



Public Notice

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

Galveston District

Permit Application No: _____

SWG-2008-00319

Date Issued: _____

15 August 2023

Comments _____

Due: _____

15 September 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).

APPLICANT: Kinder Morgan Liquids Terminal, LLC
300 Beltway Green Boulevard
Pasadena, Texas 77503
POC: Allen Rhodes
Telephone: 713-450-7467
Email: allen_rhodes@kindermorgan.com

AGENT: Lloyd Engineering, Inc.
6565 West Loop South, Suite 708
Bellaire, Texas 77401
POC: Justin Wiedeman
Telephone: 832-426-4656
Email: justin@lloydeng.com

LOCATION: The project site is located in the Houston Ship Channel, at 906 Clinton Drive, in Galena Park, Harris County, Texas 77547. The project can be located on the U.S.G.S. quadrangle map entitled: Pasadena, Texas.

LATITUDE & LONGITUDE (NAD 83):

Latitude: 29.726279° North; **Longitude:** 095.223033° West

PROJECT DESCRIPTION: The applicant proposes a modification to previously authorized Permit SWG-2008-00319. Such activities include the discharge of approximately 13,325 cubic yards (0.04 acre) of clean back-fill material below the mean high water (MHW) line and within open water areas associated with the installation of an approximate 631-linear-foot, sheet pile bulkhead wall, supported by batter piles. Piles will be driven from a barge mounted pile driving hammer stationed directly in front of the existing bulkhead wall.

AVOIDANCE AND MINIMIZATION: The applicant has designed the proposed project to minimize impacts to waters of the United States (US) and special aquatic resources to the maximum extent practicable, while fulfilling project goals and objectives. Through collaboration between environmental investigators and project engineers, the applicant claims the proposed project was designed to minimize potential temporary adverse impacts to water of the US, including wetlands, and is consistent with the goals and objectives of the Coastal Zone Management Program.

MITIGATION: The applicant is not proposing mitigation for the project as proposed.

CURRENT SITE CONDITIONS: The project site is located in open water within a highly industrialized area of the Houston Ship Channel and is surrounded by commercial developments. The project area within the Houston Ship Channel consists of an existing, dilapidated bulkhead wall and the area is devoid of aquatic vegetation.

PROJECT HISTORY: SWG-2008-00319 was issued on 1 April 2009 and authorized the applicant to construct a 40-foot by 60-foot barge dock, 4 mooring dolphins, and 6 breasting dolphins. It also granted the applicant authorization to mechanically remove approximately 18,000 cubic yards of sand/clay bottom material and to install approximately 2,447 cubic yards of articulated block mattress (ABM) and approximately 5 cubic yards of riprap for slope protection. The placement area for the excavated material will be located on adjacent Kinder Morgan Liquids Terminals (KM) property north of Clinton Drive. The placement area is located in uplands within a highly industrialized area.

A modification for SWG-2008-00319 was issued on 15 July 2009 and authorized the applicant to add a 13.5-foot-wide by 20-foot-long platform on the northwest corner of a barge dock. The platform will support a fire water pump and skid that is required to be installed to allow the terminal to be in full compliance with current fire protection requirements. Dredging is not required and there are no alterations to shoreline protection.

A public notice was issued on 2 December 2021 to inform the public of proposed project modifications to SWG-2008-00319, which included the discharge of approximately 16,500 cubic yards (0.06 acre) of clean back-fill material below the MHW line and within open water areas associated with the installation of an approximate 905-linear-foot, sheet pile bulkhead wall, supported by batter piles. Piles will be driven from a barge mounted pile driving hammer stationed directly in front of the existing bulkhead wall. During the Section 408 review process, it was determined that the applicant would be required to obtain a letter of no objection from the Port of Houston Authority (POHA) for the proposed project, as required for the processing of the Section 408 authorization. Upon request, the POHA indicated they would not provide a letter of no objection for the proposed project as currently designed due to potential effects with Project 12 Channel Improvements. The proposed bulkhead alignment was revised to avoid impacts due to future channel improvements associated with Project 12. This revised bulkhead alignment was presented to the POHA for review on 29 March 2023. Following their review, the POHA provided confirmation that the revised bulkhead alignment would be acceptable for the issuance of a letter of no objection. No additional objections were received during the previous public notice comment period.

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 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 has not yet reached out to the TCEQ to initiate the Section 401 CWA process. The applicant submitted a pre-filing meeting request on 26 October 2021. 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>.

Pursuant to 33 USC 408, the proposed project will require Section 408 coordination and review. This is a requirement for activities that seek permission, to temporarily or permanently, alter, occupy, or use a federally authorized United States Army Corps of Engineers civil works project. Changes to the proposed project, from the Section 408 process, may warrant additional coordination.

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 industrial development 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: 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 **15 September 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-2008-00319**, and should be submitted to:

North Unit
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
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