

## DEPARTMENT OF THE ARMY U.S. ARMY CORPS OF ENGINEERS, NEW ORLEANS DISTRICT 7400 LEAKE AVE NEW ORLEANS, LOUISIANA 70118-3651

October 24, 2022

Regulatory Division Central Evaluation Branch

Project Manager S. Gail Gainey (504) 862-1545 Sandra.g.gainey@usace.army.mil

SUBJECT: MVN-2022-00136-CG

## **PUBLIC NOTICE**

Interested parties are hereby notified that a permit application has been received by the New Orleans District of the US Army Corps of Engineers pursuant to: [ ] Section 10 of the Rivers and Harbors Act of March 3, 1899 (30 Stat. 1151; 33 USC 403); [X] Section 404 of the Clean Water Act (86 Stat. 816; 33 USC 1344), and/or [ ] Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 408).

## CONSTRUCTION OF A RESIDENTIAL SUBDIVISION DEVELOPMENT IN EAST BATON ROUGE PARISH

**NAME OF APPLICANT**: Highlake Residential, LLC c/o D&S Environmental Services, PO Box 510, French Settlement, Louisiana 70733.

**LOCATION OF WORK**: Tract of land in Section 39, Township 8 South, Range 1 East and Section 61, Township 8 South, Range, 2 East, at the intersection of Claiborne Road and Edmund Hawes Drive in Baton Rouge, Louisiana, in East Baton Rouge Parish, within the Pontchartrain Basin in hydrologic unit (HUC 08070202), as shown on the attached drawings (Latitude 30.343597 N, Longitude -91.057294 W).

The work described below was partially completed prior to obtaining a Department of the Army permit and was in violation of Section 301 of the Clean Water Act. All legal issues concerning the unauthorized work have since been deferred.

CHARACTER OF WORK: The applicant has requested Department of the Army authorization to clear, grade, excavate and deposit fill and/or aggregate material to construct and maintain an 18-lot residential development (Highland Lake Subdivision) to include private concrete roadways, house pads, driveways, green space, utilities, and drainage infrastructure. Approximately 3,450 cubic yards of earthen fill material, 813 cubic yards of road base, and 407 cubic yards of concrete fill will be used to achieve required grade elevation requirements. Approximately 200 cubic yards will also be excavated for the proposed pond expansion and utilized on site. Approximately 3.86 acres of wetlands and approx. 0.20 acre of other waters will be impacted by the project, of which 1.48 acres of wetland and 0.02 acre of other waters will be evaluated after the fact.

The applicant proposes to minimize direct and secondary impacts to the maximum extent practicable by placing large removed vegetative material directly into trucks for disposal at an off-site non-wetland facility, by limiting the construction activity to the designated construction areas onsite, and by utilizing best management practices for erosion and siltation control during and after the construction phase of the project. If authorized, the project will receive approval from all appropriate local drainage authorities and sewerage agencies. As compensation for unavoidable wetland impacts, the applicant proposes to use a Corps approved mitigation bank within the watershed of impact.

The applicant may be required to fully or partially restore the site to pre-project conditions if issuance of a permit is determined to be contrary to the public interest.

The comment period for the Department of Army will close in 20 days from the date of this public notice. Written comments, including suggestions for modifications or objections to the proposed work, stating reasons thereof, are being solicited from anyone having interest in this permit must be mailed so as to be received before or by the last day of the comment period. Letters and/or comments concerning the subject permit application must reference the applicant's name and the Permit Application Number and can be preferably emailed to the Corps of Engineers project manager listed above or forwarded to the Corps of Engineers at the address above, ATTENTION:

REGULATORY DIVISION, RGC, S. Gail Gainey. Individuals or parties may request an extension of time in which to comment on the proposed work by writing or e-mailing the Corps of Engineers Project Manager listed above. Any request must be specific and substantively supportive of the requested extension, and received by this office prior to the end of the initial comment period. The Branch Chief will review the request and the requestor will be promptly notified of the decision to grant or deny the request. If granted, the time extension will be continuous to the initial comment period and, inclusive of the initial comment period, will not exceed a total of 30 calendar days. This public notice is also available for review online at <a href="https://go.usa.gov/xennJ">https://go.usa.gov/xennJ</a>.

## Corps of Engineers Permit Criteria

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 benefit 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 including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership and, in general, the needs and welfare of the people.

The U.S. Army 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 U.S. Army Corps of Engineers to determine whether to make, 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 other public interest factors listed

above. Comments are used in the preparation of an Environmental 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.

The New Orleans District is unaware of properties listed on the National Register of Historic Places near the proposed work. The possibility exists that the proposed work may damage or destroy presently unknown archeological, scientific, prehistorical, historical sites, or data. Copies of this notice are made available to the State Archeologist and the State Historic Preservation Officer.

Our initial finding is that the proposed work would neither affect any species listed as endangered by the U.S. Departments of Interior or Commerce, nor affect any habitat designated as critical to the survival and recovery of any endangered species.

Utilizing the Information, Planning and Consultation (IPaC) for Endangered Species in Louisiana, signed on January 27, 2020, between the U.S. Army Corps of Engineers, New Orleans and U.S. Fish and Wildlife Service, Ecological Services Office, the Corps has determined that the proposed activity would have no effect on any listed species.

This notice initiates the Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act. The applicant's proposal would result in the destruction or alteration of <u>NA</u> acres of EFH utilized by various life stages of red drum and penaeid shrimp. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH 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.

If the proposed work involves deposits of dredged or fill material into navigable waters, the evaluation of the probable impacts will include the application of guidelines established by the Administrator of the Environmental Protection Agency. Also, a certification that the proposed activity will not violate applicable water quality standards will be required from the Department of Environmental Quality, Office of Environmental Services, before a permit is issued.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. You are requested to communicate the information contained in this notice to any other parties whom you deem likely to have interest in the matter.

JOHN M. HERMAN Chief, Central Evaluation Branch Regulatory Division

**Enclosures** 









