

FULBRIGHT & JAWORSKI

May 26, 1987

600 Congress Avenue, Suite 2400
Austin, Texas 78701

Telephone: 512/474-5201
Telex: 166981

Houston
Washington, D.C.
Austin
San Antonio
Dallas
London
Zurich

Re: Pelican Cove Development; Aransas Pass, Texas;
Permit No. 16639

Col. Gordon M. Clarke
District Engineer
U. S. Army Corps of Engineers
Galveston District
P. O. Box 1229
Galveston, Texas 77553-1229

Dear Colonel Clarke:

On behalf of Marine Creek Joint Venture, we are writing concerning the installation of additional circulation pipes in connection with the above-referenced project. Phase I of the multi-phase Pelican Cove Development, authorized by the Corps of Engineers' Permit No. 16639 for Aransas Pass, Texas, was constructed in compliance with the Permit terms and conditions requiring installation of circulation piping so as to maintain adequate water quality within the canal/marina development area. Special Condition (g) of the Permit allowed for installation of additional circulation pipes depending upon the Corps of Engineers' assessment of water quality monitoring data that is to be compiled after final completion of the canals pursuant to Special Conditions (a)-(f) of the Permit.

Marine Creek has completed only Phase I of the project and thus has not commenced water quality monitoring. Nevertheless, although it has no reason to believe that water quality in the canals has fallen or will fall below acceptable standards (3.0 ppm D.O.), it determined that it would be appropriate for construction sequencing, as well as beneficial for both the habitat value and attractiveness of the canal/marina area, to install the additional circulation piping. The additional piping contemplated by the Permit involved connections between Ransom Channel and the interior canals of Pelican Cove. Accordingly, the following circulation pipes have been installed pursuant to the specifications of Special Condition (g) and are currently serving to improve internal circulation in Phase I.

1. 42-inch circulation pipe approximately 330-feet northwest of Redfish Bay between Ransom Channel and the nearest development canal paralleling Ransom Channel;

Col. Gordon M. Clarke
May 26, 1987
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2. 42-inch circulation pipe adjacent to the 60-inch pipes connecting the 100-foot by 2500-foot bayside canal with Redfish Bay; and

3. 36-inch circulation pipe from the bayside canal to the marina area.

These circulation pipes were installed under the supervision of Gordon S. Swift Consulting Engineers using the same high-quality materials, guidelines, and standards as were used in installing the initial Phase I circulation pipes. Marine Creek believes they will assist in creating the kind of healthy aquatic environment it envisions for the completed canal/marina development.

If you have any questions or comments about this matter, please do not hesitate to call me. We appreciate your time and assistance.

Very truly yours,



J. B. Ruhl
For the Firm

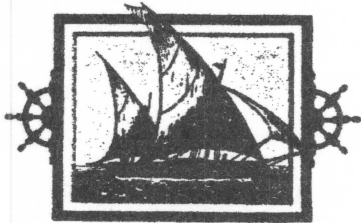
ATTORNEY FOR
MARINE CREEK
JOINT VENTURE

JBR:vfb

1508S

MARINE

2908 S.E. Loop 820 • Fort Worth, TX 76140 • (817) 293-9606



C·R·E·E·K
I N C.

30 APR 1984

April 25, 1984

District Engineer
Department of the Army
Galveston District
Corps of Engineers
Post Office Box 1229
Galveston, Texas 77553

Attention: Mr. Marcus De La Rosa
Mr. Aaron Katz
Regulatory Branch

RE: Permit Application - 16639

Gentlemen:

Thank you for your letter of April 13, 1984 in which you have specified certain items which Marine Creek Estates Joint Venture ("Marine Creek") should address in connection with its submittal of Permit Application No. 16639 to the Corps of Engineers for consideration.

With respect to the issue whether or not the proposed handling of the dredge spoil of the tract will present any water quality

risk, we are advised that the Environmental Protection Agency has, by letter dated April 10, 1984, stated that it is their opinion that no risk to water quality will result from the construction of Pelican Cove provided construction is done in accordance with the plans previously submitted to you. It continues to be our intention to place the dredge spoil and construct the bulkhead in the manner represented to your office.

