

APPENDIX G-2:
PSOMAS, BIOLOGICAL RESOURCES OF THE
PROPOSED VILLAGE AT PLAYA VISTA PROJECT,
MARCH 2003



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

April 19, 2002

REPLY TO

ATTENTION OF

Office of the Chief
Regulatory Branch

Playa Capital Corporation
Attention: Marc Huffman
12555 West Jefferson Boulevard, Suite 300
Los Angeles, California 90066

Dear Mr. Huffman:

Reference is made to your request of April 11, 2002 to amend Permit No. 90-00426-EV which authorized you to impact 16.1 acres of waters of the United States, including wetlands, for the creation of a 52-acre freshwater wetland/riparian corridor and for the placement of fill material, construction of storm drains and infrastructure improvements associated with Phase 1 of the Playa Vista project in wetlands adjacent to Ballona Creek in the City of Los Angeles, Los Angeles County, California.

Under the provisions of 33 Code of Federal Regulations 325.6(d), the start date for Permit No. 90-00426-EV is to remain the same and the completion date for the authorized activities in waters of the United States is hereby extended from July 1, 2002 to July 1, 2012.

The terms and conditions of Permit No. 90-00426-EV, except as changed herein, remain in full force and effect.

Please note that a copy of this letter is being forwarded to U.S. Fish and Wildlife Service, Attn: Mr. Jim Bartel, 2730 Loker Avenue West, Carlsbad, California 92008; U.S. Environmental Protection Agency, Attn: Mr. Tim Vindlinski, Wetlands and Dredged Material Section (W-7-2), 75 Hawthorne Street, San Francisco, California 94105; California Department of Fish and Game, Attn: Charles Raysbrook, 4949 View Ridge Ave., San Diego, CA 92123. If you have any question concerning this matter, please contact Dr. Aaron O. Allen of my staff at (805) 585-2148.

Sincerely,

Mark F. Sudol, D.Env.
Chief, Regulatory Branch





DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325
June 25, 1997

REPLY TO
ATTENTION OF:

Office of the Chief
Regulatory Branch

Mr. Robert Miller
Maguire Thomas Partners-
Playa Vista
13250 Jefferson boulevard
Los Angeles, CA 90094

Dear Mr. Miller:

Reference is made to your request to amend Permit No. 90-00426-EV which authorized you to create a 52 acre freshwater wetland & fill 8 acres of wetlands, with the potential (see Permit No 90-00426-EV) to authorize mitigation for future fill for future permits in Ballona Estuary, Los Angeles County, California.

We have reviewed the original permit, the record of your activities over the last five years relative to the permit, public interest concerns, and the final draft Habitat Mitigation and Monitoring Plan (HIMMP). Based on this information, under the provisions of 33 Code of Federal Regulation 325.6(d), the start date is to remain the same and the completion date is extended from July 1, 1997 to July 1, 2002.

The terms and conditions of Permit No. 90-00426-EV remain in full force and effect.

Please note that a copy of this letter is being forwarded to those agencies on the enclosed list. If you have any concerns or questions, please contact Cheryl Conel of my staff at (213) 452-3411.

Sincerely,


Richard J. Schubel
Chief, Regulatory Branch

Enclosure

Copies forwarded:

Fish and Wildlife Enhancement
U.S. Fish and Wildlife Service
Attn: Mr. Jack Fancher
2730 Loker Avenue West
Carlsbad, California 92008

U.S. Environmental Protection Agency
Attn: Mr. James Romero
Wetlands and Dredged Material Section (W-7-2)
75 Hawthorne Street
San Francisco, California 94105

California Department of Fish and Game
Attn: Mr. Richard Nitsos
330 Golden Shore, Suite 50
Long Beach, California 90802

U.S. Environmental Protection Agency
Attn: Mr. Steven John
911 Wilshire Boulevard
Los Angeles, California 91017-3401

13250 Jefferson Boulevard
Los Angeles CA 90054
310 822 0074

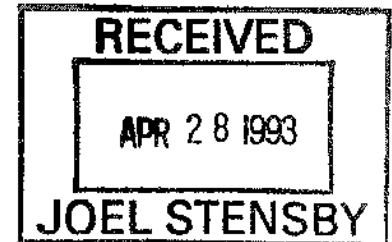
Memorandum

date: April 28, 1993

to: Joel Stensby

cc: David Vena
Nelson Rising
Doug Gardner

Randy Johnson
Tom Ricci
Richard Hammond



Maguire
Thomas
Partners

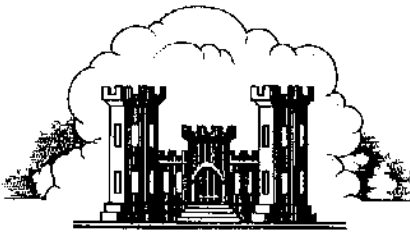
from: John McAlister

re: **ORIGINAL EXECUTED COPY OF CORPS OF ENGINEER
PERMIT FOR THE FRESHWATER WETLAND SYSTEM**

Attached to this memo is the original executed copy of the Corps of Engineer Permit for the freshwater wetland system. I am transmitting this original copy to you at the suggestion of David Vena who believes that you should keep a master file of all permits for the Playa Vista project. David believes that you should also have the package which constitutes the Coastal Development Permit for the freshwater wetland system. I will make sure that the Coastal Development Permit original documentation is made available to you for your file as well.

