



January 20, 2009

Sam J. Watson
Regulatory Branch, CESWG-PE-RB
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

RE: Permit Application SWG-2008-00306

Dear Mr. Watson:

The applicant, Regent Properties, LLC, is proposing to establish the Sienna Plantation Wetland Mitigation Bank (SPWMB) within the 100-year floodplain of the Brazos River in Fort Bend County to satisfy compensatory mitigation requirements of the U.S. Army Corps of Engineers (Corps) Regulatory Program.

The Galveston Bay Foundation (Foundation) has reviewed public notice SWG-2008-00306 and opposes approval of this permit application as it is currently proposed for the following reasons:


1. The applicant has not identified the primary and secondary service areas, as referenced in the discussion of the Mitigation Banking Instrument on page 2 of the Public Notice. The Foundation requests that these service areas be identified so that we may have opportunity to comment.
2. Regarding the applicant's proposal to "immediately generate credits through preservation of 50.28 acres of existing forested wetlands using a 7:1 ratio within the primary service area" (Public Notice, page 2), this ratio should be set by the function and services of the existing wetlands versus the wetlands that would be impacted. According to the application (Prospectus Site Reconnaissance, 3. Vegetation Communities), the forested wetlands are dominated by Chinese tallow trees (*Sapium sebiferum*), sugar-berry trees (*Celtis laevigata*), and water oaks (*Quercus nigra*). This is not a high quality forest species assemblage; it must be properly evaluated so that a proper mitigation ratio can be applied.
3. Regarding the development of additional credits from enhancement (Public Notice, page 2), the applicant should state which HGM assessment it will utilize in order for us to provide an informed comment. The information provided in the application is currently inadequate.
4. Regarding the soil survey (Prospectus Historical Information Review, 1. Soil survey evaluation), the applicant's statement that the soils are not more hydric

- appears to be contrary to NRCS, based on communications between the NRCS and a member of the Foundation's Wetland Permit Review. According to that member, the NRCS stated that the boundaries of the Fort Bend soils are fairly accurate, but the names of the soils need to be updated. The applicant should confirm the existing soil types in SPWMB in a revised application.
5. Regarding the statement that the "goal of the bank is to restore the hydrology and native vegetation" (Prospectus Conceptual Development Plan, 2. Wetland Creation and Restoration), it appears that the maintenance and preservation of the SPWMB would be under a conservation easement held by an entity focused on conserving, restoring and managing wetlands for waterfowl hunting, and provides Ducks Unlimited as an example. The Foundation supports consumptive recreation in the estuary and buffer lands' habitats, efforts to protect habitats that sustain the same, and is cognizant of the cultural and educational opportunities afforded by hunting. However, we are concerned that long-term protection and maintenance of the bank (Prospectus Operation of the Bank, D. Long-Term Maintenance and Management and E. Protective Real Estate Mechanism) would not result in the stated goal of restoring the hydrology and native vegetation if the bank is managed as a hunting venue with the main focus on maximizing waterfowl species' populations as opposed to restoring the ecosystem function. The protective real estate mechanisms and land use provisions utilized must result in SPWMB wetland habitat functions and values that adequately compensate for those lost through permitted impacts; these mechanisms and provisions can be improved by the applicant's consideration of other entities whose missions' focus primarily on wetland habitat restoration and preservation.
 6. Regarding the delineation of the bank (Prospectus Conceptual Development Plan, 2. Wetland Creation and Restoration), the 1987 COE Wetland Delineation Manual now requires the use of the Atlantic and Gulf Coast Supplement. This supplement can increase the areas that can be called wetlands and its use should be spelled out in the application.
 7. Regarding monitoring (Prospectus Operation of the Bank, C. Monitoring Requirements), the Foundation is similarly concerned that the focus of the bank is on hunting as opposed to long-term planning, monitoring and maintenance of habitat that serves to compensate for impacted wetlands. The monitoring plan must reflect the detail and rigor needed to annually assess the physical, chemical and biological ecosystem functions of the SPWMB's restored and preserved wetlands, in keeping with the HGM assessment
 8. In addition to the above specific concerns, the Foundation has the following larger overarching concerns and questions regarding the hydrology of the SPWMB: The location of the bank is located between a canal to the north and a road to the south. How will the wetland hydrology be maintained, especially when additional areas are added? Will direct rainfall be adequate? Is additional hydrology going to be added? Has a long-term hydrology model been run to ensure that there is

enough wetland hydrology (flooding of forested wetlands for at least continuous two-weeks during the growing season during normal conditions)? We request that these concerns be addressed in a revised application.

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:

Berg♦Oliver Associates, Inc., Houston
TCEQ 401 Coordinator, Austin
EPA Region 6, Temple
NMFS Galveston
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