

APPENDIX IIC-2F

ADDITIONAL CORRESPONDENCE

Xin, May

Subject: FW: SWF-2015-00107 - Temple Recycling and Disposal Facility PCN for NWP 39
Attachments: SWF-2015-00107-TempleRecyclingandDisposalFacility-TPWDcomments.pdf

-----Original Message-----

From: Lindamood, Steve D SWF [mailto:Steve.D.Lindamood@usace.army.mil]
Sent: Tuesday, December 22, 2015 2:45 PM
To: Bill Cullen
Subject: RE: SWF-2015-00107 - Temple Recycling and Disposal Facility PCN for NWP 39

Good Afternoon,

I have received comments from Texas Parks and Wildlife in a letter dated 16 December 2015, a few of which require a response by your office.

1. It appears that Pond A is connected downstream through an unnamed tributary to Williamson Branch, TP&W contends that this pond is jurisdictional and should be included in the evaluation of impacts.
2. TP&W states that the proposed mitigation was not calculated correctly using the Steele Creek Mitigation Bank stream equation.
3. To assist in answering the statement by TP&W that the proposed stream impacts will result in a decrease in downstream function that's directly attributable to the proposed project, please provide information as to the impacts downstream from the proposed project.

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16 December 2015

Mr. Steve Lindamood
Regulatory Branch
U.S. Army Corps of Engineers
P.O. Box 17300
Fort Worth, Texas 76102-0300

Re: Permit Application Number SWF-2015-00107
Temple Recycling and Disposal Facility, Bell County, TX

TPWD staff has reviewed the pre-construction notification for permit application number SWF-2015-00107, the proposed Temple Recycling and Disposal Facility from Waste Management of Texas. The proposed project is located in Temple, TX in Bell County. The facility entrance is located at 706 Landfill Road approximately 0.25 miles east of the intersection of Highway 363 and Little Flock Road in the Texas Blackland Prairie ecoregion at 31.0730 N, 97.2972 W. The project will expand an existing landfill. The project will impact an unnamed ephemeral tributary to Williamson Branch.

The proposed impacts to waters of the U.S. (WOUS) include permanent impacts to 344 lf (0.016 ac) ephemeral stream. The applicant is requesting that the district engineer waive the 300 linear foot limit for use of Nationwide Permit (NWP) 39. The applicant plans to mitigate for loss of Waters of the U.S. through the purchase of 0.07 credits from Steele Creek Mitigation Bank.

TPWD staff has several concerns with this project including appropriate avoidance, minimization, assessment and mitigation of impacts, as well as cumulative impacts to headwater drainages.

No alternative's analysis was provided. Alternative configurations of the detention pond should be evaluated to determine whether impacts to the stream could be avoided.

Also, from the aerial photos and attached site photos, it appears that Pond A (In figure 6 of Attachment E of the Delineation) may connect to the unnamed tributary to Williamson Branch, which would make it jurisdictional as well. This should be evaluated.

It does not appear that a functional assessment has been performed. 33 CFR §332.3(f)(1) of the Final Rule for Compensatory Mitigation for Losses of Aquatic Resources requires that, "In cases where appropriate functional or condition assessment methods or other suitable metrics are available, these methods should be used where practicable to determine how much compensatory mitigation is

required.” If a functional assessment is not performed at the impact site the resource should be presumed to be of the highest quality. Aquatic resources should be replaced at a minimum 1:1 ratio with respect to both area (i.e. linear feet and/or acreage) and function. TPWD requests the opportunity to review and comment on the applicant’s assessment of stream quality. The stream to be impacted has been called low quality for the purpose of mitigation bank credit calculation, but a functional assessment has not been provided to support this classification.

Also regarding the proposed mitigation, the Steele Creek Mitigation Bank stream conversion equation does not calculate the area to be mitigated based on the Ordinary High Water Mark. Instead it uses the Channel Corridor Width which is “synonymous with the width of the active riparian zone.” If stream mitigation is to be calculated based on area instead of linear feet, it should at least be based on the width specified in the mitigation banking document.

TPWD staff is concerned that the proposed modification of this streams will result in the irreplaceable loss of valuable stream habitat and function in this region. In fast-growing urban areas, streams are often severely and irreversibly altered for development and flood control purposes. On a regional scale, the eradication and/or channelization of these streams results in a large cumulative impact to the watershed. If the project is permitted a monitoring plan should be implemented to assess the stability of on-site stream functions downstream of the impacts. A decrease in the functionality of the stream attributable to the project should require further mitigation.

TPWD staff appreciates the opportunity to provide comments on this proposed project. As proposed, the project includes elements that pose substantial adverse direct, indirect, and cumulative effects to aquatic resources. Therefore, based upon concerns about appropriate avoidance, minimization, assessment and mitigation of impacts, as well as cumulative impacts to headwater drainages, TPWD concludes that the proposed project should not be authorized until these issues are fully addressed. Questions can be directed to Beth Bendik in Austin (512-389-8521).

Sincerely,



Thomas G. Heger
Watershed Conservation Team Leader

TGH:bmb