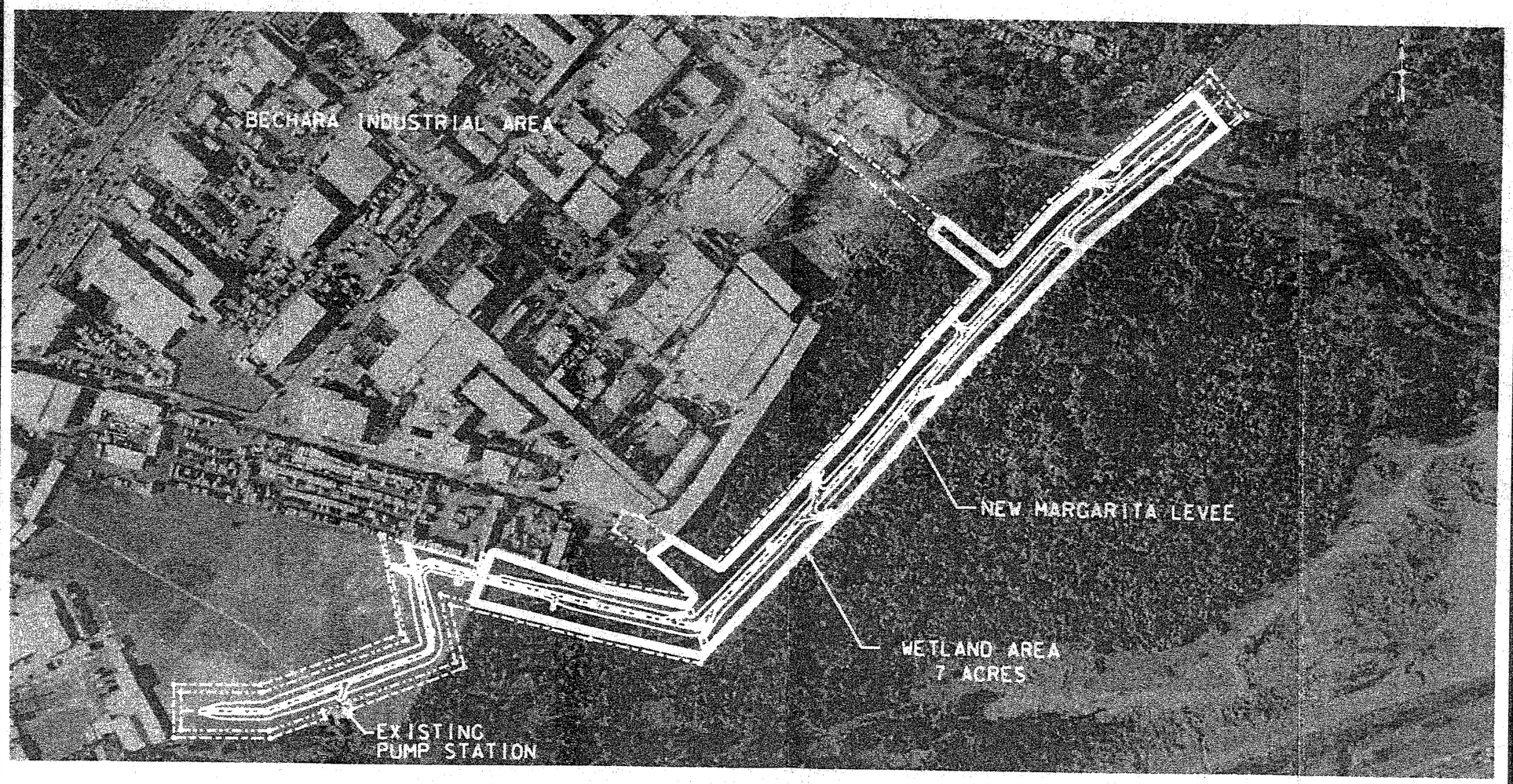
Plate 8. Detail of Recommended plan showing levee impacts (thick line)



" RECOMMENDED PLAN - LEVEE IMPACTS "

US Army Corps of Engineers
Jacksonville District

SAFETY ON THIS JOB DEPENDS ON YOU

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT, CORPS OF ENGINEERS
JACKSONVILLE, FLORIDA

D.O. FILE NO.

PLATE 8
LEVEE IMPACTS

DRAWING NO.

PLATE 8 OF 8

ATTACHMENTS
BECHARA SEGMENT, RIO PUERTO NUEVO FLOOD CONTROL PROJECT, SAN JUAN, PUERTO RICO

LIST OF ATTACHMENTS TO THE ENVIRONMENTAL ASSESSMENT

Attachment A. Puerto Rico Coastal Management Plan Determination of Consistency and Concurrence letter CZ-2001-0620-144.

