Deerfield Land Corporation
1717 Deerfield Road
Deerfield, Illinois 60015

Gentlemen:

Reference is made to your request for verification of your proposed project under nationwide permit number 26. Your proposed project is to fill 9.25 acres and excavate .24 acre of waters of the United States for the construction of a commercial subdivision known as Osceola Corporate Center. The proposed project is located in Sections 2, 3 and 4, Township 25 South, Range 29 East, Osceola County, Florida.

This verifies that your proposal is authorized by Nationwide Permit number 26 in accordance with the enclosed copy of our regulations as stated in 33 CFR Part 330, Appendix A. To comply with this permit the work must be done in accordance with the enclosed drawings/information you submitted, the conditions listed in 33 CFR Part 330, Appendix A, Subparagraph C, the terms and conditions, to include the approved mitigation plan, of the South Florida Water Management District permit number 49-00033-D, and the following conditions:

a. The applicant must submit to the U.S. Fish and Wildlife Service (FWS) an educational plan on how the impact will be minimized through employee education within 90 days (or as soon as practicable) before any land clearing or construction activities begin. The applicant shall post and distribute educational information to workers. The exhibit and brochure should include photographs of the Eastern Indigo Snake, life history information, legal protection status is Florida, how to avoid impacts to the species, and FWS telephone numbers.
b. The applicant shall grant permission for either a State or Federal biologist to capture and Eastern Indigo Snake(s) on-site upon request. The [applicant’s] point of contact and telephone number shall be provided to FWS within 60 days (or as soon as practicable) of land clearing and construction.

c. If a dead Eastern Indigo Snake is found on the project site, the snake shall be frozen as soon as possible and the applicant shall notify the FWS Vero Beach Field Office at (407) 562-3909, immediately for additional instructions.

d. A relocation plan shall be developed to address procedures for emergency relocation of any Eastern Indigo Snakes not detected during the gopher tortoise survey transects.

e. All live sightings shall be reported to the FWS Vero Beach Field Office at the above number.

This verification will be valid until this nationwide permit is modified, reissued or revoked. All the nationwide permits are scheduled to be modified, reissued, or revoked prior to January 22, 1997. It is incumbent on you to remain informed of changes in these nationwide permits. We will issue a public notice announcing the changes when they occur. Activities which have commenced (i.e. are under construction) or are under contract to commence in reliance on this nationwide permit will remain authorized provided the activity is completed within twelve months of the date the nationwide permit expires, is modified, or is revoked.

This letter does not give absolute authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions mandated by the National Flood Insurance Program. You should contact your local office that issues building permits to determine if your site is located in a flood-prone or floodway area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program. If the local office cannot provide you the
necessary information, you may provide this office a letter with a small scale map showing the location of the site, requesting a flood-hazard evaluation of the site. The request should be addressed to the Chief, Flood Control and Floodplain Management Branch, Jacksonville District, U.S. Army Corps of Engineers, P.O. Box 4970, Jacksonville, Florida 32232-0019.

This letter does not obviate the requirement to obtain any State or local permits which may be necessary for your proposed work. A list of addresses of the appropriate State offices are enclosed for your information and use.

Thank you for your cooperation with our permit program.

Sincerely,

Ronald H. Silver, C.E.P.
Chief, West Permits Section

Enclosures

Copy Furnished:

Javier E. Omana
Ivey, Harris & Walls, Inc.
122 E. Colonial Drive, Suite 200
Orlando, Florida 32801

bcc:
CESAJ-CO-R-A
SFWMD, West Palm Beach (49-00033-D)
NMFS, St. Petersburg
FWS, Vero Beach
EPA, Atlanta
Regulatory Division
Central Permits Branch
199400054  (NW-PW)

Deerfield Land Corporation
1717 Deerfield Road
Deerfield, Illinois 60015

Gentlemen:

Reference is made to your request for verification of your proposed project under nationwide permit number 26. Your proposed project is to fill 9.25 acres and excavate 0.24 acre of waters of the United States for the construction of a commercial subdivision known as Osceola Corporate Center. The proposed project is located in Sections 2, 3 and 4, Township 25 South, Range 29 East, Osceola County, Florida.

We have reviewed your project and find that it would qualify for nationwide permit number 26. However, the State of Florida has denied water quality certification for nationwide permit number 26.

In accordance with our regulations under 33 CFR Part 330.4(c) and (d), if the state denies a required water quality certification for an activity otherwise meeting the terms and conditions of a particular nationwide permit, that nationwide permit authorization for all such activities within the state is denied without prejudice. This denial is effective until the state issues an individual 401 water quality certification, or waives its right to do so. Accordingly, your request for verification under nationwide permit number 26 is denied without prejudice.

Once you receive water quality certification, a copy of the authorization(s), in addition to any changes in the proposed project, should be provided to this office. If the project, with any changes, continues to have minimal impacts on the overall environment, verification of your project under nationwide permit number 26 will be provided to you along with any required special conditions.
If you have any questions, please contact Ms. Pat Wolf at the letterhead address or telephone 904-232-1669.

Sincerely,

John R. Hall
Chief, Regulatory Division

Copy Furnished:

Javier E. Omana
Ivey, Harris & Walls, Inc.
122 E. Colonial Drive, Suite 200
Orlando, Florida 32801

bcc:
CESAJ-RD-CT
STATEMENT
OF
FINDINGS
MEMORANDUM FOR RECORD

SUBJECT: Documentation of Pre-discharge Notification Procedures for Nationwide Permit number 26, submitted by Deerfield Land Corporation

1. Applicant: Deerfield Land Corporation
   1717 Deerfield Road
   Deerfield, Illinois 60015

2. Project Location: The propose project is located in Sections 2, 3 and 4, Township 25 South, Range 29 East and Sections 34 and 35, Township 24 South, Range 29 East, Osceola and Orange County, Florida.

3. Project Description: The proposed project it for development of a multi-use office park. The commercial development is known as Osceola Corporate Center. The total wetland impacts will be 9.49 acres.


5. Chronology of Events:
   a. Notification received in the District Office on: January 10, 1994
   b. The application, when initially received, did not include the amount of wetland impacts that would occur as a result of this project. The application was assigned to Mr. Stuart Santos for review as an Individual permit. Mr. Santos requested additional information on January 13, 1994. Ivey, Harris & Walls, Inc., submitted the additional information March 25, 1994. The package included information informing this office that the site provided potential habitat for Eastern Indigo snakes. Mr. Santos then informed the applicant by letter dated April 1, 1994, that he was initiating consultation under Section 7 of the Endangered Species Act of 1973 as amended. By July 12, 1994, the consultation under Section 7 was concluded, to include special conditions referred to in a letter from the U.S. Fish and Wildlife Service dated June 9, 1994, under FWS Log No. 4-1-94-390.
CESAJ-RD-C (1145)
SUBJECT: Documentation of Predischarge Notification Procedures for Nationwide Permit number 26, submitted by Deerfield Land Corporation

The application was then transferred to Ms. Pat Wolf of the Central Permits Branch for review as a Nationwide permit. Additional information to comply with 33CFR Part 330, Appendix A, Part C, was requested on July 16, 1994, and submitted by the prospective permittee September 7, 1994.

c. The EPA, SHPO, FGFWFC, FWS and the Executive Office of the Governor were notified by Federal Express overnight delivery on September 19, 1994.

d. There were no telephone responses received from any Federal or State agencies.

e. By letter dated September 21, 1994, Florida Department of State, Division of Historical Resources commented that the proposed project will have no effect on historic properties listed, or eligible for listing.

There were no other written responses received from any Federal or State agencies.

6. Requirements for Mitigation: The applicant has proposed to preserve 22.5 acres of upland preservation, which will include 4.91 acres of upland enhancement/wetland creation area. Also the Osceola Corporate Center is proposing to preserve 37.6 acres of uplands coterminous with the Mill Slough. Therefore, 60.61 acres of mitigation is being proposed to the South Florida Water Management District to offset impacts to wetlands. The Wetland Resource Permit is still under review. Once the permit and mitigation plan are approved, it will become a part of the U.S. Army Corps of Engineers Nationwide permit number 26 verification.

7. Determination: After a review of the proposed project and consideration of any and all agency comments, it has been determined that the proposed work will not result in more than minimal individual or cumulative adverse environmental effect nor would it be contrary to the public interest.