JTM/cmm

Attachment



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

DEPARTMENT OF THE ARMY PERMIT

Permittee:

Maguire Thomas Partners-Playa Vista
13250 Jefferson Boulevard
Los Angeles, CA 90094

Permit Number:

90-426-EV

Issuing Office:

Los Angeles 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 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:

1. To place fill material in a total of 8.1 acres of delineated wetlands for the purpose of constructing a mixed use development known as Playa Vista. 3.5 acres of these wetlands are located in Area D, 1.8 acres in Area C, and 2.8 acres in Area B (see attached drawings).
2. To construct a retention basin/freshwater marsh on the east end of Area B that will result in the loss of 4.0 acres of jurisdictional wetlands for the construction of a berm which will border and confine the freshwater marsh area and allow it to serve as a water cleansing basin. An additional 4.0 acres of existing wetlands in this area will be impacted by construction in this area, but will be restored and incorporated into the freshwater wetland system.

DIGGER
←

Project Location: The Ballona wetlands and tributaries, including Centinela Ditch at the coast of central Los Angeles County, California, north of Los Angeles International Airport and south of and adjacent to Marina del Rey.

Permit Conditions

General Conditions:

1. The time limit for completing the authorized activity ends on July 1, 1997. 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 from 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.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

Special Conditions: See attached sheet.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

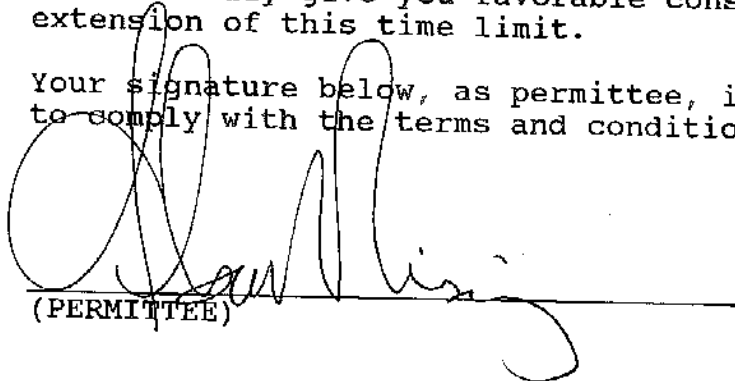
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

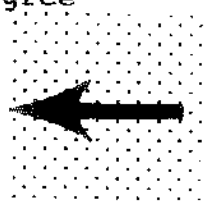
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

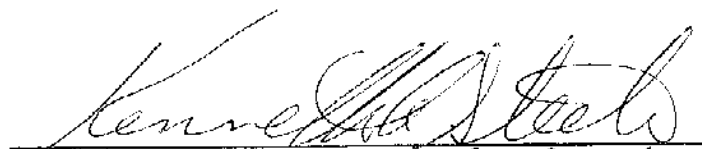

(PERMITTEE)

4/16/93
(DATE)



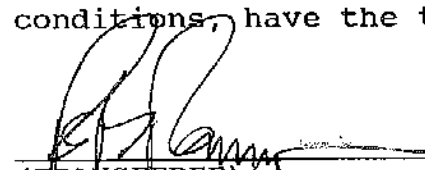
This permit becomes effective when the Federal official, designated to

act for the Secretary of the Army, has signed below.

for 
CHARLES S. THOMAS LTC, Corps of Engineers
Colonel, Corps of Engineers
District Engineer

12/6/92
(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.


(TRANSFeree)

as of 9/2/97
(DATE)

SPECIAL CONDITIONS FOR
Permit Number 90-326-EV

Permit #
DIFFERS

1. In providing mitigation for this permit and future planned projects at Playa Vista, the permittee shall construct 51.1 acres of freshwater wetlands as set forth in the permit application dated August 15, 1990, as amended August 1, 1991. Further, the permittee shall establish 5.3 acres of salt marsh.

