

# JOINT PUBLIC NOTICE

April 4, 2011

United States Army  
Corps of Engineers  
New Orleans District  
Regulatory Branch  
Post Office Box 60267  
New Orleans, Louisiana 70160-0267

State of Louisiana  
Department of Environmental Quality  
Attn: Water Quality Certifications  
Post Office Box 4313  
Baton Rouge, Louisiana 70821-4313

(504) 862-1217  
Project Manager  
Kenny Blanke  
Permit Application Number  
MVN 2011-0717-CQ

(225) 219-3225  
Project Manager  
Mr. Jamie Phillippe  
WQC Application Number  
WQC 110330-04

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

Application has also been made to the Louisiana Department of Environmental Quality, Office of Environmental Services, for a Water Quality Certification (WQC) in accordance with statutory authority contained in LRS30:2074 A(3), and provisions of Section 401 of the Clean Water Act (P.L.95-17).

## **AFTER-THE-FACT RECREATIONAL POND IN ASCENSION PARISH**

**NAME OF APPLICANT:** Charles Mitchell, c/o Harrison Law, LLC Attn: Mr. Andrew Harrison, One American Place, Suite 820, Baton Rouge, Louisiana 70825

**LOCATION OF WORK:** In Sections 33 and 34, Township 8 South, Range 2 East, located at 16401 Bluff Road, near Prairieville, Louisiana, in ASCENSION PARISH, 30.31016 N and -91.00718 W, as shown on the enclosed drawings.

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 been deferred.

**CHARACTER OF WORK:** Excavate, clear, grade, deposit and maintain fill material for the construction of a recreational pond and earthen levee. The pond was constructed for private recreation and for the provision of foundation material for local public streets and highway construction projects. The applicant has cleared approximately 7.19 acres of high quality jurisdictional cypress swamp. Additionally, approximately 6.92 acres of high quality jurisdictional cypress swamp was excavated for the pond area, approximately 3.69 acres of high quality jurisdictional cypress swamp was cleared, graded, and filled for levee construction, and approximately 0.21 acre of jurisdictional high quality cypress swamp was cleared and excavated for a constructed ditch. The applicant is proposing to restore to pre-project grade and replant the following areas: approximately 1.65 acres of the constructed levee will be removed and restored, approximately 0.21 acre of constructed ditch will be filled to pre-project grade and restored, and approximately 7.0 acres of cleared wetland areas will be replanted and restored. An additional levee is proposed to be constructed totaling approximately 0.59 acre. The total proposed permanent impacts proposed with the project are approximately 6.52 acres for the recreational pond, and approximately 2.63 acres for the levee. Approximately 326,333 cubic yards of native material have been excavated and approximately 3,555 cubic yards have been placed as fill material in jurisdictional areas. Approximately

18.0 acres of the 37 acre project site area are subject to the Corps' jurisdiction. The applicant proposes to contract with an approved compensatory mitigation bank to offset impacts associated with the project.

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

The comment period for the Department of the Army Permit and the Louisiana Department of Environmental Quality WQC will close **20 days** from the date of this joint 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 and/or this WQC request and must be mailed so as to be received before or by the last day of the comment period. Letters concerning the Corps of Engineers permit application must reference the applicant's name and the Permit Application Number, and be mailed to the Corps of Engineers at the address above, **ATTENTION: REGULATORY BRANCH**. Individuals or parties may request an extension of time in which to comment on the proposed work by writing to the project manager or clicking on the project manager's name on the public notice grid on the web page. 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 Section 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. Letters concerning the Water Quality Certification must reference the applicant's name and the WQC Application number and be mailed to the Louisiana Department of Environmental Quality at the address above.

The application for this proposed project is on file with the Louisiana Department of Environmental Quality and may be examined during weekdays between 8:00 a.m. and 4:30 p.m. Copies may be obtained upon payment of costs of reproduction.

### **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.

No properties listed on the National Register of Historic Places are 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 being sent 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.

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 NA 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.

MARTIN S. MAYER  
Chief, Central Evaluation Section  
Regulatory Branch

Enclosure