



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

NOV - 7 2013

REPLY TO THE ATTENTION OF:

WW-16J

Colleen O'Keefe
Water Resources Division
Michigan Department of Environmental Quality
P.O. Box 30028
Lansing, Michigan 48909

Re: Public Notice No. 13-03-0079-P, Singapore Dunes, LLC

Dear Ms. O'Keefe:

The purpose of this letter is to notify you that the U. S. Environmental Protection Agency objects to the issuance of a Clean Water Act (CWA) Section 404 permit by the Michigan Department of Environmental Quality (MDEQ) for wetlands dredge and fill activities associated with a project by Singapore Dunes, LLC as proposed in the Public Notice referenced above. The Public Notice describes impacts to 0.02 acres of interdunal wetlands for the purpose of constructing an access road and utilities for Phase 1 of a development consisting of 19 single-family lots. The proposed project is located in T3N, R16W, Sections 3 and 4, Saugatuck Township, Allegan County, Michigan. The U.S. Fish and Wildlife Service (FWS) provided EPA with its comments and concerns. The FWS letter dated November 7, 2013 is enclosed. EPA's concerns are described below.

Avoidance and Minimization

Residential Development is not considered a water dependent activity, and the wetland to be impacted by the proposed Singapore Dunes development is a special aquatic site under the CWA Section 404(b)(1) Guidelines (the Guidelines). As a result, practicable alternatives that do not impact the wetland are presumed to exist. The application does not include a complete alternatives analysis. The applicant must describe alternative sites and/or site configurations, the resulting impacts, and whether such alternatives are available and capable of being done. A complete alternatives analysis should also consider indirect and cumulative aquatic resource impacts when determining the least environmentally damaging practicable alternative (LEDPA).

Impacts

The Michigan Natural Features Inventory (MNFI) has characterized the wetlands on the proposed Singapore Dunes site as interdunal wetlands. Interdunal wetlands are ranked by MNFI as both globally imperiled and state imperiled. Such wetlands are also known to fluctuate hydrologically based on Great Lakes water-levels. Because interdunal wetlands fluctuate with

Great Lakes water-levels, they also vary in size from year to year. With Lake Michigan currently at a low water-level, the wetland delineation did not map the complete wetland complex that would exist in a year with higher water-levels. Because of this high hydrologic variability, EPA recommends a wide buffer around the interdunal wetlands to protect the complete wetland resource in a year when Lake Michigan water-levels are high.

The impact site from the proposed Singapore Dunes project also includes critical dune areas, which were mapped in 1989 by the Michigan Department of Natural Resources and identified as important resources worthy of protecting. Together, the dunes and interdunal wetland complex create a unique and dynamic ecosystem. The interdunal wetlands on this site have high floristic biodiversity. According to a MDEQ site survey, the mean coefficient of conservatism (Mean C) for the interdunal wetland complex was 4.4 out of 10 and the floristic quality index (FQI) was 40.1 out of 100. These high floristic values confirm the areas biodiversity and unique habitat.

In addition to the direct fill, indirect impacts from the proposed Singapore Dunes project must be considered in the impacts assessment and in the alternatives analysis. The loop road planned to provide access for nine residential lots bisects the interdunal wetland complex. Constructing a road and residences within or near this critical dune and interdunal wetland complex will result in negative indirect impacts. For example, the road within the interdunal wetland complex would disconnect the habitats of the small wetlands from each other and could alter their hydrology and vegetation.

EPA is also concerned that permit applications for the proposed Singapore Dunes project are being piecemealed. The project description for Phase 1 in Public Notice 13-03-0079-P is a small part of the site that the applicant intends to construct. The MDEQ must consider the complete project when analyzing the negative effects of the proposed project. Additional impacts proposed for the site include developing 19 single family home sites, additional residential buildings, roads, and a marina. One permit application that includes all reasonably foreseeable impacts from the development, instead of several smaller permit applications with limited impacts, should be required to allow EPA, MDEQ, and the public to accurately assess the impacts resulting from the entire project.

Compensatory Mitigation

Once the applicant sufficiently demonstrates avoidance and minimization of aquatic resource impacts to the extent practicable, the proposed mitigation will be evaluated. Initially, EPA is concerned that the proposed wetland compensatory mitigation, which includes excavating 0.08 acre within upland dunes, will not be successful. Furthermore, even if the wetland creation were successful, the location of the mitigation within the loop road would disconnect the created habitat from adjacent dune and interdunal wetland habitat.

Summary

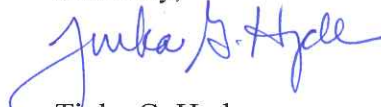
Prior to the issuance of a Section 404 permit by the MDEQ, the following issues must be addressed:

- To assess wetland and stream impacts in their entirety, the application must identify any reasonable foreseeable actions and include them in a cumulative impact assessment. In this case, the applicant has planned the development of additional features including condo buildings and a marina.
- The application must include a wetland impacts assessment that considers indirect impacts from the project.
- The applicant must demonstrate that the proposed design is the LEDPA. EPA recommends that applicant provide alternative site locations and configurations that avoid bisecting the interdunal wetland complex.
- Provided the applicant demonstrates avoidance and minimization of all aquatic resource impacts, including indirect and reasonably foreseeable project impacts, the mitigation proposed for remaining wetland impacts will be evaluated.
- The FWS comments and concerns outlined in the enclosed November 7, 2013, letter must be addressed.

The Singapore Dunes project, as proposed, does not comply with the Guidelines, and EPA objects to the issuance of a permit for wetlands dredge and fill activities associated with this project. Pursuant to CWA § 404(j) and the CWA 404 Memorandum of Agreement Section 5(d)-(e), the MDEQ has 90 days from the date of this letter to work with the applicant to resolve the issues raised in this letter, or deny the permit. The MDEQ may request a public hearing on EPA's objection. If the State does not satisfactorily resolve this objection within 90 days after the date of this letter or within 30 days after the completion of the hearing, if one is held, the U.S. Army Corps of Engineers shall process the CWA Section 404 permit application.

Thank you for the opportunity to comment on this Public Notice. If you have any questions regarding these comments, please contact Melanie Burdick at 312-886-2255.

Sincerely,



Tinka G. Hyde
Director, Water Division