

APPENDIX F

FLORIDA COASTAL ZONE MANAGEMENT PROGRAM FEDERAL CONSISTENCY DETERMINATION

The intent of the Coastal Zone Management Act is to encourage coastal states, Great Lakes States, and United States territories and commonwealth (collectively called coastal states) to manage and balance competing uses of land impacts to coastal resources.

Section 307 of the Coastal Zone Management Act (16 United States Code 1456) contains the Federal consistency requirements. A Federal agency considering actions that may impact the waters governed by the Coastal Zone Management Act uses these requirements to ensure compliance with the state's federally approved coastal management program. In this case the Florida State statute is used to lay out the guidelines for ensuring compliance with Florida's Coastal Zone Management Program. In the following evaluation, the relevant chapters of the Florida Statute are presented, followed by an evaluation of the applicability to the mining activities that may occur within the Lake Belt area.

F.1 CHAPTER 161, BEACH AND SHORE PRESERVATION

The intent of the coastal construction permit program, established in this chapter, is to regulate construction projects located seaward of the mean high-water line and those that might have an effect on natural shoreline processes.

Response: This chapter would not apply as no work is proposed seaward of the line of mean high-water line.

F.2 CHAPTERS 186 AND 187, STATE REGIONAL PLANNING

These chapters establish the State Comprehensive Plan, which sets goals that articulate a strategic vision of the State's future. In a broad sense, its purpose is to define goals and policies that provide decision-makers directions for the future. It also provides long-range guidance for an orderly social, economic, and physical growth.

Response: The proposed project would achieve the goals of this chapter by adhering to a long-range master plan, which would support the continued orderly social, economic, and physical growth of the region, as is laid out in Florida Statute 373.4149.

F.3 CHAPTER 252, DISASTER PREPARATION, RESPONSE, AND MITIGATION

This chapter creates a state emergency management agency with the authority to provide for the common defense; to protect the public space, health, and safety; and to preserve the lives and property of the people of Florida.

Response: This chapter is not applicable to this project.

F.4 CHAPTER 253, STATE LANDS

This chapter governs the management of submerged state lands and the resources within. 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; spoil islands; and artificial reefs.

Response: The proposed Lake Belt project would impact up to approximately 14,850 acres of jurisdictional wetlands under Section 404 of the Clean Water Act. However, the goal of the project is to implement a comprehensive plan for the mining of these lands, in accordance with Florida Statute 373.4149. This requires mitigation of any impacts to wetlands, as described in Chapter 5, Mitigation Plan, of this *Supplemental Environmental Impact Statement on Rock Mining in the Lake Belt*

Region of Miami-Dade County, Florida (Lake Belt Supplemental Environmental Impact Statement [SEIS]). A mitigation fund has been established to pay for these mitigation actions, whereby the miners pay a fee per ton of rock mined from the Lake Belt. Through 2006; approximately \$20 million have been collected.

F.5 CHAPTERS 253, 259, 260, AND 375, LAND ACQUISITION

This chapter authorizes the state to acquire land and to protect environmentally sensitive areas.

Response: All impacted lands are in private ownership. However, all mitigation lands will be in public ownership, paid for by the rock mining industry through an established mitigation fee.

F.6 CHAPTER 258, STATE PARKS AND AQUATIC PRESERVES

This chapter authorizes the state to manage state parks and preserves. Consistency with this statute would include consideration of projects that would directly or indirectly adversely impact park property, natural resources, and park programs, management, or operations.

Response: All mitigation lands will be in public ownership and managed by the South Florida Water Management District.

F.7 CHAPTER 267, HISTORIC PRESERVATION

This chapter establishes the procedures for implementing the Florida Historic Resources Act Responsibilities.

Response: This project has been coordinated with the State Historic Preservation Officer. No impacts to any archeological resources are authorized under the mining permits issued by the U.S. Army Corps of Engineers (USACE). Prior to land clearing in the vicinity of an archeological site, the limits of the area to be cleared shall be clearly flagged and staked such that the archeological site will remain undisturbed. If historical or archeological artifacts are discovered at any time on the project site, the permittee shall immediately stop all activities that disturb the soil in the immediate area and notify the USACE, the Florida Department of State, Bureau of Historic Preservation, and the Miami-Dade County Historic Preservation Division.

F.8 CHAPTER 288, ECONOMIC DEVELOPMENT AND TOURISM

This chapter directs the state to provide guidance and promotion of beneficial development by encouraging economic diversification and promoting tourism.

Response: The proposed project achieves the goals of this chapter by developing a long-range master plan that has been accepted by the Florida State Legislature. The Lake Belt Phase II Plan supports the continued orderly social, economic, and physical growth of the region.

F.9 CHAPTERS 334 AND 339, PUBLIC TRANSPORTATION

This chapter authorizes the planning and development of a safe, balanced, and efficient transportation system.