The freshwater wetlands will incorporate a riparian corridor of 25 acres and a freshwater marsh of 26.1 acres with the following components and final plan to be approved by the Corps as provided in Special Condition 2.b.:

Riparian Corridor	6.8 acres
Marsh	6.7 acres
Willow Woodlands	<u>11.5</u> acres
Mixed Riparian	25.0 acres
Subtotal	
Freshwater Marsh	9.7 acres
Open Water	7.2 acres
Marsh	5.5 acres
Willow Woodland	<u>3.7</u> acres
Mixed Riparian	26.1 acres
Subtotal	

This constructed freshwater wetland complex shall mitigate the loss of 10.5 acres of freshwater and "mixed" wetlands as authorized in this permit. They will also provide mitigation for the anticipated loss of up to 8.3 freshwater and "mixed" wetland acres in Areas A and B, the dredge/fill of which is not authorized here, to be credited upon issuance of the future permits and the accomplishment of the mitigation phasing required in Special Condition 6. No created wetland acreage shall be sold, exchanged, or otherwise transferred to another project for mitigation. The 3.5 acres of wetland patches to be filled in Area D shall be mitigated by creation of 3.5 acres of wetland habitat within the proposed 51-acre freshwater wetland complex. The remaining acres of the constructed complex will more than compensate for the 15.3 acres of freshwater and mixed wetlands to be dredged/filled.

The permittee shall designate a site for the 5.3 acres of salt marsh mitigation within the area proposed to be restored as salt marsh pursuant to a future permit application. The 5.3 acres of restored salt marsh shall mitigate on an acre for acre basis the loss of 1.4 acres of salt marsh under this permit and the loss of up to 3.9 acres as a result of future permits.

2. Prior to the alteration of any waters of the United States, the permittee shall submit to the Corps the following documents for review and approval. The Corps will consult with the U.S. Fish and Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), California Department of Fish and Game (CDFG) and/or Environmental Protection Agency (EPA):

- a. Final engineering drawings for the constructed wetlands. The drawings for the riparian corridor shall incorporate a clay liner underneath the upper two-thirds of the riparian corridor down to the area where the liner intersects the groundwater table.
- b. Final revegetation plans for the constructed wetlands. These plans shall specify the detailed program for implementing the schematic plans contained in the permit application dated August 15, 1990, as amended. These plans shall clearly identify project goals, methods and timing of plantings, irrigation regimes, distribution and densities of plants, and species mix.
- c. Detailed 5-year monitoring program for the constructed wetlands as approved by the California Coastal Commission. Such a plan shall provide for monitoring and an annual report to the Corps covering: (1) water quality during the wet and dry seasons; (2) quarterly monitoring of dissolved oxygen, temperature and conductivity; (3) annual sediment sampling; (4) quarterly mapping of inundation patterns; (5) semi-annual (May and September) surveys of vegetation at selected transects; (6) annual mapping of the vegetative communities based on a fall survey; (7) quarterly census of bird use of various habitat types; and (8) analysis of progress toward the establishment of wetland functional values as provided for in Special Condition 3.a., below. The annual monitoring report shall also include a remediation plan and a schedule for implementation of such plan should there be a failure in any component of the constructed wetland system.

During Year 1 the planting density for each plant community will be at least 80% of that proposed in the revegetation plan as specified by Special Condition 2.b., above. In Years 2 through 5, the freshwater wetlands system must be progressing towards the documented structural complexity and habitat functional values as provided for in Special Condition 3.a., below.

- d. A plan for mosquito control. Any changes to this plan deemed necessary by Mosquito Abatement agencies during project construction and development shall be reviewed by the Corps prior to implementation to assure adverse impacts to essential elements of the constructed wetlands are avoided and minimized.

- e. An Environmental Baseline Study that describes the pre-construction biological, physical, and hydrological values of the constructed wetlands and the existing wetlands to be dredged/filled. The study shall provide, at a minimum, the list of native plant species found in the existing wetlands at Playa Vista to be dredged/filled and a list of birds and other vertebrate animals using such wetlands.
3. At least 60 days prior to the alteration of any waters of the United States, the permittee shall submit to the Corps for review the information described below. Final approval of documents may be concurrent with or, for the limited purpose of construction in Area D and for fill necessary for the wetlands system itself, within 90 days of the initiation of construction. The Corps will consult with the USFWS, NMFS, CDFG and/or EPA prior to approving the documents:
 - a. A description of habitats to be established in the constructed wetlands. Included will be a description of the goals of the mitigation project in terms of wetlands functions to be achieved, construction activities, schedule and details of the monitoring program and remediation plan, and criteria to be used to establish that the functional biological values of the constructed wetland will exceed those of the wetlands to be lost. The values are to be consistent with the documented habitat values of comparable components of existing freshwater wetland systems at Madrona Marsh, Big Canyon, Whittier Narrows, Harbor Lake, Malibu Creek and/or San Joaquin Marsh or comparable components of existing salt marshes at Anaheim Bay, Bolsa Chica or Upper Newport Bay. Values will include species diversity, structural diversity, plant growth and reproduction, presence of indicator species representing diverse feeding guilds, and/or other appropriate objective criteria
 - b. A description of the stormwater runoff volume generated by a typical large 1-year frequency storm event based on the City of Los Angeles Peak Rate Hydrology Method, and a runoff measurement program to demonstrate that the freshwater marsh will function to contain that typical storm event when Playa Vista is fully built out. The determination of the success of this design may not be able to be demonstrated until Area D is fully constructed.
 - c. A maintenance plan for the constructed wetlands specifying removal of undesired vegetation, maintenance of the flood carrying capacity of the riparian corridor, and removal of contaminated sediments in the freshwater marsh, all in perpetuity.
 - d. An open space deed restriction to the benefit of the people of the State of California for the property where the constructed wetlands are sited. This document shall be