The application submitted to the District Office did not include a water quality certification waiver or exemption; therefore, this project will be denied without prejudice until this documentation is received by the U.S. Army Corps of Engineers.
8. Verification of the proposed work under Nationwide permit number 26 is hereby agreed upon.

PREPARED BY:  

PATRICIA D. WOLF  
Applications Examiner

AUTHORIZED BY:  

JOHN R. HALL  
Chief, Regulatory Division

REVIEWED BY:  

RONALD H. SILVER, C.E.P.  
Chief, Central Permits Branch
Memorandum

To: Pat Wolf, USACE-Jacksonville Office
From: Javier E. Omara
Re: Osceola Corporate Center
Date: 3 November 1995

Per your request enclosed is the complete approved permit package for the dredge and fill portion of our project. We previously submitted the MSSW from SFWMD.

Should you have any questions, please do not hesitate to contact us. Thanks for your assistance and patience.

cc: Charles K. Greenwald, DLC
    John Ritch, Esq.
GENERAL SITE DESCRIPTION

The major upland plant community found on the Osceola Corporate Center tract is pine flatwoods. Flatwoods are a fine mosaic of pine stands, palmetto prairie, and low herbaceous openings on Bassinger fine sand and Myakka fine sand. Long-leaf pine (Pinus palustris) is the dominant tree species. Saw palmetto (Serenoa repens) is dominant in the drier areas that have few or no trees. Common shrubs include staggerbush (Lyonia fruticosa), tar flower (Befaria racemosa), pawpaw (Asimina reticulata), shiny blueberry (Vaccinium myrsinites), gallberry (Ilex glabra), huckleberry (Gaylussacia dumosa), and wax myrtle (Myrica cerifera). Common herbaceous plants include blackroot (Pierocaulon virgatum), roserush (Lygodesium aphylla), fleabane (Erigeron vernus), and eupatorium (Eupatorium mohrii). In the low open areas, wiregrass (Aristida stricta) clumps are the most obvious vegetative feature.

During the censusing of wildlife listed as Endangered, Threatened, or of Special Concern, Biological Research Associates, Inc. (BRA) ecologists observed gopher tortoises (Gopherus polyphemus) and Sandhill Cranes (Grus canadiensis) on the Osceola Corporate Center tract. Tortoises were estimated to occur at a density of approximately 0.288 individuals per acre in 541.79 acres of pine flatwoods habitat on the project. The Deerfield Land Corporation is responsible for tortoises on 434.2 acres of pine flatwoods. The balance of the acreage (107.59 acres) was provided to Osceola County for public roadway projects and dedications. Two pairs of Sandhill Crane were observed and suspected to nest on the project. As a result of these observations, the Development Order for the project required that conservation plans for these species be developed and approved by the Florida Game and Fresh Water Fish Commission (FGFWFC) prior to the commencement of the site's development. This document presents that proposed plan. The first section of the report summarizes the observations made on gopher tortoises and Florida Sandhill Cranes during site evaluations. Following sections of the report propose a program of habitat preservation and maintenance to enable these species to continue to persist on the post-development project.

EXISTING POPULATIONS

Gopher Tortoises
As indicated in the response to Question 18.D of the Application for Development Approval, the Osceola Corporate Center site supports tortoises below the average population density for which the Florida Game and Fresh Water Fish Commission typically considers habitat as significant for tortoises. During the survey of approximately 18.5 percent (100 acres) of the original 541.79 acres of potential tortoise habitat on the project, a total of 47 active and inactive burrows were observed. Applying the generally accepted tortoise to burrow conversion factor value of 0.614 tortoises per burrow (Auffenbug and Franz, 1982) to this number of burrows suggests a tortoise density of 0.288 tortoises per acre

(BRA 0490-01-02-CN2)
within the sampled area. If the density estimate is constant across all pine flatwoods on the project, 156 tortoises may occur on the entire project. Recent research by BRA in Orange and Osceola counties demonstrated that burrow occupancy rates in poorly drained soils such as those on the project typically are much lower than 0.614 (BRA unpublished data). Sites with soil and vegetative characteristics similar to those at the Osceola Corporate Center had tortoise to burrow conversion factors around 0.35 tortoises per burrow. It is very likely that the population estimate provided in the ADA significantly over estimates actual tortoise density.

Portions of the pine flatwoods habitat on the site have been deeded to the county as rights-of-way for public road projects and dedications. Osceola County will be responsible for environmental impacts within its rights-of-way through the project. As a result, the Deerfield Land Corporation will be responsible for impacts to tortoises on the remaining 434.2 acres of flatwoods habitat.

Sandhill Cranes
During the wildlife censuses on the project, BRA ecologists observed two presumed sexual pairs of Sandhill Cranes in the marshes and mown area along the US Route 441 right-of-way. No evidence of nesting activity was observed on the site although potential nesting habitat presumably exists in some of the larger marshes. The two pairs of cranes observed on the project both appear to tolerate the heavy automobile traffic on US Highway 441 and low level human activity on the golf course and around the Tupperware World Headquarters. The maintenance of suitable nesting and foraging habitats and appropriate buffering of these habitats from adjacent land uses will likely enable Sandhill Cranes to persist on the post-development project.

PROPOSED HABITAT MANAGEMENT

In accordance with Rule 39.002(1) and current FGFWFC policy, the Deerfield Land Corporation proposes to apply for a permit to take gopher tortoises, their eggs and their burrows incidental to land development on the project site and to provide appropriate habitat preservation and management to compensate proposed impacts. Habitat preservation and management will also be provided to accommodate Florida Sandhill Cranes on the project. Below we discuss the habitat management plan which has been developed for these species on the project.

General
Plans for wildlife preservation at the Osceola Corporate Center include creation of upland preserves, preservation of wetlands, inclusion of habitat for waterbirds in the surface water management system, and retention of natural vegetation in public areas. Management of the upland preserves as compensation for proposed impacts will include: 1) a controlled burn program to maintain specific upland habitats in a viable natural state, 2) limiting vehicular and domestic animal access, and 3) monitoring of flora and fauna to assess and preserve habitat quality. Below we discuss how these goals will be achieved.
Controlled Burns

Fire is one of the most ecologically appropriate and cost effective land management tools available in Florida (Myers and Ewel 1990). Burns stimulate growth and reproduction of some species and are typically much cheaper to conduct than mechanical clearing. Fire is a natural and frequent event throughout the state, with most natural fires resulting from lightning strikes during the summer months. Although fire and smoke are not typically compatible with mixed use developments, isolation of the preserves by wetlands and choice of suitable weather conditions should allow burning with little or no effect on the surrounding community. Where fire may affect roads or development areas, mechanical management including mechanical clearing, culling of trees, and mowing of ground vegetation may be substituted. Mechanical clearing as a means of ecosystem management is relatively new, and its effects are not fully understood. Therefore, controlled burns are much preferred over mechanical clearing and should be utilized whenever possible. The management plan for the tortoise preserve, as discussed below, will use controlled (prescribed) burns to maintain habitat quality whenever possible.

The proposed preserve is located adjacent to wetland resources to avoid proximity to development areas and roadways and to allow integration of wetland and upland areas. The width and location of fire breaks will be determined for preserve areas on an individual basis to create manageable subunits and to prevent conflict with a subterranean natural gas transmission line located in the northern portion of the proposed preserve. To protect and preserve the ability to manage by control burns, restrictions will be placed on deeds for lands near preserve areas. These restrictions will stipulate that burn management will occur and prohibit the landowner from protesting management with fire.

The timing of burns will be selected by a qualified burn ecologist or biologist. Summer burns will be preferred over winter burns whenever possible. However, the timing of burns will be left to the discretion of the burn ecologist in consultation with the authority managing the preserves.

Historically, prescribed burns have been conducted during winter months because weather conditions are more predictable and constant. However, there are ecological and management-related advantages to be realized by burning in summer. Most importantly, summer burns tend to be less intense and wetlands are typically hydrated, so it is less likely that fires will burn beyond the edge of forested wetlands. Similarly, burning when wetlands are hydrated prevents peat fires. Summer burns are also easier to control because winds are typically weaker. As a result, fire lanes and natural wetland fire breaks are more effective.

