Zarbo, Alisa A SAJ

From: Nelson.Ericb@epamail.epa.gov
Sent: Friday, March 14, 2003 12:24 PM
To: Zarbo, Alisa A
Subject: RE: PN 200301580

It looks like with the 2.07 acres wetland preservation and purchase of 0.25 credits based on WRAP that adequate mitigation will be achieved.

Thanks,

Eric

Alisa.A.Zarbo@saj02.usa
ce.army.mil To: EricB
Nelson/R4/USEPA/US@EPA
cc:
03/14/2003 11:48 AM Subject: RE: PN 200301580

Yes I have been out to the site. The wetlands are extremely poor, almost not even a wetland. Cattle are on site as well in the wetlands. The only wetland that is of any sort of value is considered isolated by the Corps through the SWANCC. This wetland has been avoided and will be preserved. They are proposing to purchase 0.25 credits at Bluefield through the WRAP process. With that alone, they have enough mitigation but they are also proposing to avoid, preserve and enhance the isolated wetland. The credits are low at Bluefield, I know, but these are almost not considered to be wetlands. I have left the mitigation open, meaning I have not yet agreed to their proposal. I wanted to get an idea of the amount of comments received. I have not permitted a rock mine before. :) Call me if you have questions or want to go out to the site for a visit. Thanks, Alisa 772-781-8088 (work) 772-781-8106 (fax)

-----Original Message-----
From: Nelson.Ericb@epamail.epa.gov [mailto:Nelson.Ericb@epamail.epa.gov]

Sent: Friday, March 14, 2003 11:21 AM
To: Zarbo, Alisa A
Subject: PN 200301580

Dear Ms. Alisa Zarbo,

I have a couple questions about Dickerson Florida, Inc. PN 200301580.

Have you made a site visit to confirm the conditions of the wetlands?

How much credit will be purchased from the Bluefield Ranch Mitigation Bank?

Thanks,

Eric Nelson

Eric B. Nelson
Environmental Scientist
Fish & Wildlife Service Liaison
EPA South Florida Office
400 North Congress Avenue
Suite 120
West Palm Beach, Florida 33401
561-616-8824
561-615-6959 (fax)
nelson.ericb@epa.gov

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

DEC 16 2005

RECEIVED
DEC 20
JACKSONVILLE
USACE

Michael J. Busha, AICP
Executive Director
Treasure Coast Regional Planning Council
301 East Ocean Boulevard, Suite 300
Stuart, Florida 34994

SUBJECT: Indrio Development of Regional Impact (DRI)
Application for Development Approval (ADA)

Dear Mr. Busha:

This letter is in response to the ADA submitted by Land Planning Systems, Inc., for the project currently known as Indrio DRI. The applicant proposes a mixed use community, including housing, commercial, and retail space, to be placed on a 1,738-acre parcel that is currently in use as agricultural grazing land and sand mining. The purpose of the project is to construct a new community in the northwestern area of St. Lucie County. The site is located just south of the Indian River County boundary, west of I-95 and north of Indrio Road.

The U.S. Environmental Protection Agency (EPA) has reviewed the ADA provided as it relates to wetlands and surface waters regulated under the Clean Water Act (CWA), specifically in relation to the CWA Section 404(b)(1) Guidelines (Guidelines), which prohibit avoidable or significant adverse impacts to the aquatic environment. EPA provides comments during the public notice period that takes place as part of the CWA 404 permit process administered by the Army Corps of Engineers (ACOE). While we are aware that this process has not yet been initiated, we would like to take the opportunity to comment at this time while the project is still in the planning phase. It is our hope that, at this stage of project development, there is more flexibility in the project design, wherein our comments can be considered and result in a higher level of environmental protection and stewardship. These comments are also provided as a benefit to the applicants, so that they have the opportunity to consider them early on in the process. Therefore, EPA wishes to provide the following comments and recommendations on this project for consideration during the DRI process.

Avoidance, Minimization, Mitigation

A. Based on the information provided in Question 13, it appears that 124.9-acres (7.18%) of the site are wetlands. The project description states that 93.4-acres (74.78%) of wetlands are to be impacted. Please be advised that the EPA is required through the direction in the Guidelines to ensure that every practicable alternative to avoid or minimize impacts is assessed before considering compensatory mitigation. Given the large size of the site (1,738-acres) and the fact that wetlands constitute only 7.18% of this parcel, it seems feasible that the project could be designed in such a way that impacts to the majority of the vegetated wetlands could be avoided. During the CWA 404 permit process, justification for why remaining impacts to wetlands could not be avoided or minimized will be required.