The second concern was whether or not there would be adequate water circulation in the canals and adequate water exchange between the canals and Redfish Bay. You have suggested that an additional 60 inch pipe be installed to improve water exchange between the canals and Redfish Bay. While we believe that there would have been adequate circulation under our previous plan, we are agreeable to installing an additional 60 inch pipeline connecting the east channel and Redfish Bay. Our revised plans, which are attached, reflect that change.

✦ You have expressed concern that the pipelines connecting the channel system and Redfish Bay may silt up over time and reduce circulation in those pipes. Given the proposed construction plan we are optimistic that silting will not be a significant problem. Nevertheless, in order to meet your concern we will provide in the Homeowners Association Agreement that there be the periodic inspection and, if necessary, the periodic cleaning of silt from the drain pipes.

✦ Third, you have expressed concern that there will be inadequate flow velocities and flow volumes through the 36 inch pipelines Marine Creek has proposed to use to connect the interior finger channels with each other. You have recommended that the pipes between the canals be abandoned and Marine Creek instead amend its plans so that each finger canal will be connected directly with the east channel. Marine Creek is agreeable to such a suggestion and has modified its plans to show a 36 inch pipe connecting each finger canal and the east channel. These changes are shown on the revised plan which is attached. As a matter of information, these pipelines must cross an Exxon gas pipeline. This Exxon pipeline is not evenly laid and this creates clearance differences which will make it difficult to cross the Exxon pipeline in certain places. As you know, we have stated our desire not to cross the Exxon pipeline any more than necessary because of these problems. While we are now agreeing to cross this pipeline in a number of additional places, we do anticipate that 36 inch pipes must be used. We

therefore recommend 36 inch pipe for each of the canals. There will now be six 36 inch pipes rather than two 42 inch pipes provided for under the original plan.

Finally, we have made a determined study of the recommendation of the United States Fish and Wildlife Service ("USFWS") that each of the canals have a ten foot shelf adjacent to the bulkheads in order to enhance water quality. As a result of its study, Marine Creek still does not feel that it can agree to this suggestion. There are two basic reasons for this decision. First, we strongly believe that placement of these shelves will have an adverse effect on the marketability of the development and will thereby adversely affect the economic viability of Pelican Cove. Second, we have been advised by our environmental consultant and believe that the placement of the shelves will not have the positive benefits hoped for and may in fact have some negative water quality effects.

As we advised you during our meeting of February 22, 1984, Marine Creek was willing to study any subdivision you might identify as having the types of shelves recommended by the USFWS. We were to evaluate the impacts of shelf construction on those developments so that we might better project how such construction would affect Pelican Cove. You subsequently identified the Yacht Harbor No. 2 development in Palacios, Texas and the Harbor Subdivision in Nueces County, Texas, as being projects we should study. As you may recall, it was our position, having not seen canal projects with the type of shelves proposed, that such shelves would be aesthetically undesirable because home purchasers would not likely desire to have marsh-like conditions adjacent to their homes and this would have a very negative impact on the project's marketability. We were also concerned about shelf construction because it would require the construction of piers in the canals since the bulkheads could not be used as docks. The construction of these piers would affect the appearance of the project and would increase the cost to each homeowner. Our visits to the two subdivisions you identified as having such shelves did nothing but confirm our fears.

As we outlined in our meeting, the economic success of this project is dependent on the project being of the first quality. There is no viable market for anything less. Therefore, neither the developers nor the City of Aransas Pass will receive any benefits from Pelican Cove unless it is of this quality. It

CITY OF ARANSAS PASS

ARANSAS PASS

December 23, 1983

P. O. DRAWER X

ARANSAS PASS, TEXAS 78336

Phones: (512) 758-2908
(512) 758-5301

SHRIMP CAPITAL
OF THE WORLD

District Engineer
Galveston District
Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553

Attn: Marcos De La Rosa, Chief
Regulatory Branch

Gentlemen:

The acreage which is now referred to as the Pelican Cove Subdivision was the site of the earliest subdivision within the City of Aransas Pass. The area always had a history of flooding and poor drainage. Because of this, full development never took place. Through the years blight and deterioration took its toll and in no time the area became a real eye sore and financial drain to the City. The utilities deteriorated and the streets were in disrepair because of the high water table. In general the whole area became a prime candidate for major clearance and redevelopment. This became the basis of an Urban Renewal Project in 1965, which was fully funded through the Federal Government under the Department of Housing and Urban Development.