Preserve Access

The function of the wildlife preserve areas is to maintain, protect and enhance the wildlife resources of the site. At the same time, the areas may provide an important passive recreational and educational resource for the project. If a passive recreation area or natural trail is established, access will be controlled by walk-through gates designed to prohibit entry of vehicles and bikes. Hunting will be strictly prohibited. Signs will be posted explaining the purpose of the areas and providing educational information on the ecology of the
preserves. These signs will also prohibit domestic animals and admonish visitors to stay on the trails.

**Environmental Monitoring**

Once the preserve is established, periodic qualitative assessments will be made by a qualified ecologist. During these assessments the overall ecological condition of the preserve will be evaluated. Information on the diversity and abundance of flora and fauna as they relate to representative cover types are particularly important in evaluating the success of the management plan. During monitoring events it will be particularly important to determine, the abundance of ground litter (which is a critical factor in determining burn schedules), height and density of vegetation, its reproductive condition and the presence and abundance of resident animals. During monitoring events, the tortoise population in the preserve will be censused.

Should qualitative assessments detect shifts in community structure or wildlife usage, quantitative data collection and/or appropriate monitoring to determine cause and suitable management response will be initiated. These data will allow the importance of potential shifts to be determined and thereby enable the ecologist to determine appropriate management responses in cooperation with the Florida Game and Fresh Water Fish Commission and other relevant agencies. Responses may include shifts in burn frequency, changes to site access, or control of exotic plants and animals.

**HABITAT PRESERVATION AND MANAGEMENT**

**Gopher Tortoises**

The area proposed for preservation for gopher tortoises is located within Tracts 15 and the parcel immediately north of parcel 15, in Orange County. These tracts contain 29.7± acres of pine flatwoods. Their preservation will provide for the protection of approximately seven percent of the pine flatwoods habitat on the Osceola Corporate Center. The preserve's location away from the majority of the project enhances its management potential and will allow the integration of upland and wetland ecosystems. The ecological characteristics of these tracts are similar to those on the remainder of the project. Soils are Bassinger and Myakka fine sands. The vegetation composition of the proposed preserve is typical of that in other areas of the project. The overstory is predominately long leaf pine. The understory is predominantly saw palmetto, wax myrtle and gallberry. Sub-canopy growth is thick because of fire suppression. Accumulation of pine litter and palmetto density has precluded much of the ground cover vegetation in some areas. In low open areas the predominant herbaceous vegetation is wire grass.

Like on the remainder of the site, tortoise density on the proposed preserve is apparently low. On 4 October 1991, biologists from BRA transected approximately 1.13 acres (2 percent) of the proposed preserve area. A total of two tortoise burrows were observed. Using the 0.614 tortoises per burrow, these results suggest 1.09 tortoises per acre. We suspect that this value over-estimates the true density in this area. The census was made difficult by the density of vegetation which restricted transects to more open areas within

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(BRA 0490-01-02.GN2) (4) EXHIBIT 9D
the preserves where tortoises were more likely to occur. Both observed burrows were located in comparatively open areas within the proposed preserve, suggesting the habitat quality will improve with fire management. Based on our knowledge of the project, we have no reason to suspect that the tortoise population in the proposed preserve is markedly different in density than on the remainder of the site.

Management of the proposed tortoise preserve will be oriented toward maintaining high quality flatwoods on the site. The preserve areas will be subdivided into two subunits for burning. Fire breaks will be constructed as recommended by a certified burn ecologist or by the Florida Division of Forestry prior to the burns. Fire breaks will not be established between the preserve and adjacent wetlands in order to allow some fire encroachment into wetland edges and to prevent mechanical disturbance of the wetland transitional areas. Burns will be conducted every five to seven years or as recommended by the monitoring ecologist. We anticipate that the first burn may be conducted during the winter months when weather conditions will be more predictable. Thereafter, preference will be given to conducting the burns in the late spring or summer and when the wetlands are hydrated.

Prior to the initial burning of the preserve, mechanical means may be needed to reduce subcanopy vegetation and debris around existing trees. Once the initial fuel load is eliminated, mechanical maintenance of the preserve should be unnecessary except perhaps for some tree thinning, if deemed necessary to provide more open areas for growth of forage for tortoises. If it is deemed desirable to thin existing pine stands, select trees will be girdled and left standing unless their presence presents a safety hazard. Creation of snags within the preserve will reduce the tree canopy and provide additional diversity to the system.

As the preserve is associated with a proposed office park, the problems of domestic animals and vehicular traffic often associated with residential communities should be reduced. The preserve is also surrounded on three sides by wetlands. Consequently, fencing of the preserve is not proposed. Passive recreation will be permitted and a nature trail may be constructed. If such a trail is constructed, entrances which prohibit access by motorized vehicles and bicycles will be included in the design. Signs forbidding pets and providing educational information also will be erected.

In addition to the preservation of the proposed upland areas, the Applicant seeks authorization from the Commission to relocate a maximum of 20 tortoises from other portions of the project to the proposed preserve. Relocation would be used to help ensure that a small colony of tortoises persists in the preserve and to protect individual tortoises. Limited relocation may also help to avoid negative public pressure which often results from approval to take tortoises and provide habitat preservation as compensation. Stocking would occur only if it was determined that the population of tortoises on the preserve was insufficient to sustain itself. Furthermore, stocking would occur only after the preserve areas had been burned at least once. Because the proposed project will be constructed in phases, tortoises from later phases of the project would be used to stock the preserve areas.

Sandhill Cranes

(BRA 0490-01-02.GN2)
The management of preserved marshes and transitional areas on the project to accommodate Florida Sandhill Cranes will require less effort than management of the tortoise preserve areas. The cranes observed on the project make frequent use of open areas along U.S. Highway 441 for foraging. The Applicant desires to designate a 3.7 acre tract of transitional rangeland along the highway as a preservation area to help maintain crane foraging habitat on the project. The open land/rangeland preserve area for Sandhill Cranes will be periodically assessed to determine its successional state by shrubby and tree species. If needed, mechanical means will be used to control the establishment and spread of trees and shrubs in areas to be preserved and maintained as open land/transitional habitats.

The marsh component of Wetland Number 17 may be only marsh of suitable size and depth to provide nesting habitat for Sandhill Cranes on the project. The current site plan provides for the protection and buffering of this habitat from adjacent land uses. The project's surface water management system will maintain the natural hydroperiods of preserved marshes on the project. Thus, essential nesting habitat will be protected during and following site development.

A proposed stormwater pond will buffer most of the system from the adjacent parcel where office space is proposed. Approximately 600 feet of the marsh shoreline will not be buffered by the proposed lake, but will be buffered by a strip of natural vegetation supplemented by plantings of shrubs and/or trees, if required. Thus, visual and spatial buffers between potential nesting habitat on the site and the adjacent office park will be provided.

**MANAGEMENT AGREEMENTS**

Until and unless a suitable agency agrees to manage the Preservation Areas, the preserves will be owned and managed by the Osceola Corporate Center Property Owners Association, which will be obligated to assess the needed management fees and provide for management of the preserves. Membership in the appropriate owners association is mandatory, and all owners will be required to pay association fees, which will include funds to manage the preserves. Deed restrictions will include provisions to ensure that appropriate management techniques, including fire, are permitted. The preservation areas themselves will be placed under permanent conservation easement.
Gopher tortoises occur at an estimated density of 0.28 individuals per acre on 343.2 acres of pine flatwoods (FLUCFCS 411) in Osceola County.

Exhibit 10

Osceola Corporate Center

Existing Land Use and Vegetation Associations

Maps D & F
Mr. Javier E. Oman
Ivey, Harris & Walls, Inc.
631 S. Orlando Avenue, Suite 200
Winter Park, FL 32787

RE: Sandhill Crane Nest, Osceola
Corporate Center, Osceola County

Dear Mr. Oman:

The Office of Environment Services of the Florida Game and Fresh Water Fish Commission has reviewed your "Evaluation of Sandhill Crane Nesting Habitat Relative to the Removal of Two Isolated .97 Acre Freshwater Marshes" for the referenced project and offers the following comments.