executed and recorded in phases consistent with the construction of the wetland system (see Special Condition 6.a.). The deed restriction shall preclude all development activities from occurring within the freshwater wetlands system except for those activities necessary for the creation, maintenance, monitoring, management, and remediation for habitat, flood control and water quality purposes. The deed restriction shall also provide for limited public access to a perimeter trail system, viewing areas, and interpretive exhibits.

- e. A financial instrument assuring that long-term monitoring, maintenance, and remediation will be available to sustain in perpetuity the functional values of the wetland system as described in 3.a., above. Such assurance may consist of a bond as described in 33 CFR 325.4(d) or other means such as a public or non-profit management entity and a commitment from a property owner's association or assessment district having the power to impose assessments or liens with respect to such commitment upon property within the Playa Vista project. Until the proposal for financial assurance is implemented, the financial obligation shall remain with the permittee.
 - f. A force majeure or catastrophe clause concerning the permittee's obligation to remediate after certain catastrophic events.
4. Prior to any dredge or fill of wetlands, the permittee shall obtain:
- a. Section 401 certification or a waiver from the State Water Quality Resources Control Board component.
 - b. Certification or waiver from the California Coastal Commission that such activity is consistent with the Coastal Zone Management Plan for that component.

Copies of these certifying documents or statements of waiver shall be submitted to the Corps for review and will become part of this permit as issued. The water quality standards and water management performance criteria as set forth in the conditions of the water quality certification issued by the State Water Resources Control Board and in conditions of the Coastal Zone consistency certification shall be the standards of performance for this permit.

5. The permittee shall submit to the Corps for review a summary monitoring report within 6 months of the end of the fifth complete year following the completion of the construction of each component of the wetlands system. Such report shall contain the following information:

- a. A comparison of the observed values of the constructed wetland system with those of the wetlands dredged/filled and with those documented for comparable components of existing regional freshwater wetland systems as provided for in Special Condition 3.a., above;
- b. An analysis of the observed water flows into the freshwater wetland system to handle the volume of water generated by a 1-year storm event, the frequency at which the spillway conveyed water into the proposed salt marsh restoration area during the five-year monitoring history, and an assessment of the need to pump excess stormwater into Ballona Channel during times of heavy runoff;
- c. An evaluation of water quality parameters as measured by seasonal water quality sampling and water chemistry analyses for which the required sampling regimes and key water quality parameters are described in the water quality monitoring section as described in 2.c, above. Concentrations of various specified water chemical parameters shall not exceed those level specified and described in the water quality certification conditions required in Special Condition 4, above.
- d. An analysis of the management options applied during the previous 5 years;
- e. Recommendations for management options to be considered for the future;
- f. Discussion of management strategies for normal, wet and dry years; and
- g. Description of additional remediation and monitoring, if there is a failure in a constructed wetland component.

If the habitat values, water quality parameters, or freshwater flow management of the constructed wetlands are found to satisfy the threshold criteria as specified above, the project phase shall be deemed a success. If, however, the functions and values of the constructed wetlands are found to fall substantially short of the required criteria, the Corps will, following consultation with the USFWS, NMFS, CDFG and/or EPA, require further remediation measures, and a long-term monitoring plan and require modifications to management, monitoring or remediation proposals. The permittee shall implement such long-term management and monitoring plans and/or remediation programs to the satisfaction of the Corps. Annual reports shall thereafter be provided to the Corps until the habitat goals are reached.