The Urban Renewal Agency undertook feasibility studies to ascertain the highest and best use and the cost to achieve such. After much consideration it was determined by all agencies, planners and consultants that a Marina project was not only the highest and best use, but the only economically feasible type project where the cost of purchasing, clearing and demolition, relocation and subsequent construction could be recovered. All clearances were secured and the project was funded. We finally had a redevelopment project which would develop the property to its highest and best use, almost readily determined by its constant flooding, poor drainage, mosquito breeding and deteriorating ground level construction and public improvements such as water, sewer, drainage utilities and streets. With this Marina development we finally had the answer and a project that every one could be proud of and certainly would bring new tax revenues, doubling the city's present total tax revenue, new businesses, new residents (tax payers) and in general open up new horizons and opportunities for our City and the population in general. Being a coastal City it would increase our shoreline recreational activities from none presently, to at least one of the highest quality on the coast.

AYOR
Tommy Knight

ITY COUNCIL
Mark Roach
Mayor Pro Tem
Robert Watson
Sami Louise Shirley
Allen Pitre

ITY MANAGER
Al Holguin

ITY SECRETARY
Natalia Smith

The Local H.U.D. Agency purchased the property, cleared all improvements, relocated all people and was in process of purchasing the final few lots when Hurricane Celia struck. Considering the battered market for water front property and the continuing cost of our Agency, the Federal Government, through H.U.D., ordered the Agency closed, the property transferred to the City with a lien to the Federal Government and a required plan to sell the property for the development of the original design, as a Marina. Since this was the property's highest and best use.

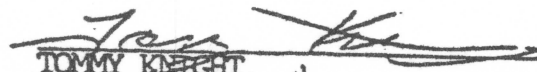
We tried to sell the property over a period of 12 to 14 years. We came close to selling it to a developer from Corpus Christi, and all environmental agencies reviewed the plans for its development as a Marina. The various departments met with us in Aransas Pass and reviewed the property and thereafter agreed on the Marina design. However, because of the volatile interest rates which existed and the commitment of 15 to 18 percent interim construction money, the developer decided not to proceed. Thereafter, we promoted the property for sale by word of mouth. Through such discussion, the present developer, S.G. Payte, Marine Creek, Inc., from Fort Worth, Texas, was secured. His tremendous experience in construction and development of subdivisions assured us that he wanted and would build a quality water front subdivision. He is a very reputable builder with the expertise and funds to carry out a quality development. His development will not adversely affect the environment, but will in fact improve it as he is taking, together with the City, every precaution to assure a quality of life which we all want to preserve and continue to enjoy. Everyone was so impressed with Marine Creek, Inc., that we entered into serious negotiations.

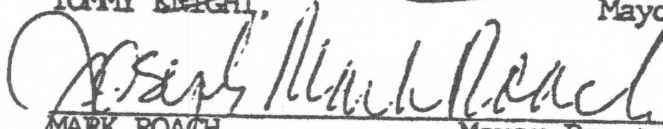
Upon Mr. Payte's review of the property and our design requirements under the prevailing Urban Renewal plan which requires certain development criteria as a Marina which runs with the property until 1992, he agreed to purchase it. The City and its Planning and Zoning Commission approved the development preliminary design and the property was purchased. This we assumed was to be the beginning of a major shoreline development for our City, which not only meant a lot in tax value, businesses, new residents and potentially many new related businesses for our community. It is the one project which our City and School district has been looking for because we have no real tax base to draw on that many other communities have.

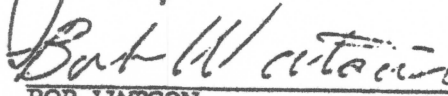
In general the project Pelican Cove, contains all of the hopes and aspirations of our whole community. Being unable to develop this property to its highest and best use, will seriously hamper our City in developing into a first class water front Community, as our neighbors have and continue to do so.

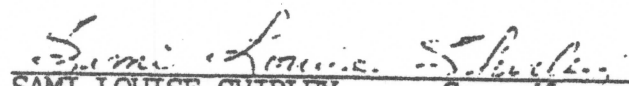
We urge your serious and deliberate consideration and final approval of this project.

