

5.0 MAINTENANCE AND MONITORING.

The area will be monitored and maintained by Palm Beach County Department of Environmental Resources Management for exotic plant removal, plant survival rates, fisheries and wildlife utilization. Palm Beach County will be completely responsible for all project operations, maintenance, rehabilitation, restoration and removal (OMRR&R) of items not designed or constructed within the Federal project.

6.0 COORDINATION AND PUBLIC INVOLVEMENT.

The proposed action was coordinated with appropriate Federal, State and local agencies and individuals in a scoping letter dated March 15, 2000. No substantive comments were received. A Notice of Availability of the Preliminary Finding of No Significant Impact (FONZI) was also issued to the appropriate Federal, State, and local agencies and individuals. The proposed action will be coordinated with the State Historic Preservation Officer in compliance with the National Historic Preservation Act of 1966, as amended, for concurrence with the Corps' 'no effect' determination. The proposed action has been coordinated with the U.S. Fish and Wildlife Service under the Endangered Species Act and Fish and Wildlife Coordination Act. In the Fish and Wildlife Coordination Act Report dated July 14, 2000, the USFWS concurred with the Corps finding of no adverse impacts to threatened or endangered species. Coordination with the National Marine Fisheries Service for their 'no effect' concurrence concerning essential fish habitat within the project area has been completed (see Appendix C – Pertinent Correspondence).

7.0 COMPLIANCE WITH ENVIRONMENTAL STATUTES.

7.1 NATIONAL ENVIRONMENTAL POLICY ACT of 1969, as amended.

Environmental information on the project has been compiled and this Draft Environmental Assessment and Preliminary Finding of No Significant Impact has been prepared and will be circulated prior to the commencement of the project in accordance with requirements of the National Environmental Policy Act (NEPA), as amended.

7.2 ENDANGERED SPECIES ACT of 1973, as amended.

A list of endangered, threatened, proposed, or candidate species that may inhabit the project area was received from both the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). This project has been fully coordinated under the Endangered Species Act; therefore, this project is in full compliance with the Act.

7.3 FISH and WILDLIFE COORDINATION ACT of 1958, as amended.

In response to the requirements of this Act, the District has and will continue to maintain coordination with the USFWS during all stages of the planning and construction process. The USFWS, in a letter dated October 3, 1994, had no objection to the project as long as Corps standard manatee protection guidelines were followed and maintained during the construction of the project. A copy of this USFWS letter is included in Appendix C – Pertinent Correspondence.

7.4 NATIONAL HISTORIC PRESERVATION ACT of 1966, as amended.

Based on research conducted by a Corps' archeologist, significant historic properties are not likely to be located within the environmental restoration project. No information that determined historic properties eligible for inclusion in the National Register are located on John's Island was found during the archival search. The 'no effect' consultation was made by the Corps, and consultation with the SHPO conducted, according to the guidelines established in 36 CFR Part 800 and in compliance with Section 106 of the National Historic Preservation Act, as amended.

7.5 CLEAN WATER ACT of 1972, as amended.

This project is in full compliance. A Section 404 (b) Evaluation Report can be found attached to this report in Appendix A.

7.6 CLEAN AIR ACT of 1972, as amended.

No permits will be required for this project. This project is in full compliance with the Act. This Draft Environmental Assessment will be sent to EPA's Environmental Policy Section for their review. Any comments received from the EPA will be included and addressed in the Final Environmental Assessment.

7.7 COASTAL ZONE MANAGEMENT ACT of 1972, as amended.

This project is in compliance with this act. See Appendix B for the Coastal Zone Consistency Statement.

7.8 FARMLAND PROTECTION POLICY ACT of 1981.

This act is not applicable to the proposed environmental restoration project.

7.9 WILD and SCENIC RIVER ACT of 1968, as amended.

This act is not applicable to the proposed environmental restoration project.

7.10 MARINE MAMMAL PROTECTION ACT of 1972, as amended.

The customary safeguards to ensure protection of threatened and endangered species such as sea turtles and manatees will be implemented within the construction contract.

7.11 ESTUARY PROTECTION ACT of 1968.

No designated estuary will be affected by the proposed environmental restoration project activities. This Act is not applicable.

7.12 E.O. 11990, PROTECTION OF WETLANDS.

Wetlands will be created by this project, therefore, this project is in compliance with the Executive Order.

7.13 E.O. 11988, FLOODPLAIN MANAGEMENT.

No activities associated with this project will take place within a floodplain, therefore, the intent of this law is not applicable.

7.14 E.O. 12898, ENVIRONMENTAL JUSTICE.

No adverse impacts to human health or the environment are anticipated as result of the proposed project. Impacts to "subsistence consumption of fish and wildlife resources" are not anticipated as a result of the proposed project.