6. Prior to any dredge/fill of wetlands in Areas B and C for the mixed-use development pursuant to this permit or any

dredge/fill of wetlands to widen or realign Culver Boulevard or for marina/mixed use development in Area A provided for by any subsequent permits, the permittee shall complete the following project elements:

- a. Construction of Phase I of the freshwater wetlands system, to include planting and first year of monitoring. Phase I will consist of the construction of the freshwater marsh in Area B and western portion of the riparian corridor in Area D, a total of approximately 34 acres.
- b. Demonstration that Phase I is a success. i.e., the constructed wetlands are progressing toward achieving habitat values comparable to those document for components of existing regional freshwater wetlands systems based on criteria established by Special Condition 3.a Progressing toward achieving these values in Phase I shall include, at a minimum, construction of and planting of that portion of the system, one year of monitoring and identification of Phase I, Year 1 remedial measures and the implementation of such initial remediation if needed, to the reasonable satisfaction of the Corps to ensure the function values are realized; and
- c. Obtain Corps approval of all documentation required by Special Conditions 2, 3, and 4 as it pertains to Phase I wetland construction.

Dredge/fill activities in Area D may proceed concurrently with the construction of Phase I of the wetland restoration. Construction of Phase II and Phase III of the wetland system (8 and 9 acres respectively of riparian corridor in Area D, moving eastward, upstream) shall commence and be completed in a timely manner in conjunction with adjacent development in Area D by the permittee.

7. If over the course of permit review for the salt marsh restoration, the Corps determines that another salt marsh restoration alternative exists which is feasible to pursue based on the best science available, and which would require modification of the freshwater marsh to assure the optimal performance of the salt marsh, such modification shall be implemented and remain the obligation of the permittee.
8. The permittee shall provide all studies and information necessary to implement the Programmatic Agreement executed by the Advisory Council on Historical Preservation on October 22, 1991 (see attachment).
9. This permit is valid for five years from the date of issuance. Because of the size and complexity of the activity involved, it is understood that more than five years will be needed to undertake all of the permitted construction. Approximately six

months prior to permit expiration, the permittee shall submit a written request for an extension.

DEPARTMENT OF FISH AND GAME

South Coast Region
4949 Viewridge Avenue
San Diego, California 92123
(858) 467-4201
FAX (858) 467-4235



June 12, 2003



Playa Capital Company, LLC
Attn: Catherine Tyrrell
12555 Jefferson Boulevard # 300
Los Angeles, California 90066

Re: Amendment to Streambed Alteration Agreement No. 5-639-93

Dear Ms. Tyrrell:

The Department of Fish and Game (Department) has reviewed your request to amend Streambed Alteration Agreement number 5-639-93 ("Agreement") dated May 12, 2003. The Agreement covers placing 120,800 cubic yards of fill within: (1) Centinela Ditch; (2) isolated wetlands in Area D of the Playa Vista project; and (3) freshwater marsh in Area B of the Playa Vista project. The Department has extended the Agreement until December 31, 2003. The current Operator is Playa Capital Company, LLC (Playa), as successor-in-interest to Maguire Thomas Partners-Playa Vista.

Pursuant to Fish and Game Code Section 1600 et seq. this letter, when countersigned by you, amends our agreement as follows:

1. The Agreement is extended for five years from the date this letter is countersigned.
2. The last sentence of Condition 26, found on Page 7 of the Agreement limiting the number of extensions is deleted from the Agreement.

Be advised that all terms of Agreement 5-639-93 remain in force throughout the new term of the agreement. A copy of said Agreement and this amendment letter must be kept on site and be shown upon request to Department personnel during all periods of work. Two copies of this letter are being sent to you. Please return one signed original to the Department of Fish and Game, at 4949 Viewridge Avenue, San Diego, CA 92123, Attention: Streambed Alteration Team.

If you have any questions or comments pertaining to this letter, please contact Brad Henderson at (310) 214-9950.

Sincerely,

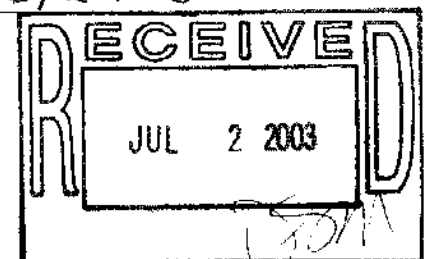
Bradley J. Henderson
Environmental Scientist

Concurrence:

Catherine Tyrrell
Coastal and Environmental Affairs Director

Date:

6/26/03



C. Patti, Doug, Marc, K. Trimmer

CALIFORNIA DEPARTMENT OF FISH AND GAME
330 Golden Shore, Suite 50
Long Beach, California 90802

Notification No. 5-639-93
Page 1 of 8

AGREEMENT REGARDING PROPOSED STREAM OR LAKE ALTERATION

THIS AGREEMENT, entered into between the State of California, Department of Fish and Game, hereinafter called the Department, and Robert Miller of Maguire Thomas Partners-Playa Vista, State of California, hereinafter called the Operator, is as follows:

WHEREAS, pursuant to Section 1600 of California Fish and Game Code, the Operator, on the 29th day of October 1993, notified the Department that they intend to divert or obstruct the natural flow of, or change the bed, channel, or bank of, or use material from the streambed(s) of, the following water(s): Centinela Ditch and associated wetlands, tributary to Ballona Channel, Los Angeles County, Venice Quad Map, California, County Assessor's Parcel Nos. 000 4211 014 013, and 014.