B. On page 65 of the ADA it states that approximately 5.7% of the property is wetlands. However, as shown above, our calculations show that this is closer to 7.2%. In any case, please be aware that federal wetlands jurisdiction often differs from state wetland jurisdiction, and this can result in a

change in total area of wetlands and surface waters. This difference can change the acreage of impacts and affect the amount and type of mitigation required.

C. Table 13-A-9 is labeled in a way that is unclear as to what the actual impacts will be from the current conceptual site design. Areas that are being impacted cannot simultaneously be enhanced. Please create a table that clearly gives values for acres of impacts, acres of wetlands avoided, and acres of mitigation on-site (This should be broken down into restored acres, enhanced acres and created acres).

D. Based on the location of the remaining wetlands, it appears that this site historically had wetlands occurring along the property's centerline from north to south. In the conceptual plan, it does not appear that any wetlands are proposed to remain within that area. We recommend evaluating the potential for enhancement and restoration of wetlands along the center of the property as well as in the boundary areas currently proposed for mitigation.

E. Since this property is currently in use for mining purposes, will this affect the proposed DRI plan? Are any of the current or future mines being dug in wetlands, and if so, has mitigation been required for these mines? We strongly encourage the preservation of any areas on-site that were previously used for mitigation.

F. Since this area is rapidly developing, please provide a regional map that shows your DRI as well as any other known DRIs located within the same vicinity. Is this parcel adjacent to any other DRI parcels? If so, EPA recommends joint planning of project design between adjacent DRI projects, specifically in relation to wetlands preservation and enhancement, surface water management, and mitigation. Rather than view each DRI project as an independent piece, multiple DRIs occurring within the same regional area have the potential to come together and create ecologically significant corridors of wetlands and open space.

In some cases, applicants choose to coordinate with ACOE staff during the DRI process. We request that they include the federal partner agencies (EPA, National Marine Fisheries Service [NMFS], and US Fish and Wildlife Service [FWS]) in any site visits and pre-application meetings.

Thank you for the opportunity to participate in the DRI process and provide comments on this ADA. If you or the applicant should have any questions, please contact Victoria Foster at the address shown on the letterhead, by e-mail at Foster.Victoria@epa.gov, or by telephone at 561-616-8878.

Sincerely,

Veronica Fassett for

Richard M. Harvey, P.E.
Director

cc: ACOE, Palm Beach Gardens, FL – Alisa Zarbo
FWS, Vero Beach, FL – Chuck Kelso
NMFS, Miami, FL – Jocelyn Karazsia

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JH

APR 0 4 2007

RE

APR

CKSONVIL
USAC

Colonel Paul L. Grosskruger, District Engineer
Department of the Army
Jacksonville District Corps of Engineers
Attention: Alisa A. Zarbo
Palm Beach Gardens Regulatory Field Office
4400 PGA Boulevard, Suite 500
Palm Beach Gardens, Florida 33410

RECEIVED
APR 09 2007
JACKSONVILLE DISTRICT
USACE

SUBJECT: Indrio Land Group, LLC
Capron Lakes Development of Regional Impact (DRI)/Indrio DRI
2005-2860 (AAZ)

Dear Colonel Grosskruger:

This letter is in response to permit application number 2005-2860 (AAZ) submitted by Alex Muxo on behalf of Indrio Land Group, LLC. The applicant proposes to impact 107.7 acres of wetlands and surface waters. The total site is 1,738-acres in size and is currently in use as agriculture and rock mining. According to the public notice on-site wetlands consist of 40.4 acres of freshwater mixed forested wetlands, 4.4 acres of cypress wetlands, 28.8 acres of wet prairie wetlands and 51.3 acres of marshes. The purpose of the project is to provide residential, institutional and commercial developments in St. Lucie County, Florida. The proposed project is located to the west of I-95, south of the Indian River County line, in Sections 1, 12, and 13 of Township 34 South, Range 38 East, and Sections 6, 7, and 18 of Township 34 South, Range 39 East, in St. Lucie County, Florida.

