

**APPENDIX D**  
**Coastal Zone Management Plan**  
**Consistency Determination**



Jeb Bush  
Governor

# Department of Environmental Protection

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

David B. Struhs  
Secretary

May 14, 2003

Mr. James C. Duck, Chief  
Planning Division, Jacksonville District  
U. S. Army Corps of Engineers  
Post Office Box 4970  
Jacksonville, Florida 32232-0019

Re: Department of the Army, Jacksonville District, U.S. Army Corps of Engineers, Draft  
General Re-Evaluation Report and Environmental Impact Statement, Miami Harbor  
Navigation Improvements, Miami-Dade County, Florida

SAI: FL200303191299C

Dear Mr. Duck:

The Florida State Clearinghouse, pursuant to Executive Order 12372, Gubernatorial Executive Order 95-359, the Coastal Zone Management Act, 16 U.S.C. §§ 1451-1464, as amended, and the National Environmental Policy Act, 42 U.S.C. §§ 4321, 4331-4335, 4341-4347, as amended, has coordinated the review of the above-referenced Draft General Re-Evaluation Report (DGRR) and Environmental Impact Statement (EIS) for the proposed project.

The South Florida Water Management District (SFWMD) indicates that the proposed project will modify Biscayne Bay's hydrography, which could impact the Biscayne Bay ecosystem by increasing residence-times in portions of Biscayne Bay thereby causing chronic increases in salinity. This has occurred over time in northern Biscayne Bay primarily because of the construction of inlets at Baker's Haulover and Government Cut. The proposed alternative will deepen and widen ship channels and turning basins in the area of the port that may increase tidal flushing with ocean waters. The District points out that the salinity modeling cited by the Corps covers only an area immediately around the port with a simulation period of only 2 weeks. The SFWMD notes out that the projected impacts tend to focus on the short term construction impacts with little discussion of the cumulative effects that can be expected from increased boat traffic within the harbor, and the potential cumulative impacts from changes in currents and salinity within the bay. The SFWMD recommends that a new three-dimensional study be conducted for a minimum one-year simulation period that covers the area from Broad Causeway extending south of Rickenbacker Causeway. Please see the enclosed comments from the SFWMD for additional concerns and recommendations.

The Florida Fish and Wildlife Conservation Commission (FFWCC) expressed concerns for the potential loss of habitat within the BBAP; the risk to wildlife by the proposed dredging

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methods; the amount and type of mitigation measures proposed; and, significant changes in ship and boat traffic within the port area. The Mitigation ratios proposed for seagrass impacts are 1:1, and the FFWCC recommends a 3:1 ratio, which is typically required for direct impacts to seagrasses. The FFWCC also questions whether all the secondary impacts to resources resulting from proposed vertical cuts have been correctly identified. Previous vertical cuts have resulted in sloughing at the edges, thereby increasing impacts to adjacent resources. These sloughing impacts have not been calculated or included in the mitigation computations. The FFWCC also expresses concern for the potential dredging method that includes blasting. The agency has been working with blasting experts to evaluate all available information regarding impacts to wildlife that will include protocols to maximize their protection. Those findings are expected to be completed by the end of 2003. Please see the enclosed comments from the FFWCC for additional caveats concerning specific species that will require protection.

The Department of Environmental Protection states that portions of the proposed project will take place within the Biscayne Bay Aquatic Preserve (BBAP), which is a Class III Outstanding Florida Water requiring additional protection to assure that the water quality is not degraded. The department is concerned about the anticipated habitat destruction and mitigation ratios that are proposed to replace the impacted habitat. Additional sloughing is anticipated at the vertical edges of channel cuts, and at present, these impacts have not been included in the mitigation calculations. DEP is also concerned that the watch program that is being designed to protect listed species from blasting will not adhere to existing protocol, and recommends that the techniques and procedures resulting from studies currently under contract by the FFWCC be utilized. Please see the enclosed memo that expresses the DEP concerns.

The South Florida Regional Planning Council (SFRPC) states that the project should be consistent with the goals, policies and land development regulations of the local governments having jurisdiction within the project area. It is recommended that the applicant coordinate with all local governments that will be affected by the project. The SFRPC has summarized the goals, objectives, and policies from its Strategic Regional Policy Plan that apply to this project. Please see the attached comments from the SFRPC and specific recommendations for complying with regulatory requirements.

