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June 24, 2016

Mr. Stephan Roth
District Counsel
U.S. Army Corps of Engineers
New Orleans District
P.O. Box 60267
New Orleans, LA 70160-0267

Re: G.D.E./Corps of Engineers
Our File No.: 24751-0

Dear Mr. Roth:

I address this correspondence in this manner as you attended the June 15th meeting as counsel for the Corps of Engineers. I am reluctant to correspond directly with Mr. Mayer.

First, we understand that the Corps' re-assessment and subsequent meeting occurred due to a directive Mr. Mayer received from the Corps' Mississippi Valley Division office in Vicksburg.

Further to the June 15th meeting regarding the Corps' re-assessment of the GDE Investments, LA LLC Mitigation Bank, I confirm our understanding of what transpired as follows:

1. During the June 15th meeting, Mr. Mayer advised that while the fence had been "approved" by the Corps, it had not been "permitted" or "authorized" by the Corps. We are confused by this position of the Corps as, to us, it appears to be a distinction without a difference. Accordingly, would you advise whether there is a distinction between "approval" and "authorized" and, if so, the basis for the distinction. It would be appreciated if you would refer the undersigned to a specific Corps regulation.

The record clearly shows that the Corps intended to modify the Mitigation Banking Instrument (MBI) to reflect approval of the fence and only make adjustments based on areas not planted such as fire breaks along the fence. Furthermore, the Conservation Servitude approved by the Corps and filed as part of the MBI unquestionably includes approval of the fence. Notwithstanding the Corps being notified of the fence the 2007 IRT did not contain any negative comments.

I would also ask that you advise as to whether the Corps is now taking the position that the fence must be permitted. If so, what permit is required and by what authority?

As further evidence that the fence was not an issue, the Corps authorized the sale of 73 credits from the GDE bank. The specific credits sold were not pre-designated by the Corps. Accordingly, Mr. Mayer incorrectly stated during the meeting that these credits came from wetlands outside the fenced area. If the fence was a problem at that time, the Corps would have stated that these credits were from the area outside the fence and that no credits were or will be from wetlands from within the fenced area. However, no such distinction was made by the Corps when the referenced credits were approved to sell.

2. I confirm that during the June 15, 2016 discussions Mr. Mayer advised, on several occasions, that the Corps' New Orleans' office had never before been involved in a re-assessment of a mitigation bank (MB) located within a fence. He further indicated that he was not sure as to the methodology to be used in that re-assessment. Accordingly, I would ask that you advise as to the specifics of that methodology (qualitative or quantitative). I would assume that the Corps has discussed a methodology in detail since the October meeting when MG Wehr suggested to the New Orleans office that a re-assessment be undertaken.

We were of the belief that the re-assessment would be performed in the same manner in which the Richland Parish Bank assessment was performed. The Corps is aware that the Banks' MB located in Richland Parish is also enclosed by a high fence. Again, during the June 15, 2016 meeting, the Corps indicated that the New Orleans District is not bound by that which the Vicksburg District does. Mr. Mayer further indicated that the members of the IRT in connection with the Bank's assessment were different from the members of the IRT involved with the GDE MB. It is our understanding that the only variation in the IRT composition as between the Banks & GDE MB was the Corps representative. The IRT members for the USFWS, EPA and LDWF are identical.

Both the Vicksburg and New Orleans Districts come under the Command of MG Wehr. We citizens assume that there is consistency when operating within the same U.S. governmental agency, i.e., the Corps of Engineers, albeit with different districts. Otherwise, assessments/re-assessments would continually vary depending upon the opinions and/or perceptions of the involved individuals. Accordingly, it is requested that you provide an explanation as to the reason the New Orleans District does not agree to follow the methodology previously undertaken by the Vicksburg District. We make this request since, as noted above, both districts are within the Mississippi Valley Division under the Command of MG Wehr. Further, the Richland Parish property is located only a few miles from the GDE MB.

3. The Corps' letter of May 26th requests the submission of a prospectus inclusive of eight separate types of information. As to a prospectus, we believe it is a clear violation of the Corps regulation, promulgated in 2008 and which you presented to the IRT in your communications, to require a prospectus for re-assessment of the bank accounting for the existing, approved fence. Rather, the Corps regulation clearly states the following at 33 CFR 332.8(d)(2) (See Exhibit 1.):

"(2) Prospectus. The prospectus must provide a summary of the information regarding the proposed mitigation bank or in-lieu fee program, at a sufficient level of detail to support informed public and IRT comment. The review process begins when the sponsor submits a complete prospectus to the district engineer. **For modifications of approved instruments, submittal of a new prospectus is not required** (emphasis added); instead, the sponsor must submit a written request for an instrument modification accompanied by appropriate documentation."

Since an approved instrument exists for the GDE MB, accounting for the existing, approved fence is most appropriately accomplished through modification of the GDE MBI. GDE will not be submitting a new prospectus.

4. Regarding the eight separate types of information requested in the Corps' letter of May 26th, we believe several as being redundant. The Corps seemed to partially agree. Accordingly, in that regard we would request that the Corps remove those items which it considers redundant.