The U.S. Environmental Protection Agency (EPA), Region 4 has completed its review of this project from information contained in the public notice and in the Application for Development Approval (ADA). This letter summarizes EPA's comments on the project, concentrating especially on the Clean Water Act's (CWA) Section 404(b)(1) Guidelines (Guidelines), whose purpose is to restore and maintain the chemical, physical, and biological integrity of waters of the United States. These goals are achieved, in part, by prohibiting discharges of dredged or fill material that would result in avoidable or significant adverse impacts on the aquatic environment. Pursuant to the 1992 CWA Section 404(q) Memorandum of Agreement (MOA) between the Environmental Protection Agency (EPA) and the Department of the Army, it appears that the net loss of aquatic functions and values after considering proposed compensatory mitigation may result in substantial and unacceptable adverse effects to an aquatic resource of national importance (ARNI).

The jurisdictional waters on this site include drainage ditches, depressional wetlands, and forested wetland habitats. Historically, these wetlands were all part of a larger, interconnected

wetland system that extended south through St. Lucie County. Human manipulation of this area has drained and altered many of the wetlands throughout this area. However, these areas provide a multitude of ecologic functions that play a role in the health of the watershed. They enhance water quality through natural uptake of nutrients and filtration of suspended sediments and they provide water storage and groundwater recharge functions. These wetlands are essential habitat for amphibians and fishes, and provide feeding areas for wading birds, including endangered species such as the wood stork (*Mycteria americana*). This site provides habitat for the following threatened and endangered species in addition to the wood stork: eastern indigo snake (*Drymarchon corais*), Audubon's crested caracara (*Polyborus plancus audubonii*), bald eagle (*Haliaeetus leucocephalus*), and the Everglade snail kite (*Rosthrhamus sociabilis plumbeus*).

In addition to the ecologic functions these on-site wetlands provide, they have added value due to the rapid loss of wetlands both within this immediate area and within the overall Indian River South watershed. This area of St. Lucie County is under intense development pressure and these remaining wetland areas provide important refugia among the increasing development. In particular, development projects are proposed that will convert over 33,000 acres of agriculture and natural lands to urban areas along the western urban boundary of St. Lucie County. This loss of topsoil and loss of vegetation will decrease infiltration, increase runoff, increase stormflow, and decrease baseflows. For all of the above reasons, EPA considers these wetlands to be ARNI. We have outlined our specific concerns below and request that the applicant address them in order to demonstrate compliance with the Guidelines.

There are discrepancies between the public notice and the most recently proposed project provided in the Development of Regional Impact (DRI) review process. The notice states that the site contains 1,738 total acres and that the project will impact 93.4 acres of wetlands and 14.3 acres of surface waters (ditches and canals). However, the latest response in the DRI process shows the property containing a total of 1,938 acres and the project impacting 52.5 acres of wetlands and an unknown amount of surface waters. The applicant needs to provide the Corps with the most recent plans for the project and that the jurisdictional lines used to determine the acreage of impacts are the federally verified lines. Once the Corps has verified the acres of impacts from the proposed project, please provide EPA with the latest information.

In December 2005, EPA provided a preliminary letter to the Treasure Coast Regional Planning Council (TCRPC) in response to the ADA. That letter notified the applicant that avoidance and minimization would be necessary to comply with the Guidelines. Section 230.10(d) requires that all appropriate and practicable steps be taken to minimize adverse impacts to the aquatic environment. If the resulting site still involves impacts to waters of the U.S., alternative site configurations will need to be considered. Documentation of the alternatives considered needs to include the location and assessment of the impacts associated with each site and site configuration. Impact assessments should also be made using a standard protocol across all sites. We appreciate any efforts that have been made to avoid or minimize impacts to the existing on-site wetlands. However, it appears that further on-site minimization may be practicable. EPA requests that the applicant consider the reduction and reconfiguration of the proposed units, as well as a reconfiguration of the proposed stormwater system so that impacts to wetlands are reduced. Once final plans are developed the applicant needs to provide justification for any remaining impacts and forward copies of the new plans for our review.