Past sandhill crane nesting activity has been recorded from two small (approximately 1 acre) wetlands. The area surrounding these wetlands has been slated for development in accordance with the Osceola Corporate Center Development of Regional Impact (DRI), an area extension of the Osceola Parkway. Development has been constructed between these two wetlands. Based on the referenced report, and our knowledge of the project site, we believe that even if these wetlands were preserved, it is extremely unlikely that cranes would continue using these wetlands for nesting given the construction of the road and surrounding development. The proposed wetland mitigation plan should provide sufficient sandhill crane nesting habitat in areas more isolated from proposed development to offset the loss of these two small marshes.

Sincerely,

Stephen R. Lau
Biological Administrator

SRL/rs
ENV 1-11-3
osceola.dri

EXHIBIT 11

1945 - 1995
50 YEARS AS STEWARD OF FLORIDA'S FISH AND WILDLIFE
WETLAND IMPACTS AND MITIGATION SUMMARY

ORIGINAL WETLAND IMPACTS: 5.81 ACRE
PER SMND PERMIT # 49-00411-5
APPROVED MITIGATION PLAN FOR ORIGINAL IMPACTS: 225.1 ACRE OF UPLAND PRESERVATION/WETLAND CREATION
APPROVED MITIGATION RATIO OF: 3.5 TO 1

ADDITIONAL IMPACTS
ADDITIONAL IMPACTS AS A RESULT OF PUBLIC ROAD ALIGNMENT AND POST DRI
ROADWAY ADJUSTMENTS (AS RESULT OF COUNTY ACTIVITY): 3.50 ACRE
APPROVED MITIGATION PLAN FOR ADDITIONAL IMPACTS: 381.1 ACRE OF UPLAND PRESERVATION
PROPOSED MITIGATION RATIO FOR ADDITIONAL IMPACTS: 108 TO 1

OSCEOLA CORPORATE CENTER
PROPOSED MITIGATION AREAS

PREPARED BY:
PREPARED FOR
DEERFIELD LAND CORPORATION
DEERFIELD, ILLINOIS

EXHIBIT 12
25 October 1995

John R. Hall, Chief-Regulatory Division
Department of the Army
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

Re: Deerfield Land Corporation
Osceola Corporate Center
#199400054

Dear Mr. Hall:

On October 7, 1994, we received correspondence from your office regarding the above-referenced project stating that the Corps had denied without prejudice the Nationwide permit application, pending South Florida Water Management District and Florida Department of Environmental Protection approvals.

I have enclosed the recently-obtained permits, as requested by your correspondence.

Should you have any questions and/or comments, please do not hesitate to contact us.

Sincerely,

IVER, HARRIS AND, WALLS, INC.

[Signature]

Javier E. Omana
Associate Principal

cc: Tom Murray, P.E.
John Ritch, Esquire
Charles K. Greenwald, DLC

631 S. Orlando Ave. • Suite 200 • Winter Park, FL 32789
Phone: 407•629•8880   Fax: 407•629•7888
September 21, 1994

Mr. Ronald H. Silver, Chief
Regulatory Division, Central Permits Branch
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

In Reply Refer To:
Frank J. Keel
Historic Sites Specialist
(904) 487-2333
Project File No. 943174

RE: Cultural Resource Assessment Request
USACOE Permit No. 199400054(NW-PW)
Applicant: Deerfield Land Corporation
Osceola and Orange Counties, Florida

Dear Mr. Silver:

In accordance with the procedures contained in 36 C.F.R., Part 800 ("Protection of Historic Properties"), we have reviewed the referenced project for possible impact to historic properties listed, or eligible for listing, in the National Register of Historic Places. The authority for this procedure is the National Historic Preservation Act of 1966 (Public Law 89-665), as amended.

A review of the Florida Site File indicates that no significant archaeological or historical sites are recorded for or likely to be present within the project area. Furthermore, because of the project location and/or nature it is unlikely that any such sites will be affected. Therefore, it is the opinion of this office that the proposed project will have no effect on historic properties listed, or eligible for listing, in the National Register of Historic Places, or otherwise of historical or architectural value. The project is also consistent with the historic preservation aspects of Florida’s Coastal Management Program and may proceed.

If you have any questions concerning our comments, please do not hesitate to contact us. Your interest in protecting Florida’s historic properties is appreciated.

Sincerely,

George W. Percy, Director
Division of Historical Resources
and
State Historic Preservation Officer

GWP/Kfk
Regulatory Division
Central Permits Branch
199400054 (NW-PW)

Mr. Tom Welborn
U.S. Environmental Protection Agency
345 Courtland Street, N.E.
Atlanta, Georgia 30308-3423

Dear Mr. Welborn:

Deerfield Land Corporation has requested verification under a nationwide permit number 26 to fill 9.25 acres and excavate 0.24 acre of waters of the United States for the construction of a commercial subdivision known as Osceola Corporate Center. The proposed project is located in Sections 2, 3 and 4, Township 25 South, Range 29 East, Osceola County, Florida. We are evaluating their request and have enclosed a copy of their application for your review. Receipt of this letter constitutes the beginning of the predischarge notification process.

In accordance with 33 CFR Part 330, Appendix A, Subpart C, your agency has five calendar days from the date this material is transmitted to you to provide substantive, site-specific comments. If you contact us within the allotted time frames, we will wait an additional 10 days prior to making a final decision on the notification.

If you have any question, please contact Ms. Pat Wolf at 904-232-1669. Thank you for your cooperation with our regulatory program.

Sincerely,

Ronald H. Silver, C.E.P.
Chief, Central Permits Branch

Enclosures
Copy Furnished (w/encl):

(X) Mr. David Ferrell  
Field Supervisor  
U.S. Fish and Wildlife Service  
1360 U.S. Highway 1, Suite 5  
Vero Beach, Florida  32960

(X) Mr. David Wesley  
Field Supervisor  
U.S. Fish and Wildlife Service  
6620 Southpoint Drive South, Suite 310  
Jacksonville, Florida  32216-0912

(X) Dr. Edwin Keppner  
Area Supervisor  
National Marine Fisheries Service  
3500 Delwood Beach Road  
Panama City, Florida  32408

(X) Florida Game and Fresh Water Fish Commission  
110 43rd Avenue S.W.  
Vero Beach, Florida  32968

(X) Mr. George Percy  
Florida Department of State  
Secretary of State  
Division of Historical Resources  
R. A. Gray Building  
500 South Bronough  
Tallahassee, Florida  32399-0250

(X) Ms. Janice Alcott  
Executive Office of the Governor  
State Clearinghouse  
The Capitol  
Tallahassee, Florida  32399-0001

bcc:  
CESAJ-RD-CT  
CESAJ-RD-CT-V
31 August 1994

Mr. Frank Keel
Florida Department of State
Division of Historical Resources
500 South Bruno Street
Tallahassee, Florida 32399

Re: Osceola Corporate Center
Project File # 881293

Dear Mr. Keel:

Per our phone conversation of this date, we are respectfully requesting an update to the Cultural Assessment Finding Letter issued for this project dated July 5, 1988.

This update has been requested by the U.S. Army Corps of Engineers pursuant to the issuance of a Nationwide permit for the subject property.

I have enclosed a copy of the Department's original letter, and a copy of the master plan.

Please forward updated letter to the Jacksonville office of the USACOE, for said item is part of their agency coordination procedures.

Sincerely,

IVEY, HARRIS, AND WALLS, INC.

Javier E. Omara
Associate/Senior Planner

cc: Charles K. Greenwald, DLC
    Joel A. Ivey
    Robert Riggio, Esq.
    Pat Wolfson, USACOE
July 5, 1988

Mr. David C. Stark, Planner
Ivey, Bennett, Harris and Walls, Inc.
122 East Colonial Drive
Orlando, Florida 32801

In Reply Refer To:
Robert C. Taylor
Historic Sites Specialist
(904) 487-2333
Project File No. 881293

RE: May 18, 1988, Letter and Attachments
Cultural Resource Assessment Request
Dart Industries, Proposed DRI to be Located in Parts of Sections 34, 35, T24S-R29E; Sections 2, 3, 4, T25S-R29E, Osceola and Orange Counties, Florida

Dear Mr. Stark:

In accordance with the provisions of the applicable local ordinance and/or Sections 253.77, 267.061, 380.061, 403.918(2)(a.6), Florida Statutes, and implementing state regulations, and/or in accordance with the provisions of the National Historic Preservation Act of 1966 (Public Law 89-665) as amended and related federal laws and their implementing procedures for federally involved projects, we have reviewed the above cited project(s) to determine its (their) effect on significant archaeological and historical sites and properties.