WHEREAS, the Department has determined that such operations may substantially adversely affect existing fish and wildlife resources including: all aquatic resources and wildlife in the area.

THEREFORE, the Department hereby proposes measures to protect fish and wildlife resources during the Operator's work. The Operator hereby agrees to accept the following measures/conditions as part of the proposed work.

If the Operator's work changes from that stated in the notification specified above, or in the *BALLONA WETLANDS FRESHWATER WETLAND SYSTEM Habitat Mitigation and Monitoring Plan*, this Agreement is no longer valid and a new notification shall be submitted to the Department of Fish and Game. Failure to comply with the provisions of this Agreement and with other pertinent code sections, including but not limited to Fish and Game Code Sections 5650, 5652, 5937, and 5948, may result in prosecution.

Nothing in this Agreement authorizes the Operator to trespass on any land or property, nor does it relieve the Operator of responsibility for compliance with applicable federal, state, or local laws or ordinances. A consummated Agreement does not constitute Department of Fish and Game endorsement of the proposed operation, or assure the

Lm

Notification No. J-639-93
Page 2 of 8

Department's concurrence with permits required from other agencies.

This Agreement becomes effective the date of Department's signature and terminates on December 31, 1997 for project construction only. This Agreement shall remain in effect for the time necessary to satisfy the terms/conditions of this Agreement.

1. The following provisions constitute the limit of activities agreed to and resolved by this Agreement. The signing of this Agreement does not imply that the Operator is precluded from doing other activities at the site. However, activities not specifically agreed to and resolved by this Agreement affecting Centinela Ditch and associated wetlands shall be subject to separate notification pursuant to Fish and Game Code Sections 1600 et seq.

2. The Operator proposes to alter the streambed by placing 120,800 c.y. of fill within Centinela Ditch and isolated wetlands in Playa Vista Area D, and within freshwater marsh in Area B, in order to complete Phase I of the multi-purpose Playa Vista project as described in the *BALLONA WETLANDS FRESHWATER WETLAND SYSTEM Habitat Mitigation and Monitoring Plan (HMMP) and Technical Appendices*. Total wetlands acreage to be converted to uplands includes approximately 4.3 acres of freshwater marsh in Area B, and approximately 2.2 acres of wetlands and approximately 1.3 acres of Drainage Ditch in Area D, for a combined total of approximately 7.8 acres. Mitigation for the loss of wetlands during the First Phase of the Playa Vista project and for other project phases will include the construction of a 25-acre riparian corridor, approximately 9 acres of which will be constructed as part of Phase I, and the freshwater marsh comprising of 26.1 acres. The Centinela Ditch is largely a tule-lined ditch and contains intermittent flows of urban run-off from upstream areas. The isolated wetlands include both areas of willow and mulefat as well as areas of non-native grasslands described in Chapter 1 of the HMMP. A diagram of the wetlands to be filled in Phase I and in subsequent project phases is provided as Figure 4 of the HMMP.

3. The agreed upon work includes activities associated with No. 2 above. The project area is located on Assessor's Parcel Nos. 00-4211-2014-013, and 014, in USGS Venice Quadrangle Map, Los Angeles County. Specific work areas and mitigation measures are described in the HMMP submitted by the Operator and shall be implemented as proposed unless directed differently by this Agreement.

4. The Operator shall fully implement the wetland mitigation and monitoring plan as approved by the U.S. Army Corps of Engineers, the California Coastal Commission and

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described in the HMMP. The project shall include construction of a freshwater marsh and at least 9 acres of the 25-acre riparian corridor. The improved channel capacity for the Centinela Ditch will carry the 100-year flood flows and will be sufficiently vegetated to serve as a wildlife corridor. Water of sufficient quality and quantity shall be provided to the freshwater wetland system to maintain habitat values in perpetuity.

5. Disturbance or removal of vegetation shall not exceed the limits provided by the Department in Condition 7. Restoration shall include the revegetation of stripped or exposed areas using vegetation consistent with the revegetation plan approved by the Corps of Engineers, California Coastal Commission and as described in the HMMP (See Chapter 5, especially Figures 10, 11, 12 and Technical Appendix 11).