Attachment B. Clean Water Act Section 404 (b)(1) Evaluation

Attachment C. Fish and Wildlife Coordination Act Report

Attachment D. Public and Agency Coordination.

ATTACHMENT A

PUERTO RICO COASTAL MANAGEMENT PROGRAM
CERTIFICATION OF CONSISTENCY AND FORM

PUERTO RICO COASTAL MANAGEMENT PROGRAM EVALUATION AND DETERMINATION OF CONSISTENCY

Introduction. In compliance with Section 307 of the Coastal Zone Management Act (CZMA) and its implementing Regulation (15 CFR 930.39), the U.S. Army Corps of Engineers has evaluated the consistency of the BIA Segment flood control plan of the Rio Puerto Nuevo Flood Control Project with the Puerto Rico Coastal Management Program (PRCMP). The environmental assessment (EA) that accompanies this Determination describes the study conclusions, alternatives considered, and environmental consequences of the proposed action, which is construction of the gravity drainage box culvert across Ports Authority lands.

This project has been evaluated in the light of its potential to partially resolve a serious flooding problem affecting an urban core area, thereby contributing to social and economic development of the affected human community. The recommended project will cause minimal adverse effects on natural and cultural resources, and no effects in residential areas. It consists of an earthen levee to be located mostly along a previously disturbed and partially elevated power line right-of-way, cleaout of a pre-existing earthen channel inside Bechara Industiral Area (BIA) and a pile supported, concrete lined double bay culvert to be excavated and built under the Puerto Nuevo dock area of the Puerto Rico Ports Authority. Flooding in coastal areas is a problem cited in the PRCMP. Provision of flood control for established communities, when non-structural alternatives are not feasible, is an objective of the Plan. This recommended project responds to that alternative.

The recommended project also responds to the other general policies of the PRCMP. One acre of mangroves will be directly affected by channel improvements just north of Avenida Kennedy. 5 acres of emergent (disturbed) wetlands will be affected along the levee footprint. The recommended plan is the plan with the least adverse impact on mangrove and other wetlands, of the four action options evaluated. No Commonwealth Forests, beaches, coral reefs, coastal lagoons, Natural Register eligible historic properties, fish and wildlife resources, or threatened or endangered species have been identified in the project footprint; and no significant elements of islandwide infrastructure will be adversely impacted. Provisions have been made for access to affected infrastructure, such as the power line right of way, by building points of access into the levee design.

Planning Division
Environmental Branch

OCT 24 2001

Ms. Wanda Capó
Acting President
Attn: Ms. Rose A. Ortiz
Commonwealth of Puerto Rico
Office of the Governor
Planning Board
Minillas Government Center
Post Office Box 41119
San Juan, Puerto Rico 00940-1119

Dear Ms. Capó:

Please refer to your letter of October 9, 2001 (copy enclosed). After consideration of responses from the FWS, and the Underwater Archeology Council (UAC), your agency has conditioned issuance of a Puerto Rico Coastal Management certification based on the comments provided by both agencies. FWS's main issue is to minimize the direct and indirect impact on wetlands by moving the proposed levee alignment. Also, the UAC requested a phase level IA-IB subaquatic archeological survey be performed in the project area.

The concerns of the FWS had been addressed in the August 20, 2001, letter (copy enclosed) sent to that agency. The FWS stated in its various communications that it had concerns for the fill placed on the existing Puerto Rico Electrical Power Authority (PREPA) easement, cutting off the water flow to the wetlands to the north. The FWS stated that it foresees that wetland area being subject to development. It is that area which it considers to be subject to 'secondary impacts'. The solution proposed by the FWS is to construct the levy in the existing wetlands north of the PREPA easement and directly adjacent to the existing Bechara Industrial Area (BIA).

As explained in our letter of August 20, 2001, the area is currently under a binding conservation easement, which precludes any activity in the area. Any developmental activity into the area would constitute trespassing. Also, the Corps is mandated to avoid the filling of existing functional wetlands when a viable alternative is available. In this case, the PREPA easement consists of wetlands previously filled. Placement of fill upon fill there will constitute the least damaging alternative.

The wetland impacts have been reduced from 7.5 acres to 5 acres of transitional wetlands. The Corps addresses this issue in the Environmental Assessment. Mitigation areas have been identified in the project plans and mitigation work will begin as soon as the construction phase of the project is completed.