A review of the Florida Master Site File indicates that no significant archaeological and/or historical sites are recorded for or considered likely to be present within the project area(s). Because of the project's nature it is considered unlikely that any such sites will be affected. Therefore, it is the opinion of this office that the proposed project(s) will have no effect on any sites listed, or eligible for listing, in the National Register of Historic Places, or otherwise of national, state, or local significance. The project(s) is(are) consistent with the historic preservation aspects of Florida's coastal zone program, and may proceed without further involvement with this agency.

If you have any questions concerning our comments, please do not hesitate to contact us. Your interest and cooperation in helping to protect Florida's archaeological and historical resources are appreciated.

Sincerely,

GWP/rct

xc: Greg Golgowski

George W. Percy, Director
Division of Historical Resources and
State Historic Preservation Officer

Archaeological Research 1-943-487-2290
Florida Folklife Programs 1-943-397-2192
Historic Preservation 1-943-487-2333
Museum of Florida History 1-943-486-1484
CONVERSATION RECORD

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SUMMARY

Spoke with Mr. Omana - need current contact with IHPD. He said he would contact.

App. still incomplete.

ACTION REQUIRED

NAME OF PERSON DOCUMENTING CONVERSATION

Pat Magee

SIGNATURE

Pat Magee

DATE

8/30/94

ACTION TAKEN

CONVERSATION RECORD

50271-101

OPTIONAL FORM 271 (12-71)
DEPARTMENT OF DEFENSE
1 August 1994

Patricia D. Wolf
Legal Instruments Examiner
Department of the Army
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

Re: Osceola Corporate Center
199400054

Dear Ms. Wolf:

Per your letter of 16 July 1994, the following is our response to your request:

ITEM D

Enclosed is a complete set of the wetland/jurisdictional line survey approved by Mike Zimmerman and signed-off by Joseph R. Bacheler on 4 November 1992, based on the 1987 Jurisdictional Manual. I have also attached the approval letter for your files.

ITEM F

Please refer to our permit application package submitted to the Jacksonville District Corps of Engineers on 25 March 1994, more specifically, Section V: Public Interest Considerations, Page V-2, Exhibit V-1, for a letter from the Florida Department of State’s Division of Historical Resources.

ITEM G

Please refer to Section VII: Alternative Analysis of the aforementioned submittal package.

With respect to your request regarding the acreage amount to be filled and excavated, please refer to Section IV: Dredge and Fill Description of the same package.
Page Two
Letter to Patricia D. Wolf
1 August 1994

Should you have any additional questions, please do not hesitate to contact us.

Sincerely,

IVEY, HARRIS, AND WALLS, INC.

Javier E. Omana
Senior Planner/Project Manager

cc: Charles K. Greenwald, DLC.
    Robert Riggio, Esq.
    Joel A. Ivey
November 4, 1992

Tampa Regulatory
Field Office
199241595
JURISDICTIONAL

Ivey, Harris & Walls
ATTN: Mr. Gary Dickens
122 East Colonial Drive, Suite 200
Orlando, Florida 32801-1200

Dear Mr. Dickens:

Reference is made to your correspondence received October 16, 1992, for a jurisdictional determination for "OSCEOLA CORPORATE CENTER" at Sections 33, 34 & 35, Township 24 South, Range 29 East, Orange County, and Sections 4, 3, & 2, Township 25 South, Range 29 East, Osceola County, Florida.

The delineation shown on the August 12, 1992 survey by G.F. Livernoise, FPLS# 3517, (enclosure), which was submitted with your correspondence, has been verified by Mr. Michael Zimmerman and represents the approximate upland/wetland boundary for purposes of determining the U.S. Army Corps of Engineers jurisdictional line in accordance with the 1987 Jurisdictional Manual. Please be advised that this jurisdictional delineation shown reflects current policy and regulations and is valid for a period no longer than 3 years from the date of this letter. If after the 3-year period, this jurisdictional determination has not been specifically revalidated by the Corps of Engineers, it shall automatically expire. Any reliance upon jurisdictional correspondence beyond that timeframe may lead to incorrect planning and design efforts as well as possible violations of current Federal laws and/or regulations. You may revalidate or update the jurisdiction guidance as appropriate for your project duration. Any revalidation or updating will then reflect current Federal laws and regulations.

The jurisdictional areas are regulated by the U.S. Army Corps of Engineers pursuant to Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Clean Water Act. Any activities undertaken in these areas may require Department of the Army authorization. Other Federal, State or Local permits may also be required.
Thank you for your cooperation with the U.S. Army Corps of Engineers Regulatory Program. If you have any questions regarding this letter or the Corps of Engineers regulations, please contact Mr. Michael Zimmerman, at our Miami Field Office, telephone (305) 591-1306.

Sincerely,

[Signature]

Joseph R. Bacheler
Chief, Tampa Regulatory Field Office

Enclosures
Mr. Stuart L. Santos  
Regulatory Division  
Central Permits Branch  
Department of the Army  
Jacksonville District, Corps of Engineers  
P.O. Box 4970  
Jacksonville, Florida 32232-0019

Re: Nationwide Permit Application 26  
Osceola Corporate Park, Osceola County, Florida  
Sections 2, 3, and 4 of Township 25 South, Range 29 East

Dear Mr. Santos:

I have had an opportunity to review, with the applicant, the letter from Mr. Robert Pace of the U.S. Fish and Wildlife Service regarding the above referenced permit. Mr. Pace’s letter to you, dated June 9, 1994, indicated that the applicant should implement four special conditions to avoid adversely affecting the Indigo Snake. The applicant concurs and accepts these conditions as conditions for approval for the Nationwide Permit Application cited above. Please be advised of the following:

1. IH&W has been authorized to develop an education plan as requested in special condition one of the letter from Mr. Pace.

2. The applicant grants permission to either a state or federal biologist to capture an Eastern Indigo Snake(s) on site, with one week’s notice to Joel Ivey, 122 East Colonial Drive, Orlando, Florida, 32801, (407) 849-0362.

3. The applicant agrees that, should a dead Eastern Indigo Snake be found on the site, the snake shall be frozen as soon as possible and the Vero Beach Field Office will immediately be contacted for further instructions. This requirement will be included in the education plan identified in paragraph 1, above.

4. A relocation plan will be developed by the applicant to address procedures for emergency relocation.

Also, as noted in the letter, locations of live sightings shall be reported to the Vero Beach Field Office.
Mr. Stuart L. Santos  
July 11, 1994  
Page 2  

I appreciate the assistance that you and Mr. Kalani Cairns of U.S. Fish and Wildlife have afforded us. Please call me should you have any further questions or comments regarding the above referenced permit application.

Sincerely,  

IVEY, HARRIS & WALLS, INC.  

Joel A. Ivey, President  

cc: Charles Greenwald  
Kalani Cairns
Regulatory Division
Central Permits Branch
199400054 (NW-PW)

Deerfield Land Corporation
1717 Deerfield Road
Deerfield, Illinois 60015

Gentlemen:

Reference is made to your request for verification of your proposed project under a nationwide permit. Your proposed project is to fill and excavate 9.45 acres of waters of the United States for the construction of a commercial subdivision known as Osceola Corporate Center. The proposed activity is located in Sections 2, 3 and 4, Township 25 South, Range 29 East Osceola, County and Sections 34 and 35, Township 24 South, Range 29 East, Orange County, Florida.

Our regulations (Appendix C of 33 CFR Part 330) requires that specific information be submitted before we can consider verification under a given nationwide permit. Please submit the following information:

( ) a. Name, address, and telephone number of the permittee;

( ) b. Location of the proposed project

( ) c. Information on the proposed project to include:

( ) (1) Brief description

( ) (2) Project's purpose

( ) (3) Direct and indirect adverse environmental effects project would cause, including impacts from flooding and excavation.

( ) (4) Any other NWP(s), regional general permit(s) or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity.

