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July 13, 2008

Ms. Gloria Lewis, Director
Division of Regulatory Information Management
SJRWMD
Palatka, FL 32178

Re: Written notice of Intended District Decision on Permit Application 4-061-114751-1

Dear Ms. Lewis,

I just received your letter dated July 9, 2008 stating: "The staff of the St. Johns River Water Management District has completed its review of the application described below. The District has permitting jurisdiction under Chapters 40C-1, 40-42, or 40C-4, F.A.C., Chapters 120 and 373, F.S., and delegated portions of Chapter 403, F.S. for WRM permit applications."

- It was our understanding from conversations with Karen Garrett-Kruse of St. Johns that the project would be discussed by senior staff on Monday, July 14, 2008 and that those opposed to the variance petition would have until 9 am on that date to submit their objections and concerns. Why was a decision to approve the application made before input could be provided by concerned and affected groups?
- There are major listed species issues (manatee and seagrass), destruction of critical fishery habitat, impacts to shellfish harvesting areas and sovereign lands issues, all of which were timely brought to the district's attention and require input by other state and federal agencies. There was not enough time for the District to give "notice of its intent to issue a permit" for the new application and variance received on June 26, 2008 (according to your website) and for a review by FWC, USFWS, Army Corps, and National Marine Fishery Service by July 9, 2008 including a holiday.
- Ms. Karen Garrett-Kruse, in a conversation with Dr. David Cox and me on July 3, 2008, indicated that because Pelican Island Audubon Society (PIAS) was on record as having a substantial interest and as formal objector, PIAS would have 14 days from the receipt of a notice letter by the district to formally voice new objection to the revised project and variance. Is this true? If so, how can the district have already made a decision to send this to the August 12, 2008 Governing Board on or before July 9, 2008 before receiving any response from Pelican Island Audubon in the time allowed?

Further your letter also states "The ERP application is for construction of a surface water management system for the Oslo Road Boat Ramp Improvement Project, which consists of 100-acres. The receiving water body is the Indian River Lagoon."

- It is our understanding that the project no longer includes paving the road and providing paved parking for 30 vehicles, and removing 2.5 acres of mangroves causing concern for the district for serious stormwater issues. Is this correct?
- If so then why is it referred to as a "...Project, which consists of 100-acres"?

- If it is correct, then the new application dealing only with docks, pier, and ramp, seagrass, fish, and manatee issues in a FDEP aquatic preserve should now be under the jurisdiction of the FDEP and others. If you look at the FDEP website defining who reviews what, FDEP is responsible when:
 - Docking facilities and attendant structures and dredging that are not part of a larger plan of residential or commercial development
 - Navigational dredging conducted by governmental entities, except when part of a larger project that a WMD has the responsibility to permit

Clearly, this is now something the FDEP should be involved in as the project is not about surface and stormwater, it is about docking facilities, attendant structures, and dredging. Moreover Indian River County's petition suggests future navigational dredging may be needed (see my July 11th email).

Something appears to be terribly remiss in this fast tract procedure for a variance in a FDEP aquatic preserve involving seagrasses, sovereign lands and endangered species. Why the rush to issue an intent to approve this project before the input from other agencies and input from affected local groups such as Audubon of Florida, Save Our Manatee Club, Marine Resources Council, Pelican Island Audubon, David Cox Consulting, commercial outfitters, and interested citizens? Clearly this decision has been made prematurely.

If you cannot reconsider this action, we feel that the matter should be either taken up with the Board of Trustees or be given an administrative hearing to insure that the decision-making on this issue is not being done arbitrarily, without sufficient input and without regard for the extent of the impact to the long term public interest and the environment. We understand that this project has some political supporters who lack the scientific expertise as to the impacts of this proposal and this is the primary reason this project is getting fast tracked, irregardless of the far reaching implications for the Indian River Lagoon, an Estuary of National Significance that is already on the Impaired Waters List? This project deserves more than a fast track approach without proper time for public comment.

Please reconsider your premature decision.

Sincerely,

Richard H. Baker, PhD.

President

Pelican Island Audubon

cc. SJRWMD Governing Board

Kirby Green

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