



April 5, 2013

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

RE: Permit Application SWG-2012-00933

Dear Ms. Shelton:

The applicant, Oxiteno USA, LLC, proposes to discharge fill material into 6.17 acres of adjacent wetlands and unnamed drainage ditches located within the project boundaries to start up a chemical plant that has been out of service for 10 years and to expand the existing facility. The project is located in wetlands and two unnamed drainage ditches adjacent to, but not abutting, an unnamed tributary of Taylor Bayou, at 9801 Bay Area Boulevard, in Pasadena, Harris County, Texas. The project can be located on the U.S.G.S. quadrangle map entitled: League City, Texas, at latitude: 29.60934° North; longitude: 95.06195° West (NAD 83).

The applicant proposes to mitigate for the project impacts by completing a hydrogeomorphic analysis (HGM) using the iHGM Riverine Forested model to determine the applicable number of functional credit units to debit for compensation from the Spellbottom Mitigation Bank.

The Galveston Bay Foundation (GBF) has reviewed SWG-2012-00933. We are not opposed to the applicant starting up and expanding the chemical plant. However, we do have concerns about the applicant's proposed use of the Spellbottom Mitigation Bank (SMB) to compensate for the impacts, and believe that its use is inappropriate in this case for the following reasons:

1. The SMB is located above Lake Conroe, while the impacts are in the Taylor Lake/Clear Creek Watershed. The distance between the two is over 75 miles.
2. The location of the project impact is beyond the secondary service area for the SMB. Even if the impact area were in the secondary service area of the SMB, it would be in the portion in which SMB stipulates that they will only mitigate for forested riverine impacts (http://www.msusa.com/banks/texas/SpellbottomMitigationBank_Map.html). Even if the impact site were within the secondary service area of the SMB, it appears to GBF that the impacts are not to riverine wetlands (forested or otherwise), as the impact site is several thousand feet from Taylor and Armand Bayous, and separated from Taylor by a fair amount of developed land. Instead, the habitat impacted is likely coastal bottomland, which is typical of the area.

We recommend that the applicant develop an alternate mitigation plan that is more regional in location and appropriate in habitat compensation. There may be opportunities for the applicant to work with the non-profit Armand Bayou Watershed Partnership to develop a more suitable mitigation proposal in the adjacent Armand Bayou Watershed. The applicant can contact Linda Shead at 713-703-1123 or linda.shead@sheadconservation.com to discuss this scenario.

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,

A handwritten signature in black ink, appearing to read "Scott A. Jones".

Scott A. Jones
Director of Advocacy
The Galveston Bay Foundation

cc: TCEQ – 401 Program
TGLO
TPWD
USEPA
USFWS