



April 8, 2013

Bay Harbor Improvement Association
Attn. Charles Winsor
Rt. 4, Box 190 B26
Galveston, TX 77554

Ref.: Conditional Approval of Amendment to Surface Lease No. SL 20100036
West Bay, Galveston County

Dear Mr. Winsor: ..

Staff of the Texas General Land Office (GLO) has reviewed the project described on the attached exhibit and will recommend project approval to the Land Commissioner. It is our understanding that the initiation of the project described is time sensitive. Therefore, **this letter is provided as conditional authorization to proceed with the placement of the additional breakwater structures, as depicted on the enclosed exhibit.** This authorization does not relieve your requirement to first obtain all other permits and authorizations by agencies with jurisdiction over the project, nor does it relieve your responsibility to assure the project is constructed to the configuration and dimensions listed on the enclosed exhibit.

SPECIAL CONDITIONS

1. Permit holder shall avoid disturbance to nesting waterbirds during the period of February 15th to September 1st. (The USFWS supports the placement of the breakwater if it can be accomplished immediately. Therefore the GLO will temporarily waive this Special Condition for the placement of the breakwaters, provided the work is completed while a USFWS biologist is on site.)
2. Breakwaters shall be built of sufficient height above the substrate to be visible above the water surface at mean high tide. Permanent markers/pilings shall be installed to U.S. Coast Guard specifications. Depth of the dredged area authorized herein shall not exceed 5 feet below Mean Low Tide. Over-dredging for advance maintenance is specifically prohibited.
3. Breakwaters shall be designed to allow for the ingress and egress of fish and for water circulation as shown in Attachment B. No dredge or fill material may be permanently placed on the breakwaters.
4. Lessee shall not place any permanent structures, improvements, or non-native vegetation anywhere on the Leased Premises.
5. Any build-up of sediment resulting from the transplant project, as determined by the GLO, will be considered property of the State of Texas.
6. Within sixty (60) days following any planting of the site, the Lessee shall provide the GLO La Porte Field Office with a survey delineating the location and square footage of the smooth cordgrass and the percent survival. Thereafter, Lessee shall be required to conduct an annual habitat assessment for a period of five years following completion of the planting efforts. Site photographs and a report summarizing results of the habitat assessment shall be submitted to the Lessor's La Porte Field Office no more than thirty (30) days

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