



Public Notice

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| U.S. Army Corps Of Engineers Galveston District | Permit Application No: _____ | SWG-2007-01623 |
| | Date Issued: _____ | 7 August 2013 |
| | Comments Due: _____ | 9 September 2013 |

**U.S. ARMY CORPS OF ENGINEERS, GALVESTON DISTRICT
AND
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

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 404 of the Clean Water Act.

APPLICANT: Koontz McCombs Beach, LLC
755 East Mulberry Avenue, Suite 100
San Antonio, Texas 78212-3194

AGENT: HDR Engineering Inc.
555 North Carancahua Street, Suite 1600
Corpus Christi, Texas 78401-0849
Telephone: 361-696-3362
POC: Jeffrey Pollack

LOCATION: The project is located in wetlands adjacent to the Gulf of Mexico that were located at Newport Beach and Golf South located south of Beach Access Road 1 on the east side of State Highway 361, Port Aransas, Nueces County, Texas. The mitigation project site is located on the west side of SH 361 approximately 5.5 miles south of Port Aransas, in Nueces County Texas. The projects can be located on the U.S.G.S. quadrangle map titled: Port Aransas, Texas.

LATITUDE & LONGITUDE (NAD 83):

Fill Project - Latitude: 27.795093 North; Longitude: -97.090651 West
Mitigation Project – Latitude: 27.768676 North; Longitude: -97.113013 West

PROJECT DESCRIPTION: The applicant seeks after-the-fact authorization for the unauthorized placement of fill material into six depressional freshwater wetlands with a combined area of 1.8 acres that was placed by a previous owner of the site.

AVOIDANCE AND MINIMIZATION: Since the work has already been completed, no avoidance and/or minimization is possible.

MITIGATION: The applicant proposes to mitigate for the fill impacts by creating a total of 6.6 acres of wetlands that include 6.1 acres of high marsh habitat and 0.5 acre of open water habitat by mechanically lowering uplands, and preserving a total of 1.58 acres of existing habitat that includes 0.5 acre of high marsh and 1.08 acres of upland coastal prairie. All created and preserved habitat would be protected in perpetuity by a deed restriction, conservation easement, or an equivalent legal instrument.

CURRENT SITE CONDITIONS: The project site is currently a 260-acre tract of land that has been developed as a golf course playing area. The tract is contiguous with the Gulf of Mexico shoreline to the east, bordered by SH 361 and undeveloped coastal prairie to the west, hotel and condominium development to the north, and an RV park to the south. The project site receives regularly mowing, allowing mainly herbaceous vegetation to grow. The subject wetlands were adjacent to Gulf of Mexico and Corpus Christi Bay and were filled and graded as part of the golf course development. The filled wetlands consisted of six separate areas that covered approximately 1.8 acres. The wetlands were comprised of two naturalized, manmade drainage features and four depression features described as palustrine emergent wetlands. The areas were dominated by *Fimbristylis castanea*, *Paspalum vaginatum*, *Hydrocotyle bonariensis*, and *Scirpus pungens*. Dense monocultures of *Typha* sp. and *Sesbania drummondii* were present within the shallow depressional areas.

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 wetland delineation has been completed and was verified by the Corps on 3 July 2008. The applicant's plans are enclosed in 3 sheets and the mitigation plan in 6 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 Clean Water Act (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.

This project was initiated without a Department of the Army permit and is considered an after-the-fact permit application. After-the-fact permit applications require review under the Tier II criteria. Therefore, Texas Commission on Environmental Quality (TCEQ) certification is required. Concurrent with Corps processing of this application, the TCEQ is reviewing 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. By virtue of an agreement between the Corps and the TCEQ, this public notice is also issued for the purpose of advising all known interested persons that there is pending before the TCEQ a decision on water quality certification under such act. Any comments concerning this application may be submitted to the Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087. The public comment period extends 30 days from the date of publication of this notice. A copy of the public notice with a description of work is made available for review in the TCEQ's Austin office. The complete application may be reviewed in the Corps office listed in this public notice. The TCEQ may conduct a public meeting to consider all comments concerning water quality if requested in writing. A request for a public meeting must contain the following information: the name, mailing address, application number, or other recognizable reference to the application; a brief description of the interest of the requester, or of persons represented by the requester; and a brief description of how the application, if granted, would adversely affect such interest.

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 proposed work and/or structures are of such limited nature and scope that little likelihood exists for the proposed project to impinge upon a historic property, even if present within the affected area.

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 Environmental Impact Statement 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 **9 September 2013**. 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-2007-01623**, and should be submitted to:

Mark Pattillo
Regulatory Branch, CESWG-PE-RCC
U.S. Army Corps of Engineers
5151 Flynn Parkway, Suite 306
Corpus Christi, Texas 78411-4318
361-814-5847 Phone
361-814-5912 Fax
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DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS