevation improvement (oak motte) will border the south and southwestern edge of this pond.
- Pond 3, 4.80 acres and 10 feet deep, will be a freshwater/intermediate pond with four separate plantings along the elevation gradient. The vegetative plantings will be 3.95 acres of floating/submerged vegetation, 3.51 acres of tall emergent marsh, 3.81 acres of shallow emergent marsh, and then 3.88 acres of marsh margin.
- Pond 4, 1.71 acres and 5 feet deep, will be a freshwater pond with the four separate plantings along the elevation gradient. The vegetative plantings will be 1.69 acres of floating/submerged vegetation, 1.52 acres of tall emergent marsh, 1.55 acres of shallow emergent marsh, and then 2.64 acres of marsh margin. The elevation improvement (oak motte) will border the western and southern edge of this pond. This pond will also be bordered with 5.86 acres of coastal prairie planting.

Moist soil management

The two parallel areas totaling 37.10 acres situated in the middle portion of the tract will be designated as four separate moist soil management areas. These areas will be situated south of Pond 2, around Pond 3, and north of Pond 4.

Berms, Swales, Culverts, and water control structure

An estimated 7,992 linear feet of constructed berms, excavation for the creation of 4,241 linear feet of swales, three culvert locations, and one manual water control structure will be constructed to prevent saltwater intrusion within the tract and to manage water flow from adjacent properties.

The proposed berms will impact 3.64 acres of wetlands and 0.16 acre of open water by the placement of 13,502 cubic yards of onsite material. The berms are proposed to be 3.2-foot-high by 10-foot-wide at the top with an additional 0.93 acre of berm bumpout to be constructed to provide habitat diversity.

The two proposed vegetative swales will impact a total of 1.34 acres of wetlands and 0.10 acre of open water and will manage drainage from adjacent properties.

- Swale 1, 4 feet deep x 4 feet wide x 3 feet wide, is situated parallel to the western boundary of the tract and will flow towards the proposed culvert and manual water control structure.
- Swale 2, 3 feet deep x 4 feet wide x 3 feet wide, is situated parallel to the eastern boundary of the tract and adjacent to 8 Mile Road (Anderson Ways Road) and will flow towards Pond 1.

The three culvert locations and one manual water control structure will impact 0.01 acre of wetlands within the tract.

- Culvert 1 location will involve installation of two, 25-foot-long by 12-inch-diameter pipes placed within the vegetative swale situated on the eastern boundary of the tract and adjacent to 8 Mile Road (Anderson Ways Road).
- Culvert 2 location will involve installation of three, 22-foot-long by 12-inch-diameter pipes placed within the constructed berm along Zone 3 of the moist soil management area situated on the western boundary of the tract.
- Culvert 3 location will involve installation of one, 30-foot-long by 24-inch-diameter pipe placed within the vegetative swale situated on the western boundary of the tract.
- The manual water control structure will be placed within the constructed berm along Zone 3 of the moist soil management area situated on the western boundary of the tract.

BACKGROUND: The applicant has stated additional project components occur outside waters of the US. These components involve construction of the temporary staging/laydown area, elevation improvement (oak motte) between Pond 3 and the moist soil management areas, portions of the construction of Pond 4, and portions of the vegetative swale near the western boundary of the tract.

The proposed project has a construction sequencing that follows. The first steps of construction involves setting up the best management practices (BMPs) equipment, such as silt fencing, along construction areas and creating the cattle grazing areas excluded from habitat creation areas. Pond 1 will begin excavation and the top layer will be hydrolyzed for thin layer dredged material placement. The second steps will involve excavation and grading of Swale 1 and 2. Pond 4 will begin excavation and the material excavated will be utilized to create the berms. The third steps will begin Pond 3 excavation and the top layer will be hydrolyzed for thin layer dredged material placement. Pond 2 will begin excavation and then the culverts will be placed. The berm construction will be finalized, and the water control structure will be placed. The final steps will involve planting of the ponds, berms, and elevation improvements and removal of the construction BMPs.

The applicant stated the project purpose is excavate beach quality sand and also to restore, enhance, and create habitat within the 379-acre tract. The excavation activities will generate an estimated 1,049,986 cubic yards of beach quality sand to be utilized for beach nourishment projects for Galveston Island beaches. In addition, an estimated 170,637 cubic yards of non-beach quality sand will be excavated to be used for various fill activities. The fill activities will restore, enhance, and create diverse habitat within the tract.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by avoiding existing habitat on the project site by the greatest extent practicable. The project avoids 128.56 acres of existing wetlands, 35.10 acres of sand flats/shorebird habitat, and 7.15 acres of open water within the 379-acre tract.

