

June 17, 2005

Melody Ray Culp
U.S. Fish and Wildlife Service
South Florida Ecological Services Office
1339 20th Street
Vero Beach, Florida 32960

Re: Clam Bayou Emergency Drainage

Dear Ms. Culp:

As discussed recently with Trish Adams of your office, we once again have serious stormwater impoundment in Clam Bayou on Sanibel Island due to over 21" of unseasonal Spring rains, in part due to Tropical Storm Arlene. As you know we are actively pursuing a long-term solution to this problem, which causes mangrove, seagrass, oyster bar and fisheries die-offs and flooding of lower elevation residences. The culvert project that will tidally connect Clam Bayou with Pine Island Sound via Dinkins Bayou, is temporarily delayed by legal difficulties in acquiring a necessary property easement. We anticipate that this will be resolved in August or September so that construction can begin, but in the meantime, the current high water levels in the Bayou (+2.7' as of today) are likely to rise further with normally occurring summer rains. We respectfully request technical assistance and that the Service re-issue a biological opinion previously issued August 11, 2004 (copy attached), allowing us to re-open the cut temporarily to relieve this stormwater impoundment during the sea turtle nesting season. As an added complication, the previous opening resulted in a perfect area for least tern nesting and indeed a fairly large, (estimated 38 pairs of least terns and 3 pairs of Wilson's plovers), brand new nesting colony has established on the area where sand was deposited last year by the dredging. This highlights an inadvertent added benefit to the periodic opening of this cut, and also means that we will need to wait until all nesting is complete and the last juveniles have left the site before we open it again.

Attached are aerial photos of the beaches at the west end of the island where the project is located showing all the nesting season to date locations of sea turtle nests and false crawls as recorded by the Sanibel-Captiva Conservation Foundation, as well as the location of the least tern nesting colony at the project site. As has been true historically, no sea turtle nests are located within the project area, which is low-lying and subject to washover by even minor storms. The Silver Key bald eagle nest, though in a hurricane battered Australian pine, was successful and fledged two eaglets

in March of this year. The nest is currently inactive and the nest tree has died, presumably of damage incurred during hurricane Charley. Following completion of the least tern and Wilson's plover nesting cycle, we propose to move a single trackhoe down the beach at low tide, between the high water wrack line and the Gulf from the Blind Pass beach access to the project site. The cut will be made as per the existing JCP permit conditions (Permit No. 0200131-001-JC, Lee County; partial copy attached) and the equipment taken back off the beach in the same careful manner so as to minimize any chance of disturbing sea turtle nests or affecting dune integrity. As required by the permit, daily surveys for both sea turtle nests and shorebird nesting will be done by trained biologists both before and during construction and if any nesting activity or nests in the project area are found or accidentally disturbed, work will be immediately stopped and both your office and the FDEP contacted and informed of the situation.

We are, as I'm sure your office is, looking forward to resolving this problem in a permanent manner with the culverts. We ask for this authorization in the interim to prevent further damage to the Clam Bayou estuary and flooding of residences. As a precaution against the worst case scenario in the meantime if flooding and estuary impacts become extreme prior to the shorebird nesting being complete, we would also ask for authorization in your letter to set up two side by side < 30hp. water pumps on the east side of Silver Key (see aerials) that would allow for pumping of the impounded water directly over the beach via flexible hose no more than 18" in diameter. The pumps would be located as far as possible away from any existing turtle or shorebird nest and would only be operated temporarily until extreme conditions subside. The pumps would be brought down the beach and then retrieved when no longer needed at low tide waterward of the high water wrack line in the back of a pick up truck. The truck would be immediately driven off the beach leaving only the pumps and a fuel supply in a suitable upland location and the flexible hoses leading from Clam Bayou to the Gulf. This pumping would of course also require a field permit from FDEP and adequate containment for the temporary fuel storage area.

Thank-you for your continued patience and help with this soon to be solved dilemma.

Sincerely,

Robert K. Loflin, Ph.D.
Natural Resources Director

cc: Trish Adams