



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
WATER MANAGEMENT DIVISION  
SOUTH FLORIDA OFFICE  
400 NORTH CONGRESS AVE., SUITE 120  
WEST PALM BEACH, FLORIDA 33401

9 May 00  
CBI

Colonel Joe Miller, District Engineer  
Attn: Diane S. Griffin  
Department of the Army  
Jacksonville District Corps of Engineers  
P.O. Box 4970  
Jacksonville, FL 32232-0019

MAY 05 2000

SUBJ: Town of Palm Beach, Phipps Ocean Park  
PN 200000380 (IP-DSG)

Dear Colonel Miller:

This letter is in response to your request for comments on the above referenced public notice. The project purpose is to restore and stabilize approximately 1.9 miles of beach shoreline. The project site is located in the Atlantic Ocean from monument R-116 to R-126, in Sections 11, 14, and 23, Township 44 South, Range 43 East, Town of Palm Beach, Palm Beach County, Florida.

The Environmental Protection Agency (EPA) has reviewed the information contained in the public notice and the additional information provided by Coastal Technology Corporation. Beth Burger of EPA inspected the site on April 27, 2000, with Spencer Simon of the U.S. Fish and Wildlife Service (FWS) and Mike Johnson of the National Marine Fisheries Service (NMFS). According to the Clean Water Act Section 404(b)(1) Guidelines and the Memorandum of Agreement between the Corps of Engineers and EPA in determining mitigation under the CWA, an applicant must demonstrate avoidance and minimization of wetland impacts before compensatory mitigation may be considered. Specifically, no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem. Practicable alternatives include activities which do not involve a discharge of dredged or fill material into the waters of the United States. An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose. Please provide a detailed alternatives analysis including a discussion of the purpose and necessity of the project and an explanation of the "critical erosion area" and its criteria. EPA is particularly concerned over the need to restore the beach next to the golf course where a large portion of nearshore consists of hard bottom reef habitat. Please explain the borrow area site selection and the location of Borrow Area 1 where there is a sewer outfall.

In the event that avoidance and minimization issues are satisfied, EPA notes that the compensation plan is inadequate to compensate for the proposed impacts. The public notice stated that 1.5 acres of impacts are proposed. However, the site visit by the EPA, FWS, and

NMFS found a much greater area of hard bottom nearshore reef in the project area that would be impacted. The additional information provided by Coastal Technology Corporation also indicated a larger area, 5.18 acres of hard bottom, would be impacted by the project. In the event that avoidance and minimization issues are satisfied, EPA requests compensatory mitigation for the all of the acreage of hard bottom impacts.

Further, EPA is opposed to the project until the mitigation plan is proved to be adequate compensation for impacts to nearshore hard bottom. The permit issued for renourishment of Juno Beach, permit number 199706559 (IP-BP), required monitoring of the compensatory mitigation area to assess fish recruitment and survival and to compare habitat value of artificial reef habitats placed in various depths with natural hard bottom habitat in shallow water. EPA requests that all beach renourishment projects impacting shallow water reef habitats be held in abeyance until we have reviewed the results of the Juno Beach monitoring study.

EPA recommends denial of the project at this time. In accordance with the procedural requirements of the 1992 404(q) Memorandum of Agreement Part IV, 3(a) between our agencies, we are advising you that the proposed work may have substantial and unacceptable adverse impacts on aquatic resources of national importance. Thank you for the opportunity to comment on this request for authorization. If you have any questions, please contact Beth Burger at (561) 616-8878.

Sincerely,



Richard M. Harvey, P.E.  
Director

cc: Spencer Simon, FWS, Vero Beach, FL  
Michael Johnson, NMFS, Miami, FL