



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS, ANTILLES OFFICE
400 FERNANDEZ JUNCOS AVENUE
SAN JUAN, PUERTO RICO 00901-3299

JUL 3 2003

Antilles Regulatory Section
199000882(IP-ML)
Modification

Mr. Fernando Alvarez-Tabio
President
Westernlake Development Corp.
PO Box 11446
San Juan, Puerto Rico 00922

Dear Mr. Alvarez-Tabio:

Reference is made to your Department of the Army permit number 199000882(IP-JR) issued on June 12, 1998. The permit authorized to fill approximately 9.80 acres of herbaceous wetlands, contiguous to a tributary of Caño Boquilla, and to remove debris and vegetation from the creek downstream to construct the Western Lake Village project. The approved mitigation consisted on the enhancement of 4.87 acres of existing wetlands located at the project site by constructing 1.95 acres of deep open water aquatic habitat, 0.49 acre of emergent wetland, 1.06 acres of forested wetland, 0.97 acre of special aquatic site, 0.40 acre of channel wetland, with a 5-foot grass buffer zone. The permittee was also required to perform off-site mitigation by creating 3 acres of forested and herbaceous wetlands. The project is located at PR-2 intersection with Algarrobos Ave., Sabanetas Ward, Mayagüez, Puerto Rico.

By letter dated August 31, 2001, you requested a modification to the approved mitigation plan by changing the offsite mitigation to San Germán. Your modification proposal was coordinated with the resource agencies. In response to the resource agencies comments, on August 2, 2002 you submitted a new mitigation proposal. The new site is nearest to the project site, and adjoins existing wetlands.

The permit is hereby modified as follows:

Special Condition 1: To compensate for impacts to wetlands, the permittee shall conduct compensatory mitigation as follows

a. The permittee shall enhance wetlands existing at the project. The portion of the enhancement project performed (2.15 acres) shall be maintained as deep open water aquatic habitat.

b. The permittee shall create 15 acres of wetlands, offsite, at PR-102, Km. 4.3, Sábalos Ward, Mayagüez, in accordance with the attached mitigation plan, as amended on April 23, 2003. A buffer zone of 1 acre would be left in the perimeter of the mitigation site. The mitigation plan implementation shall be as follows:

(1) Mitigation Construction: The construction of the mitigation shall commence within 60 days from the date of this letter. Construction of the mitigation refers to the required site grading to establish necessary hydrology, and species planting activity. The permittee shall notify the Corps the date of mitigation construction commencement. The construction of the mitigation shall be completed within a year from its' commencement. Should the plantings not be progressing successfully the permittee is responsible for any replanting, etc. of the mitigation area. The construction phase of the mitigation would be finalized once the mitigation is stable, this is, when the root system is sufficiently developed to adapt to ambient soil moisture conditions. This determination should be made within a term no longer than 90 days from the finalization of the planting activity. The permittee shall notify the Corps the date of mitigation construction finalization.

(2) Compensatory Mitigation Post Construction Assessment: The permittee shall submit a Compensatory Mitigation Post Construction Assessment within 90 days from the completion of the construction of each mitigation(s) site. The report shall be submitted to Antilles Regulatory Section, U.S. Army Corps of Engineers. A "third party" not involved with the construction of the wetland mitigation shall perform the Post-Construction Assessment for the mitigation site(s). The Corps will review the Compensatory Mitigation Post Construction Assessment to determine if the initial construction of the mitigation is adequate. The Corps may require corrective actions as deemed necessary. The post construction assessment shall include the information below:

a) Summary of the original mitigation goals and objectives, and a discussion the level of attainment of these goals at each mitigation site or type.

b) Summary of the results of a functions and values assessment of the mitigation site(s). Use the same methodology used to determine the functions and values of the impacted wetlands.

c) For wetlands: a delineation of the area of wetlands in each mitigation site using the 1987 Wetlands Delineation Manual (Technical Report Y-87-1). Supporting documents shall include: (1) data sheets for corresponding data points along each transect; and (2) a survey performed by a Professional Surveyor showing the wetland boundaries, elevations, features to provide hydrology, the representative transects and sampling plots. These transects must be the same that will be used in subsequent monitoring reports.

d) The size of the each mitigation area. A comparison of the area and extent of the constructed mitigation area with the area versus the extent of mitigation as indicated in the permit. This comparison shall be made on the as-built drawings. Also provide a drawing that shows the major vegetation community types. Identify any deviations from original plan.

e) Photos of each mitigation site: To ensure that photos can be used for comparison, photo location(s) should be selected, labeled and marked on appropriate drawings or sketches. Photos for the post construction assessment and subsequent monitoring reports must be taken from these location(s). Both aerial and ground photographs should be provided.

f) Establish sampling plot(s) within each mitigation site or wetland type. These plots must be used to prepare subsequent monitoring reports to report mitigation progress. Each plot must be labeled, marked on the ground, and identified on drawings and/or surveys.