6. Construction site preparation shall be made so that runoff from steep, erodible surfaces will be diverted into stable areas with little erosion potential. Frequent water checks shall be placed on dirt roads, cat tracks, or other work trails to control erosion.

7. During construction, the construction area shall be flagged to identify the limits of the agreed upon work area within the stream or wetlands. This work area shall not exceed 20 feet upstream or downstream from the construction footprint. Native vegetation shall not be removed or intentionally damaged beyond a distance of 5 feet from the identified border of the construction area.

8. The Operator shall have a biologist on site during the removal of vegetation to avoid impacts to nesting birds and sensitive wildlife.

9. All planting should be done, as feasible, between December 1 and February 1 to take advantage of the winter rainy season.

10. An annual report, consistent with Chapter 7, Section C of the HMMP shall be submitted to the Department by Jan. 1 of each year for 5 years after planting the Phase I of freshwater wetland system. This report shall include, at a minimum, the survival, % cover, and height of both tree and shrub species. The number by species of plants replaced, an overview of the revegetation effort, and the method used to assess these parameters shall also be included. Photographs from designated photo stations taken in late summer to early fall shall be included. These photographs shall be dated. Annual reports documenting Year 3 and Year 5 following planting shall include aerial photographs at a scale of 200:1.

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Within 6 months of the end of the fifth complete year following the completion of the construction of each component of the freshwater wetland system, the Operator shall submit a report to the Department that contains the following information:

- a. A comparison of the observed values of that phase of the freshwater wetland system with those of the wetlands dredged/filled and with those documented for comparable components of existing regional freshwater wetland systems as provided for in Chapter 1 of the HMMP;
- b. An analysis of the observed water flows into the freshwater wetland system to handle the volume of water generated by a 1-year storm event, the frequency at which the spillway conveyed water into the proposed salt marsh restoration area during the five-year monitoring history, and an assessment of the need to pump excess stormwater into Ballona Channel during times of heavy runoff;
- c. An evaluation of water quality parameters as measured by seasonal water quality sampling and water chemistry analyses for which the required sampling regimes and key water quality parameters are described in the monitoring program described in Appendix 13 of the HMMP.
- d. An analysis of the management options applied during the previous 5 years;
- e. Recommendations for monitoring and management options to be considered for the future;
- f. Discussion of management strategies for normal, wet and dry years; and
- g. Description of additional remediation and monitoring, if there is a failure in a phase of the freshwater wetland system.

If the habitat values, water quality parameters, or freshwater flow management of each phase of the freshwater wetland system are found to satisfy the criteria established in Chapter 3 of the HMMP, the project phase shall be deemed a success. If, however, the functions and values of that phase of the freshwater wetland system are found to fall substantially short of the required criteria, the Department

shall ~~will~~ require further remediation measures and an additional monitoring plan. Future management ~~should~~ also be described.

The Operator shall implement such long-term management and

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monitoring plans and/or remediation programs to the satisfaction of the Department. Annual reports shall thereafter be provided to the Department until the habitat goals are reached.

11. The Operator shall have a qualified biologist conduct surveys of the revegetated area to document the bird, wildlife and fish use of the site for the first year and for the next 4 years consistent with the monitoring plan approved by the California Coastal Commission and as provided in Appendix 13 of the HMMP. Summary reports shall be submitted to the Department along with copies of all field notes in the annual report. The surveys shall be initiated one year after the revegetation has occurred and shall continue until the initial monitoring of the revegetation site is completed or a minimum of 5 years.

12. The Operator shall maintain the freshwater wetland system as provided for in Chapter 6 of the HMMP and in the mosquito abatement plan (Appendix 12 of the HMMP). Modifications of either maintenance plan shall be coordinated with the Department.

13. An open space deed restriction to the benefit of the people of the State of California shall be recorded on the Phase I of the freshwater wetland system to maintain the area as wildlife habitat in perpetuity. This document shall be executed and recorded in phases consistent with the construction of the wetland system. The deed restriction shall preclude all development activities from occurring within the freshwater wetlands system except for those activities necessary for the creation, maintenance, monitoring, management, and remediation for habitat, flood control and water quality purposes. The deed restriction shall also provide for limited public access to a perimeter trail system, viewing areas, and interpretive exhibits.

14. This Agreement does not authorize the construction of any temporary or permanent dam, structure, flow restriction or fill except as described in the Operator's notification.

15. The storm drain lines/culverts and the outfall structure shall be properly aligned within the stream and otherwise engineered, installed and maintained, to assure resistance to washout, and to erosion of the stream bed, stream banks and/or fill. Water velocity shall be dissipated at the outfall, to reduce erosion.

16. Rock, riprap, or other erosion protection shall be placed in areas where vegetation cannot reasonably be expected to become reestablished.