The drawings provided are unclear regarding the location of existing wetlands and which wetlands are proposed for impact vs. preservation. The applicant should provide a map which shows the location of all existing jurisdictional wetlands and surface waters, and that shows the proposed project boundaries overlaid on the existing resources. Impact areas should be distinguishable from preserved areas. Also, it appears from the plans that stormwater ponds are proposed within existing wetlands, but it is unclear if these areas are being included in the impact calculations. The use of wetlands for stormwater treatment in order to meet State water quality standards may result in the removal of these wetlands as jurisdictional waters of the United States. (For additional information, please see 40 CFR 122.2, 40 CFR 131.10(a), and "FINAL: Region 4 Guidelines for Reconciling Storm Water Management and Water Quality and Resource Protection Issues" dated 06/02/04). If this is the case for this project, the loss of these wetlands as waters of the U.S. must be considered in the overall evaluation of project impacts.

In accordance with 40 CFR 230.10(b)(1), no discharge of dredged or fill material shall be permitted if it causes or contributes, after consideration of disposal site dilution and dispersion, to violations of any applicable State water quality standard. To determine compliance with this provision of the Guidelines, EPA requests that clarification of the CWA Section 401 Water Quality Certification be conducted to determine if stormwater *entering* the subject wetlands will meet State water quality standards, including any narrative requirements for nutrients. If the State cannot certify that its water quality standards will be met *prior to* entering the wetlands or if the State waives water quality certification, EPA requests that the project be evaluated for the additional impacts to these wetlands. Additionally, EPA is concerned that the proposed changes to the wetlands may also result in shifts in wetland habitat quality and type.

Section 230.10(c) prohibits discharges that will cause or contribute to significant degradation, including cumulative impacts to fish, wildlife, and ecosystem diversity. EPA is aware of 9 other developments proposed for western St. Lucie County. We are concerned that the placement of 10 developments covering over 33,000 acres along this corridor in St. Lucie County could have significant cumulative impacts on the County's resources and the Indian River South watershed basin. Additionally, this may lead to degradation of this area's ecological and recreational values. The applicant has not provided sufficient information to determine the cumulative impacts of the proposed project in combination with other reasonably foreseeable future projects. Along with discussion of cumulative impacts from these projects, we believe the applicants can design their project in such a manner as to provide opportunities to connect preservation areas, on and off-site, to create an ecologically valuable corridor that will enhance ecological resources in the Indian River South watershed.

The public notice does not provide sufficient information on proposed compensatory mitigation for the wetland loss that will occur as a result of this proposed project. In order to comply with Section 404(b)(1) Guidelines and the national "no net loss" policy, compensatory mitigation will be required for wetland areas impacted by this project. After impacts have been minimized to the extent practicable, the applicant should forward a complete copy of the proposed mitigation plan for review. On-site mitigation plans should include information on maintenance and monitoring, provisions for perpetual preservation, and assurances for long term funding for enhancement and maintenance. Please advise the applicant that, under the CWA,

discharges of pollutants to waters of the U.S. are considered impacts and not mitigation. Therefore, in order to receive mitigation credit for the surface water management systems, the applicant must demonstrate that water quality standards will be met prior to discharge into the mitigation area, and that the discharge will improve the function of the mitigation site.

Once the project design has been revised and a mitigation plan has been presented, EPA requests that the applicant provide functional assessment (i.e., Wetland Rapid Assessment Procedure - WRAP) scores for any remaining, unavoidable impact areas to demonstrate that the mitigation proposed is sufficient to offset the functional loss due to wetland impacts. The functional assessment should address both direct and secondary impacts to wetlands and surface waters.

Since there are multiple large-scale DRIs proposed for the western portion of St. Lucie County that propose to impact significant areas of wetlands (approximately 700 acres), EPA strongly encourages an interagency meeting with the permitting and resource agencies affiliated with these projects. The opportunity exists to encourage joint planning of adjacent communities such that regional corridors are created to provide enhanced function of preservation areas. We anticipate that local and state agencies may have similar ideas and would benefit from participating.

EPA believes that this application does not comply with the 404(b)(1) Guidelines. We believe that impacts to significant acreage of wetlands may occur, both on this site and cumulatively within the watershed. Additional information is needed regarding direct and cumulative impacts, avoidance and minimization of those impacts, and mitigation. In conclusion, EPA finds this project may have substantial and unacceptable adverse impacts on aquatic resources of national importance. Therefore, we recommend denial of the project, as currently proposed. This letter follows the field level procedures outlined in the August 1992 Memorandum of Agreement between the EPA and the Department of the Army, Part IV, paragraph 3(a) regarding Section 404(q) of the Clean Water Act.

