



CHARLOTTE HARBOR NATIONAL ESTUARY PROGRAM

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June 18, 2003

John R. Hall
Chief, Regulatory Division
U.S. Army Corps of Engineers
P.O. Box 4970
701 San Marco Blvd.
Jacksonville, Florida. 32232-0019

Re: SWANCC decision's impact on wetlands within the Charlotte Harbor National Estuary Program

Dear Mr. Hall:

This letter is to request information on the implementation of the US Supreme Court Ruling on *Solid Waste Agency of Northern Cook County (SWANCC) v. U.S. Army Corps of Engineers* in southwest Florida. The Charlotte Harbor National Estuary Program (NEP) is a partnership program, created by Section 320 of the Clean Water Act, to protect and preserve the Charlotte Harbor estuary, recognized as an estuary of national significance and one of the most productive estuaries in the State. Since 1996, the Charlotte Harbor NEP has developed and completed a Comprehensive Conservation and Management Plan (CCMP) for the estuary and its watershed. This plan was developed utilizing four committees of citizens, scientists, resource managers, industry representatives and policy makers. Our partnership includes, among others, Lee, Sarasota, Hardee, DeSoto, and Charlotte Counties; the U.S. Environmental Protection Agency; U.S. Army Corps of Engineers; U.S. Fish and Wildlife Service; the Florida Fish and Wildlife Conservation Commission; the Florida Department of Environmental Protection and both the South and the Southwest Florida Water Management Districts. A part of the implementation of this CCMP is determining the consistency of proposed actions in the Charlotte Harbor watershed with the CCMP.

The SWANCC decision may impact our ability to implement the following goals of the CCMP:

FW-2: Meet the stated objectives for the target extent, location, and quality of the following habitats in the Charlotte Harbor NEP study area:...

- e) restore, maintain, and manage freshwater wetland systems in current extents and to a quality capable of maintaining all natural functions within the range or natural variability;
- ...g) protect, enhance, restore native upland communities vital to the ecological function of the Charlotte Harbor NEP study area.

FW-C: Restore freshwater and estuarine wetland areas, especially those adversely impacted by ditching, using the following methods: the backfilling of ditches, the

removal of spoil piles, the elimination of invasive exotic vegetation, and other restoration techniques.

HA-3: Restore, enhance, and improve where practical historic subbasin boundaries and natural hydrology for basins within the Charlotte Harbor NEP study area, with special attention to Outstanding Florida Waters, Class I waterbodies, and tributaries to Estero Bay by the year 2020.

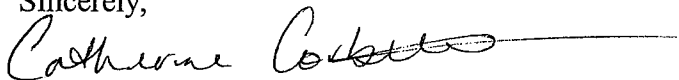
Therefore, we wish to quantify the number of acres and the location of the wetlands that will be affected or reclassified as non-jurisdictional by the SWANCC decision within our study area. Our 4,400 square mile study area includes the following subbasins:

- Coastal Venice, including Cow Pen Slough;
- Lemon Bay and watershed;
- Charlotte Harbor, including Pine Island Sound, Matlacha Pass and the barrier islands such as Boca Grande and Sanibel;
- Myakka, Peace and tidal Caloosahatchee Rivers and their watersheds, including the Winter Haven Chain of Lakes; and
- Estero Bay and its watershed.

Please also explain how the determination of non-jurisdictional status is made for these areas as well. Enclosed are a map of our study area and a Shapefile of our boundary to help in this effort.

We greatly appreciate your help in this matter. Please feel free to contact me at the program office at (239) 995-1777 ext 241 if you need further information or if I can be of assistance.

Sincerely,



Catherine A. Corbett
Senior Scientist

Enclosures