7.15 E.O. 13089, CORAL REEF PROTECTION.

Those species, habitats, and other natural resources associated with coral reefs are not anticipated to be adversely affected by the proposed project. Components of the project propose to restore lost reef habitat that could provide substrate for coral and other associated natural resources within the project area.

7.16 EO 13112, INVASIVE SPECIES.

The proposed change of maintenance operations project at Palm Beach Harbor and Peanut Island will include the rehabilitation of some of the dike areas. This will provide an opportunity to remove some of the existing exotic tree species (Australian pine) currently growing within the project area. The Federal project is not authorizing, funding, or carrying out actions that might spread or introduce invasive species. All feasible and prudent measures to minimize risk of introducing invasive species will be followed.

7.17 FEDERAL WATER PROJECT RECREATION ACT.

The principles of the Federal Water Project Recreation Act, (Public Law 89-72) as amended, are not applicable to the proposed environmental restoration project as no recreation component is proposed.

7.18 FISHERY CONSERVATION and MANAGEMENT ACT of 1976.

The project has been coordinated with the National Marine Fisheries Service (NMFS) and has been found to be in compliance with the act (see letter dated April 18, 2000 in Appendix C – Pertinent Correspondence).

7.19 SUBMERGED LANDS ACT of 1953.

The proposed environmental restoration project will not affect submerged State lands. The disposal of the excavated material from John's Island is planned to be put in an anoxic hole adjacent to the Lake Worth Golf Course shoreline. The local sponsor will acquire the necessary real estate easements for this work. The Corps will apply for a water quality certificate to undertake the work.

7.20 RIVERS and HARBORS ACT of 1899.

The proposed work would not obstruct navigable waters of the United States. The proposed action has been subject to the public notice process subject to the Act. The proposed project is in full compliance.

7.21 ANADROMOUS FISH CONSERVATION ACT.

Anadromous fish species would not be affected. The project has been coordinated with the National Marine Fisheries Service and is in compliance with the Act.

7.22 MIGRATORY BIRD TREATY ACT and MIGRATORY BIRD CONSERVATION ACT.

No migratory birds would be affected by the proposed project activities. The project is in full compliance with these acts.

7.23 MARINE PROTECTION, RESEARCH and SANCTUARIES ACT.

The term 'dumping' as defined in Act (33 U.S.C. 1402)(f) does not apply to the placement of the excavated material from John's Island. The excavated material will be placed to form tidal shallows to provide a substrate for the recruitment of seagrass in addition to shoreline plantings of mangroves and spartina. Therefore, the Act does not apply to the proposed project. The disposal activities addressed in this EA will be evaluated under Section 404 of the Clean Water Act.

7.24 MAGNUSON-STEVENSON FISHERY CONSERVATION and MANAGEMENT ACT.

This act requires preparation of an Essential Fish Habitat (EFH) Assessment and coordination with the National Marine Fisheries Service (NMFS). EFH coordination with NMFS has been completed and has been found to be in compliance with the act (see Appendix C – Pertinent Correspondence).

8.0 LIST OF PREPARERS.

8.1 PREPARERS.

Paul Stevenson, Landscape Architect, Planning Division, USACE
Paul Stodola, Biologist, Planning Division, USACE
Tommy Birchett, Archeologist, Planning Division, USACE
John Zediak, Civil Engineer, Planning Division, USACE
Paul Karch, Environmental Engineer, Planning Division, USACE
Tiphonie Jinks, Civil Engineer, Planning Division, USACE
Tim Murphy, Project & Programs Division, USACE

8.1 REVIEWERS

Kenneth Dugger, Chief Reviewer, Planning Division, USACE
Dorothy Boardman, Legal Sufficiency, Office of Counsel, USACE
John Pax, Legal Sufficiency, Office of Counsel, USACE

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APPENDIX A - SECTION 404(B) EVALUATION

**SECTION 404 (B) EVALUATION REPORT
PROJECT MODIFICATION REPORT
JOHN'S ISLAND, PALM BEACH COUNTY, FLORIDA**

I. Project Description.

a. Location. John's Island is a 6.4 acre dredged placement island located in Palm Beach, Section 15, Township 44 South, Range 43 East, Palm Beach County, Florida (Figure 1). John's Island is within the Lake Worth Lagoon Estuary, directly north and east of Canal 51 (C-51) and in close proximity to the anoxic hole adjacent to the City of Lake Worth Lagoon Municipal Golf Course shoreline and the IWW channel. John's Island is between Hunters Island to the north and Ibis Island to the south. West Palm Beach and Palm Beach Shores are the landmasses that flank John's Island to the west and east respectively.

b. General Description. The purpose of this project is to restore wetland and associated upland habitat on John's Island. This project will provide habitat for fisheries and wildlife in the region and remove existing invasive exotic plant species and their seed sources.