Thank you for the opportunity to comment on this request for authorization. If you should have any questions, please contact Victoria Foster at 400 North Congress Avenue, Suite 120, West Palm Beach, FL, 33401, by e-mail at foster.victoria@epa.gov or by telephone at 561-616-8878.

Sincerely,

Dee Stewart for

James D. Giattina, Director
Water Management Division

cc: FWS, Vero Beach, FL (Charles Kelso)
NMFS, West Palm Beach, FL (Jocelyn Karazsia)
SFWMD, West Palm Beach (James Golden)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY COMMENTS AND APPLICANT RESPONSES

The following comments have been excerpted from a letter written by James Giattina, Director of the Water Management Division of the United States Environmental Protection Agency. Victoria Foster is listed as the reviewer of this project (561-616-8878). The letter was addressed to Colonel Grosskruger, District Engineer of the Department of the Army Jacksonville District Corps of Engineers and dated April 4, 2007.
The following comments have been addressed by Goldasich and Associates, the environmental consultants for this project and the responses are shown in bold and italics to distinguish them from USEPA staff comments.

This letter is in response to permit application number 2005-2860 (AAZ) submitted by Alex Muxo on behalf of Indrio Land Group, LLC. The applicant proposes to impact 107.7 acres of wetlands and surface waters. The total site is 1,738-acres in size and is currently in use as agriculture and rock mining. According to the public notice on-site wetlands consist of 40.4 acres of freshwater mixed forested wetlands, 4.4. acres of cypress wetlands, 28.8 acres of wet prairie wetlands and 51.3 acres of marshes. The purpose of the project is to provide residential, institutional and commercial developments in St. Lucie County, Florida. The proposed project is located to the west of I-95, south of the Indian River county line, in Sections 1, 12, and 13, of Township 34 South, Range 38 East, and Section 6, 7, and 18 of Township 34 South, Range 39 East, in St. Lucie County, Florida. .

The U.S. Environmental Protection Agency (EPA), Region 4 has completed its review of this project from information contained in the public notice and in the Application for Development Approval (ADA). This letter summarizes EPA's comments on the project, concentrating especially on the Clean Water Act's (CWA) Section 404(B)(1) Guidelines (Guidelines), whose purpose is to restore and maintain the chemical, physical, and biological integrity of waters of the United States. These goals are achieved, in part, by prohibiting discharges of dredged of fill material that would result in avoidable of significant adverse impacts on the aquatic environment. Pursuant to the 1992 CWA Section 404(q) Memorandum of Agreement)MOA) between the Environmental Protection Agency (EPA) and the Department of the Army, it appears that the net loss of aquatic functions and values after considering proposed compensatory mitigation may result in substantial and unacceptable adverse effects to tan aquatic resource of national importance (ARNI).

The jurisdictional waters on this site include drainage ditches, depressional wetlands, and forested wetland habitats. Historically, these wetlands were all part of a larger, interconnected wetland system that extended south through St. Lucie County. Human manipulation of this area has drained and altered many of the wetlands throughout this area. However, these areas provide a multitude of ecologic functions that play a role in the health of the watershed. They enhance water quality through uptake of nutrients

and filtration of suspended sediments and they provide water storage and groundwater recharge functions. These wetlands are essential habitat for amphibians and fishes, and provide feeding areas for wading birds, including endangered species such as the wood stork (*Mycteria Americana*). This site provides habitat for the following threatened and endangered species in addition to the wood stork: eastern indigo snake (*Drymarchon corais*), Audubon's crested caracara (*Polyborus plancus audubonii*), bald eagle (*Haliaeetus leucocephalus*), and the Everglade snail kite (*Rosthrhamus socialbilis plumbeus*).

In addition to the ecologic functions these on-site wetlands provide, they have added value due to the rapid loss of wetlands both within this immediate area and within the overall Indian River South watershed. This area of St. Lucie County is under intense development pressure and these remaining wetland areas provide important refugia among the increasing development. In particular, development projects are proposed that will convert over 33,000 acres of agriculture and natural lands to urban areas along the western urban boundary of St. Lucie County. This loss of topsoil and loss of vegetation will decrease infiltration, increase runoff, increase stormflow, and decrease baseflows. For all of the above reasons, EPA considers these wetlands to be ARNI. We have outlined our specific concerns below and request that the applicant address them in order to demonstrate compliance with the Guidelines.