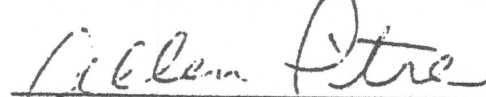
Sincerely,

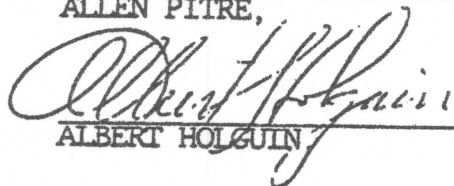

TOMMY KNIGHT, Mayor


MARK ROACH, Mayor Pro tem


BOB WATSON Councilman


SAMI LOUISE SHIRLEY Councilwoman


ALLEN PITRE, Councilman


ALBERT HOLGUIN City Manager

TK/ns

cc:
S.G. Payte



TEXAS
PARKS AND WILDLIFE DEPARTMENT
4200 Smith School Road Austin, Texas 78744

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Lubbock

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Houston

September 21, 1983

CHARLES D. TRAVIS
Executive Director

Colonel Alan L. Laubscher
Commander, Galveston District
Corps of Engineers
Post Office Box 1229
Galveston, Texas 77553

Re: Permit Application No. 16639
Marine Creek Estates Joint Venture

Dear Colonel Laubscher:

Permit Application No. 16639, dated July 25, 1983, concerns a proposal to excavate canals, construct bulkheads, tide gates and filled lots for a residential development along the shore of Redfish Bay, between Bay Street and Euclid Street, in Aransas Pass, Texas.

This Department is concerned about the water quality which may occur inside this canal development. It appears that a total of 8,900 feet of canals will be constructed, and water circulation within the enclosure will be dependent upon a 50-foot main opening which connects to an existing canal leading to Redfish Bay, and a 36-inch pipe connected to the bay at another point.

In similar residential canal sites in the area fish kills have occurred during summer periods of high temperatures due to low oxygen concentrations in the water. In order to avoid similar fish kills, it is recommended that a 100-foot opening be placed at each end connecting to Redfish Bay and that each 500-foot finger canal be connected at the dead end to a main canal with a 36-inch pipe or box culvert.

Sincerely,

Charles D. Travis
Executive Director

CDT:RAH:kaw

cc: Dick Harrington, TPWD, Corpus Christi, Texas
FWS, Corpus Christi, Texas
NMFS, Galveston, Texas

1 3 APR 1984

Regulatory Branch

Subject: Permit Application-16639

Mr. S. G. Payte
Marine Creek Estates Joint Venture
2908 S. E. Loop 820
Fort Worth, Texas 76140

Dear Mr. Payte:

This is concerning your permit application to construct a residential canal development adjacent to Redfish Bay in Aransas Pass, Texas. On February 22, 1984 we held a meeting attended by yourself, your staff, representatives of the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), Environmental Protection Agency (EPA), Texas Parks and Wildlife Department (TPWD) and the Corps of Engineers (COE).

As a result of that meeting it was agreed that there were three remaining concerns which needed to be addressed. First, you agreed to reconsider the USFWS recommendation to construct the canals with a 10-foot wide shelf adjacent to the bulkheads in order to enhance water quality. The other two concerns raised at the meeting were the quality of the material to be dredged, and whether the revised culvert system would provide adequate tidal circulation within the canals.

Recently, the material to be dredged was tested to determine if there are any pollutants present, and if so, whether there is any potential for them to be resuspended into the bay system. We have not received the final report analyzing the results, however, we do have some preliminary information. The EPA is also analyzing the data.

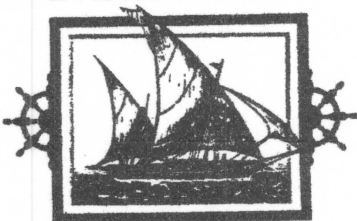
All water and elutriate samples passed EPA Water Quality Criteria except for the elutriate samples for copper, which exceeded the criterion at all three sites. All sediment samples passed existing EPA criteria for all parameters, except for zinc which exceeded the criterion at site No. 2. The elutriate sample for this site indicates a potential for some resuspension of zinc into the water column. However, the concentration of zinc in the elutriate sample remains well below the EPA Water Quality Criterion. In summary, assuming the EPA concurs with our sample data and your proposed construction techniques, it would appear that the contaminant issue has been adequately addressed.

