

DEPARTMENT OF THE ARMY  
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS  
P.O. BOX 60267  
NEW ORLEANS, LOUISIANA 70160-0267



Operations Division  
Eastern Evaluation Section

DEC 07 2010

SUBJECT: MVN 2010-2552 EOO

All State Financial Company  
% Thomas K. Brown  
P.O. Box 94  
Mandeville, Louisiana 70470

Gentlemen:

Reference is made to your Department of the Army (DA) permit application, requesting approval to construct an assisted living facility and multi-use commercial office space, in Covington, Louisiana, St. Tammany Parish.

Our permit decision reflects the national concern for both protecting and utilizing important resources such as those affected by your proposal. According to the Section 404(b)(1) Guidelines, a permit cannot be issued for a non-water dependent activity if there is a feasible less damaging alternative available. The applicant must demonstrate a lack of practicable alternatives and establish both a public and private need for the proposed project. Prior to permit issuance, we must determine that wetland impacts have been *avoided* to the maximum extent practicable, remaining unavoidable impacts are *minimized* and a mitigation plan is developed to *compensate* remaining impacts.

Based on letters from the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Louisiana Department of Wildlife and Fisheries, and in order to satisfy the requirements of our regulations, we request that you address the following items:

**1. Justification:** Please further discuss reasons for the proposed development. The information should clearly demonstrate reasons supporting the public interest in the development. Your submittal should also include, but is not limited to, a *market analysis* that shows the current and projected availability of similar developments and the public need for such developments, within the subject market area and why the proposed project must be located in wetlands to fulfill its overall purpose. Please be aware that you must address separately the assisted living and commercial office space since they are functions independent of one another.

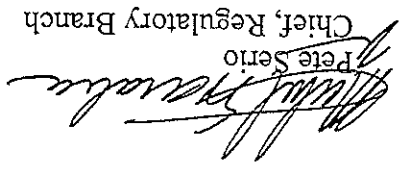
**2. Alternatives:** Please provide detailed information on alternative sites considered prior to proposing use of the current site. The search for available alternatives should take into consideration a reasonable geographic area (e.g. St. Tammany, Covington area, etc.). If you have not already explored less damaging practicable alternatives for your project, you should do so at this time. Your submittal should include a locality map of any sites or alternatives assessed, informative details and characteristics of each alternative, and inclusive reasons they were "not"

chosen. The alternative sites analysis should consider the two independent developments and include consideration for existing public alternatives for both aspects.

**3. Minimization:** If you have sufficient documentation justifying the public interest and can demonstrate that the proposed location is the least damaging practicable alternative, please consider on-site minimization. The current proposal appears to have large areas of greenspace in upland areas. Please reconfigure the development to reduce direct wetland impacts. Your response should consider, but are not limited to, the suggestions by EPA. If on-site minimization measures cannot be taken, explain why.

Please forward the requested information to this office within 20 days from the date of this letter so that we may continue our evaluation of your proposal. If you require additional time to prepare your response or if you have any questions, please contact Brad Laborde with this office at (504) 862-2225.

Sincerely,

  
Pete Serio  
Chief, Regulatory Branch

*Cc: All State Financial Company*



The proposed project is located near areas that may be inhabited by the red-cockaded woodpecker (RCW, *Picoides borealis*), federally listed as an endangered species. The red-cockaded woodpecker nests in open, park-like stands of mature (i.e., greater than 60 years of age) pine trees containing little hardwood understory or midstory. RCWs can tolerate small numbers of overstory hardwoods or large midstory hardwoods at low densities found naturally in

In assessing potential project impacts, the Service considers both the value of the affected habitats to fish and wildlife and their relative scarcity. The project-area wetlands provide habitat for a variety of migratory non-game birds such as red-headed woodpecker, brown-headed nuthatch, worm-eating warbler, and painted bunting. Those species have exhibited substantial population declines over the last 30 years, primarily as the result of habitat loss and fragmentation. Those wetlands also support mammals such as raccoon, opossum, eastern cottontail, fox squirrel, grey squirrel, and white-tailed deer. In addition to their habitat values, the project-area wetlands provide floodwater storage and aid in water quality maintenance by reducing excessive dissolved nutrient levels and removing suspended sediments.

According to the Public Notice, the proposed project would include access roads, parking lots, five building pads, and a detention pond. The mixed-use development would contain commercial office space and an assisted living facility. Approximately 16,820 cubic yards of sandy material and 3,367 cubic yards of concrete would be used as fill. The site is located north of Interstate Highway 12, adjacent to Oschner Boulevard (under construction). It contains 24.84 acres of mixed pine/hardwood forest.

The U.S. Fish and Wildlife Service (Service) has reviewed Joint Public Notice MVN-2010-2552-EOO, dated November 1, 2010. All State Financial Company has requested a Department of the Army permit to clear, grade, excavate, and deposit fill in wetlands for the construction of a mixed-use development in St. Tammany Parish, Louisiana. This report is submitted in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.).

