

RESOLUTION NO. PA-R-002-2010

**A RESOLUTION OF THE PORT OF BAY CITY AUTHORITY OF MATAGORDA COUNTY, TEXAS REQUESTING THE UNITED STATES ARMY CORP OF ENGINEERS TO REQUIRE AN ENVIRONMENTAL IMPACT STATEMENT FOR WHITE STALLION ENERGY CENTER, LLC RE: PERMIT APPLICATION NO. SWG-2009-00945**

On this the 13<sup>th</sup> day of May, 2010, the Commissioners of the Port of Bay City Authority of Matagorda County, Texas met in regular session and the following Resolution was passed by the Commissioners of the Port of Bay City Authority of Matagorda County, Texas.

WHEREAS, the Port of Bay City Authority of Matagorda County, Texas, "the Port of Bay City Authority", is a Navigation District established pursuant Article XVI, Sect. 59 of the Texas Constitution and Chapters 62 and 63 of the Texas Water Code, and operates in Matagorda County, Texas; and

WHEREAS, the Port of Bay City Authority has the responsibility for the preservation, conservation, and navigation of inland and coastal waters of Matagorda County, Texas; and

WHEREAS, the Port of Bay City Authority currently has the legal and financial responsibility of assisting in the maintaining of a navigable channel in the Colorado River from the intersection of the Colorado River with the Gulf Intercostal Waterway, "the ICWW", north to the Port of Bay City Turning Basin at the Port of Bay City; and

WHEREAS, the Port of Bay City has in the past at great expense to the taxpayers of Matagorda County acquired real property along the Colorado River for the purpose of spoil disposal to be used when shoaling and accretions occur; and

WHEREAS, budgetary funding of the United States Army Corp of Engineers, "the USACOE", to be used for spoil removal and dredging has been substantially limited and reduced since 2003, thus requiring a larger local participation in the costs of dredging and maintaining the navigability of the Colorado River; and

WHEREAS, the Colorado River is a navigable channel from the ICWW to the Port of Bay City approximately sixteen miles north of the ICWW; and

WHEREAS, one of the primary responsibilities of the Port of Bay City Authority is to operate its Port of Bay City Turning Basin on the Colorado River, approximately sixteen miles north of the ICWW, and approximately one and one-half miles north of the proposed White Stallion Energy Center LLC property site location; and

WHEREAS, the narrowness and serpentine nature of the Colorado River channel will not support a substantial increase in large barge traffic and at certain locations only a single barge can travel at a time along the Colorado River channel; and

WHEREAS, the Port of Bay City Authority has previously on November 10, 2009, filed with the U.S. Army Corp of Engineers and the Texas Commission on Environmental Quality, "TCEQ", an opposition to the proposed permit application including the proposed open water discharge into the Colorado River pursuant to the application filed by White Stallion Energy Center LLC, permit application no. SWG-2009-00945; and

WHEREAS, the Port of Bay City is aware that numerous governmental agencies and environmental groups including the Texas Parks and Wildlife Department, United States Department of the Interior-Fish and Wildlife Service, the Nature Conservancy, the Sierra Club, the United States Environmental Protection Agency, "the EPA", and the Environmental Defense Fund, Inc., have requested that the permit pending before the USACOE either be denied or have raised serious questions concerning the granting of the permit application by White Stallion Energy Center, LLC without a full and timely review of all aspects of the permit application, including a request for an Environmental Impact Statement; and

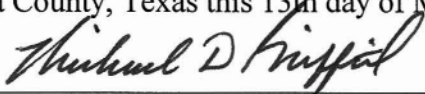
WHEREAS, the Port of Bay City Authority believes that the permit application of White Stallion Energy Center, LLC should be considered and acted upon by the United States Army Corp of Engineers only after an Environmental Impact Statement pursuant to the National Environmental Policy Act, "NEPA", 42 USC, section 4321 et seq, is conducted to determine the direct, indirect and cumulative impacts from the proposed project on the Colorado River;

NOW THEREFORE, BE IT RESOLVED that the Port of Bay City Authority of Matagorda County, Texas requests that the United States Army Corp of Engineers require that an Environmental Impact Statement be conducted concerning the proposed White Stallion Energy Center, LLC permit application no. SWG-2009-009945.

BE IT FURTHER RESOLVED, that without the completion of an Environmental Impact Statement, numerous issues will be left unanswered including but not limited to the effect of the White Stallion Energy Center, LLC, permit application as it relates to the effect on the Colorado River and its navigability, questions concerning flood elevations pursuant to upcoming Federal Emergency Management Agency, "FEMA", new flood zone classifications for the proposed site, the effect of site runoff into the Colorado River as it affects potential shoaling and land erosion at the site, questions concerning potential erosion, accretions and shoaling in the Colorado River below the proposed site location, questions concerning the proposed application to discharge sand/spoil and fill into the Colorado River at the permit site, questions concerning increased barge traffic and congestion in the Colorado River, questions concerning proper wetland delineation, and questions concerning White Stallion's proposed discharge of substantial amounts of sand and soil into the Colorado River while cutting away a portion of the east bank of the river at the White Stallion site to create a coal barge offloading area.

BE IT ADDITIONALLY RESOLVED that the Port of Bay City Authority seeks and requests full environmental impact statement to be completed prior to the issuance of the USACOE permit for the White Stallion Energy Center, LLC site.

Passed by the Port of Bay City Authority of Matagorda County, Texas this 13<sup>th</sup> day of May 2010.

  
MICHAEL D. GRIFFITH,  
Commissioner / Chairman

  
JOEY SLIVA, Commissioner / Secretary

  
KEN SILVERTHORNE, Commissioner

  
TAYLOR STEVES, Commissioner

  
TOMMY COUNTZ, Commissioner

  
GEORGE HARRISON, Commissioner