



Public Notice

**U.S. Army Corps
Of Engineers
Galveston District** Permit Application No: _____ SWG-2008-00307
Date Issued: _____ December 8, 2011
Comments Due: _____ January 8, 2012

**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 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.

APPLICANT/SPONSOR: Bayou Land Conservancy
10330 Lake Rd. Bldg. J
Houston, TX 77070
POC: Jenifer Lorenz
Phone: 281-576-1634
Email: jlorenz@bayouland.org

LOCATION: The project area is described as the “Lake Houston Watershed” (LHWILF). It is further defined as the interconnected series of aquatic resources, wetlands and riparian habitat, that have a hydrologic connection within the western portion of the Lake Houston Watershed, made up of the following individual watersheds: Cypress Creek, Spring Creek, Lake Creek, Lake Conroe, and the West Fork San Jacinto. Together these rivers and streams make up a large portion of the source water that supplies the drinking water for Lake Houston (See Attachment A).

PROJECT DESCRIPTION: The applicant is requesting to amend the existing Spring Creek Greenway In-Lieu-Fee (ILF) Agreement, authorized October 18, 2007, through the submittal of a new proposal to establish the “Lake Houston Watershed In-Lieu-Fee Program” (LHWILF). The project is being proposed to provide an effective approach to satisfy compensatory mitigation requirements of the USACE Regulatory Program developed in accordance with the Compensatory Mitigation for Losses of Aquatic Resources (73 Fed. Reg. 19594, 10 April 2008 (codified in 33 CFR 332)). A formal in-lieu-fee program instrument (ILFI) must be developed following the afore

mentioned policy and must detail the legal and physical characteristics of the Program and how the Program will be established and operated. Subjects addressed in detail in the ILFI would include the compensation planning framework, development of the site, service area, credit determination, financial assurances, scope of agreement, purpose and goals of the Program, baseline conditions, performance standards for enhancement activities, accounting procedures, monitoring and reporting, long-term maintenance and protection, and transfer of ownership or sponsorship. The applicant will be working with the USACE and other Federal and State resource agencies (the Interagency Review Team-IRT) in the development of the LHWILF.

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 yet verified the information. The complete prospectus which includes a more detailed description of the proposed project can be viewed and/or downloaded at: <http://www.swg.usace.army.mil/reg/pn.asp>

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 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 may be required. The applicant must state 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.

Texas Commission on Environmental Quality (TCEQ) certification may be required. Concurrent with 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: USACE staff archaeologist will evaluate the bank site processed under this proposal and review the latest published version of the National Register of Historic Places, lists of properties determined eligible, and other sources of information. This will determine the current knowledge of the presence or absence of historic properties and the effects of the undertaking upon these properties.

THREATENED AND ENDANGERED SPECIES: An evaluation will be conducted on the project sites processed under this proposal to determine if threatened and/or endangered species, or their critical habitat, will be affected by the proposed work. If necessary, 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 of Engineers, and other pertinent laws, regulations and executive orders. The decision whether to authorize this proposal 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 of Engineers 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 of Engineers 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 of Engineers 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 **January 8, 2012**. 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:

Sam J. Watson
Regulatory Branch, CESWG-PE-RB
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229
409-766-3946 Phone
409-766-3931 Fax

DISTRICT ENGINEER
GALVESTON DISTRICT
CORPS OF ENGINEERS