c. Authority and Purpose. Authority for this project is covered by Section 1135 of the Water Resources Development Act of 1986, as amended. The purpose of the Section 1135 is to determine the need for modifications to existing water resources projects that will improve the quality of the environment in the public interest.

d. General Description of Dredged or Fill Material. The proposed project restoration plans call for upland excavations to restore tidal flow to existing mangroves and create wetland habitat. Approximately 17,000 CY of dredged material placed on the island will be excavated for the tidal channels to restore existing mangroves. The preferred excavated material disposal alternative calls for placement of the material into the anoxic hole adjacent to the City of Lake Worth Municipal Golf Course shoreline and the IWW channel. The disposal will help to raise the benthic elevations in the area to a more suitable habitat for seagrass and other benthic organism recruitment. This disposal will not result in any long-term increase in turbidity or violation of State of Florida water quality standards.

e. Description of the Proposed Discharge Site. The dredged material to be excavated from John's Island will undertaken from the island uplands and placed in the anoxic hole adjacent to the City of Lake Worth Municipal Golf Course. The existing anoxic hole was used as a borrow site many years ago and is too deep for benthic organisms to survive. It is too deep for adequate light penetration and dissolved oxygen levels are too low to sustain plant or animal life. All recognized Best Management Practices (BMPs) applicable to project construction will be considered to ensure compliance of water quality certificate parameters before construction begins. Standard turbidity controls will be utilized during placement of excavated material into the anoxic hole.

II. Factual Determinations.

a. Water Circulation, Fluctuation and Salinity Determination. Lake Worth is a tidal lagoon subject to tidal influence and freshwater inflows. Tidal waters enter the lagoon through the Lake Worth Inlet. Tides are semi-diurnal with a tidal fluctuation of every twelve hours during the tidal cycle. Salinity in the Lake Worth area ranges from 28.3 to 35.8 parts per thousand. The Florida Department of Environmental Protection (FDEP) maintains a tidal gauge adjacent to the Lake Worth Inlet. The West Palm Beach Canal (C-51) empties into Lake Worth Lagoon approximately 3,000 feet north of the preferred disposal site and influences water salinity within the project area depending on the tidal ebb and flow, wind, and other factors.

b. Suspended Particulate/Turbidity Determinations. A temporary short-term increase in suspended particulates could occur in the water column during project construction. Once the excavated material has been placed in the anoxic hole and settlement occurs, no significant long-term increase in turbidity is anticipated. Once the disposal is completed benthic elevations should be raised sufficiently to help recruit seagrass and other benthic organisms and help to improve water quality.

c. Contaminant Determinations. No toxic materials are a part of the upland materials to be removed from John's Island. Excavated soils will be placed in the anoxic hole adjacent to the City of Lake Worth Municipal Golf Course. BMPs will be implemented by the contractor to prevent high levels of turbidity in the water column during project construction. Standard turbidity controls will be utilized during project construction.

d. Aquatic Ecosystem and Organism Determinations. No long term adverse impacts on autotrophic and heterotrophic organisms are anticipated. No adverse impacts on motile invertebrates are anticipated. No adverse impacts are expected on nekton organisms as these creatures are generally not found within the project area.

e. Proposed Placement Site Determinations. The proposed placement site is anticipated to be within the anoxic hole adjacent to the City of Lake Worth Municipal Golf Course. There are no anticipated adverse impacts to the anoxic hole project area resources anticipated as a result of the placement of the excavated material from John's Island. The excavation of John's Island's upland to improve water circulation to mangroves and create tidal wetlands would provide habitat and improve water quality.

f. Determination of Cumulative Effects on the Aquatic Ecosystem. The proposed project will not cause or contribute to violations of State Water Quality Standards, jeopardize the existence of any endangered or threatened species (manatees, seagrass) or impact a marine sanctuary. No significant degradation is expected and all appropriate and practicable steps have been taken to minimize impacts. Improvements to upland and wetland habitats are anticipated with the project construction. All seagrass within the project area will be avoided.

III. Findings of Compliance or Non-Compliance with the Restrictions on Discharge.

1. No significant adaptations of the Section 404 (b) guidelines were made relative to this evaluation.

2. There will be no discharge of toxic fill material within the project area. Therefore, the project complies with Section 307 of the Clean Water Act.

3. There will be no adverse impacts on the water supply of surrounding communities in the Lake Worth area from the implementation of this project.

4. There will be no direct or indirect adverse impact on any threatened or endangered organism from the implementation of this project.

5. There will be no significant long-term adverse impact on any autotrophic organisms from the implementation of the selected plan.

6. There will be no direct or indirect adverse impact on highly motile organisms such as fish and crustaceans.

7. No long term significant direct or indirect adverse impacts are anticipated on non-motile infaunal organisms or motile epifaunal organisms in the immediate project area from the proposed project.