(X ) d. A delineation of all jurisdictional wetlands in accordance with the Corp of Engineers 1987 wetland manual.
( ) e. A statement that the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service has been contacted regarding the presence of any Federally listed (or proposed for listing) endangered or threatened species or critical habitat in the permit area that may be affected by the proposed project; and any available information provided by either agency. (Addresses and telephone numbers are enclosed.)

( ) f. A statement that the State Historic Preservation Officer has been contacted regarding the presence of any historic properties in the permit area that may be affected by the proposed project; and the available information, if any, provided by that agency. (Address and telephone number is enclosed.)

( ) g. Our regulations require that we review the potential secondary and cumulative impacts of the entire project. Please provide information on any additional work planned for this project within, at least, the next five years.

Please provide the acreage amount to be filled and the acreage amount to be excavated.

Once this information is received, your application will be deemed complete and we will continue evaluating your project for verification under a nationwide permit. The 30-day time clock will not start until receipt of a complete application. If you have any questions, please contact the undersigned at 904-232-1669.

If the requested additional information is not received within 30 days, the application will be withdrawn. Thank you for your cooperation with our regulatory program.

Sincerely,

Patricia D. Wolf
Legal Instruments Examiner

Copy Furnished:
Javier E. Omana
Ivey, Harris & Walls, Inc.
122 E. Colonial Drive
Suite 200
Orlando, Florida 32801
MEMORANDUM FOR RECORD

SUBJECT: Transfer of Above-Numbered Permit Application to Nationwide Permit.

1. Applicant: Deerfield Land Corporation,
   1717 Deerfield Road
   Deerfield, Illinois 60015

2. Work: The applicant proposes to fill and excavate 9.45 acres of wetlands for construction of a commercial subdivision to be known as Osceola Corporate Center. As mitigation the applicant is offering to create 4.91 acres of herbaceous wetlands and to preserve/enhance 55 acres of uplands.

3. Location: The project is located at the intersection of Osceola Parkway and U.S. 441 in Sections 2, 3, and 4, Township 25 South, Range 29 East, Osceola County, and Sections 34 and 35, Township 24 South, Range 29 East, Orange County, Florida, at approximately Latitude 28° 20' 42" N, Longitude 81° 20' 42" W.

4. The applicant requested a NW-26, however, the application was originally being processed as an Individual Permit because of endangered/threatened species concerns. Once these concerns have been resolved, the application will undergo a Predischarge Notification for a NW-26 which, if able to be issued, will be conditioned to address the endangered species concerns.

5. The application was received on 12 January 1994 and was deemed complete on 05 April 1994. The application was coordinated with U.S. Fish and Wildlife (FWS) by letter on 5 April 1994, wherein the Corps determined that the project may affect the Eastern indigo snake. By letter dated 9 June 1994, FWS concurred with the Corps determination of "may affect" for the Eastern indigo snake and presented their informal recommendations. The FWS stated that the applicant implement the following special conditions:

   a. The applicant must submit to FWS an educational plan on how the impact will be minimized through employee education within 90 days (or as soon as practicable) before any land clearing or construction activities begin. The applicant shall post and distribute educational information to workers. The exhibit and brochure should include photographs of the Eastern indigo snake, life history information, legal protection status
in Florida, how to avoid impacts to the species, and FWS phone numbers.

b. The applicant shall grant permission for either a state or Federal biologist to capture an Eastern indigo snake(s) on-site upon request. The [applicant’s] point of contact and telephone number shall be provided to FWS within 60 days (or as soon as practicable) to land clearing and construction.

c. If a dead Eastern indigo snake is found on the project site, the snake shall be frozen as soon as possible and the applicant shall notify the FWS Vero Beach Field Office at (407) 562-3909, immediately for additional instructions.

d. A relocation plan should be developed to address procedures for emergency relocation of any indigo snakes not detected during the gopher tortoise survey transects.

e. All live sightings shall be reported to the Vero Beach Field Office at the above number.

The FWS concludes that the project is not likely to adversely affect any threatened or endangered species if the applicant were to implement the special conditions and if the special conditions are included as part of the permit.

These stipulations will be included as special conditions in the DA NW-26 permit. By FAX dated 11 July 1994, the agent stated that the applicant has agreed to all of the stated conditions.

6. On 12 July 1994, the application was transferred to CESAJ-RD-C for evaluation as a NW-26.

Stuart L. Santos
CESAJ-RD-CP
Mr. Stuart L. Santos  
Regulatory Division  
Central Permits Branch  
Department of the Army  
Jacksonville District, Corps of Engineers  
P.O. Box 4970  
Jacksonville, Florida 32232-0019

Re: Nationwide Permit Application 26  
Osceola Corporate Park, Osceola County, Florida  
Sections 2, 3, and 4 of Township 25 South, Range 29 East

Dear Mr. Santos:

I have had an opportunity to review, with the applicant, the letter from Mr. Robert Pace of the U.S. Fish and Wildlife Service regarding the above referenced permit. Mr. Pace’s letter to you, dated June 9, 1994, indicated that the applicant should implement four special conditions to avoid adversely affecting the Indigo Snake. The applicant concurs and accepts these conditions as conditions for approval for the Nationwide Permit Application cited above. Please be advised of the following:

1. IH&W has been authorized to develop an education plan as requested in special condition one of the letter from Mr. Pace.

2. The applicant grants permission to either a state or federal biologist to capture an Eastern Indigo Snake(s) on site, with one week’s notice to Joel Ivey, 122 East Colonial Drive, Orlando, Florida, 32801, (407) 849-0362.

3. The applicant agrees that, should a dead Eastern Indigo Snake be found on the site, the snake shall be frozen as soon as possible and the Vero Beach Field Office will immediately be contacted for further instructions. This requirement will be included in the education plan identified in paragraph 1, above.

4. A relocation plan will be developed by the applicant to address procedures for emergency relocation.

Also, as noted in the letter, locations of live sightings shall be reported to the Vero Beach Field Office.
Mr. Stuart L. Santos  
July 11, 1994  
Page 2

I appreciate the assistance that you and Mr. Kalani Cairns of U.S. Fish and Wildlife have afforded us. Please call me should you have any further questions or comments regarding the above referenced permit application.

Sincerely,

IVEY, HARRIS & WALLS, INC.

[Signature]
Joel A. Ivey, President

cc: Charles Greenwald  
Kalani Cairns
Dear Colonel Salt:

The U.S. Fish and Wildlife Service has reviewed the project plans identified by the above referenced permit application. This report is submitted in accordance with the provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661, et seq.) and Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.).

In the Corps letter dated April 5, 1994, the applicant proposes to fill and excavate 9.45 acres of wetlands for construction of a commercial subdivision to be known as Osceola Corporate Center. The Corps also determined that the proposed work may affect the Eastern indigo snake (Drymarchon corais couperi). Based upon our preliminary review, we concur with this determination. In order to avoid adversely affecting the indigo snake, we recommend that the applicant implement the following special conditions:

1. The applicant must submit to the Service an education plan on how the impact will be minimized through employee education within 90 days (or as soon as practicable) before any land clearing or construction activities begin. The applicant shall post and distribute educational information to workers. The exhibit and brochure should include photographs of the Eastern indigo snake, life history information, legal protection status in Florida, how to avoid impacts to the species, and agency telephone numbers.

2. The applicant shall grant permission for either a state or Federal biologist to capture an Eastern indigo snake(s) on-site upon request. The point of contact and telephone number shall be provided to the Service within 60 days prior (or as soon as practicable) to land clearing and construction.
3. If a dead Eastern indigo snake is found on the project site, the snake shall be frozen as soon as possible and the applicant shall notify the Vero Beach Field Office immediately for additional instructions.

4. A relocation plan should be developed to address procedures for emergency relocation of any indigo snakes not detected during the gopher tortoise survey transects.

In addition, locations of live sightings shall also be reported to the Vero Beach Field Office at (407)562-3909. If additional information indicates the presence of indigo snakes on or near the property in question, formal consultation under Section 7 of the Endangered Species Act may be required. At this time, the Service concludes that the proposed project is not likely to adversely affect any threatened or endangered species if the applicant were to implement these special conditions as part of any permit issued.

Although this does not constitute a Biological Opinion described under Section 7 of the Endangered Species Act, it does fulfill the requirements of the Act and no further action is required. If modifications are made to the project or if additional information involving potential impacts on listed species becomes available, please notify Kalani Cairns or Jane Tutton at (407)562-3909.