MITIGATION: The applicant does not propose to mitigate for the project impacts. The applicant proposes to restore, enhance, and create a total of 156.37 acres of habitat improvements, consisting of 28.14 acres of dry habitat and 128.23 acres of moist habitat, within the tract. This restoration, enhancement, and creation work for the moist habitat consists of 37.10 acres of moist soil management areas, 22 acres of thin layer dredged material placement, 42.71 acres of ponds with a total of 26.42 acres of vegetative planting. The restoration, enhancement, and creation work for the dry habitat consists of 16.31 acres of elevation improvement (oak motte), and 10.38 acres of coastal prairie. The applicant calculated the ratio, 2.2 to 1, of habitat creation to wetland and open water impact. The applicant stated the overall impacts of a discharge into and the excavation of the existing wetlands and open water is the minimal needed to achieve the project purpose.

CURRENT SITE CONDITIONS: The project site is bordered on the north by Sportsman Road and residential development along this roadway and the waters of West Bay, on the east by 8 Mile Road (Anderson Ways Road) and the waters of Sweetwater Lake, on the south by Homrighaus Road, and by 8 1/2 Mile Road on the west and the waters of Gangs Bayou. The project site contains 253.84 acres of estuarine intertidal emergent wetlands and estuarine intertidal scrub shrub wetlands and 20.71 acres of open waters situated adjacent to Gangs Bayou, Sweetwater Lake, and West Bay within a 379-acre tract within Galveston County, Texas. The project site excludes the tract of land located south of Homrighaus Road that contains Wetland 13 and 14.

The applicant stated the water depth at the various points of tidal influx to the property are less than a foot deep. The tidal datum for the NOAA gage at the Galveston Railroad Bridge (Station ID: 8771486) indicates Mean High Water (MHW) at 0.84 feet NAVD88 and Mean Low Water (MLW) at -0.14 feet NAVD88. The applicant stated the tidal inflow occurs via two ditches on the property, the West Side Ditch and the North Side Ditch, or via overland flow. The West Side Ditch is controlled by a culvert at the property boundary in which the bottom of the culvert measures at 0.83 feet NAVD88. The North Side Ditch has a bottom elevation of 1-foot NAVD88. The applicant stated the wetlands have hydrologic connectivity to adjacent waters via flood conditions, man-made ditches and swales, and through their proximity to West Bay and the Gulf of Mexico.

All the wetlands are located within floodplain Zone VE, which is designated as 100-year flood hazard. During heavy precipitation events, wetlands drain into the adjacent Gangs Bayou on the western side or into Sweetwater Lake on the eastern side, via man-made ditches and swales that are conspicuous on aerial imagery. The soil in this area is mapped as five different types within the tract. The area of the tract located nearest to West Bay is mapped as Ostermayer-Freeport (tidal), Mustang-Nass, and Brazosport fine sand (storm surge), all with 0-1 percent slopes, and is very frequently flooded, frequently flooded, occasionally flooded, and occasionally ponded. The area of the tract located nearest to Homrighaus Road is mapped as Galveston-Nass with 0-4 percent slopes, and Nass with 0-1 percent slopes with shell substratum, and both are occasionally flooded and ponded. Identified wetland vegetative species within this tract include *Iva frutescens*, *Tamarix ramosissima*, *Sporobolus virginicus*, *Sabal palmetto*, *Borrchia frutescens*, *Bacopa monnieri*, *Spartina patens*, *Spartina alterniflora*, *Spartina spartinae*, *Agalinis maritima*, *Batis maritima*, *Cyperus esculentus*, *Eleocharis vivipara*, *Salicornia bigelovii*, *Salicornia depressa*, *Distichlis spicata*, and *Juncus roemerianus*. Identified upland vegetative species within this tract include *Quercus virginiana*, *Sabal palmetto*, *Panicum virgatum*, *Paspalum notatum*, *Cynodon dactylon*, *Ambrosia psilostachya*, *Gailardia pulchella*, *Panicum repens*, *Phyla nodiflora*, *Rosa setigera*, *Ilex vomitoria*, and *Rubus argutus*.

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 37 sheets. The applicant's plans provide details in subsequent pages that reflect the existing aquatic resources present within the 379-acre tract, the impacts occurring to those aquatic resources, and the proposed habitat improvements and planting plan. The applicant's Alternative Analysis is enclosed, in Attachment A, in 8 sheets. The applicant's Habitat Creation Plan is enclosed, in Attachment B, in 33 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 TCEQ and initiated the Section 401 CWA process, on 6 September 2023.

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>.

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 previous earth moving activities (as seen in aerial photos between 1/2006 and 10/2012) 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: Threatened and/or endangered species or their critical habitat may be affected by the proposed work. Consultation with the U.S. Fish and Wildlife will be initiated to assess the effect on endangered species.

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 **27 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-2023-00293**, and should be submitted to:

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Regulatory Division, CESWG-RDE
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