8. No significant adverse impacts are anticipated on terrestrial wildlife in the immediate project area.

9. Implementation of the project will pose no threat to juvenile fish or wildlife dependant upon the immediate project area for their subsistence.

10. No significant or long term change in the biodiversity of the communities are anticipated due to the project construction.

11. On the basis of the guidelines, the preferred disposal alternative for placement of the John's Island excavated upland material is specified as complying with the requirements of the Clean Water Act.

**APPENDIX B - COASTAL ZONE MANAGEMENT
CONSISTENCY EVALUATION**

FLORIDA COASTAL ZONE MANAGEMENT CONSISTENCY FEDERAL CONSISTENCY EVALUATION PROCEDURE

JOHN'S ISLAND, SECTION 1135 ENVIRONMENTAL RESTORATION PROJECT PALM BEACH COUNTY, FLORIDA

1. Chapter 161, Beach and Shore Protection. The intent of the coastal construction permit program established by this chapter is to regulate construction projects located seaward of the line of mean high water and which might have an effect on natural shoreline processes.

Consistency Statement: The purpose of the proposed action is to restore the John's Island ecosystem to provide habitat for fisheries and wildlife. The island will no longer function as a dredged material disposal location. The project proposes to remove exotic tree species on the island, restore tidal flushing to existing mangroves, plant maritime hammock and wetland vegetation species. Information will be submitted to the State of Florida, Department of Environmental Protection (DEP) for a permit in compliance with this chapter.

2. Chapters 186 and 187, State and Regional Planning: These chapters establish the State Comprehensive Plan that sets goals to articulate a strategic vision for the State of Florida's future. The purpose is to define in a broad sense, goals and policies that provide decision-makers directions for the future and long-range guidance for orderly social, economic and physical growth.

Consistency Statement: The proposed project will comply with the strategic vision of the State of Florida as mentioned in the State and Regional Planning Chapters.

3. Chapter 252, Disaster Preparation, Response and Mitigation: This chapter creates a State Emergency Management Agency, with authority to provide for the common defense; to protect the public peace, health and safety; and to protect and preserve the lives and property of the people of Florida.

Consistency Statement: The environmental restoration of John's Island will not jeopardize the public health, safety or welfare but could enhance the chapter's goals. Therefore, this work will be consistent with the intent of this chapter.

4. Chapter 253, State Lands: This chapter governs the management of submerged State lands and resources within these lands. This includes archeological and historical resources; water resources; fish and wildlife resources; beaches and dunes; submerged grass beds and other benthic communities; swamps, marshes and other wetlands, mineral resources; unique natural features; submerged lands; placement islands, and artificial reefs.

Consistency Statement: The environmental restoration of John's Islands seeks

to provide habitat for fisheries and wildlife. The proposed restoration of diminishing sea grasses, mangroves, shallow water lagoon and reef areas is consistent with this chapter. The use of State lands for restoration objectives has previously been approved by the State. The proposed activity has been coordinated with the State and appropriate State permits will be obtained. The proposed action will comply with the intent of this chapter.

5. Chapters 253, 259, 260 and 375, Land Acquisition. These chapters authorize the State to acquire land to protect environmentally sensitive areas.

Consistency Statement: The property ownership and functions of John's Island does not provide for State acquisition. These chapters do not apply.

6. Chapter 258, State Parks and Aquatic Preserves: This chapter authorizes the State to manage State parks and preserves. Consistency with this chapter would include consideration of projects that would directly or indirectly adversely impact park property, natural resources, parks programs or management or operations.

Consistency Statement: The proposed action will not affect State parks or preserves, and is consistent with the intent of this chapter.

7. Chapter 267, Historic Preservation. This chapter establishes the procedures for implementing the Florida Historic Resources Act responsibilities.

Consistency Statement: The environmental restoration proposed for John's Island has been coordinated with the State Historic Preservation Officer. The work will be consistent with the goals of this chapter.

8. Chapter 288, Economic Development and Tourism. This chapter directs the State to provide guidance and promotion of beneficial development through the encouragement of economic diversification and promotion of tourism.

Consistency Statement: The environmental restoration of John's Island could provide increased fish habitat for better localized boat fishing within the project area. Therefore, the work is consistent with the goals of this chapter.

9. Chapter 334 and 339, Public Transportation. This chapter authorizes the planning and development of a safe and efficient public transportation system.

Consistency Statement: The proposed action will not affect public transportation. Therefore, this chapter does not apply.

10. Chapter 370, Living Saltwater Resources. This chapter directs the State to preserve, manage and protect the marine, crustacean, shell and anadromous fishery resources in State waters; to protect and enhance the marine and estuarine environment; to regulate fishermen and vessels of the state engaged in the taking of such resources within or without state waters; to issue licenses for the taking and processing of fishery products; to secure and maintain statistical records of the catch of

each such species; and to conduct scientific, economic and other studies and research.