Dear Colonel Fleming:

Colonel Edward R. Fleming  
 District Engineer  
 U.S. Army Corps of Engineers  
 Post Office Box 60267  
 New Orleans, Louisiana 70160-0267

November 18, 2010

NOV 23 2010

FISH AND WILDLIFE SERVICE  
 646 Cajundome Blvd.  
 Suite 400  
 Lafayette, Louisiana 70506

United States Department of the Interior



The proposed project would directly impact 8.81 acres of forested wetlands, including their fish and wildlife habitat values and water quality maintenance functions. A mixed-use development is considered to be non-water-dependent because it does not require siting within a jurisdictional wetland to fulfill its primary purpose. The Environmental Protection Agency's 404(b)(1)

IFRCW clusters are found in the surveyed areas, then further consultation with this office may be necessary. If a survey is necessary, and RCW activity is documented, then the Service would be concerned about potential noise related disturbance within the 200 foot cluster boundary during the nesting season (i.e., March through July). If the proposed activities would not require the clearing of pines and if activities would be conducted outside of the RCW nesting season (defined above), then no further consultation with this office will be necessary. If pine trees would be cleared, or if the proposed project would be conducted during the nesting season, then further consultation with this office will be necessary.

1. survey methodology including dates, qualifications of survey personnel, size of survey area, and transect density;
2. pine stand characteristics including number of acres of suitable nesting and/or foraging habitat, tree species, basal area and number of pine stems 10 inches or greater per acre, percent cover of pine trees greater than 60 years of age, species of dominant vegetation within each canopy layer, understory conditions and species composition (several representative photographs should be included);
3. number of active and inactive RCW cavity trees observed and the condition of the cavities (e.g., resin flow, shape of cavity, start-holes);
4. presence or absence of RCWs; and
5. topographic quadrangle maps which illustrate areas of adequate RCW nesting and/or foraging habitat, cluster sites, and cavity tree locations relative to proposed construction activities.

If the proposed project area does not contain suitable nesting and/or foraging habitat as defined above, further consultation with the Service for this project will not be necessary. If suitable nesting and/or foraging habitat does exist, however, all suitable nesting habitat within a one-half mile radius from suitable habitat within the project boundary should be carefully surveyed by a qualified biologist for the presence of RCW clusters in accordance with the RCW Recovery Plan (2003) survey protocol. We recommend that you provide this office with a copy of the survey report, which should include the following details:

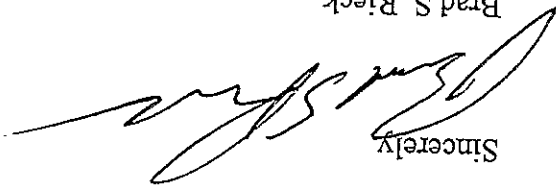
many southern pine forests, but they are not tolerant of dense hardwood midstories resulting from fire suppression. RCWs excavate roost and nest cavities in large living pines (i.e., 10 inches or greater in diameter at breast height). The cavity trees and the foraging area within 200 feet of those trees are known as a cluster. Foraging habitat is defined as pine and pine-hardwood (i.e., 50 percent or more of the dominant trees are pines) stands over 30 years of age that are located contiguous to and within one-half mile of the cluster.

guidelines prohibit the discharge of dredged or fill material for non-water-dependent proposals in wetland areas if there is a practicable alternative which would have less impact on the aquatic ecosystem. Those guidelines further specify that, for non-water-dependent activities proposed for special aquatic sites (e.g., wetlands), practicable alternatives which do not involve special aquatic sites are presumed to exist unless clearly demonstrated otherwise. The availability of non-wetland and lower quality wetland sites should be evaluated prior to permit issuance for development of the currently proposed site. The Service also recommends that the requested permit not be issued until project need is adequately justified, and the project has minimized wetland impacts to the maximum extent practicable.

Should the U.S. Army Corps of Engineers (Corps) determine that there is sufficient need to authorize the proposed project, that less-environmentally damaging, practicable alternatives are not available, and that such development is in the public interest, then the Service supports utilization of an approved (and appropriate) mitigation bank, as mentioned in the Public Notice to compensate for those onsite wetland impacts which cannot be avoided. Any/all mitigation proposals should be coordinated, selected, and designed in consultation with the Corps, the Service, and other interested natural resource agencies. A written commitment to perform the required compensatory mitigation should be provided to the Corps prior to permit issuance.

The above findings and recommendations constitute the report of the Department of the Interior. Please contact Seth Bordenon (337/291-3138) of this office if additional information is needed.

Sincerely,



Brad S. Rieck

Deputy Field Supervisor

Louisiana Ecological Services Office

cc: BPA, Dallas, TX  
LDWF, Baton Rouge, LA

### Literature Cited

U.S. Fish and Wildlife Service. 2003. Recovery plan for the red-cockaded woodpecker (*Picoides borealis*): second revision. U.S. Fish and Wildlife Service, Atlanta, GA. 296 pp.

