

April 28, 2010

***U.S. Corps of Engineers-Galveston District
TNC Comment Letter – Proposed White Stallion Power Plant***

Mr. Steven Walls
Regulatory Branch
USCOE
P.O. Box 1229
Galveston, TX 77553-1229

Mr. Mark Fisher
Mail Code 150
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 73711-3087

**Subject: Permit Application Number SWG 2009-00945
White Stallion Energy Center, LLC**

My name is Jim Bergan, and I am the Director of Science and Stewardship for The Nature Conservancy of Texas. I previously submitted a letter dated 21 January 2010 (see attached) requesting that the above referenced permit application by the White Stallion Energy Center (WSEC) be denied. Recently, I have become aware of additional information related to this permit that compels me to supplement the previous letter and further fortifies the position of The Nature Conservancy that permit application SWG 2009-00945 be denied by the U.S. Corps of Engineers.

The Nature Conservancy (TNC) has recently reviewed sworn testimony by the CEO of the WSEC, Mr. Frank Rotundi, as well as the closing brief dated March 29, 2010 submitted to the Texas Commission on Environmental Quality and the State Office of Administrative Hearings by Mr. Tom Weber. The Conservancy is concerned about the matters raised in Tom Weber's letter as well as the contradictory and confusing testimony regarding the site plan configuration for the proposed WSEC plant. If there are inconsistent site plans, then TNC would like to know which site plan is accurate so we (as well as state/federal agencies) can properly evaluate the potential impacts.

What is clear at this time is that the WSEC project would entail dredging and filling a significant amount of material that will impact the navigable waters of the Colorado River (geomorphology, flow regime, saltwater intrusion, etc.) and the near coastal habitats represented by West Matagorda Bay. Also, even with the "new" site plan represented in the 404 application versus the air quality and water discharge permit applications, forested wetlands will still be destroyed—a wetland type within the Columbia Bottomlands area that is extremely diminished and imperiled.

In reference to potential environmental impacts to adjacent waters of West Matagorda Bay, the Conservancy also has concerns as to arrested freshwater flows into the diversion channel and bay habitat to the southwest. The Nature Conservancy is presently working towards a major oyster reef restoration project near Palacios Point called Half Moon Reef (see attached map). This

estimated \$5 million project is being conducted in partnership with the USCOE, Texas Parks and Wildlife Department, National Marine Fisheries Service and numerous private corporate and foundation partners. While the above referenced 404 permit does not relate directly to water quantity permitting issues, inflow and river function is a pertinent concern, related to SWG 2009-00945, and one that could compromise the success of the Half Moon Reef Project.

Summary: The Conservancy has reviewed TCEQ Administrative Hearing depositions and the closing brief by Mr. Tom Weber. Site plan discrepancies between the air quality, water discharge, and 404 CWA permit application processes are deeply concerning to the Conservancy. Impacts to proximate jurisdictional forested wetlands, associated river habitat and West Matagorda Bay with emphasis on future oyster reef restoration efforts are intractable aspects of the permit application. We also continue to be very concerned about the impact of the WSEC upon the Mad Island Marsh Preserve. The Nature Conservancy remains in concurrence with Texas Parks and Wildlife Department, United States Fish and Wildlife Service, and the United States Environmental Protection Agency in recommending denial of Permit Application Number SWG-2009-00945, White Stallion Energy Center, LLC.

Sincerely,

James F. Bergan, Ph.D.
Director of Science and Stewardship

cc: Laura Huffman, Texas State Director
John Herron, Director of Conservation Programs
Mark Dumesnil, Upper and Middle Coast Program Manager
Julie Sullivan, Mad Island Marsh Preserve Manager
Jeff Weigel, Director of Conservation Initiatives