1. There are discrepancies between the public notice and the most recently proposed project provided in the Development of Regional Impact (DRI) review process. The notice states that the site contains 1,738 total acres and that the project will impact 93.4 acres of wetlands and 14.3 acres of surface waters (ditches and canals). However, the latest response in the DRI process shows the property containing a total of 1,938 acres and the project impacting 52.5 acres of wetlands and an unknown amount of surface waters. The applicant needs to provide the Corps with the most recent plans for the project and that the jurisdictional lines used to determine the acreage of impacts are the federally verified lines. Once the Corps has verified the acres of impacts from the proposed project, please provide EPA with the latest information.

   The project has undergone several revisions to better avoid and minimize impacts to wetlands and significant natural systems on the site between the initial DRI submittal and the current time. This has resulted in revisions to the areas of wetlands impacted. 200 acres have been added to the project in the northwest project area bringing the total project site up to 1,938 acres. The master plan was revised in order to incorporate additional open space, relocate development to minimize wetland impacts, preserve additional wetlands in this area and create more littoral shelf and shoreline improvements. The plan protects 54.6 acres of wetlands with 7.13 acres of wetlands included in the buffers for a total of 61.7 acres of the highest quality wetlands protected. The revised plan also creates 20.9 acres of enhanced littoral shelf along the lake shoreline and preserves and enhances 126.5 acres of native community dominated uplands adjacent to the wetland preservation and

enhancement areas to create a wildlife corridor. A large forested preserve and enhancement area of 36.3 acres is included adjacent to the entrance to the plan. It has also enabled us to connect the open space area around the perimeter of the project linking the open space and recreation system to the eastern upland preservation area and littoral shelf improvements.

Further, due to the results of the field evaluations with representatives of the SFWMD and ACOE to confirm the limits of the staked wetlands, additional field staking and survey documentation of the limits of the wetlands has been conducted. This field survey has resulted in slight changes in the real extent of the wetlands due to the higher degree of accuracy afforded to the survey over the initial aerial interpretation methods used in the initial application materials. As a result, the wetland areas may be slightly different in the current plan, however this delineation is based upon the most accurate method of defining wetlands and has been accepted by both the SFWMD and ACOE. The total wetland area within the project is 125.13 acres and the total wetland area protected is 61.73 acres and 61.4 acres of wetlands will be impacted (fill 36.9 acres, excavation 24.5 acres). A new wetland impact map is included with the DRI re-submittal

2. In December 2005, EPA provided a preliminary letter to the Treasure Coast Regional Planning Council (TCRPC) in response to the ADA. That letter notified the applicant that avoidance and minimization would be necessary to comply with the Guidelines. Section 230.10(d) requires that all appropriate and practicable steps be taken to minimize adverse impacts to the aquatic environment. If the resulting site still involves impacts to waters of the U.S., alternative site configurations will need to be considered. Documentation of the alternatives considered needs to include the location and assessment of the impacts associated with each site and site configuration. Impact assessment should also be made using a standard protocol across all sites. We appreciate any efforts that have been made to avoid or minimize impacts to the existing on-site wetlands. However, it appears that further on-site minimization may be practicable. EPA requests that the applicant consider the reduction and reconfiguration of the proposed units, as well as a reconfiguration of the proposed stormwater system so that impacts to wetlands are reduced. Once final plans are developed the applicant needs to provide justification for any remaining impacts and forward copies of the new plans for our review.

As a result of a request to further minimize impacts to wetlands onsite, the Applicant has revised the site plan and conducted several on site meetings with both federal and state agencies in order to refine the project and protect the best quality wetlnds onsite. Therefore, the resulting site plan has generated the current site plan that protects

wetlands to the greatest extent practicable and provides suitable wetland mitigation, native upland preservation and overall natural system enhancement. The resulting natural system plan provides improved wetland quality, and connectivity for improved wildlife utilization. The previous submittal provided 8 master plan concepts and revisions. The revisions were made in order to maximize open space and preserve wetlands while still providing for development. The project has been reduced in both intensity and density and increased in open space to a total of 70% of the property as a result of this alternative plan analysis. The overall open space of the current plan includes more than 800 acres of lakes, 126.5 acres of native community dominated uplands adjacent to the wetland preservation and enhancement areas to create a wildlife corridor. A large forested preserve and enhancement area of 36.3 acres is included adjacent to the entrance to the plan and 61.7 acres of wetland preservation.

