



United States Department of the Interior

FISH AND WILDLIFE SERVICE

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Hadley, Massachusetts 01035-9589

In Reply Refer To:
FWS/Region 5/ES

DEC 24 1996

Lieutenant Colonel Robert B. Keyser
District Engineer, Philadelphia District
U.S. Army Corps of Engineers
Wanamaker Building, 100 Penn Square East
Philadelphia, Pennsylvania 19107-3390

Dear Lieutenant Colonel Keyser:

This letter is in response to a request made on November 7, 1996, by the U.S. Army Corps of Engineers, Philadelphia District, for consultation under the Coastal Barrier Resources Act (104 Stat. 2931; 16 U.S.C. 3501 *et seq.*), regarding a proposed action that would affect the Stone Harbor (NJ-09) Unit of the Coastal Barrier Resources System.

The CBRA prohibits all federal expenditures on units of the Coastal Barrier Resources System, except for a few clearly defined exceptions. These exceptions are found at Section 6 of the CBRA, and the following comments are provided pursuant to this section. The Corps' request for consultation concerns the Stone Harbor portion of the Corps' Brigantine Inlet to Great Egg Harbor Inlet and Townsends Inlet to Cape May Inlet Feasibility Studies (Stone Harbor Project).

The Stone Harbor Project is within the NJ-09 Unit of the System and is located in Cape May County, New Jersey. Site inspections of the NJ-09 Unit were made by U.S. Fish and Wildlife Service biologists on April 25, July 21, and August 15, 1995. This portion of the barrier island provides habitat for a variety of migratory birds including colonial nesting waterbirds. The wetlands and shallow open waters in the vicinity of Stone Harbor also support important shellfish and finfish resources. Severe erosion and habitat loss has occurred in the Stone Harbor Unit partially as a result of sand capture by a groin structure, which has prevented replenishment via natural littoral drift. The proposed action within the Stone Harbor Unit is designed to replace approximately 157.7 acres of upland (dominated by bayberry [*Myrica pensylvanica*]), sand dune, and beach, which have been lost by erosion and not replaced by littoral drift.

Section 6(a)(6)(A) of the CBRA provides an exception to Section 5, "Limitations on federal expenditures affecting the System," if the expenditure is for the study, management, protection, and enhancement of fish and wildlife resources and habitats." Further, under this section, the expenditure must also be consistent with the three purposes of the Act, which are to minimize: loss of human life, unnecessary expenditures of federal revenues, and damage to fish, wildlife, and other natural resources associated with units of the System.

The proposed Stone Harbor Project is intended to create and enhance fish and wildlife habitat while also minimizing the loss of human life and property by providing a stabilized shoreline adjacent to residential areas. The proposed project would use federal revenues to enhance fish and wildlife habitat, provided that sand is permitted to bypass existing groins that have caused sand starvation of the Stone Harbor Unit. Therefore, the Service recommends that the proposed project incorporates an appropriate sand by-pass system in order to ensure that littoral drift continues to renourish the Stone Harbor Unit in perpetuity. One potential sand by-pass alternative would involve notching the terminal groins to permit sand to drift toward the Stone Harbor Unit.

Long-term protection of the Stone Harbor Unit as a natural, undeveloped area would also be required to ensure that the project would meet the letter and spirit of the CBRA. Therefore, the Service recommends that the Corps secure a deed restriction or place the proposed project area under a conservation easement in order to prevent development within the project area and preserve the proposed fish and wildlife habitat.

It is the Service's conclusion that this proposed action constitutes an exception under Section 6(a)(6)(A) of the CBRA, provided that the following conditions are incorporated into the project design:

1. Construction of an appropriate sand by-pass system (such as modifying or notching the terminal groins) to ensure that littoral drift renourishes the Stone Harbor Unit in perpetuity, thereby eliminating sand starvation. A sand by-pass system would constitute a one-time investment of federal monies sufficient to renourish the Stone Harbor Unit. Some funds may be also necessary to provide for routine maintenance of such a system; however, it is likely that this maintenance activity would be less costly than the alternative, a process necessitating yearly replenishment of sand.
2. Protection of the proposed project area from development via deed restriction, placement under a conservation easement, or other protection by the State of New Jersey in perpetuity.

Given that the above conditions are incorporated into the project design, the Service has determined that the proposed Stone Harbor Project is consistent with the purposes of the CBRA. The above views constitute the Service's consultation regarding the CBRA.

Lieutenant Colonel Robert B. Keyser

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If you have any questions regarding these comments or require further assistance on issues regarding fish and wildlife resources in New Jersey, please contact Mr. Clifford G. Day, Supervisor, New Jersey Field Office, at (609) 646-9310.

Sincerely,

Cathy Hunt

ACTING

Ronald E. Lambertson
Regional Director