July 26, 2010

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

RE: Public Notice SWG-2010-00063

Dear Ms. Farmer:

The applicant, Bechir Achour, proposes to relocate approximately 300 linear feet of Mary's Creek through an upland area. Approximately 704 cubic yards of fill material, excavated from uplands using land-based equipment, will be placed below the ordinary high watermark (OHWM) to fill 382 linear feet of the existing portion of Mary's Creek. Approximately 3.8 cubic yards of fill will be placed below the OHWM in the Mary's Creek relocation portion for interlocking block slope protection. The total project will impact 0.01 acre of waters of the United States. This project is being constructed for the purpose of providing improved maintenance capability, safety, and erosion protection within this portion of Mary's Creek, thereby providing additional storm water management features for the prevention of upstream flooding.

No mitigation is proposed at this time.

The project is located along Mary's Creek, extending easterly and upstream approximately 500 feet from Shauntel Street, in Pearland, Brazoria County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: Friendswood, Texas. Approximate UTM Coordinates in NAD 27 (meters): Zone 15; Easting: 284535; Northing: 3270323.

The Galveston Bay Foundation's Wetland Permit Review Committee (WPR) has reviewed Public Notice SWG-2010-00063. We are <u>opposed</u> to approval of this application as presented for the following reasons:

1. <u>Need for project:</u> The applicant states that this particular bend of Mary's Creek is problematic and the source of flooding. However, a review of the topographic map provided in the public notice indicates to WPR that the bend the applicant proposes to straighten doesn't appear any more severe than many others both upstream and downstream, in conflict with information provided in the notice and alternatives analysis. The applicant should provide further information to satisfy public reviewers, the Corps, and reviewing agencies that this project is indeed necessary for flooding and public safety reasons.

• 17330 Highway 3, Webster, TX 77598 • Phone 281-332-3381• Fax 281-332-3153•

2. Minimization of impacts: We feel that the applicant's proposal is a high impact response, in the form of channel straightening and filling of the natural creek, to the stated storm water management issue. WPR believes that the applicant should further investigate the efficacy of upstream detention, seeking available abandoned land for detention sites, keeping with the practices of the U.S. Army Corps of Engineer's own Clear Creek Re-Evaluation Project (http://www.clearcreekproject.com). Further, the Harris County Flood Control District provides a wealth of low-impact flood management examples. The applicant should consult with project managers for the Clear Creek Project and with HCFCD staff and revise their proposal to reduce impacts.

3. Movement of impacts downstream and water quality impacts: WPR is also concerned that the applicant's proposed solution to flooding issues will only move any flooding problems downstream to neighboring communities, as the project will simply convey runoff more swiftly, rather than deal with storm water management through detention or other BMP. This is not in keeping with the current practices of the Clear Creek Project.

4. No mitigation proposed: If the applicant is approved to proceed with this proposal, they must mitigate for impacts to waters of the U.S. as required by the Clean Water Act, as both habitat and water quality functions will be eliminated. Perhaps the mitigation could be in the form of instream water quality improvement such as creation of adjacent marsh and riparian vegetation.

5. Cumulative impacts: Aquatic and riparian vegetation in area this watershed should be preserved to protect water quality in Mary's Creek, Clear Creek, Clear Lake, and Galveston Bay. The Foundation is concerned about cumulative impacts within this watershed resulting from present and foreseeable development. One of the greatest threats to coastal habitat in the Houston-Galveston area is currently urbanization and residential development.[1,2] *The Galveston Bay Plan* recognizes habitat destruction and its effect on fish and wildlife populations as the "single greatest environmental problem affecting the Galveston Bay System".[3] Research has repeatedly indicated that urban development has a well-correlated, negative effect on instream water quality, biodiversity, and aquatic habitat.[4,5,6,7] These effects are usually not temporary

[1] Moulton, Daniel W. and John S. Jacob. Texas Coastal Wetlands Guidebook. Texas Sea Grant. 2000. Page 16 of 66 pages.
[2] Moulton, D.W., T.E. Dahl, and D.M. Dahl. Texas Coastal Wetlands: Status and Trends, Mid-1950's to Early 1990's. U.S. Dept. of the Interior. March, 1997. Page 14 of 32 pages.
[3] Galveston Bay Estuary Program Publication GBNEP-49, The Galveston Bay Plan; The Comprehensive Conservation and Management Plan for the Galveston Bay System, 1994, 457 pages
[4] Lerberg, Scott B, Holland, A. Frederick, and Denise Sanger. "Responses of Tidal Creek Macrobenthic Communities to the Effects of Watershed Development." Estuaries. Vol. 23, No. 6, December 2000, pp 838-853.
[5] The State of the Bay- A Characterization of the Galveston Bay Ecosystem, 2nd Ed. Galveston Bay Estuary Program Publication GBEP T-7. Lester and Gonzalez, Eds., 2002, 162 pages.

and periodic. Rather, these are often associated with lack of streamside vegetative buffers in urban/industrial waterways, increased impervious surface cover, and related frequent and intense disturbance of instream primary producers related to these developments, such as from increased flood flows. These conditions generally persist so long as the noted land use patterns exist unless steps are taken to buffer these impacts.

The Foundation would like for the applicant to consider alternative methods to improve drainage, but at the same time protect water quality and habitat, and submit a new proposal. If the Corps instead approves of the applicant's methodology, the applicant must mitigate for unavoidable impacts to waters of the U.S. as required by law.

Thank you for the opportunity to comment. Please do not hesitate to contact me at (281) 332-3381 x209 or sjones@galvbay.org should you have any questions regarding these comments, or should clarification be required.

Sincerely,

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

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

[6] Moore, Aaron A., and Margaret A. Palmer. "Invertebrate Biodiversity in Agriculture and Urban Headwater Streams: Implications for Conservation and Management." Ecological Applications. Vol. 15, No. 4, pp. 1169-1177. August 2005.
[7] Dodson, Stanley I., Lillie, Richard A., and Susan Will-Wolf. "Land Use, Water Chemistry, Aquatic Vegetation, and Zooplankton Community Structure of Shallow Lakes." Ecological Applications. Vol. 15, No. 4, pp. 1191-1198. August 2005.