



DEPARTMENT OF THE ARMY
GALVESTON DISTRICT, CORPS OF ENGINEERS
P. O. BOX 1229
GALVESTON TX 77553-1229

COPY

April 17, 2007

REPLY TO
ATTENTION OF:

Evaluation Section

SUBJECT: Permit Number SWG-2007-84-RN (D-19279), Nationwide Permit Verification

James G. White
GTI Environmental Incorporated
11999 Katy Freeway, Suite 130
Houston, Texas 77079-1606

Dear Mr. White:

This office received a request to repair an existing levee on a property located northeast of the intersection of the Neches River and Interstate 10. Based on our review of the project, we have determined that you may proceed with the repair of the existing levee as proposed in your December 11, 2006, letter sent on behalf of Parkwood Land Company provided the activity complies with the enclosed three-sheet project plans and Nationwide Permit (NWP) General/Regional Conditions. Our review of a 1947 survey showed the property was originally used for dredge-material disposal and is surrounded by a containment levee. According to your project description, this levee is eroding and requires repairs. Since the levee was built prior to the inception of Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act of 1899 plus the fact jurisdictional activities that have occurred prior to July 19, 1977, are authorized (grandfathered) by the NWP, the levee is considered to be previously-authorized and can be repaired pursuant to NWP 3.

NWP 3 authorizes the repair of a previously-authorized currently-serviceable structure or fill provided the structure or fill is not put to a different use than that for which it was originally constructed. Minor deviations due to changes in construction techniques, materials or the like are authorized.

Please be aware the NWPs were reissued March 19, 2007; however, they are not valid without water quality certification from the Texas Commission on Environmental Quality or Coastal Consistency pursuant to the Texas Coastal Management Plan. As such, the permittee must obtain an individual Section 401 Water Quality Certification and Coastal Zone Management Act consistency determination from the Texas Commission on Environmental Quality (address: Texas Commission on Environmental Quality, 401 Coordinator, MSC-150, P.O. Box 13087, Austin, Texas 78711-3087).

Exhibit C

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The following special condition has been added to your authorization:

The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under United States Army Corps of Engineers (USACE) regulations at 33 CFR Part 331. Enclosed you will find a combined Notification of Administrative Appeal Options and Process (NAP) and Request for Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the Southwestern Division Office at the following address:

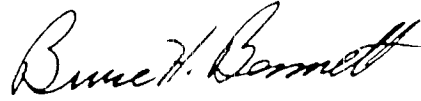
James E. Gilmore, Appeal Review Officer
Southwestern Division, CESWD-CMO-E
1100 Commerce Street, Room 8E9
Dallas, Texas 75242-0216
(Telephone: 469-487-7061; FAX: 469-487-7190)

In order for an RFA to be accepted by USACE, USACE must determine that it is complete, meets the criteria for appeal under 33 CFR Part 331.5, and has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by June 18, 2007. It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.

The Supreme Court handed down a decision on June 19, 2006, which addressed the scope of CWA jurisdiction over certain waters of the United States including wetlands. In the near future, the EPA and USACE intend to issue joint guidance clarifying CWA jurisdiction in light of the decision. Your permit may be affected by this guidance. However, we are issuing you this permit with its existing terms and conditions and the amount of required compensatory mitigation can be reevaluated based on that new guidance when it is issued.

Please let us know when you complete your project by returning the enclosed preaddressed postcard. If you have any questions concerning this matter, please contact Mr. David Hoth at the letterhead address or by telephone at 409-766-3022.

Sincerely,

A handwritten signature in cursive script that reads "Bruce H. Bennett".

Bruce H. Bennett
Leader, North Evaluation Unit

Enclosures

Copy Furnished:

Sonny Stevenson
Parkwood Land Company
2085 Galway Drive
Vidor, Texas 77662-2954