



Public Notice

U.S. Army Corps Of Engineers Galveston District	Permit Application No: _____	SWG-1997-01754
	Date Issued: _____	2 April 2014
	Comments Due: _____	2 May 2014

**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: Port of Beaumont
1225 Main Street
Beaumont, Texas 77701-3648
Telephone: 409-835-5367
POC: David Fisher

AGENT: Lanier and Associates Consulting Engineers, Inc.
595 Orleans Street, Suite 600
Beaumont, Texas 77701-3227
Telephone: 409-212-1051
POC: Brandon Bergeron

LOCATION: The project is located in wetlands adjacent to the Neches River, at 330 Old Highway 90 West, in Vidor, Orange County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Beaumont East, Texas.

LATITUDE & LONGITUDE (NAD 83):
Centerpoint Latitude: 30.083 North; Longitude: -94.0807 West

PROJECT DESCRIPTION: The applicant proposes to discharge fill material into 9.59 acres of emergent wetlands adjacent to the Neches River during the construction of 10,307 linear feet of new railroad tracks. The placement of structural fill and rail track bedding will be at a design elevation and geometry necessary to tie the proposed rail track into the existing rail track. The construction of the new railroad tracks is associated with the expansion of the Port of Beaumont facility.

AVOIDANCE AND MINIMIZATION: The applicant has stated that they have avoided and minimized the environmental impacts by minimizing the footprint of the proposed structures to the minimum needed to construct the additional railroad lines.

MITIGATION: The applicant proposes to mitigate for the impacts by purchasing credits at a 1.5:1 ratio from Pineywoods Mitigation Bank. The applicant used the iHGM Riverine Herbaceous/Shrub model and estimated 5.3 functional credit units (FCU) for Temporary Storage of Surface Water, 7.2 FCU for Maintenance of Plant and Animal Communities, and 6.5 FCU for Removal and Sequestration of Elements for compensation.

CURRENT SITE CONDITIONS: The project boundaries contain a total of 21.54 acres of aquatic resources within six wetland areas. The project site is on Port of Beaumont property that has been under perpetual easement to the United States Government as Disposal Area 27B since the 1930s. The property has since been released to the Port of Beaumont for their use and was discontinued as Disposal Area 27B, in Orange County, Texas. This historical disposal area is ringed by an existing railroad line and roadway and is bordered by a pond to the north, and the Neches River and Orange-Jefferson County border to the south. An existing dock within the Neches River has been constructed on the southern boundary of the proposed project. A 6.5-acre cypress water-tupelo swamp, comprised of bald cypress, water tupelo, willow and red maple trees, is located along the southwestern corner of the project site. This area will be avoided by project work. The remaining shoreline at the project site has been impacted by previous dredge material disposal activities and has been colonized by upland vegetation.

BACKGROUND INFORMATION: Department of the Army (DA) Permit No. 13434 and 20023 have been combined under the new DA Permit No. SWG-1997-01754. The project and work completed to date continues to comply with the original permit conditions.

DA Permit No. 13434, issued on 13 June 1979, authorized the Port of Beaumont Navigation District to maintenance dredge in front of the Port of Beaumont Wharves to a depth of -36 feet mean sea level. Approximately 40,000 cubic yards of material was authorized to be hydraulically dredged and placed into Disposal Area 27B. Amendment (01), issued on 22 September 1987, authorized additional maintenance dredging along Wharves 1-7, the Harbor Island Terminal, the Carrort Street Wharf, and the Grain Wharf. Approximately 100,000 cubic yards of material was authorized to be hydraulically dredged and placed into Disposal Area 27B. The permit also authorized maintenance dredging for a 10-year time period. Amendment (02), issued 18 February 1992, authorized the inclusion of Disposal Area 25 as a dredged material placement area (DMPA). Amendment (03), issued 22 January 1998, authorized another 10-year maintenance dredging time period. DA Permit No. SWG-1997-01754 (formerly DA Permit No. 13434), issued in April 2009, authorized another extension of the 10-year maintenance dredging time period until 31 December 2019.

DA Permit No. 20023 was issued in July 1995 and authorized the Port of Beaumont to dredge and place fill material into 10.1 acre of wetlands. It also authorized the construction of one bulk or general cargo berth, dock and bulkhead, eight concrete dead men, nine mooring and breasting dolphins, and a 130-foot-wide access road. To compensate for unavoidable impacts to waters of the U.S., the permittee conducted mitigation within the Old River Unit of the Lower Neches Wildlife Management Area. Mitigation consisted of placing two earthen plugs at marsh level into two existing borrow ditches which connected a 1,600-acre marsh to the Gulf States Utility Canal. The purpose of the mitigation was to control salt water intrusion into the marsh. Amendment (01), issued September 1998, authorized an extension of time to complete work. Work completed to date includes the extension of the access roadway along the waterfront to the west, construction of the 650-foot-long bulk dock located on the east side of the property and dredging associated with the bulk dock construction. Amendment (02), issued 17 August 2004, authorized another extension of time to complete work. DA Permit No. SWG-1998-02472 (formerly DA Permit No. 20023), issued 28 July 2011, authorized discharge of fill material into 13.81 acres of wetlands to develop a new facility consisting of docks, a rail track, and additional access roadways at the existing dock. To date, 27.01 credits have been purchased from Pineywoods Mitigation Bank as compensatory mitigation for the authorized impacts.

DA Permit No. SWG-1997-01754 was issued on 1 October 2013 and expires on December 31, 2018. It authorized a new stockpile area, a new roadway, rail car unloading tracks, and a tank farm associated with the authorized construction of a new crude oil and crude oil byproducts import and export bulk terminal with a new bulk dock and liquids dock. Construction of the new bulk and liquids dock includes construction of a bulkhead, walkways, breasting dolphins, mooring dolphins, barge monopiles, a conveyor, and mechanical and/or hydraulically dredging. The dredged material was to be placed into DMPAs 23, 24, 25, 26, and 27.

NOTES: This public notice is being issued based on information furnished by the applicant. This project information has not been verified by the Corps. As of the date of this Public Notice, the Corps has received, but not verified, the wetland delineation. The applicant's plans are enclosed in 6 sheets and the mitigation plan, Attachment A, in 7 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 would result in a direct impact of greater than three acres of waters of the state or 1500 linear feet of streams (or a combination of the two is above the threshold), and as such would not fulfill Tier I criteria for the project. 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 permit area has been so extensively modified 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.

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 **2 May 2014**. 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-1997-01754**, and should be submitted to:

Elizabeth Shelton
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3937 Phone
409-766-6301 Fax
swg_public_notice@usace.army.mil

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS