



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET, SW
ATLANTA, GEORGIA 30303-8909

OCT 5 1999

Ms. Cheryl Mitchell
Environmental Staff Director
Staff Civil Engineering Dept.
Naval Station Mayport
Mayport, FL 32228-0067

Dear Ms. Mitchell:

Thank you for your ENVVEST¹/XL proposal to develop, test and implement the beneficial reuse of dredged material into construction blocks and artificial reef material at the Naval Station (NS) Mayport naval facility. Also, we would like to thank you and the rest of the NS Mayport staff for their hard work in developing this proposal. The purpose of this letter is to formally select the NS Mayport proposal as a potential ENVVEST/XL pilot and to invite you to work with the U. S. Environmental Protection Agency (EPA) staff and our assembled team to develop a draft Final Project Agreement (FPA) for EPA and stakeholder review. While this letter does not represent final EPA approval of the ENVVEST/XL project, agency staff both at headquarters and at Region 4, believe the proposal has potential merit and deserves to be further developed in the form of an FPA.

The potential benefits of your project as we understand it include:

- A) It will demonstrate a beneficial reuse of dredged material which:
- is innovative;
 - could be transferable to similar naval facilities and nonmilitary ports;
 - is beneficial to the Navy and the U.S. Army Corps of Engineers (COE), to organizations who need to dispose of dredged material, and to the local Mayport community; and
 - responds to EPA solicitation for innovative pollution prevention projects.
- B) It will be an overall improvement on what would occur absent the project in that it would:
- decrease and eventually eliminate the need for ocean disposal of dredged material, which minimizes the potential for impacts to water quality and

¹ ENVVEST - A Memorandum of Agreement between DOD and EPA on Regulatory Reinvention Pilot Projects. This agreement was established to provide a framework for the development of regulatory reinvention pilot projects at approximately three to five selected DOD facilities. DOD and EPA outlined the ENVVEST agreement to reflect Project XL requirements.

- benthic communities;
 - create new reef habitats or repair existing reefs by use of solidified dredged material as artificial reef;
 - lower the potential impact to the endangered Northern Right Whale (NRW) by reducing the number of transects across the NRW migration pathways and calving grounds;
 - reduce the waste streams associated with disposal of fly ash; and
 - reduce the need for raw materials (cement, aggregate) necessary for making concrete.
- C) Savings from the streamlining process and the reduction in paperwork from synchronized or extended permits would allow for the reprogramming of funds to implement this proposal.
- D) We understand that the COE supports the proposal and is interested in using EPA's ENVVEST/XL program to investigate the innovative reuse of dredged material on a site-specific basis. Further, ENVVEST/XL gives the COE a mechanism to grant a site-specific rule to allow this permit flexibility in their regulation without setting precedent for their entire program. At present, COE regulations do not allow this type of flexibility.

In order to obtain the flexibility necessary to achieve the results described above, EPA, the COE, the Florida Department of Environmental Protection (DEP), the City of Jacksonville, interested stakeholders, and NS Mayport will need to work together to address several key elements of the project in a draft FPA. These elements include:

- 1) **Superior Environmental Performance (SEP)** -- ENVVEST/XL projects must produce some form of SEP. This was one of the most scrutinized sections in your proposal. In order for NS Mayport to adequately demonstrate whether the project may provide SEP, more detailed data/information will need to be collected and analyzed during FPA negotiation. The following data is needed:
- A) Identify the characteristics of the dredged material. EPA needs this information to determine if the dredged material causes any significant undesirable environmental effects. Testing of dredged material is required to obtain an MPRSA permit from the COE--so some of this information has already been collected. Information from the 1993 data reports on basin material and the upland cells should be included in the FPA. If, during FPA negotiation, new data is collected, this information will also need to be incorporated into the FPA.
 - B) Identify the characteristics of the fly ash or other additives and solidification materials. The FPA should include all available studies or

information on the characteristics of the fly ash or other additives and solidification material. If NS Mayport does not have data reflecting the contents of the fly ash, it will be necessary to collect and analyze such data during the FPA negotiations. At a minimum, the project team will need to specify a testing regime and develop an appropriate decision-making mechanism before an FPA is signed.