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17. Installation of bridges, culverts, or other structures shall be designed to carry 100-year flood flows. Bottoms of temporary and permanent culverts shall be placed at or below stream channel grade.

18. During construction, existing stream flows shall remain unimpeded and be provided during all times that the natural flow would have supported aquatic life. Post-construction streamflows shall be consistent with the system design and management as provided for and discussed in the HMMP. Modification of post-construction streamflow management practices shall be coordinated with the Department.

19. Areas of disturbed soils with slopes toward a stream shall be stabilized to reduce erosion potential. Planting, seeding and mulching is conditionally acceptable. Where suitable vegetation cannot reasonably be expected to become established, non-erodible materials shall be used for such stabilization. Any installation of non-erodible materials not described in the original project description shall be coordinated with the Department. Coordination may include the negotiation of additional Agreement provisions for this activity.

20. The freshwater wetland system and associated development shall be built as described in the HMMP. Fill shall be limited to the minimal amount necessary to accomplish the above described activities. Fill construction materials shall all consist of clean material.

21. Any materials placed in seasonally dry portions of a stream or lake that could be washed downstream or could be deleterious to aquatic life shall be removed from the project site prior to inundation by high flows.

22. During construction, silt settling basins shall be located away from the Centinela Ditch to prevent discolored, silt bearing water from reaching the salt marsh portion of the Ballona Wetlands.

23. No equipment maintenance shall be done within or near any stream channel or lake margin where petroleum products or other pollutants from the equipment may enter these areas under any flow.

24. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete or washings thereof, oil or petroleum products or other organics or earthen material from any logging, construction, or associated activity of whatever nature shall be allowed to enter into or placed where it may be washed by rainfall or runoff into, waters of the State. When operations are completed, any excess materials or debris

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shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any stream or lake.

25. The Operator shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the Operator to ensure compliance.

26. The Operator shall request an extension of this Agreement prior to its termination. Extensions may be granted for up to 12 months from the date of termination of the Agreement and are subject to Departmental approval. The extension request and fees shall be submitted to the Department's Region 5 Office at the above address. If the Operator fails to request the extension prior to the Agreement's termination then the Operator shall submit a new notification with fees and required information to the Department. Any activities conducted under an expired Agreement is a violation of Fish and Game Code Section 1600 et. seq. The Operation may request up to a maximum of 4 extensions of this Agreement.

27. All provisions of this Agreement remain in force throughout the term of the Agreement. Any provisions of the Agreement may be amended or the Agreement may be terminated at any time provided such amendment and/or termination is agreed to in writing by both parties. Mutually approved amendments become part of the original Agreement and are subject to all previously negotiated provisions.

28. The Operator shall provide a copy of this Agreement to all contractors, subcontractors, and the Operator's project supervisors. Copies of the Agreement shall be readily available at work sites at all times during periods of active work and must be presented to any Department personnel, or personnel from another agency upon demand.

* 29. The Operator shall notify the Department, in writing, at least five (5) days prior to initiation of construction (project) activities and at least five (5) days prior to completion of construction (project) activities. Notification shall be sent to the Department at 330 Golden Shore, Suite 50, Long Beach, CA 90802.

30. A financial commitment assuring that long-term monitoring, maintenance, and remediation will be available to sustain in perpetuity the functional values of the freshwater wetland system shall be provided to the Department with the notice of construction. Such notice shall be consistent with Appendix 10 of the HMMP.

* The Dept's signature on this Agreement constitutes 5 day notice of intent to commence construction and therefore waives 5 day notice.

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31. The Department reserves the right to enter the project site at any time to ensure compliance with term/conditions of this Agreement.

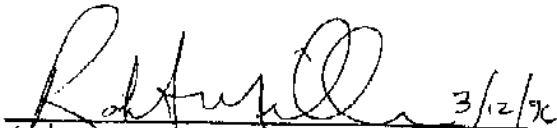
32. The Department reserves the right to suspend and/or revoke this Agreement if the Department determines that the circumstances warrant. The circumstances that could require a reevaluation include, but are not limited to, the following:


- a. Failure to comply with the term/conditions of this Agreement.
- b. The information provided by the Operator in support of the Agreement/Notification is determined by the Department to be incomplete, or inaccurate.
- c. When new information becomes available to the Department representative(s) that was not known when preparing the original terms/conditions of this Agreement.
- d. The project as described in the Notification/Agreement has changed, or conditions affecting fish and wildlife resources change.

CONCURRENCE

Operator

Dept. of Fish and Game

 3/12/96
(signature) (date)

 3/14/96
(signature) (date)

VICE PRESIDENT
(title)

Env. Specialist
(title)


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