Consistency Statement: The environmental restoration of John's Island will not adversely affect such activities and is consistent with the goals of this chapter.

11. Chapter 372, Living Land and Freshwater Resources. This chapter establishes the Florida Fish & Wildlife Conservation Commission and directs it to manage freshwater aquatic life and wild animal life and their habitat to perpetuate a diversity of species with densities and distributions that provide sustainable ecological, recreational, educational, scientific, aesthetic and economic benefits.

Consistency Statement: Upland work will include the following: exotic tree removal, island degrading for tidal inundation and mangrove reestablishment, vegetative plantings to establish wetland habitat and a maritime hammock. The work will comply with the goals of this chapter.

12. Chapter 373, Water Resources. This chapter provides the authority to regulate the withdrawal, diversion, storage and consumption of water.

Consistency Statement: The proposed work does not involve water resources as described by this chapter.

13. Chapter 376, Pollutant Spill Prevention and Control. This chapter regulates the transfer, storage and transportation of pollutants and the cleanup of pollutant discharges.

Consistency Statement: The proposed work does not involve the transportation or discharge of pollutants. BMPs will be implemented in the contract to handle inadvertent spills of pollutants such as fuels. The proposed work will conform with the intent of this chapter.

14. Chapter 377, Oil and Gas Exploration and Production. This chapter authorizes the regulation of all phases of exploration, drilling and production of oil, gas and other petroleum products.

Consistency Statement: The proposed action does not involve the exploration, drilling or production of oil, gas or other petroleum products and therefore does not apply.

15. Chapter 380, Environmental Land and Water Management. This chapter establishes criteria and procedures to assure that local land development decisions consider the regional impact of large-scale development.

Consistency Statement: The proposed action has been coordinated with the local regional planning council and the work will conform to the goals of this chapter.

16. Chapter 388, Arthropod Control. This chapter provides for a comprehensive approach for abatement or suppression of mosquitoes and other arthropod pests within

the state.

Consistency Statement: The proposed action will be consistent with the goals of this chapter.

17. Chapter 403, Environmental Control. This chapter authorizes the regulation of pollution of the air and waters of the state by the Department of Environmental Protection.

Consistency Statement: Appropriate State permits will be obtained for the project.

18. Chapter 582, Soil and Water Conservation. This chapter establishes policy for the conservation of State soils and water through the Department of Agriculture. Land use policies will be evaluated in terms of their tendency to cause or contribute to soil erosion or to conserve, develop and utilize soil and water resources both on-site or on adjoining properties affected by the work. Particular attention will be given to work on or near agricultural lands.

Consistency Statement: The proposed work is not located near agricultural lands; therefore, this chapter does not apply.

APPENDIX C - PERTINENT CORRESPONDENCE

SEP 04 1997



Department of Environmental
Resources Management
5323 Belvedere Road, Building 502
West Palm Beach, FL 33406-1548
(561) 233-2400
FAX: (561) 233-2414
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<http://www.co.palm-beach.fl.us>

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Palm Beach County
Board of County
Commissioners

Burt Aaronson, Chairman
Maude Ford Lee, Vice Chair

Karen T. Marcus

Carol A. Roberts

Warren H. Newell

Mary McCarty

Ken L. Foster

County Administrator

Robert Weisman, P.E.

"An Equal Opportunity
Affirmative Action Employer"

September 3, 1997

Mr. James M. Bowser, P.E., Town Engineer
Town of Palm Beach
Post Office Box 2029
360 South County Rd.
Palm Beach, FL 33480

SUBJECT: EXECUTED INTERLOCAL AGREEMENT FOR SPOIL ISLAND
RESTORATION AND ENHANCEMENT

Dear Mr. Bowser:

Enclosed, please find an original interlocal agreement for the subject project. County staff enjoyed visiting these sites with you and the Audubon staff and look forward to beginning work. We will be in contact with you over the next month to discuss our initial plan and schedule of activities for the sites.

If you have any questions, feel free to contact me at (561) 233-2444.

Sincerely,

Carman N. Vare, Environmental Program Supervisor
Coastal and Wetlands Division

CV

INTERLOCAL AGREEMENT
BETWEEN
PALM BEACH COUNTY
AND
THE TOWN OF PALM BEACH

R97-1045D

THIS INTERLOCAL AGREEMENT, is made and entered into on the AUG 19 1997 day
of _____, 1997, by and between PALM BEACH COUNTY, a political
subdivision of the State of Florida (the "County"), and the TOWN OF PALM BEACH,
a municipality of the State of Florida (the "Town").