(3) Mitigation Monitoring: Once the Corps has accepted the initial construction of wetlands, the monitoring period will commence. You shall monitor the mitigation site on a quarterly basis during the first two years, and bi-annually thereafter, for 5 years. At the end of each monitoring year, the permittee shall submit to the Antilles Regulatory Section, U.S. Army Corps of Engineers a monitoring report. The first monitoring report will be due one year from the date the Corps agrees with the Compensatory Mitigation Post Construction Assessment. Contents of the monitoring report should be as follows:

a) Summarize the original mitigation goals and discuss the level of attainment of these goals at each mitigation site.

b) Summary of the results of a functions and values assessment of the mitigation site(s), using the same methodology used to determine the functions and values of the impacted wetlands.

c) Indicate if all slopes, soils, substrates, and constructed features within and adjacent to the mitigation site(s) are stabilized?

d) Report the status of all erosion control measures on the compensation site(s). Are they in place and functioning? If temporary measures are no longer needed, have they been removed?

e) Describe the monitoring inspections that occurred since the last report.

f) Soils data, commensurate with the requirements of the soils portion of the 1987 Delineation Manual data form, shall be collected and reported. Describe the hydrology of the mitigation.

g) If monitoring wells or gauges were installed as part of the project, this hydrology data should be submitted.

h) Concisely describe remedial actions performed during the monitoring year to meet the performance standards – actions such as removing debris, replanting, controlling invasive plant species (with biological, herbicidal, or mechanical methods), re-grading the site, applying additional topsoil or soil amendments, adjusting site hydrology, re-planting seedlings that were washed away by a storm, digging more channels to get water to remote parts of the site, etc. Also describe any other remedial actions done at each site.

i) Provide estimates of percent vegetative cover for each mitigation site or mitigation type, and percent cover of the invasive specie for each mitigation site or mitigation type.

j) What fish and wildlife use the site(s) and what do they use it for (nesting, feeding, shelter, etc.)?

k) By species planted, describe the general health and vigor of the surviving plants, the prognosis for their future survival and a diagnosis of the cause(s) of morbidity or mortality.

l) What remedial measures are recommended to achieve or maintain achievement of the performance standards and otherwise improve the extent to which the mitigation site(s) replace the functions and values lost because of project impacts?

m) Provide representative photos of each mitigation site and/or mitigation type taken from the same locations for each monitoring event. (See Post Construction Assessment requirements)

c. Nuisance species would be controlled as specified in the mitigation plan.

d. The construction of the mitigation shall commence within 30 days from the issuance of this modification.

Special Condition 2: The material excavated from the mitigation site shall be deposited within the 4 acres of upland at the mitigation parcel, as indicated in the mitigation plan.

Special Condition 3: The permittee voluntarily agrees to conserve the mitigation site in perpetuity through legally binding conservation easement. A total of 23.25 acres would be preserved, including the created 15 acres of wetlands, together with existing 7.25 acres of wetland and 1 acre of buffer. Documentation of the easement shall be submitted as follows:

a. Within 60 days following permit issuance of this permit instrument, the permittee shall have a legally sufficient conservation easement draft prepared to ensure that the wetlands shall remain in their natural state in perpetuity. A copy of the example document to be used in preparation of this draft is attached to this permit. The conservation easement draft shall include a description and scaled survey plan of the area in question. The easement, with the correspondent survey plan, shall be furnished to the Antilles District Office of Counsel, c/o Antilles Regulatory Section, U.S. Army Corps of Engineers, for legal review and approval.

b. Within 30 days of Corps approval of the draft conservation easement, the permittee shall record the easement in the corresponding part of the Public Registry of the Commonwealth of Puerto Rico, and certified copy of the recorded document, plat and verification of acceptance from the grantee shall be provided to the Antilles Regulatory Section, U.S. Army Corps of Engineers.

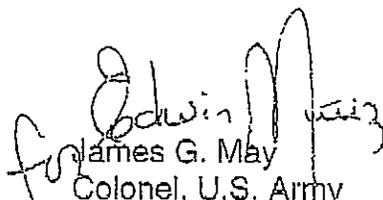
The impacts of the approved modifications on navigation and the environment have been evaluated and found to be insignificant.

The permittee shall sign and return the attached signature page to the Antilles Regulatory Section. This page is an acknowledgement that the permittee has read, understood, accepted, and agreed to comply with the approved modifications to Department of the Army permit number 199000882(IP-ML). This signature page shall be delivered to the Antilles Regulatory Section prior to continuation of authorized modification.

All other terms and conditions of the permit remain in full force and effect. You should attach this letter and the enclosed revised project plans to the permit.

Thank you for your cooperation with our permit program.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:


for Edwin May
James G. May
Colonel, U.S. Army
District Engineer