

## **MEMORANDUM**

**TO:** Governing Board Members

**FROM:** Carol A. Wehle, Executive Director

**DATE:** January 20, 2010

**SUBJECT:** **Deny Environmental Resource Permit Application 050406-1 for conceptual approval of a surface water management system to serve a 138.36 acre residential development known as Cutler Properties (Miami-Dade County)**

### **RECOMMENDATION**

Deny Environmental Resource Permit Application 050406-1 for the conceptual approval of a surface water management system to serve a 138.36 acre residential development known as Cutler Properties located in Miami-Dade County due to inconsistency with the objectives of the District.

### **BACKGROUND**

Environmental Resource Permit Application 050406-1 was submitted on April 6, 2005 requesting conceptual approval of a surface water management system to serve a 138.36 acre residential development known as Cutler Properties. The 138.36 acre parcel is located to the east of Old Cutler Road, south of Eureka Drive (S.W. 184<sup>th</sup> Street) and adjacent to Biscayne Bay in Miami-Dade County. The proposed project consists of approximately 41.93 acres of development area with the remainder (96.43 acres) consisting of wetland mitigation/preservation area. The surface water management system for the 41.93 acre development area is proposed to consist of inlets, culverts, swales and exfiltration trenches which are designed to provide water quality treatment prior to overflow into proposed drainage wells. No offsite discharge from the development area is proposed. The proposed project would result in direct impacts to 30.12 acres of primarily low quality wetlands and 3 acres of direct impacts to some higher quality wetlands located within remnant agricultural ditches. The proposed mitigation plan consists of the preservation and enhancement of the remaining 96.43 acres of mangrove wetlands. In addition, the applicant proposes to purchase 5.23 credits from the FPL Everglades Mitigation Bank.

### **CERP ISSUES**

Section 601(b) of the Water Resources Development Act of 2000 (WRDA 2000), Pub. Law 106-541, approved the Comprehensive Everglades Restoration Plan ("CERP") that is contained in the Final Integrated Feasibility, Report and Programmatic Environmental Impact Statement date, dated April 1, 1999, as modified by WRDA 2000. CERP is the framework for modifications to the Central and Southern Florida Project to restore, preserve, and protect the South Florida

## **Governing Board Members**

**January 20, 2010**

**Page 2**

ecosystem, while providing for other water-related needs of the region, including water supply and flood protections.

The State of Florida legislature found the implementation of CERP to be in the public interest, and necessary for restoring, preserving, and protecting the South Florida ecosystem, amongst other purposes. See 373.1502(2) (a).

In accordance with Section 373.470(3) (a), the Florida legislature intends to establish a full and equal partnership for implementation of the Comprehensive Plan between the state and federal governments. The Comprehensive Plan is defined as CERP. The District is authorized to act as local sponsor for CERP projects. See 373.1501(4) (d). The Biscayne Bay Coastal Wetlands project is a component project of the CERP. See Comprehensive Plan, page 9-24.

Everglades Restoration and Capital Projects staff has reviewed the application for the Cutler Properties residential project (Application Number 050406-1) and has determined that, as currently configured, it is inconsistent with the objectives of the Comprehensive Everglades Restoration Plan (CERP) Biscayne Bay Coastal Wetlands project.

### **PROPOSED RESIDENTIAL DEVELOPMENT**

The Cutler Properties permit application describes the site as including three primary habitat types on approximately 138 acres:

- Uplands (8.8 acres): The uplands consist of a long, narrow ridge along Old Cutler Road on the western portion of the site. The upland forest is dominated by exotic vegetation. The applicant is proposing to develop the entire 8.8 acre upland site.
- Low Quality Wetlands (33.34 acres): This area consists of a wide, central area that was farmed from the late 1930's to the early 1990's. This area is now dominated by exotic vegetation consisting primarily of Napier Grass (*Pennisetum purpureum*) and Brazilian Pepper (*Schinus terebinthifolius*) and is referred to as "low-quality wetlands". The applicant is proposing to develop 30.1 acres of this habitat.
- High Quality Wetlands (96.2 acres): The high quality wetlands consist of dense mangroves to the east of the low quality wetlands, extending to Biscayne Bay. The applicant proposes to preserve the eastern 93.15 acres of this habitat and to develop approximately 3 acres of higher quality wetlands contained in the narrow fingers of mangrove habitat that extend into the low quality wetlands.

The applicant's mitigation plan includes approximately 3.27 acres of on-site wetland creation/enhancement and buffer, 93.15 acres of wetland preservation, (primarily mangroves) and the purchase of 5.23 coastal mitigation credits in FPL's Everglades Mitigation Bank.

### **BISCAYNE BAY COASTAL WETLANDS PROJECT**

The purpose of the Biscayne Bay CERP restoration project is to restore wetlands along Biscayne Bay by rehydrating them with freshwater, to recharge the groundwater table in partially drained areas and to restore a more desirable salinity regime in the coastal tidal creeks. These actions will improve the quality of partially drained wetlands and improve habitat in tidal creeks so that they become more productive for seagrasses, fish and shellfish.

**Governing Board Members**

**January 20, 2010**

**Page 3**

A multi-agency CERP Project Delivery Team has evaluated a variety of alternatives for the Biscayne Bay restoration project and has identified "Alternative O" as the overall project to be implemented along the Bay. Alternative O is estimated to cost more than \$500 million and the implementing agencies, the U.S. Army Corps of Engineers and the South Florida Water Management District, propose to implement Alternative O in two phases. The Phase I area includes restoration features both to the north and south of the Cutler Properties site, but does not include the Cutler Properties.

The Cutler Properties site lies within the Phase Two area of the overall project. This second phase of Alternative O includes a spreader canal which traverses the proposed Cutler Properties project. The spreader canal would raise water levels in the low quality wetlands, rehydrating them, and would cause more groundwater to flow eastward to tidal creeks and Biscayne Bay National Park.

The spreader canal would do this by redistributing water from large canals located north and south of the Cutler Properties site. The current proposed development footprint conflicts with the north-south spreader canal and would eliminate anticipated benefits of the project.

**RECOMMENDATION**

The proposed Cutler Properties development would prevent the construction of the spreader canal in a north-south alignment in the western portion of the Cutler Properties site. Without the spreader canal, the approximately 11.5 acres of low quality wetlands which lie east of the spreader canal could not be rehydrated and the improved groundwater levels and freshwater flow to the tidal creeks would be reduced and the full benefits not realized. The Cutler Properties project is, therefore, inconsistent with the Biscayne Bay Coastal Wetlands project and staff recommends denial of the application.

If the applicant were to modify the proposed development footprint to restrict development to that portion of the project site located west of the proposed Alternative O spreader canal, the project would not be inconsistent with the CERP project.

**Staff Contacts:**            **Robert M. Brown, Director, Environmental Resource Regulation  
Department, (561) 682-6283**

**Tom Teets, Director, Policy and Coordination Department,  
(561) 682-6993**