Response: The proposed project would not impact the existing public transportation system of the area and would be consistent with the goals of this chapter.

F.10 CHAPTER 370, SALTWATER LIVING RESOURCES

This chapter directs the state to preserve, manage, and protect the marine, crustacean, shell and anadromous fishery resources in state waters; protect and enhance the marine and estuarine environment; regulate fisherman and vessels of the state engaged in the taking and processing of

products of fisheries; secure and maintain statistical records of the catch of each such species; and to conduct scientific, economic, and other studies and research.

Response: The orderly mining of the Lake Belt area will not impact saltwater living resources and would be consistent with the goals of this chapter.

F.11 CHAPTER 372, LIVING LAND AND FRESHWATER RESOURCES

This chapter establishes the Game and Freshwater Fish Commission. It also directs the commission 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, scientific, educational, aesthetic, and economic benefits.

Response: The Lake Belt project has been coordinated with the U.S. Fish and Wildlife Service for compliance with Section 7 of the Endangered Species Act for the existing USACE permits. As stated in the 2006 U.S. Fish and Wildlife Service Biological Opinion, the proposed 2002 10-year mine plan in the Lake Belt, as proposed, is not likely to jeopardize the continued existence of the wood stork. The proposed action would not impact any resource under the management of the Game and Freshwater Fish Commission. Therefore, the project would comply with the goals of this chapter.

F.12 CHAPTER 373, WATER RESOURCES

This chapter provides the authority to regulate the withdrawal, diversion, storage, and consumption of water.

Response: This chapter would not apply as this project does not involve water resources.

F.13 CHAPTER 376, POLLUTANT SPILL PREVENTION AND CONTROL

This chapter regulates the transfer, storage, and transportation of pollutants and the cleanup of pollutant discharges.

Response: This project does not involve transportation or discharging of pollutants and is not applicable.

F.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.

Response: This chapter would not apply as this project does not involve the exploration, drilling, or production of gas, oil, or petroleum products.

F.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 nature of proposed large-scale development.

Response: The proposed project would achieve this chapter's goals by adhering to a long-range master plan for this area that supports the continued orderly social, economic, and physical growth of the region. The Lake Belt Phase II Plan has been approved by the Florida Legislature and satisfies this chapter's goals.

F.16 CHAPTER 388, ARTHROPOD CONTROL

This chapter provides for a comprehensive approach for abatement or suppression of mosquitoes and other pest arthropods within the State.

Response: The project would not further the propagation of mosquitoes or other pest arthropods.

F.17 CHAPTER 403, ENVIRONMENTAL CONTROL

This chapter authorizes the regulation of pollution of the air and waters of the state by the Florida Department of Environmental Regulation.

Response: An environmental assessment of the project impacts has been prepared and will be reviewed by the appropriate resource agencies, including the Florida Department of Environmental Regulation. The mining and processing of limestone proposed in the Lake Belt area requires air permits under a state permitting program. The state regulations are implemented to control emissions of air pollutants such that the requirements of the Clean Air Act (including National Ambient Air Quality Standards and emission limits) are met. These permits have been obtained, thus bringing this project into compliance with the act. An analysis of the potential impacts of the proposed alternatives, in terms of their impact on air quality, was completed in Section 4.8 of this *Lake Belt SEIS*. Currently, both mining activity and cement plants are permitted under state and county permitting programs, which would implement the requirements under the Clean Air Act.

Section 404 of the Clean Water Act gives the USACE permitting authority over activities that discharge dredge or fill materials into waters of the United States, including wetlands. The mining proposed in the Lake Belt area under the various alternatives evaluated in this *Lake Belt SEIS* would require a Section 404(b)(1) evaluation before their implementation. Ten Section 404(b)(1)-permits were issued under the Clean Water Act for the areas to be mined under Alternative 1, based on analysis presented in the *Final Programmatic Environmental Impact Statement, Rock Mining – Freshwater Lakebelt Plan, Miami-Dade County, Florida* and its associated Record of Decision. Copies of the permits are available from the USACE. A mining permit sample is included in Appendix E, Permits, of this SEIS. For the remaining alternatives that involve a larger amount of land to be mined, new permits will need to be approved under Section 404(b)(1).

F.18 CHAPTER 582, SOIL AND WATER CONSERVATION

This chapter establishes policy for the conservation of the state soil 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 on site or in adjoining properties affected by the project. Particular attention will be given to projects on or near agricultural lands.

Response: The proposed project would directly impact approximately 2,200 acres of agricultural land, of which none are expected to be unique under the Farmland Protection Policy Act. The Farmland Protection Policy Act does not apply to this action because Federal activities, including permitting and licensing are exempt from compliance with the act. Project implementation would include appropriate erosion control plans and measures to ensure compliance.