Based on the information contained in the DGRR and EIS, and the comments provided by our reviewing agencies, as summarized above and enclosed, the state has determined that, at this stage, the above-referenced project is consistent with the Florida Coastal Management Program (FCMP). All subsequent environmental documents prepared for this project must be reviewed to determine the project's continued consistency with the FCMP. The state's continued concurrence with the project will be based, in part, on the adequate resolution of issues identified during this and subsequent reviews.

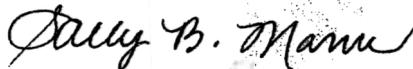
The Department's (DEP) Bureau of Beaches and Wetland Resources issued a state water quality certification in the form of a Consolidated Notice of Intent to Issue an Environmental

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Resource Permit and Authorization to Use Sovereign Submerged Lands, on December 23, 2002, for the channel maintenance dredging and deepening project. The potential environmental impacts of the project have been addressed in the permit, water quality certification and authorization to use sovereign submerged lands (Permit No. 0173770-001-EI), pursuant to Chapters 161, 253 and 373, *Florida Statutes*. Final agency action on the permit application will constitute the State of Florida's final consistency determination. For information on the JCP and permitting requirements, please contact Mr. Mike Sole at (850) 487-4471.

Thank you for the opportunity to review this project. If you have any questions regarding this letter, please contact Mr. Bob Hall at 850/245-2163.

Sincerely,



Sally B. Mann, Director  
Office of Intergovernmental Programs

SBM/rwh  
Enclosures

cc: Jim Golden, SFWMD  
Carol Knox, FFWCC  
Marsha Colbert, DEP, BBAP, Miami  
Allyn L. Childress, SFRPC  
Mike Sole, DEP, BBWR, Tallahassee

**MIAMI HARBOR IMPROVEMENT AND  
MAINTENANCE DREDGING  
FLORIDA COASTAL ZONE CONSISTENCY PROGRAM  
FEDERAL CONSISTENCY EVALUATION PROCEDURE**

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 improve and maintain safe navigation depths in Miami Harbor, Dade County, Florida. Information will be submitted to the State for a permit in compliance with this chapter.

2. Chapters 186 and 187, State and Regional Planning. These chapters establish the State Comprehensive Plan, which sets goals that articulate a strategic vision of the State's future. Its 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 work has been coordinated with the State without objection.

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 preserve and protect the lives and property of the people of Florida.

**Consistency Statement:** This chapter does not apply.

4. Chapter 253, State Lands. This chapter governs the management of submerged State lands and resources within State lands. This includes archeological and historic 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; spoil islands; and artificial reefs.

**Consistency Statement:** The proposed activity will be coordinated with the State and appropriate State permits will be obtained. The proposed action will be consistent 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:** As the property is already in public ownership, 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, park programs or management or operations.

**Consistency Statement:** The proposed action will not directly impact any State managed parks or preserves. Potential impacts could occur to the adjacent Critical Wildlife Area (CWA) due to turbidity during construction. Monitoring will occur during construction to insure that State water quality levels are not exceeded.

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

**Consistency Statement:** The proposed action was coordinated with the State Historic Preservation Officer (SHPO) and is consistent with the intent 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 proposed improvements and maintenance are 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 transportation system.

**Consistency Statement:** The proposed action will not adversely affect public transportation.

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 fisheries 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:** Marine crustacean, shell and andromous fishery resources will be temporarily impacted. Temporary and permanent impacts will occur within the marine and estuarine environment. These impacts will be mitigated.

11. Chapter 372, Living Land and Freshwater Resources. This chapter establishes the Game and Freshwater Fish 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 which provide sustained ecological, recreational, educational, aesthetic and economic benefits.

**Consistency Statement:** The work in the port will be consistent 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:** This work does not involve water resources as described in 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:** This work does not involve the transportation or discharge of pollutants. Conditions will be placed in the contract to handle inadvertent spills of pollutants such as vehicle fuels. The proposed action will comply with 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 resources.

**Consistency Statement:** The proposed action does not involve the exploration, drilling or production of oil, gas or other petroleum products; therefore this chapter 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 is consistent with the intent 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 404, 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 this project. The project is not expected to violate any State air or water pollution standards.

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 and on adjoining properties affected by the work. Particular attention will be given to work on or near agricultural lands.

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