**BIOLOGICAL SURVEYS, INC.**

January 26, 2011

Mr. Brad Laborde  
USACE  
P.O. Box 60267  
New Orleans, LA  
70160-0267

Subject: MVN 2010-2552 E00 - Nor Du Lac  
St. Tammany Parish  
All State Financial

Dear Mr. Laborde,

This is in response to your December 7<sup>th</sup>, 2010 letter concerning the above referenced project. Your concerns are addressed chronologically below.

1. USACE

A. Justification

The purpose of the project is for an existing Covington based nursing home facility to update and expand its services to the elderly population. The current facility, Forest Manor, is located on LA Hwy 21 approximately 1.5 miles north of the proposed project area. Forest Manor has been in the elderly care business for 44 years and has been operating at near to full capacity since its inception. In conversation with the applicant, the Forest Manor management explained the need for a new facility. Currently, the existing facility is outdated and lacks amenities found in modern operations. Their options are either to upgrade the existing facility or to build a new one. It was explained that many of their patients are special needs or non-ambulatory and moving these patients around during a

renovation would be difficult, if not impossible, and could be devastating to some residents. Therefore, renovation was eliminated in favor of new construction. According to Forest Manor management, there is a desperate need for this new facility in order to better serve the elderly public.

## B. Alternatives

According to Forest Manor, site criteria for a new facility were 1. 10 acres; 2. located north of I-12 in the Covington area; 3. close proximity to healthcare providers and hospitals; and 4. close to I-12 for evacuation concerns. Six alternatives were studied and are described below.

Alternative 1 – renovation of current Forest Manor facility on Louisiana Hwy 21. This was not feasible due to the nature of the business which is providing for the elderly, some who are infirm. Therefore, a search was begun for alternative sites for a new facility. Sites considered follow.

Alternative Site 1 – 10 acres in Westin Glen Subdivision. This site has all permits but lacked easy access to I-12, therefore was not considered.

Alternative Site 2 – 10 acres in Terra Bella Subdivision. Same as Site 1.

Alternative Site 3 – 10 acres behind Home Depot/Walmart on US 190.

This site was inconvenient to hospitals and I-12 and was eliminated.

Alternative Site 4 – 10 acres near the intersection of US 190 and LA 25.

This site contained wetlands and was eliminated for the same reasons as Site 3. – poor hospital and I-12 access.

Alternative 5 – 10 acres in Nor Du Lac, subject property. This site contained wetlands in the detention area, but was ideally situated for an assisted living center. It is located adjacent to Ochsner Hospital and on I-12 for easy evacuation. This site was chosen as the preferred location.

## C. Minimization

Areas that could be considered for minimization are the detention area and the office suites. The assisted living area itself will not impact wetlands. Parish regulations, however, require detention be installed on any new construction site. The area proposed for detention is a natural swale area and the best location for detention. As for the office buildings, All State Financial Co., feels there is a need for more medical office space due to the property's location in a rapidly growing medical corridor. This land is or will be surrounded by commercial development in the near future due to its proximity to Ochsner Hospital and I-12. Several

prospective tenants have expressed interest in the site which suggests there is a need for this type of development at this site. In summation, the applicant suggests this development is justified and would like to mitigate unavoidable wetland impacts resulting from development at an approved mitigation bank.

Agency Comments

2.

Letters were received from EPA, USFWS, and LDWF. All letters request justification and alternatives for the proposed project which were addressed above.

EPA requests the applicant "incorporate measures into the project development plans to reduce the flow of non-point source pollution into adjacent wetlands, and agrees to provide compensatory mitigation". Both of these requests will be implemented. BMP's will be used to reduce non-point source pollution and mitigation will be provided at an approved mitigation bank. As for the detention pond being revised, according to the project engineer and the applicant, this is not feasible. The pond is sized for the proposed project and is proposed in the ideal location, which is a natural drainage swale, now serving the proposed site. Vegetative plantings will be established on the slopes for bank stabilization and erosion control.

**USFWS**

We agree the proposed property provides habitat for a variety of wildlife species. Development of the site may impact but will not totally eliminate the site's habitat value. Landscaping, which includes shrubs and trees, will be installed on the site which will still offer some habitat value to area wildlife. This is evident in many subdivisions throughout the southeast, were wildlife has not disappeared from developed areas. Also, lost wildlife habitat value should be replaced through the mitigation process resulting from development. As for red-cockaded woodpecker (RCW) impacts, development of this site will not adversely impact RCW or its habitat. There are no known clusters in the immediate project vicinity and habitat condition is non-supportive of this species. Mature pine trees are under 15 years of age and prescribed burning was not a management tool used on this site. Therefore, the site contains thick understory/midstory, non-conductive to RCW. Field inspections of the subject property, as well as adjacent lands, revealed no sign of RCW. Finally, as stated previously, the applicant agrees to mitigate unavoidable impacts at an approved mitigation bank.

**LDWF**

The applicant agrees to LDWF's requests to implement adequate erosion/sediment control measures and to mitigate for unavoidable wetland impacts.



Thank you for the opportunity to provide you with this information. If you should have any further questions, please do not hesitate to call.

Sincerely,

*Thomas K. Brown*

Thomas K. Brown

ALTERNATIVE SITE LOCATIONS

Forest Manor, Covington, Louisiana