WITNESSETH:

WHEREAS, the Town and the County are authorized to enter into this
agreement pursuant to Section 163.01, Florida Statutes, as amended, which permits
local governmental units to make the most efficient use of their powers by
enabling them to cooperate with other localities on a basis of mutual advantage;
and

WHEREAS, pursuant to Chapter 125.01, Florida Statutes, the Board of County
Commissioners of the County is empowered to establish and administer programs of
conservation and to enter into agreements with other governmental agencies within
or outside the boundaries of the County for joint performance, or performance by
one unit on behalf of the other, of any of either governmental entity's
authorized functions; and

WHEREAS, the County has an active environmental enhancement program with
funds available, upon appropriation, for estuarine enhancement and restoration;
and

WHEREAS, on April 11, 1995 the Town Council authorized its' staff to pursue
a joint project with the County to perform environmental restoration and
enhancement on up to four Town owned spoil islands in the Intracoastal Waterway;
and

4. Responsibilities of the Town. Within five (5) business days from receipt of a notice from the County of an approved interlocal agreement, the Town shall authorize the County to perform any activities necessary to obtain permits and funding, to develop plans and specifications, or to contract or perform any work associated with the environmental restoration and enhancement on the indicated spoil islands on behalf of the Town.

5. Responsibilities of the County. The County agrees to take the lead in all activities related to obtaining permits, developing plans and specifications, obtaining funding, and contracting or performing construction/monitoring work associated with the environmental restoration and enhancement of the indicated spoil islands.

6. Review by National Audubon Society. The Town and County recognize that the National Audubon Society (AUDUBON) is lessee of the Town-owned spoil islands. The Town and County agree to work cooperatively with AUDUBON during the design process. The Town, as owner of the spoil islands, shall have final approval on the design.

7. Joint Responsibilities. It shall be the responsibility of both parties to work together to accomplish the environmental restoration and enhancement of the indicated spoil islands.

8. Funding Source. On behalf of the Town, the County will be exploring funding opportunities with various agencies to cover costs of environmental restoration. As a local match, the County will utilize fees collected from the County's Vessel Registration Trust Fund. Existing County staff, funded through ad valorem revenues, will perform initial planning and design, permit acquisition, contractor selection, project management, and post-construction monitoring.

9. Access and Audits. The Town shall have access to all books, records and documents as required in this paragraph for the purpose of inspection or audit during normal business hours.

provisions of section 768.28, Florida Statutes, as may be amended and this agreement shall not be deemed a waiver of sovereign immunity by either party.

16. Waiver of Breach. No waiver of breach of any of the covenants or provisions of this Agreement shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

17. Amendment. This Agreement may be amended only by a written document signed by both parties.

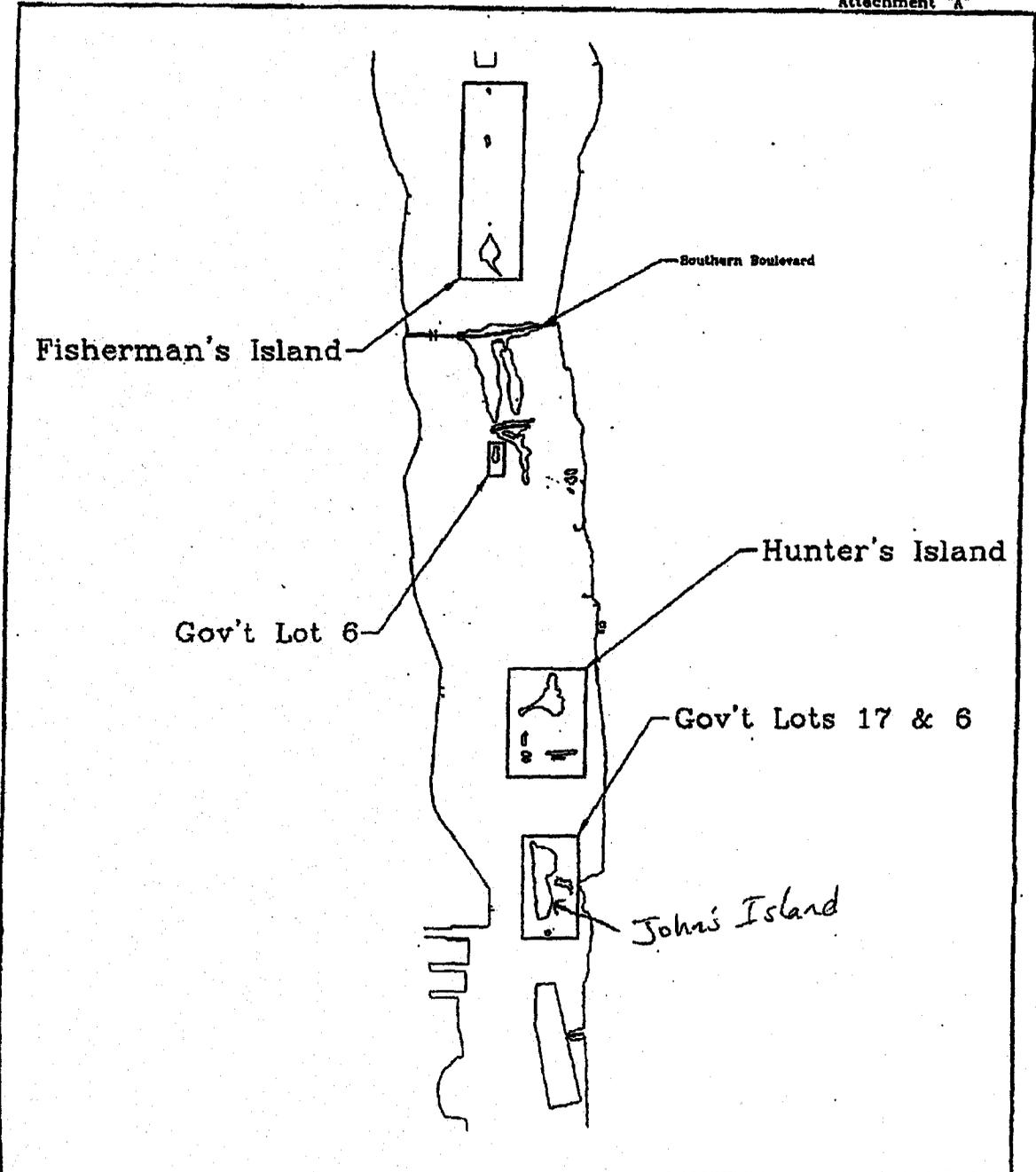
18. Equal Opportunity Provision. The County and the Town agree that no person shall, on the grounds of race, color, gender, national origin, disability, religion, ancestry, marital status, or sexual orientation, be excluded from the benefits of, or be subjected to any form of discrimination under any activity carried out by the performance of this Agreement.