Sincerely,

Robert Pace
Acting Field Supervisor

cc:
FWS, Jacksonville, FL (w/ map)
FGFWFC, Vero Beach, FL (w/ map)

Joel A. Ivey, President
Ivey, Harris & Walls, Inc.
122 E. Colonial Drive, Suite 200
Orlando, FL 32801-1200
May 12, 1994

Mr. John R. Hall
Regulatory Division
Central Permits Branch
Department of the Army
Jacksonville District Corps of Engineers
P.O. Box 4970
Jacksonville, Florida 32232-0019

ATTENTION: Mr. Stuart L. Santos

Re: Nationwide Permit Application 26
Osceola Corporate Center #199400054, Osceola County
Sections 2, 3 and 4 of Township 25 South, Range 29 East

Dear Mr. Hall:

I am writing to you regarding the above-referenced permit application. In correspondence dated April 1, 1994, you have raised a concern pertaining to the potential presence of the Indigo Snake, a federally threatened species. In your April 1 letter to Javier E. Omana, you indicated that, "The impacts of the proposed project could constitute more than minimal adverse environmental impacts [to the Indigo Snake]; therefore, the project does not currently satisfy the terms and conditions of the Nationwide permits."

I would like to take this opportunity to bring you up to date on the extensive biological work that has been undertaken over the past six years to inventory biota on site and to reasonably mitigate anticipated impacts. Most notably, project biologists have expended over 450 hours on site and have never encountered or observed evidence of the Indigo Snake. Please refer to exhibit one, a letter from Dr. Shirley Denton of Biological Research and Associates. The work performed by Dr. Denton and her firm includes detailed evaluation of the site as a Development of Regional Impact (DRI) under Florida Statutes, Chapter 380.06, which is one of the more stringent review processes in the United States. I am providing you with appropriate sections of the DRI application pertaining to the field evaluations undertaken on site to include transect data (please refer to Exhibit Two).

As a condition of approval of the DRI by the State of Florida, the applicant/developer is required to comply with the following:

"5. Site development related activities shall not result in the harming, pursuit or harassment of wildlife species classified as endangered, threatened or a species of special concern by either the state or federal governments in contravention of applicable state or federal laws. Should such species be determined to be residing on, or be otherwise significantly dependent upon, the project site, the developer shall cease all activities which might negatively affect that individual or population and immediately notify both the Florida Game and Fresh Water Fish Commission, the United States Fish and Wildlife Service and the jurisdictional local government. Proper protection and habitat management, to the satisfaction of all agencies, shall be provided by the developer."
"'Harming' and 'harassment' as used in the recommendation shall be defined in the same manner as 'harm' and 'harass' are respectively defined in 50 CFR Section 17.3."

"9. Prior to the commencement of any development within the project site, a species conservation plan for the on-site population of Florida sandhill cranes, gopher tortoises and associated commensals shall be submitted and approved by the Florida Game and Fresh Water Fish Commission. The gopher tortoise section shall follow the guidelines contained in "Ecology and Habitat Protection Needs of Gopher Tortoise Populations Found on Lands Slated for Large-Scale Development in Florida" and/or "Guidelines for Gopher Tortoise Relocations." The plan shall address the on-site population as a whole although actual relocation may be done on a parcel by parcel basis."

In addition to time expended by our biologists, and time expended by agency personnel reviewing the site and approving the Wildlife Management Plan, Osceola County (the local government of jurisdiction), is in the process of constructing a four lane divided toll road east to west through the approximate middle of the project (please refer to Exhibit Three—the roadway is highlighted). I am enclosing correspondence, as Exhibit Four, from the County’s biologist, Mr. Rod Schultz, relating to his field work and observations pertaining to the Indigo Snake on the subject site. Also please note that the County was granted permits by the COE without the Indigo issue being flagged—same site/completely different results.

The reason I am providing you this information is to persuade you that adequate data exists to ameliorate the concerns pertaining to the Indigo Snake raised in the April 1, 1994 letter such that the applicant in the above-referenced matter may continue to proceed with the pursuit of a nationwide permit.

Should you have any questions on the enclosed material, please feel free to call or write the undersigned or to contact the project biologist, Ms. Shirley Denton, PhD., Biological Research and Associates (813) 664-4500. We are committed to fully addressing any concerns that may remain.

Sincerely,

IVEY, HARRIS & WALLS, INC.

Joel A. Ivey, President

cc: Charles K. Greenwald (DLI)
Lisa Richardson (Premark)
Duke Woodson (Foley, Lardner, et. al.)
Shirley Denton (BRA)
Rod Schultz (Osceola County)
David Ferrell (USFWS-Vero)
Regulatory Division
Central Permits Branch
199400054(IP-SL)

Mr. David Ferrell
U.S. Fish and Wildlife Service
P.O. Box 2676
Vero Beach, Florida 32960

Dear Mr. Ferrell:

Reference is made to Department of the Army permit application number 199400054(IP-SL) submitted by Deerfield Land Corporation to fill and excavate 9.45 acres of wetlands for construction of a commercial subdivision to be known as Osceola Corporate Center. The project is located at the intersection of Osceola Parkway and U.S. 441 in Sections 2, 3, and 4, Township 25 South, Range 29 East, Osceola County, and Sections 34 and 35, Township 24 South, Range 29 East, Orange County, Florida. A copy of the project drawings is enclosed. This letter will constitute formal Corps of Engineers coordination pursuant to Section 7 of the Endangered Species Act.

We have completed our evaluation of the impacts the work may have on the Eastern indigo snake. Based on information available from the applicant, we have determined that the proposed work may affect the listed threatened or endangered species, or any identified critical habitat, that may occur in the project area, and are initiating consultation, as defined under Section 7 of the Endangered Species Act, via this letter. A copy of the evaluation and other sources of information are enclosed for your use.

If you determine that the proposed work will have no effect on the listed species, we would like to hear from you as soon as possible so that final action can be initiated. If you concur that the proposed work may affect the listed species, or any identified critical habitat, the application will be held.
in abeyance pending receipt of your Biological Opinion. If you have any questions, please contact Stuart L. Santos at the letterhead address or by telephone (904) 232-2018.

Sincerely,

Ronald H. Silver, C.E.P.
Chief, Central Permits Branch

Enclosures

S/S Ann H.
Santos/CESAJ-RD-CP
Story/CESAJ-RD-CP
Silver/CESAJ-RD-C
Regulatory Division  
Central Permits Branch  
199400054(IP-SL)

Mr. Javier E. Omana  
Ivey, Harris and Walls, Inc.  
122 East Colonial Drive, Suite 200  
Orlando, Florida 32801

Dear Mr. Omana:

Reference is made to your request dated March 25, 1994, for verification of your proposed project under Nationwide permit number 26. You are proposing to impact ~ 9.45 acres of waters of the United States for the construction of a corporate park. The project is located in Sections 2, 3, and 4, Township 25 South, Range 29 East, Osceola County, and Sections 34 and 35, Township 24 South, Range 39 East, Orange County, Florida.

Projects may be verified under a Nationwide permit if they satisfy all the Nationwide permits terms and conditions. In addition, the project is reviewed to determine if the activity would result in more than minimal individual or cumulative adverse environmental impacts or if it would be contrary to the public interest. If the project exceeds any of these thresholds, it will not qualify for a Nationwide permit.

A review of your proposed project has shown that the permit site currently provides potential habitat for the Eastern indigo snake, which is a Federally threatened species per the U.S. Fish and Wildlife Service. The impacts of the proposed project could constitute more than minimal adverse environmental impacts; therefore, the project does not currently satisfy the terms and conditions of the Nationwide permits.

Additionally, your letter stated that you were transmitting two copies of the complete application, yet the package contained only one. Please submit two additional copies of the entire application package to us so that we may pass them on to the Federal review agencies.

The permit application will be assigned to Mr. Stuart L. Santos of the Central Permits Branch. Upon receipt of the additional copies of the application, he will initiate consultation under Section 7 of the Endangered Species Act of 1973 as amended.
If you have any questions please contact Mr. Santos at the above letterhead address or by telephone at (904) 232-2018.

