



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P.O. Box 4970
JACKSONVILLE, FLORIDA 32232-0019

Copy Rec Oct 8, 2010

REPLY TO
ATTENTION OF

Regulatory Division
Antilles Regulatory Section
SAJ-2010-02881 (IP-EWG)

Mr. Larry Evans
BC Peabody Consulting, P.A.
509 Guisando de Avila, Suite 100
Tampa, FL 33613

Dear Mr. Evans:

Reference is made to your request received at our office on September 20, 2010, for verification of your proposed Via Verde Natural Gas Pipeline project under Nationwide Permit (NWP) No. 12, 18, 33, and 38 for 44 wetlands and river crossings, and NWP No. 12, 18, and 33 for 191 wetlands and river crossings. The proposal is to construct and install a 24-inch diameter steel natural gas (NG) pipeline for approximately 92 miles with a construction right-of way (ROW) of 150 feet wide, that transverses the island of Puerto Rico from the EcoEléctrica LNG Terminal in the municipality of Peñuelas, to the Cambalache Termoeléctricas Authority Central electric power plant in the municipality of Arecibo, then east to the Palo Seco facility in the municipalities of Toa Baja and San Juan. The pipeline route will encompass both private and public lands which include commercial, industrial, and agricultural areas. The total project area is about 1,672 acres and will involve 235 river and wetland crossings, having the potential to temporarily impact over 369 acres of jurisdictional Waters of the United States. Please refer to case number SAJ-2010-02881 (IP-EWG) in future correspondence regarding this project.

Projects may be verified under a NWP if they satisfy all of the NWP terms and conditions. There is various jurisdictional area crossings, that do not meet the Final Regional Conditions published on July 12, 2007 for the Jacksonville District NWP program. NWP's 12, 18, and 33 are applicable to non-tidal areas, excluding all wetlands adjacent to tidal waters, forested wetlands, submerged aquatic vegetation, tidal wetlands, and/or coral assemblages.

In addition, the project is reviewed to determine if the activity would result in more than minimal individual or

cumulative adverse environmental effects or if it would be contrary to the public interest. If the project exceeds any of these thresholds, it will not qualify for a NWP. The District Engineer (DE) may exercise discretionary authority by revoking the NWP authorization for a specific activity if there are sufficient concerns for the environment or any other factor of the public interest.

Recent televised news coverage (September 9, 2010) of the San Bruno California Gas Line explosion, and Puerto Rico Energy and Power Authority's alleged performance and environmental track record with the "Gasoducto del Sur" (Sothern Natural Gas Pipeline) has prompted an elevated public interest. This high public interest has prompted the residents of Cataño municipality to request a referendum for residents to vote on the approval or not of the installation of the Via Verde pipeline through the Cataño municipality.

A preliminary review of your project proposal has revealed that there are a number of project areas that do not qualify for NWP authorization. Furthermore the review of your project has revealed various environmental and public interest concerns which cannot be adequately evaluated under a NWP. These include high public interest generated by the construction and later abandonment of the Gasoducto del Sur (South Coast Natural Gas Pipeline) project and the current elevated public interest of the Via Verde Natural Gas pipeline project regarding public safety, environmental impacts, endangered species, habitat conservation, and historic properties. Given our concerns, as per 33 CFR 330.1, we intend to exercise discretionary authority; therefore, your proposed project is not authorized under Nationwide Permit No. 12, 18, 33, and 38. Your application will be processed as a standard individual permit.

If you have any questions, please contact [REDACTED] [REDACTED] [REDACTED] Project Manager, at the letterhead address or telephone 729-6905/6944. Thank you for your cooperation with our Regulatory Program.

Sincerely,

Exemption (b)(6)

[REDACTED] Exemption (b)(6)

[REDACTED] Regulatory Division

Copy Furnished:

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