- C) Identify the characteristics of the construction blocks and artificial reef material. We are suggesting the project team follow the same approach as described in item B, above. If NS Mayport already has such data available, you should provide the information to the project team during FPA development. At this time, EPA does not support the use of fly ash in artificial reef material.
- 3) **Cost Savings** -- Your chart describing the project's potential cost savings is helpful but needs to be more specific. To clarify, you will need to provide additional information on the anticipated cost savings during FPA development.
- 4) **Stakeholder Involvement** -- The draft FPA must contain a Stakeholder Involvement Plan that highlights and explains your commitment and specific plans with regard to stakeholder involvement at both the local and national levels. Stakeholder involvement during the FPA development phase should clearly show that coordination efforts with all interested stakeholders will occur, including local environmental and community groups. Public involvement during the ocean dumping permit evaluations must meet existing requirements.
- 5) **Monitoring, Reporting, and Evaluation** -- In order to ensure the transparency of the project's results, the quantity and quality of data reported must be sufficient to assure the public and the government agencies that you are complying with the project's requirements and are meeting the project's goals. Your draft FPA should describe how you intend to collect this data and make it available to the public.

As part of FPA development, the project team will work together with you to define the data and testing necessary for the project. After all testing has been completed, and a suitable building material developed, in conjunction with the appropriate stakeholders, the FPA should establish a tracking and evaluation methodology to determine if the project is resulting in the expected SEP. This methodology should be described in the FPA—including a description of the performance measures and a method for evaluating and monitoring the project's progress toward meeting these measures. The evaluation program should, at a minimum, include monitoring for the following items:

- Evaluation, every three years, of material to be disposed in the ocean to ensure that it does not cause any significant undesirable

environmental effects.

- Determine viability of the offshore reef in partnership with the appropriate agencies, including community groups that utilize the area.
- The quality, consistency, and stability of the artificial reef material as well as the potential for toxicity and bioaccumulation, as determined by bioassays.
- Environmental monitoring of the artificial reef site(s).
- Toxicological and bioaccumulation testing of new material from the basin and the upland holding cells as needed.
- The quality, consistency and stability of the construction block material.
- The potential impact on the NRW migration pathways and calving grounds for the placement of the artificial reef(s) and the disposal of the dredged material.

In addition to measuring SEP, EPA is interested in monitoring other ENVVEST/XL project criteria in determining project success. Potential key components for this evaluation will focus on bench-marking and tracking the managerial and cost improvements in the permitting process, cost avoidance of disposal of dredged material, recreational improvements and benefits, and the transferability of this project to other ports.

You did not address accountability in your proposal. The ENVVEST Memorandum of Agreement states that an "FPA shall clearly set forth objective, enforceable requirements that the subject facility or facilities have agreed to meet." Further, all Project XL agreements must include enforceable mechanisms to ensure proper accountability. The draft FPA should contain clear information on enforceable commitments and explain the different commitments of the signatories. There are three levels of commitments that sponsors can make:

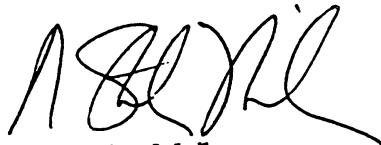
- a) Enforceable Commitments - you are legally bound to meet this commitment.
- b) Voluntary Commitments - not legally enforceable, but you can be held accountable through other means, such as termination of the project.
- c) Corporate Aspirations - this category exists to encourage you to aim high as possible in your project and should be clearly distinguished from accountable commitments. You will not be held accountable to these commitments through government action or citizen enforcement.

5) Shifting of Risk Burdens -- Your project must protect worker health and safety

and ensure that no population is subjected to unjust or disproportionate environmental impacts. The project team will need to revisit this issue and review this statement of "no adverse impacts" prior to signing the FPA. Before the construction blocks are used as building material, they will need to be analyzed to assure they pose no threat to the public.

Again, thank you for your participation in the ENVVEST/XL Program and I look forward to working with your team to develop the FPA and implement this project. As my staff has indicated, we are able to offer NS Mayport contractor assistance in identifying and convening appropriate stakeholders for this project. I know from speaking with my staff that you are highly committed to the type of bold and responsible experimentation that will make our environmental protection system better for all. Should the FPA be signed, the NS Mayport ENVVEST/XL project will become an official ENVVEST/XL Pilot.

Sincerely,



A. Stanley Meiburg
Deputy Regional Administrator

cc: Michael Owens, Florida DEP
Jeremy Tyler, Florida DEP
Col. Joe R. Miller, COE
Eunice Ford, COE
Zonia Reyes, U. S. Coast Guard
Jim Manning, City of Jacksonville, FL