19. Severability. In the event that any section, paragraph, sentence, clause, or provision hereof is held by a court of competent jurisdiction to be invalid, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect.

20. Delegation of Duty. Nothing contained herein shall be deemed to authorize the delegation of the constitutional or statutory duties of state or county officers.

21. Entirety of Agreement. This Agreement represents the entire understanding between the parties, and supersedes all other negotiations, representations, or agreement, whether verbal or written, relating to this Agreement.

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PALM BEACH COUNTY
DEPARTMENT OF
ENVIRONMENTAL
RESOURCES

ATTACHMENT A.
PALM BEACH SPOIL ISLANDS

Project Environmental Restoration
Subject _____
Project No. _____
Date _____
FEB-15-2000 11:22



Department of Environmental
Resources Management
1 Belvedere Road, Building 502
West Palm Beach, FL 33406
(561) 233-2400
Suncom: 274-2400
FAX: (561) 233-2414

June 8, 1998

Colonel Joe R. Miller, District Engineer
U.S. Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

SUBJECT: REQUEST FOR SECTION 1135 FUNDING, JOHN'S ISLAND
RESTORATION

Dear Colonel Miller:

This letter is a request for consideration of funding for the environmental restoration of John's Island through the Corp's Section 1135 grants program. John's Island is an approximately 6.4 acre spoil island owned by the Town of Palm Beach and located in the Intracoastal Waterway (IWW) (Figure 1). Approximately 75% of the island is covered by exotic plant species, mainly seaside mahoe (*Thespesia populnea*), Australian pine (*Casuarina* spp.), and Brazilian pepper (*Schinus terebenthifolius*). The other 25% coverage is by all three species of mangroves (red, white, and black). The island currently has approximately 1.7+ acres of existing mangrove stands that in many places have been invaded by exotic plant species as well. In addition, a few tropical hammock species, including some large strangler figs (*Ficus aurea*), have survived under the canopy of exotics.

QUALIFICATIONS FOR SECTION 1135 FUNDING

John's Island has a berm running the length of its' western side with a maximum elevation of approximately 3.8 ft N.G.V.D. (Figure 2). There are old red mangrove stands (30+ years) scattered along the berms' eastern slope and adjacent areas. The berm is bounded along its entire western side by an outcrop of Anastasia limestone, which continues west into the IWW right of way. The berm and associated backside (eastern) mangroves appear to be in roughly the same configuration as the outline of the entire island shown on a map digitized from an 1884 survey (Figure 3). The 1884 survey showed John's Island as a narrow spine running north to south covering approximately 3.4 acres. It is possible that the western side of the island shown in 1884 was the boundary with the Anastasia outcrop currently bounding the western side of the island today.

A topographic survey of John's Island conducted by Palm Beach County in 1998 showed spoil elevations reaching as high as approximately +6.0 N.G.V.D. east of the berm and associated mangroves. In many areas within the higher elevations, significant volumes of crushed limestone rock, approximately 4 to 18

■

Palm Beach County Board of County Commissioners

Ken L. Foster, Chairman
rt Aaronson, Vice Chairman
Karen T. Marcus
Carol A. Roberts
Warren H. Newell
Mary McCarty
Maude Ford Lee

County Administrator
Robert Weisman, P.E.