With respect to your request for Phase IA and IB subaquatic archeological survey, there are no subaquatic project features that could affect historic properties. The terrestrial project alignment has not been surveyed for historic properties. However, because of the extensive history of ground disturbance and fill activity in the project area, the Corps has determined that no historic properties listed on or eligible for listing on the National Register of Historic Places exist in the proposed project's area of potential effect. This determination was made in compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, and in consultation with the Puerto Rico State Historic Preservation Officer (SHPO). In a letter dated September 24, 2001, the SHPO concurred with this determination (enclosure 2). The Corps has fulfilled the requirements of the NHPA and no further cultural resources investigations will be undertaken.

For the above reasons, the Corps requests that the conditional Coastal Management Plan consistency certification be changed to full certification. Please direct any communications to Mr. Esteban Jiménez at the letterhead address, or at telephone numbers 904-232-2115/Fax 904-232-3442.

Sincerely,

O.F.

James C. Duck
Chief, Planning Division

Enclosures

bcc:
CESAJ-DP-I (Gonzalez)
CESAJ-DS

fhl
cc:
DNER, San Juan
COE, Planning, San Juan
COE, Planning, Jacksonville
EPA, New York
EPA, San Juan
CZM, Washington, DC
EQB, Scientific Assessment Division
COE, Dennis Barnett, Atlanta

COMMONWEALTH OF PUERTO RICO
OFFICE OF THE GOVERNOR
PLANNING BOARD

MINILLAS GOVERNMENT CENTER
DE DIEGO AVE., STOP 22, SANTURCE
PO BOX 41119, SAN JUAN, PUERTO RICO 000940-1119

October 9, 2001

James C. Duck
Chief, Planning Division
Department of the Army
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

Federal Consistency Determination
CZ-2001-0620-144
Flood Control Features for Bechara Industrial Area
San Juan, Puerto Rico

Dear Mr. Duck:

This letter is in response to your application for Certification of Consistency with the Puerto Rico Coastal Management Program (PRCMP) to construct a trapezoidal 8.0–10.33-foot, gravity drainage channel, a combination of an earthen channel and concrete box culvert to carry the floodwater from Bechara Industrial Park, located south of Kennedy Avenue, to San Juan Bay, routing this drain under the Puerto Nuevo port facilities at Bechara Industrial Sector, San Juan, Puerto Rico.

The review period of the certificate began on August 13, 2001. The certification was sent to the State Historic Preservation Office (SHPO), the Underwater Archeology Council, the Fish & Wildlife Service (FWS), the Department of Natural and Environmental Resources (DNER), the San Juan Bay Estuary Program and the Municipality of San Juan for comments. Public notices to the community and organizations were also issued.

During the evaluation period, comments from the FWS, the Underwater Archeology Council, and SHPO were received. Comments of the DNER, the Municipality of San Juan and the San Juan Bay Estuary Program were not receive during the evaluation period. The Fish & Wildlife Service commented that the proposed project will impact more than the estimated 7.5 acres of wetland stated in the document because the secondary impacts are not being taken into account by the Corps Planning Section. The FWS informed that no mitigation plan has yet developed for this area, so they recommends that the Certification for this project not be issued until the direct and indirect impacts to wetlands are determined, and a mitigation plan is developed. The Underwater Archeology Council commented that the project ubicates in an area of high arqueological sensitivity, so they require archeological studies phase level IA-IB. SHPO stated that according to their records no historic properties are located within the project's area of potential effects.

Pursuant to the Federal Consistency Procedures and the information submitted, the Puerto Rico Planning Board, has determined that **the proposed project is consistent with the Puerto Rico Coastal Management Program under the following conditions:**

1- **The U.S. Corps of Engineers should address the FWS concerns and negotiate the most adequate mitigation plan in order to avoid and minimize the direct and indirect impacts on wetlands. (See letter included as enclosure)**

2- **The U.S. Corps of Engineers should fulfill the requirement of the Underwater Archeology Coucil. (See letter included as enclosure)**

Pursuant to 15 CFR 930.4, we should inform that if the above mentioned conditions are not satisfied, or the applicant informs that the mentioned conditions are not acceptable, or the Federal agency notify that the application cannot be approved as amended by the State Agency's conditions, all the parties shall treat the State conditional concurrence letter as an objection pursuant to 15 CFR 930.63.

This final determination does not exempt the project to comply with any other procedures or permits of other State and Federal agencies. If you have any questions concerning this matter do not hesitate to contact Miss Rose A. Ortiz at 726-0289 or 723-6200, ext. 2020.

Cordially,

Wanda Capó
Acting President

Enclosure: Letters Site Plan

c: Jeffrey Benoit, OCRM, Maryland
Edwin Muñiz, CoE, San Juan
Ernesto Díaz, PRCMO, DNER, San Juan
Wanda García, EQB, San Juan
Eng. Agustín F. Carbó Lugo, San Juan Bay Estuary Program

NAR/RAO/mir