



Public Notice

U.S. Army Corps Of Engineers Galveston District	Permit Application No: _____	SWG-2008-00318Rev.
	Date Issued: _____	1 June 2010
	Comments Due: _____	1 July 2010

**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.

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.

APPLICANT: Meritage Development, Inc.
1798 Bay Shore Drive
Rockport, Texas 78382-3410

AGENT: Belaire Environmental, Inc.
P.O. Box 741
Rockport, Texas 78381-0741
Telephone: 361-729-1241
POC: B. J. Hill

LOCATION: The project is located on Copano Bay, off of State Highway 35, just north of Holiday Beach Subdivision, approximately 10 miles north of Rockport, in Aransas County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Lamar, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 14; Easting: 696000; Northing: 3118400.

PROJECT DESCRIPTION: The applicant proposes to construct a 702-acre water access and waterfront residential and commercial development. Approximately 3,443,857 cubic yards of material would be excavated for creation of the proposed canals, which would result in impacts to 3.23 acres of palustrine wetlands, and used onsite for fill within the proposed development to raise development areas above the 100-year flood plain elevation. The proposed fill with this material would result in impacts to 8.93 acres of palustrine wetlands and 1.01 acres of estuarine wetlands (including 0.33 acre of smooth cordgrass). All remaining material would be placed in upland areas. A 50-foot wetland buffer would be established between residential lots and estuarine wetlands to be preserved to minimize indirect impact to adjacent wetland resources.

A community pier would be constructed on the north side of the project and would be 417.8 feet long, 6 feet wide, and have a 32-foot-long by 16-foot-wide terminal T-head. Approximately 334 feet of this structure would traverse seagrasses. Also proposed is the dredging of two canals into the bay to allow for boat access. The northern access channel would be approximately 2,110 feet long and the southern access channel would be approximately 1,425 feet long. Both channels would be 100 feet wide and -6 feet deep at MLLW with an additional -1 foot for over-dredge/advance maintenance. Dredging for the proposed channels would impact 6.72 acres of deep unvegetated bay bottom, 0.4 acre of shallow unvegetated bay bottom, 0.87 acre of seagrass, 0.55 acre of estuarine impacts (includes 0.28 acre of smooth cordgrass), and 0.01 acre of oysters. Rock breakwaters would be constructed at the mouth of each proposed access channel to prevent siltation of the channels and protect adjacent wetlands and other jurisdictional areas from erosion. The breakwaters would range from approximately 437 linear feet to 509 feet. Fill for the proposed breakwaters would result in the fill of 0.06 acre of deep unvegetated bay bottom, 0.03 acre of shallow unvegetated bay bottom, 0.08 acre of seagrass, and 0.009 acre of smooth cordgrass. Construction of additional piers, boat docks, and two boat launches are planned for the residential canals, but this work would be done in-the-dry while these areas are non-jurisdictional. A natural gas pipeline and an LPG pipeline, belonging to Copano Field Services and Seadrift Pipeline Corporation respectively, which cross the site, will be lowered prior to the commencement of excavation activities. Two obsolete PVC saltwater pipelines on the western shore of the project will be removed.

NOTES: This public notice is being issued based on information furnished by the applicant. The wetland delineation has been completed and was verified by the U.S. Army Corps of Engineers (Corps) on 23 December 2009. The full plans in 25 sheets may be viewed in their entirety at the Galveston District Regulatory Branch web site at <http://www.swg.usace.army.mil/reg/pn.asp> along with the mitigation plans (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: Texas Coastal Zone consistency certification is required. The applicant has stated that the project is consistent with the Texas 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 1,500 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.

The return water from the upland contained dredged material placement area(s) requires authorization under Nationwide Permit (NWP) 16. However, the Southwestern Division of the Corps administratively denied NWP 16, without prejudice, during the 2002 renewal of the NWP Program. Additionally, Section 401 water quality certification for the 2007 renewal of the NWP Program has not been issued. Therefore, individual Section 401 water quality certification from the TCEQ for the return water from the upland contained disposal area is required. Prior to the performance of hydraulic dredging, the applicant will obtain a CWA Section 401 water quality certification from the TCEQ for the effluent or return water. A copy of the 401 certification must also be furnished to the Corps district office listing in this public notice prior to performing hydraulic dredging.

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 was inventoried for historic properties and none were identified as documented in the report titled "*A Cultural Resources Survey of the 687-Acre Shell Point Ranch Marina-Housing Development Project Area, Aransas County, Texas*" prepared by Herbert Uecker and James Warren and dated September 2008. The report is currently being coordinated with the State Historic Preservation Officer.

THREATENED AND ENDANGERED SPECIES: Threatened and/or endangered species or their critical habitat may be affected by the proposed work (whooping cranes). Consultation with the U.S. Fish and Wildlife and/or the National Marine Fisheries Service 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 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: 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 whether the issues are substantial and should be considered in the permit decision. 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 **1 July 2010**. 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 be submitted to:

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U.S. Army Corps of Engineers
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Corpus Christi, Texas 78411-4318
361-814-5847 Phone
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