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Affirmative Action Employer"

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Colonel Joe R. Miller

June 8, 1998

Page 2 of 2

inches in diameter, are scattered about on the surface or buried in the soil. Figure 2 shows the estimated extent of spoil deposition on the island. This spoil material mixed with crushed limestone was apparently placed on the original island, and/or on tidal submerged lands around the island, sometime between the 1940's and the 1960's. The presence of this quantity and type of spoil material, situated immediately adjacent to the current IWW right of way (which runs through an Anastasia limestone outcrop), leads the County to believe that the spoil was generated in association with the dredging or subsequent improvement of the existing IWW. Should this be true, the environmental restoration of the island would qualify for Section 1135 funding.

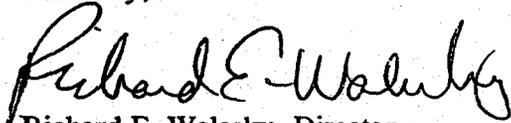
PROPOSED PROJECT

The proposed project would involve 1) the removal of all exotic plants species as appropriate; 2) the restoration of existing mangroves through exotic plant control and hydro period enhancement; 3) the removal of spoil, regrading to wetland elevations, and planting of red mangroves on portions of the island; 4) the restoration of tropical hammock species through exotic plant control, tree relocation, and planting of additional tropical hammock species. Restoration work will require the use of a tug and barge for access to the island.

Figure 4 shows one possible restoration scenario for the island. In this scenario, approximately 1.7 acres of existing mangroves are restored, 3.3 acres of red mangroves are created, and 1.4 acres of tropical hammock are restored. We believe that completing this project will significantly benefit the environment through the increase in both wetland and upland habitat value.

To summarize, Palm Beach County is respectfully requesting the consideration of the above outlined project for Section 1135 grant funding. Due to the nature of the work and the project location, we expect that the costs of restoration as outlined above to be on the order of \$600,000.00 to \$800,000.00. We have enjoyed working with the Corps on past environmental restoration projects such as Munyon Island, and look forward to a positive response regarding the restoration of John's Island as well. If you have any further questions, feel free to contact Mr. David Carson or myself at (561)233-2400. Thank you for your consideration.

Sincerely,



Richard E. Walesky, Director
Department of Environmental Resources Management

REW:DC

cc: (With enclosures)

Richard Paul, Manager/Biologist

Florida Audobon Society, Tampa Bay Sanctuaries

Jim Bowser, Town Engineer

Town of Palm Beach



Department of Environmental
Resources Management
3323 Belvedere Road, Building 502
West Palm Beach, FL 33406-1548
(561) 233-2400
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Suncom: 274-2400
www.co.palm-beach.fl.us

**Palm Beach County
Board of County
Commissioners**

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Warren H. Newell, Vice Chairman

Karen T. Marcus

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Mary McCarty

Burt Aaronson

Tony Masilotti

County Administrator

Robert Weisman

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July 2, 1999

Colonel Joe R. Miller, District Engineer
U.S. Army Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

**SUBJECT: LETTER OF INTENT TO COST SHARE - PROJECT
MODIFICATION FOR IMPROVEMENT OF THE ENVIRONMENT
(SECTION 1135) - JOHN'S ISLAND RESTORATION, PALM
BEACH COUNTY, FLORIDA**

Dear Colonel Miller:

This letter is to confirm the intent of Palm Beach County to serve as the non-Federal sponsor for the US Army Corps of Engineers to develop an ecosystem restoration project on John's Island under the authority provided by Section 1135 of the Water Resources Development Act of 1986, as amended. We have read and agree with the scope of work as outlined in the attached John's Island Restoration Preliminary Restoration Plan (PRP). The total estimated modification cost of the project is \$826,000. Potential funding sources for the non-Federal share (\$206,500) may be the County's Vessel Registration Fee Trust Fund, the Lake Worth Land Partnership Grant Program, or other funding sources as necessary. Additionally, approximately \$5,000 per year for three years post-construction will be required to control exotic plant species. The appropriation and expenditure of the County's non-Federal share is contingent upon approval by the Board of County Commissioners. We are currently preparing a Board Item to address this issue.

We have enjoyed working with the Corps on past environmental restoration projects such as Munnyon Island, and look forward to working with you on the restoration of John's Island as well. If you have any further questions, feel free to contact Mr. David Carson or myself at (561)233-2400. Thank you for your consideration.

Sincerely,

Richard E. Walesky, Director
Department of Environmental Resources Management

REW:DC

cc: (With enclosures)

Richard Paul, Manager/Biologist
Florida Audubon Society, Tampa Bay Sanctuaries
Jim Bowser, Town Engineer
Town of Palm Beach