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DEPARTMENT OF THE ARMY PERMIT

Permittee Newland Communities

Permit No. 23235

Issuing Office Galveston District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To place fill into four separate headwater areas (comprising 14 acres) and 2.01 acres of adjacent wetlands during the construction of a 2,083-acre master planned community that will include residential and commercial development, public parks and schools. The project will be conducted in accordance with the attached plans, in 32 sheets, and the mitigation plan labeled Attachment A, in 5 sheets.

Project Location: Located east of the Brazos River and US 59 intersection and southwest of the US 59 and Highway 6 intersection in northeast Fort Bend County, Texas. The USGS Quad reference map is: Sugar Land, Texas.

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Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 31 December 2009. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

Permit Condition Review

Evaluation Section

Permit Number: **23235**

Applicant: **Newland Communities**

Project Manager/Regulatory Specialist: T. Cheryl Jaynes

Date of Submittal: **30 June 04**

Requested Return Date: **As soon as possible**

Conditions and plans:

1. The contact for all notification on this permit is the U. S. Army Corps of Engineers, Regulatory Branch, Chief, Compliance Section (Corps), P.O. Box 1229, Galveston, Texas 77553-1229
2. All construction of mitigation, including planting, must be complete within 12 months after start of construction within jurisdictional areas. The permittee will notify the Corps in writing 2 weeks before work begins in jurisdictional areas. Monitoring and maintenance will proceed according to the mitigation plan.
3. The mitigation success criteria, as indicated in the mitigation plan included in Attachment A must be achieved for the mitigation requirement to be considered complete.
4. A transplant survival survey of the planted mitigation area must be performed 60-90 calendar days following the initial planting effort. Written notification must be submitted to the Corps upon completion of the initial planting effort. If at least 50% survival of transplants is not achieved within 60 calendar days of planting, a second planting effort will be completed within 60 calendar days of completing the initial survival survey. If optimal seasonal requirements for re-planting targeted species is not suitable when replanting would be required, the Corps must approve a re-planting schedule.
5. Written reports and photo documentation detailing plant survival must be submitted to the Corps within 30 calendar days of completing the initial survival survey and any subsequent replanting effort.
6. If after one year from the initial planting effort (or subsequent planting efforts) the site does not have at least 35% aerial coverage of targeted vegetation, those areas that are not vegetated will be replanted using the original planting specifications.
7. Once the mitigation site is deemed to meet minimum success criteria the Corps will be notified in writing within 30 days stating the mitigation site has reached minimum success criteria. Should mitigation be determined to be unsuccessful by Corps personnel at the end of the monitoring period, the permittee will be required to take necessary corrective measures, as approved by the Corps. Once the corrective measures are completed, the permittee will notify the Corps and a determination will be made regarding success of the mitigation.