

---

**From:** Kenneth Teague

**Sent:** Sunday, January 6, 2019 11:52 AM

**To:** swg\_public\_notice@usace.army.mil; 401certs@tceq.texas.gov; Kaspar.Paul@epa.gov; martinez.maria@epa.gov; david\_hoth@fws.gov; Rebecca Hensley; Rusty.Swafford@noaa.gov; brandtshnfbt@juno.com

**Subject:** SWG-2016-00384

Dear Sir/Ms: I have reviewed the subject PN and have the following comments:

- I suggest that the wetlands proposed to be destroyed by this project may be Aquatic Resources of National Importance, and if so, I recommend the U.S. EPA elevate review of this permit application under EPA/USACE procedures.
- The applicant has not met the Clean Water Act Section 404(b)(1) Guidelines. The information provided with the PN does not support that the applicant has conducted an appropriate alternatives analysis, or demonstrated efforts to avoid and minimize impacts to aquatic habitats. I strongly recommend USACE require the applicant to demonstrate they have met the requirements of the Guidelines.
- Most of the components of the proposed project are not water dependent. The one component that is water dependent, the marina, has not been demonstrated to be needed. The USACE must review the proposed project for its water dependency. Non water-dependent projects should not be permitted if they impact aquatic habitats. Water dependent projects should only be permitted if they are demonstrated to be needed.
- The applicant stated an existing 17.59-acre conservation easement exists within the commercial and residential district which is associated with a compensatory mitigation area for Department of the Army Permit SWG-99-26-012 verified on 25 May 1999. This permit was conditioned to place 21.90 acres (12.19 acres of wetlands and 8.99 acres of upland buffer) into a conservation easement. It is not clear what this means, but if it means the applicant is proposing to destroy aquatic habitats that were previously preserved as compensatory mitigation as compensation for previous destruction of aquatic habitats, such impacts to such mitigation absolutely must not be permitted.
- The site is subject to flooding (see attached image). I assert that it is not in the public interest for the USACE to permit development in flood prone areas, so USACE should not permit the proposed actions.
- The applicant proposes to greatly elevate the areas it proposes to develop using soil from an undisclosed location. This elevation will change hydrology in surrounding areas, guaranteeing that nearby low elevation properties will flood much more frequently, for a longer duration, and greater depth, than is currently the case. This will almost certainly negatively impact nearby infrastructure and habitats. Permitting such changes would clearly not be in the public interest.
- The applicant has not proposed mitigation, other than to say that they will either conduct permittee responsible mitigation or purchase credits from a mitigation bank. The USACE must provide the public the opportunity to review and comment on proposed mitigation. This does not meet the requirement.
- Do not permit the proposed activity.

Sincerely,

Kenneth G. Teague, PWS, Certified Senior Ecologist  
Austin, TX