3. The drawings provided are unclear regarding the location of existing wetlands and which wetlands are proposed for impact vs. preservation. The applicant should provide a map which shows the location of all existing jurisdictional wetlands and surface waters, and that shows the proposed project boundaries overlaid on the existing resources. Impact areas should be distinguishable from preserved areas. Also, it appears from the plans that stormwater ponds are proposed within existing wetlands, but it is unclear if these areas are being included in the impact calculations. The use of wetlands for stormwater treatment in order to meet State water quality standards may result in the removal of these wetlands as jurisdictional waters of the United States. (For additional information, please see 40 CFR 122.2, 40 CFR 131.10(a), and "FINAL: Region 4 guidelines for Reconciling Storm Water Management and Water Quality and Resource Protection Issues" dated 06/02/04. If this is the case for this project, the loss of these wetlands as waters of the U.S. must be considered in the overall evaluation of project impacts.

   A revised site plan is included in the current submittal which clearly illustrates protected and enhanced wetlands, wetlands to be removed, and proposed littoral shelf improvements. Wetlands or other surface waters are not proposed to be used for stormwater treatment.

4. In accordance with 40 CFR 230.10(b)(1), no discharge of dredged or fill material shall be permitted if it causes or contributes, after consideration of disposal site dilution and dispersion, to violations of any applicable State water quality standard. To determine compliance with this provision of the Guidelines, EPA requests that clarification of the CWA Section 401 Water Quality Certification be conducted to determine if stormwater *entering* the subject wetlands will meet State water quality standards, including any narrative requirements for nutrients. If the State cannot certify that its water quality standards will be met *prior to* entering the wetlands or if the State

waives water quality certification, EPA requests that the project be evaluated for the additional impacts to these wetlands. Additionally, EPA is concerned that the proposed changes to the wetlands may also result in shifts in wetland habitat quality and type.

This analysis is underway with the SFWMD and Section 401 certification (WQC) will be issued with the SFWMD Environmental resource Permit (ERP).

5. Section 230.10(c) prohibits discharges that will cause or contribute to significant degradation, including cumulative impacts to fish, wildlife, and ecosystem diversity. EPA is aware of 9 other developments proposed for western St. Lucie County. We are concerned that the placement of 10 developments covering over 33,000 acres along this corridor in St. Lucie County could have significant cumulative impacts on the County's resources and the Indian River South watershed basin. Additionally, this may lead to degradation of this area's ecological and recreational values. The applicant has not provided sufficient information to determine the cumulative impacts of the proposed project in combination with other reasonably foreseeable future projects. Along with discussion of cumulative impacts from these projects, we believe the applicants can design their project in such a manner as to provide opportunities to connect preservation areas, on and off-site, to create an ecologically valuable corridor that will enhance ecological resources in the Indian River South watershed.

The project has been designed with sound urban and environmental planning principles. It incorporates compact traditional neighborhood design criteria where residents can live, work and play close to home. It also includes 70% open space with large bodies of water. This water "flow-way" also incorporates large preservation areas with connected habitats to create wildlife corridors and is designed to allow it to be connected to properties off-site. The project has also utilized the large surface water areas to isolate the native habitats from development and thereby reduce or eliminate the direct impacts from human activities and the related potential degradation from pets, debris and ingress/egress by human activity. The utilization of these planning principles minimizes the impacts and sets a model for future large scale type of development projects in the county.

The applicant has protected the wetlands, and other natural systems, in continuous corridors along the perimeter of the property so as to create a continuous corridor of high quality wetlands and native uplands. The result is an essentially continuous corridor of native habitat areas that provide the benefits of wetlands and uplands and the synergy each produce when they are found in large relatively undisturbed tracts. Further, the location of these areas along the perimeter of the site further

encourages the incorporation of these areas into regional systems that result in a net and cumulative improvement to the natural system productivity.

6. The public notice does not provide sufficient information on proposed compensatory mitigation for the wetland loss that will occur as a result of this proposed project. In order to comply with Section 404(b)(1) Guidelines and the national "no net loss" policy, compensatory mitigation will be required for wetland areas impacted by this project. After impacts have been minimized to the extent practicable, the applicant should forward a complete copy of the proposed mitigation plan for review. On-site mitigation plans should include information on maintenance and monitoring, provisions for perpetual preservation, and assurances for long term funding for enhancement and maintenance. Please advise the applicant that, under the CWA, discharges of pollutants to waters of the U.S. are considered impacts and not mitigation. Therefore, in order to receive mitigation credit for the surface water management systems, the applicant must demonstrate that water quality standards will be met prior to discharge into the mitigation area, and that the discharge will improve the function of the mitigation site.

