



May 10, 2010

K. Marie Taylor
Regulatory Branch, CESWG-PE-RE
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

RE: Permit Application SWG-2009-00749

Dear Ms. Taylor:

The applicant, W. B. White Oak Lake Development, LP, proposes to fill 1.99 acres of wetlands to construct a residential subdivision in northwest Harris County. The applicant will discharge approximately 3,211.76 cubic yards into wetlands. The applicant will mitigate for the impacts by purchasing credits from the Greens Bayou Wetland Mitigation Bank. As of the date of this public notice, a WET II evaluation has not been completed. The project is located in wetlands adjacent to Little Cypress Creek, southeast of the intersection of Kluge Road and Huffmeister Road, in Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map titled: Cypress, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 15; Easting: 245540; Northing: 3318471.

The Galveston Bay Foundation's Wetland Permit Review Committee (WPR) has reviewed Public Notice SWG-2009-00749. WPR is opposed to the issuance of a permit for this application as proposed for the following reasons:


1. Impact avoidance and minimization. The applicant states that the proposed project is the preferred alternative because it (a) maximizes the developable acreage, making it economically viable and (b) it maximizes access to the proposed development. This analysis DOES NOT speak to impact avoidance and minimization in the slightest, and therefore that application should not be considered complete. A complete alternatives *analysis* must be provided so that the U.S. Army Corps of Engineers and reviewers of the public documents can assess whether the applicant has followed the mitigation sequence. WPR does not oppose development; however, we do oppose the continued processing of inadequate applications that do not meet the basic requirements of Section 404- and Section 10-related laws. The applicant should show good faith efforts to (1) avoid, (2) minimize, and only then (3) mitigate for impacts. For example, perhaps the applicant can alter the site plan to avoid impacts and further incorporate Low Impact Development best management practices; doing such could strike a balance between development and preservation of our rapidly disappearing freshwater wetlands.
2. Piecemealing of project applications. WPR notes that the applicant has previously been permitted to fill wetlands immediately adjacent to this project site under permit

application SWG-2008-00725. Why was the current application to fill adjacent wetlands not included in SWG-2008-00725 when it is clearly part of the same development? This appears to be an example of project piecemealing. Allowing the applicant to piecemeal the project leads to an inadequate accounting of project impacts and proper mitigation, and is inconsistent with the National Environmental Policy Act.

WPR requests that the application be rejected as proposed and that the applicant provide the lacking information in a revised public notice.

Thank you for the opportunity to comment. Please contact me at (281) 332-3381 x209 or sjones@galvbay.org if you have any questions.

Sincerely,



Scott A. Jones
Environmental Policy and Outreach Specialist
The Galveston Bay Foundation

cc: TCEQ – 401 Program
TPWD
USFWS
U.S. EPA