



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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ATLANTA, GEORC

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages 1

To	<i>John Ettinger</i>	Phone #	<i>M. Wylie</i>
Dept./Agency		Phone #	
Fax #	<i>202-260-7546</i>	Fax #	
NSN 7540-01-317-7368		5099-101 GENERAL SERVICES ADMINISTRATION	

MEMORANDUM

Date: AUG 12 1997

SUBJECT: Pinehills Development Partnership (Circus Circus Casino) MS96-01548-U

FROM: John H. Hankinson, Jr.
Regional Administrator

TO: Robert Perciasepe
Assistant Administrator for Water

Attached is a letter to Colonel William S. Vogel of the Mobile District Corps of Engineers informing him that, under Part IV 3(d) of the Section 404(q) Memorandum of Agreement, I am forwarding concerns regarding the proposed permit for the Pinehills Development Partnership\Circus Circus Casino (MS96-01770-P) to you to ask that you request a review of the permit by the Assistant Secretary of the Army for Civil Works [ASA(CW)]. Also attached is a draft letter from you to the ASA(CW) that outlines our concerns with the permit. This elevation brings to light many issues related to this specific project as well as several policy issues related to the Mobile District's review of permit applications for dockside gaming vessels and associated development in south Mississippi.

As you recall in your last visit to Region IV, my wetlands staff, Mike McGhee, Phil Mancusi-Ungaro and I briefed you and Bob Wayland on this project. Your question regarding the absence of an EIS for this and similar projects forms the basis for our request for ASA(CW) review. As you heard from my staff, EPA has long contended that this industry has considerable direct impacts on sensitive riverine and estuarine resources. It is also very evident that the secondary and cumulative impacts of the industry are profoundly changing the Mississippi gulf coast.

I look forward to working with you and your staff to resolve issues raised in this elevation. I believe our efforts will result in a more comprehensive approach to protect aquatic resources on the Mississippi gulf coast and resolve several significant NEPA\Clean Water Act issues that we feel the Corps fails to address.

cc: Steve Herman, OECA



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
100 ALABAMA STREET, S.W.
ATLANTA, GEORGIA 30303-3104

AUG 12 1997

4WM-WCWQGB-MW

Colonel William S. Vogel
District Engineer
ATTN: John Mcfayden
U.S. Army Corps of Engineers
P.O. Box 2288
Mobile, AL 36628-0001

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FAX TRANSMITTAL

of pages 2

Form with fields: To (John Ettinger), From (M. Wylie), Dept./Agency, Phone #, Fax # (260-7546), and NSN numbers.

Dear Colonel Vogel:

This is in response to the July 24, 1997, notice of intent to issue a permit to construct a dockside casino facility on St. Louis Bay, just west of Shell Beach, near the city of DeLisle, Harrison County, Mississippi. The applicant proposes to construct a 520-foot-long by 330-foot-wide low water sediment control structure to house a casino barge. The 3.8 acre structure will be constructed on shallow bay bottoms, surrounded by sheet pile, and dredged to -7.0 feet mean low water. A 450-foot long bulkhead will be constructed along the shoreline fronting the casino. Related development includes a 30-story, 1,400 room hotel and conference center; food and beverage courts; theaters; pedestrian shopping rotunda; wastewater treatment plant; access road from Interstate 10, Kiln-Delisle exit; surface parking for 3,500 vehicles; storm water detention ponds; and three entrance road bridges spanning non-tidal wetlands. The applicant proposes to relocate 0.033 acres of Juncus roemerianus marsh in order to dredge the mooring basin. Project impacts include the dredging, containment and shading of 3.8 acres of shallow bay bottoms; permanent inundation of 3.7 acres of forested wetlands for waste treatment; and the loss of less than one acre of forested wetlands to be spanned by three bridges. Proposed mitigation entails the relocation of 0.033 acres of marsh and the addition of cultch material to 3.2 acres of oyster reef.

The U.S. Environmental Protection Agency (EPA) after reviewing the referenced public notice and subsequent additional information and visiting the site has several project specific concerns. In letters dated July 12 and August 1, 1996, EPA conveyed to the District these concerns.

For the reasons discussed in those letters, EPA finds the discharges that would be authorized under the proposed permit to

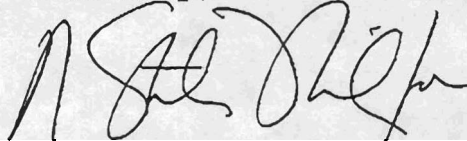
Pinehills to construct a casino gaming facility on the preferred site have not been demonstrated to comply with the requirements of the Section 404(b)(1) Guidelines. Direct impacts associated with the permitted discharge would cause or contribute to significant degradation of 0.033 acres of tidal marsh and 4.6 acres of forested wetlands which are aquatic resources of national importance.

We have additional concerns that the cumulative and secondary impacts of this project and others like it will have an adverse impact on the aquatic and human environment. EPA feels very strongly that practicable alternatives exist that will satisfy the project purpose and comply with Section 404(b)(1) Guidelines. With this letter, EPA requests that these issues be further reviewed by the Mobile District based on guidance developed by Corps Headquarters.

EPA has a continuing concern with the District's interpretation of the Section 404(b)(1) Guidelines, NEPA, and secondary and cumulative impacts associated with the Mississippi gaming industry. These concerns were first raised with the Spectrum Gaming\D'Iberville Landing Casino elevation in October 1994. Therefore, I have forwarded this individual permit decision to the EPA Assistant Administrator Office of Water, with a recommendation to request review by the Assistant Secretary of Army for Civil Works, as outlined in the 1992 Memorandum of Agreement between EPA and the Department of Army, Part IV, paragraph 3(d)(2), regarding Section 404(q) of the Clean Water Act, 33 U.S.C. §1344(q).

Should you have any questions concerning our comments, please contact Mike Wylie of my Wetlands Section at (404)562-9409.

Sincerely,



John H. Hankinson, Jr.
Regional Administrator

cc. EPA, Washington, D.C.
FWS, Daphne, AL