We have previously provided the information required in items:

a.) GDE refers the Corps to the six maps which were part of the August 2012 GDE Bank Monitoring report prepared by certified forester Robert Tassin (See Exhibit 2.), the Conservation Servitude and Amendment, (See Exhibit 3.) the attachments to November 7, 2013 letter from Col. Hansen to Mr. Elliott (See Exhibit 4.), the maps attached to the MBI (See Exhibit 5.) as well as my informal NOI letter (See Exhibit 6.). A Monitoring Report was sent to the Corps in August of 2012 with multiple maps/ photos which include the requested information, i.e., acreage, breakdown of acreage, roads, etc. That document also contains photos of the fence.

b.) see a.

c.) see a; the Corps is referred to the September 3, 2013 email from Mr. Elliott to Ms. Farabee with attachments. (See Exhibit 7.)

d.) the Corps is referred to the previously provided "Ecological Functional Assessment as a Result of the High Fence Enclosure for GDE Investments Mitigation Bank" prepared by Mr. McDaniel. (See Exhibit 8.)

e.) the Corps is referred to the Adaptive Management Plan dated September 29, 2014. (See Exhibit 9.)

f.) see a. through e.; the Corps is also referred to previously provided photographs. It is self-evident which terrestrial wildlife would be affected by the fence and which will not be affected by the fence. None of the existing structures will limit the potential to achieve full ecological benefits regarding terrestrial wildlife.

g.) see a. through f. – no future structures are currently planned.

h.) see a. through g.

We note that GDE's two prior requests to remove the approximately 21.5 and 1 acre tracts from the MB included detailed written descriptions including a JD map with tracts marked. (See Exhibits 10 and 11.)

The documents referenced above should not be considered as exclusive responses to the a. through h. items listed in the Corps' letter of May 26, 2016. Rather the identified documents should be viewed only as a portion of the information previously provided to the Corps by GDE. GDE assumes that the Corps is aware of the contents of the information it has previously provided since all, if not most, was specifically requested by the Corps.

5. During the discussion of the May 26th correspondence from the Corps, we advised Mr. Mayer that most of the information requested had previously been provided (see above). Mr. Mayer's response was to suggest that if we were of the belief that the requested information had previously been provided, we should re-prepare that documentation with whatever additional documentation we believe necessary and submit to Mr. Mayer in, to use his words, "a nice neat little package." This comment is confusing. Mr. Mayer admittedly was unfamiliar with previous reports, maps, surveys submitted to the Corps by GDE, but appeared to be unwilling to research current Corps records for that information. Accordingly, I request that you advise which specific elements of a.-h., as used in the May 26th correspondence, the Corps does not currently possess, but requires in order to conduct its "re-assessment".

6. I am aware that the Corps requested a census of the current deer population. We advised that such a census is impossible without significant negative environmental impacts. We advised that the original number of Louisiana bred deer introduced into the MBI was "about 70." Allow GDE to correct that statement. A check of the GDE records confirms that the actual number of Louisiana bred deer initially introduced into the MB was 63. The deer population is managed by the Louisiana Department of Agriculture & Forestry; according to their very strict regulations; inspections are performed annually. We advise that there has never been a compliance issue with the Louisiana Department of Agriculture and Forestry. No deer have been introduced into the enclosure subsequent to the initial 63. No living deer have left the enclosure. All deer subsequent to those initially introduced were born in the MB. See attached advertisement from the LSU Ag Center addressed to Louisiana Licensed Deer Farmers.

(See Exhibit 12.)

7. Mr. Mayer, as well as yourself and Ms. Bruser were invited to personally tour the GDE Investments, LA LLC ("GDE") Mitigation Bank to familiarize yourselves with the MB. In this manner you would have personal knowledge of that to which we have referred during the June 15, 2016 conference. The three of you confirmed that none of you had participated in an on-site inspection or otherwise visited the property. You indicated that you would not be attending. I believe Ms. Bruser indicated that she would not be attending, but Mr. Mayer indicated a willingness to attend "depending on his schedule". Accordingly, in this regard, I would ask that you advise as to Mr. Mayer's availability within the next 30 days. GDE will make every effort to accommodate him. We recommend the Corps invite the current decision makers from the IRT to attend the site visit, some of which have expressed an interest in learning more about GDE Mitigation Bank. An interagency site visit would be an excellent opportunity to make this happen.

8. I am aware that the Corps requested an updated title opinion and, while we believe same to be unnecessary, such will be provided. Title opinions take many forms and may include a variety of information. We only wish to provide one updated title opinion as there are expenses involved. Would you provide a list of the areas that you wish this opinion to address. I would not think the Corps would require the issue of ownership to again be addressed. That information was already provided and studied by the Corps. During the June 15, 2016 meeting the only area of Corps concern I understood to be mentioned was "encumbrances." (As an FYI, there are none.) We will assuredly update the earlier title opinion in this regard. Accordingly, please advise which additional subjects you wish addressed, if any.

9. A browse survey will be performed per the Corps' request.

10. We advise that the documents attached to this correspondence should not be considered exclusive. The documents attached have been done as a convenience to the Corps. GDE relies on all prior information submitted to the Corps.

11. Finally, I would request time frames in which:

a. The Corps is likely to respond to this correspondence; including suggested dates for a site visit, and

b. To conduct the re-assessment, including the method to be used.

We expect a Corps response before July 30, 2016.

Finally, any Corps' suggestion as to a manner in which to resolve the parties' differences so as to avoid litigation would be considered.

Please let me know if you have any questions.

Sincerely,

Michael A. McGlone

MAM:ssn

Enclosures

cc: Milton W. Boyd
G. Rogers Sloan
Greg Elliott