Concerning water circulation within the proposed canal system, our hydrology experts have recently analyzed the revised canal plans. Preliminary indications are that your calculations for water volume exchange are acceptable. Assuming a 1-foot tide range, approximately one-fifth of the total water volume of the channel system would be exchanged. However, with your present design, approximately 86% of the water exchange would occur through the 100-foot Ransom Channel entrance. The remaining 14% of the water exchange would occur through the three pipes connecting to Redfish Bay. It is preferable to have the water exchange through the Ransom Channel entrance and the pipelines more evenly balanced in order to provide better water quality in the channel system. To accomplish this, an additional 60-inch pipeline connection between the east channel and Redfish Bay is necessary. We recommend that this additional 60-inch pipeline be incorporated into your final plans.

We are also concerned that the pipelines connecting the channel system to Redfish Bay may silt up due to shallow water depths in the Bay. Therefore, it is essential that your application reflect how you intend to counter this probable effect.

The hydrology analysis shows that the flow velocity and volume through the 36-inch pipelines connecting the interior finger channels would be rather small. The exchange of water from the end of one finger channel to the end of another would not significantly increase the water quality. However, if instead of connecting the interior finger channels to each other they were all connected to the east channel, the water quality of the

MARINE



CREEK

505 Arthur Street • Fort Worth, TX 76102 • (817) 332-7001

May 2, 1989

Mr. Paul Lazarine, District Engineer
GALVESTON DISTRICT CORPS OF ENGINEERS
P. O. Box 1229
Galveston, TX 77553

Re: Permit No. 16639

Dear Mr. Lazarine:

It has come to our attention that the City of Aransas Pass and/or San Patricio Drainage District has received approval to open drains for urban runoff into the canals of Pelican Cove, which is permitted under the above-referenced permit number. We are concerned since the closing of two urban drains was a condition of our permit. Additionally, our permit provides for future testing of water quality. We feel that urban runoff would be detrimental to the quality of water in our canals. Furthermore, if changes are made without our approval, we should not be held responsible for the results.

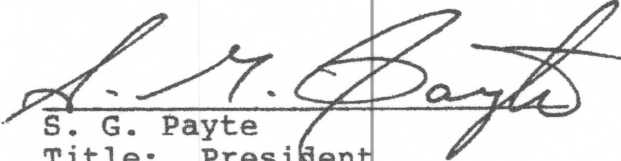
Please let us know if approval has been given by the Corps and the U.S. Fish and Wildlife Service.

Yours truly,

MARINE CREEK ESTATES JOINT VENTURE,
a Texas joint venture

By: Marine Creek, Inc., a Texas
corporation, Managing Venturer

By:


S. G. Payte

Title: President

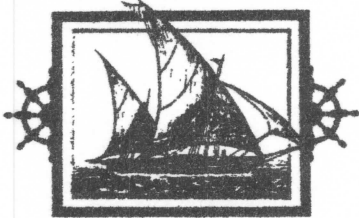
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xc: Mary Knapp
U.S. Fish and Wildlife Service
c/o CCSU, Campus Box 338
6300 Ocean Drive
Corpus Christi, TX 78412



MARINE

105 Arthur Street • Pelican Cove, TX 77407 • 409/733-4667



CREEK

June 9, 1989

Mr. Ivan Acosta
GALVESTON DISTRICT CORPS OF ENGINEERS
P. O. Box 1229
Galveston, TX 77553

Re: Permit No. 16639

Dear Mr. Acosta:

Pursuant to our letter of May 2, 1989, we have learned that we were misinformed. Apparently, there has been no approval to open drains for urban runoff into the canals at Pelican Cove; no such letter exists. However, we would appreciate being kept abreast of any developments concerning our canals so that we have the opportunity to voice our approval or objections.

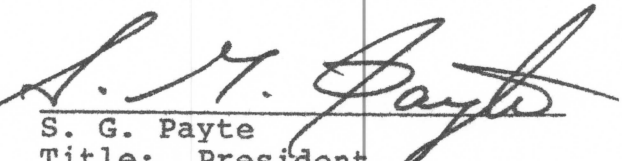
Thank you for your assistance in this matter.

Yours truly,

MARINE CREEK ESTATES JOINT VENTURE,
a Texas joint venture

By: Marine Creek, Inc., a Texas
corporation, Managing Venturer

By:


S. G. Payte

Title: President

SGP:bld

xc: Mary Knapp
U.S. Fish and Wildlife Service
c/o CCSU, Campus Box 338
6300 Ocean Drive
Corpus Christi, TX 78412

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