   The Applicant has conducted UMAM analyses of each wetland area and of the proposed mitigation and the resulting analysis is provided for your review. According to the analysis, the project will provide sufficient mitigation for unavoidable impacts. As previously mentioned, we designed 8 alternative plans in order to minimize impacts to wetlands which were included in the second re-submittal analysis of the DRI. Wetlands or other surface waters are not proposed to be used for stormwater treatment.

7. Once the project design has been revised and a mitigation plan has been presented, EPA requests that the applicant provide functional assessment (i.e., Wetland Rapid Assessment Procedure – WRAP) scores for any remaining, unavoidable impact areas to demonstrate that the mitigation proposed is sufficient to offset the functional loss due to wetland impacts. The functional assessment should address both direct and secondary impacts to wetlands and surface waters.

   The Applicant has conducted UMAM analyses of each wetland area and of the proposed mitigation and the resulting analysis is provided for your review. According to the analysis, the project will provide sufficient mitigation for unavoidable impacts. We look forward to reviewing the UMAM assessment with you following your review of the information submitted.

8. Since there are multiple large-scale DRIs proposed for the western portion of St. Lucie County that propose to impact significant areas of wetlands

(approximately 700 acres), EPA strongly encourages an interagency meeting with the permitting and resource agencies affiliated with these projects. The opportunity exists to encourage joint planning of adjacent communities such that regional corridors are created to provide enhanced function of preservation areas. We anticipate that local and state agencies may have similar ideas and would benefit from participating.

The Applicant's representatives will participate in interagency meetings as appropriate. We have planned the project to allow for off-site regional environmental corridors to occur as adjacent properties develop.

9. EPA believes that this application does not comply with the 404(b)(1) Guidelines. We believe that impacts to significant acreage of wetlands may occur, both on this site and cumulatively within the watershed. Additional information is needed regarding direct and cumulative impacts, avoidance and minimization of those impacts, and mitigation. In conclusion, EPA finds this project may have substantial and unacceptable adverse impacts on aquatic resource of national importance. Therefore, we recommend denial of the project, as currently proposed. This letter follows the field level procedures outlined in the August 1992 memorandum of Agreement between the EPA and the Department of the Army, Part IV, paragraph 3(a) regarding Section 404(q) of the Clean Water Act.

   We have minimized significant impact to onsite wetlands. The comment is not specific enough to determine exactly which wetland impacts are of concern. Therefore, we have offered, and are planning, a field review in the near future with EPA and USCOE staff to review site impacts. We understand the concern EPA has with respect for cumulative impacts, but can only control the impact of our project – both on-site and off site and believe we are minimizing our impacts of both.

   Based upon the project site plan revisions and reductions in wetland impacts and mitigation for unavoidable impacts, the Applicant requests that EPA reevaluate the project compliance with 404(b)1 Guidelines.

Lips, Garett G SAJ

From: Miedema.Ron@epamail.epa.gov
Sent: Wednesday, March 04, 2009 7:51 AM
To: Lips, Garett G SAJ
Cc: Goldasich, Jim
Subject: RE: Capron Lakes

Garett, Based on the applicant's willingness to reduce wetland impacts from 107.7 acres to 55.57 acres and increase the total amount of onsite mitigation, EPA does not object to the issuance of the permit provided the mitigation complies with the Compensatory Wetlands Mitigation Rule dated April 10, 2008. Please provide EPA with a copy of the statement
of findings and DA permit should the permit is issued. Thanks Ron

"Lips, Garett G SAJ" <Garett.G.Lips@usace.army.mil>
03/04/2009 07:10 AM

To
"Goldasich, Jim" <jjg@jjgoldasich.com>, Ron Miedema/R4/USEPA/US@EPA

cc

Subject
RE: Capron lakes

Ron,
Can you please send to me EPA's written response to our meeting yesterday and your review of the onsite wetlands?.

Thank you,

Garett Lips
Biologist
U.S. Army Corps of Engineers
4400 PGA Boulevard, Suite 500
Palm Beach Gardens, FL 33410
Office 561-472-3519

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