



May 28, 2004

Mr. Milton Segarra Pancorbo
Port of The Americas Authority
355 FD Roosevelt Avenue
Suite 404
San Juan Puerto Rico 00918

Federal Consistency Certification
CZ-2003-0924-024 (JPA: 370)
USACE: 200206524 (IP-JER), 200206525 (IP-JER)

Dear Mr. Segarra:

This is in response to your application for Certification of Consistency with the Puerto Rico Coastal Management Program (PRCMP). The application was submitted in order to obtain a U.S. Army Corps of Engineers (USACE) permit for the development and construction of The Americas Port. The project consists in the following:

- 1- Construction of an inland navigation channel of approximately 3,000 feet long and 600 feet wide. The construction of this channel will require the extraction of approximately 380,000 cubic meters of material. The extracted material would be utilized to fill the handling, storage and cargo area adjacent to the channel.
- 2- Filling of 59 acres of wetlands to prepare the handling storage and cargo area.
- 3- Dredging of the navigation channel and turning basin to a depth of 50 feet. The dredging involves the removal of around 5.5 million cubic meters of material that will be disposed at the EPA's designated Ocean Dredged Disposal Site (ODMDS) located south of Ponce.
- 4- Improvements to the Port of Ponce and development of around 132 acres of upland in an area adjacent to the north of the port, for value added activities.

The review period of this application began on November 3, 2003 when the documents of the last amendment were submitted to the Puerto Rico Planning Board (PRPB). An agreement was established between the PRPB and the The Americas Port Authority to extend the evaluation period of the application at reference until May 31, 2004. The application and accompanying documents were sent to the Fish & Wildlife Service (FWS), National Marine Fisheries Service (NMFS), the Environmental Quality Board (EQB), the State Historic Preservation Office (SHPO), the Underwater Archaeology

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Council, the Department of Natural and Environmental Resources (DNER) and the Municipality of Ponce. Public notices were also issued.

During the evaluation period the following comments were received from the consulted agencies:

- ❖ **The DNER** expressed that the proposed project is consistent with the Puerto Rico Coastal Zone Management Program. This agency recommended emitting the Federal Consistency Certificate.
- ❖ **The NMFS** expressed concern about direct and indirect impacts of the project on Essential Fish Habitats (EFH). This agency made the following recommendations in order to avoid and minimize the impacts of the project:
 1. Sediment and erosion control measures shall be designed to minimize the transport of sediments to seagrass and corals during construction and dredging activities.
 2. A mitigation plan shall be developed to compensate for impacts to all EFH and associated fishery resources.
 3. A navigation route shall be established between Ponce Harbor and ODMDS in order to avoid or minimize potential impacts to coral reefs due to accidental groundings and accidental spillage from sediment-laden barges.
 4. An offshore anchorage area shall be designated to minimize the impacts on EFH of vessels awaiting access to the port. New mooring areas shall be established in Ponce Bay that can accommodate Post Panamax vessels in areas free of corals and seagrasses. The location of these anchorages shall be determined in coordination with NOAA Fisheries and the U.S. Coast Guard.
 5. A baseline long-term monitoring plan shall be developed and implemented during the construction and operation stages of the project to assess the impacts of water quality changes on EFH and associated fishery resources within Ponce Bay. The plan shall include mitigation measures that will be implemented if additional adverse impacts to seagrass and corals are discovered due to project construction and operation.

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6. The channel used to transport storm water from the port facility directly to Ponce Bay shall be redesigned to include sediment traps, oil and grease separators and other best management practices to minimize contaminant transport in runoff to waters of the bay.

- ❖ **The FWS** commented that they concur that this amendment to the project decreases the amount of wetland and seagrass impacts over the preceding versions. This agency also informed that possible impacts to threatened and endangered species were addressed through a Section 7 consultation with the USACE. The expected impacts to sub tidal habitat from dredging (including down current reef areas) and discrepancies about the extension of the proposed mitigation area should be clarified. A detailed mitigation plan should be developed for the Federal EIS and USACE permit.
- ❖ **The SHPO** expressed their concurrence with the CSA Group's archaeologist, Raquel Camacho that no further identification efforts are warranted in the potential mitigation areas. Notwithstanding according to the information provided by Americas Port Authority and site visits performed by the SHPO, this agency strongly recommends that the identification and evaluation efforts shall include the "Playa de Ponce" community. This district was designed in the mid-nineteenth century and lies immediately next to the area that will be potentially affected in an indirect way by The Americas Port project. The SHPO does not oppose to the project, however is their understanding that the USACE will need to search or make a determination regarding both archaeological and historic architecture resources within the The Americas Port project.
- ❖ **The UAC** informed that the project is located in a highly sensitive archaeological area. Therefore archaeological studies Phase Levels IA-IB are required.
- ❖ **The EQB** emitted the resolution R-04-14-3 on May 14, 2004 in which this agency concludes that the Americas Port Authority (APA) has adequately evaluated the environmental impacts of this project and that the submitted amendment is more environmentally favorable than the originally submitted project.

The APA addressed the agencies concerns and comments providing the following information:

- The Archaeological studies Phase Levels IA-IB were performed and included within the Final Environmental Impact Assessment document. Phase Level II studies were also performed.

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- The APA committed to perform the following actions in order to address the NMFS concerns and recommendations of the NMFS:
 - 1- Prepare a mitigation plan to compensate for the 59 acres of wetland impact. The mitigation will consist in the rehabilitation of around 106 acres of wetland located within "La Esperanza Farm", located east of the project at around 1.5 miles of distance.
 - 2- Development of a mitigation plan to compensate for the impact on seagrasses.
 - 3- Development of a long range monitoring plan to monitor the water quality at Ponce Bay.
 - 4- The Erosion and Sedimentation Control Plans are obligated requisites from the Environmental Quality Board and the Environmental Protection Agency.
 - 5- Provide the additional information about "Site Management and Monitoring Plan" for the disposition of the dredged material, that was requested by the NMFS.

- The information about the mitigation area that was requested by the FWS will be provided when the USACE approves the mitigation plan.

After the evaluation of the submitted information and comments received from the consulted agencies the Puerto Rico Planning Board (PRPB) determines that the project at reference **is consistent with the Puerto Rico Coastal Zone Management Program** pursuant to the Federal Consistency Procedures.

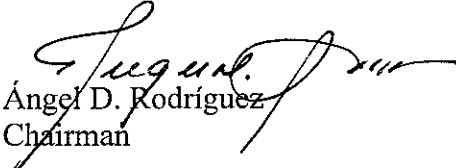
Notwithstanding, we would like to recommend to strictly follow the agencies recommendations in order to minimize and avoid impacts to natural and cultural resources during the construction phase of the project. Environmental conservation measures shall be implemented during the whole operational life of the project in order to maintain the health of the surrounding ecosystems and marine resources. It will be useful to develop and implement a plan for the quick response to any environmental accident that would occur during the operational phase of the project.

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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 question concerning this matter do not hesitate to contact Miss Rose A. Ortiz at 726-0289 or 723-6200, ext. 2020.

Thanks for your cooperation with the Puerto Rico Coastal Zone Management Program.

Cordially,


Ángel D. Rodríguez
Chairman

Site Plan and enclosures

- c Mr. Ferdinand Quiñones, CSA
- Mr. Eldon Hout, OCRM, Maryland
- Mr. José Rosario, USACE, San Juan
- Mr. Ernesto Díaz, PRCMO, DNER, San Juan
- Mr. Celso Rossy, DNER, San Juan
- Mrs. Wanda García, EQB, San Juan
- Mr. Edwin Muñiz, FWS, Cabo Rojo

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