Sincerely,

John R. Hall
Chief, Regulatory Division

Copy Furnished:

Deerfield Land Corporation, 1717 Deerfield Road, Deerfield, Illinois 60015

bcc:
CESAJ-RD-CT
Regulatory Division  
Central Permits Branch  
199400054 (IP-SL)

Mr. Javier E. Omana  
Ivey, Harris and Walls, Inc.  
122 East Colonial Drive, Suite 200  
Orlando, Florida 32801

Dear Mr. Omana:

Reference is made to the Department of the Army permit application you submitted on behalf of Deerfield Land Corporation concerning the filling and excavation of wetlands in Sections 2, 3, and 4, Township 25 South, Range 29 East, Osceola County and Sections 34 and 35, Township 24 South, Range 29 East, Orange County, Florida. The application has been assigned number 199400054 (IP-SL). Please refer to this number in future correspondence.

The application and drawings submitted are not sufficient for us to prepare a Public Notice for your proposal. Please respond to the following:

1. We received two separate packages from the South Florida Water Management District, one contained Section (?) III (see 2. below) and the other, in addition to Section III, contained narrative pages IV-1 and IV-4, and exhibits IV-1, IV-2, and IV-3. This narrative refers to a Section IX for detailed drawings and to a Section VI for Environmental Analysis. In order to evaluate your application, please provide original plan view and cross sections, in 8 1/2-inch by 11-inch format, of all proposed wetland impacts (fill and excavation), of all proposed lakes which are adjacent to wetlands, and of all proposed mitigation areas. If these are included in Sections VI and IX, please submit those sections, and insure that the drawings are legible and capable of being reproduced for the public notice.

2. The other package sent to us contained narrative pages numbered III-1, -5, -8, and -13 and exhibits numbered III-1 to 15. The exhibits were mostly illegible, appearing "washed out" from being photocopied. Exhibits III-10, III-13, and III-15
are very black and muddied, and the jurisdictional lines cannot be distinguished. Please submit original legible drawings in the same format size (8 1/2-inch X 11-inch) that will be capable of being duplicated for inclusion in the Public Notice which we will be circulating for your project.

3. Please submit the latitudinal and longitudinal coordinates in the center of the project.

4. Exhibit IV-3 is confusing. The table contains three columns, column one is the amount of proposed fill, column two is the amount of proposed excavation and column three is the sum of columns one and two. Column two shows no excavation, yet column three differs from column one. Please clarify the following: the acreage and volume of fill proposed for Corps jurisdictional wetlands and the acreage and volume of excavation proposed in Corps jurisdictional wetlands.

In addition, please provide a detailed discussion of the following items:

a. The public and/or private need for the project and the benefits to be derived.

b. Why the proposed fill and the activity associated with it must be located in the wetland resource.

c. Alternate sites and site plans that have been considered and why alternatives are not feasible.

Your application mentions mitigation for the wetland impacts, but no mitigation proposal was included. Before a permit can be issued, your proposal must satisfy, among other things, the mitigation policies under our permit regulations, at 33 CFR 320.4(r), and the Environmental Protection Agency Guidelines under Section 404(b)(1) of the Clean Water Act, at 40 CFR 230. Excerpts of these regulations are enclosed. Your final proposal package must include (although this list is oversimplified) an evaluation that shows: (1) that the project must be located on the wetland (the area within the permit jurisdiction of the U.S. Army Corps of Engineers) and that the project could not be changed to a non-wetland location; (2) that the quantity of fill is the minimum amount practicable; and, (3) that your proposed preservation, enhancement, or construction of wetland compensates for the wetland damaged by the fill or why compensation is not required. This evaluation is not required for preparation of the Public Notice, but there
are advantages if you submit information in these areas before the Public Notice is prepared. First, we may pass excerpts to other agencies for their use as they comment on your proposal. Second, submitting information now may reduce the possibility that a second Public Notice would be required to describe the proposed mitigation work. In any case, the information you have submitted to date is not sufficient to make a reasonable judgment as to whether the proposal satisfies the regulations.

As the application is considered incomplete, no action will be taken on it until the above-requested information and drawings have been received. We request you provide this information within 30 days. If no response is received, we will assume you have no further interest in obtaining a Department of the Army permit and the application will be withdrawn. Such action will constitute final action by the Department of the Army.

You are cautioned that work performed below the mean high waterline or ordinary high waterline in waters of the United States, or the discharge of dredged or fill material into adjacent wetlands, without a Department of the Army permit could subject you to enforcement action. Receipt of a permit from the Florida Department of Environmental Protection does not obviate the requirement for obtaining a Department of the Army permit for the work described above prior to commencing work.

If you have any questions regarding the application, please contact me at the letterhead address or by telephone (904) 232-2018.

Sincerely,

\[Signature\]

Stuart L. Santos, Ph.D.
Project Manager

Enclosures

Copy Furnished:

Deerfield Land Corporation, 1717 Deerfield Road, Deerfield, Illinois 60015

Santos/CESAJ-RD-CP
s1s-2018/
Story/CESAJ-RD-CP
The approved building program is as follows:

<table>
<thead>
<tr>
<th>USE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office</td>
<td>3,425,994 s.f.</td>
</tr>
<tr>
<td>Office/Warehouse/Showroom</td>
<td>2,132,305 s.f.</td>
</tr>
<tr>
<td>Hotel</td>
<td>777 rooms</td>
</tr>
<tr>
<td>Commercial/Retail</td>
<td>164,658 s.f.</td>
</tr>
</tbody>
</table>

The property is served by a network of roadways consisting of US 441, County Road 527 (Old Dixie Highway), Bermuda Avenue and Osceola Parkway (f.k.a. Dart Boulevard). Osceola County is to commence construction of Osceola Parkway from US 441 west to Bermuda Avenue in February-March 1994.

B. Permit History

1. DRI/Development Order

The application for Development Approval (ADA) document was submitted to the East Central Florida Regional Planning Council in October of 1989. In early fall of 1990, the Osceola County Commission approved the project’s development order (a document which sets forth development conditions and/or requirements). Subsequent to its approval and recordation, the development order was amended to reflect reductions in development acreage, and typographical errors. Upon approval of said amendment by the Department of Community Affairs and the Osceola County Commission, the amended development order was re-recorded before the Clerk of the Circuit Court of Osceola County on June 10, 1991 (refer to development order in Appendix 1).

2. Land Use Designation and Zoning

The OCC property has a combination of commercial and industrial land use designations in conformance with the Osceola County Future Land Use Map (refer to Exhibit III-4). OCC has obtained a Planned Use Development zoning for the project which allows for the uses approved under the DRI (refer to Exhibit III-5).

A series of Comprehensive Development Plans (CDPs) will be submitted to Osceola County in order to finalize the project’s P.U.D. zoning. These CDPs will provide development details at the parcel and sub-parcel level, and will provide construction guidelines and standards for future parcel development.
3. **Conceptual Stormwater Permit**

   On February 15, 1990, OCC received approval of its Conceptual Surface Water Management Plan (#49-00477-S) from the South Florida Water Management District (SFWMD). The purpose of this permit is to set forth the design criteria (Flows & Quantities) for the collection, treatment, and outfall of stormwater/drainage on the subject property, relative to an anticipated building program (refer to Appendix 2). In addition to the approved stormwater pond design criteria, this permit also included approval of a wetland mitigation plan to offset the project’s proposed wetland impacts. This mitigation plan consists of $22.5 \pm$ acres of upland preservation and wetland creation/upland enhancement to offset $5.87 \pm$ acres of project generated wetland impacts (refer to Appendix 3 for area’s construction documents). Exhibit III-6 depicts the project generated wetland impacts and project wetland mitigation areas.

4. **Surface Water Management Permit (Operational)**

   During the review of the approved Conceptual Surface Water Management Plan, SFWMD advised OCC that the existing stormwater pond system which drains the Tupperware World Headquarters Campus was operating without the proper permit. In order to bring the stormwater system (which outfalls through OCC project property) into regulatory compliance, SFWMD requested that OCC supplement its Conceptual Stormwater Management Plan application with an operational permit application for the existing Tupperware stormwater system (refer to Exhibit III-7). On February 15, 1990, the SFWMD approved Tupperware World Headquarter’s operational permit (Exhibit III-8).

5. **Management and Storage of Surface Waters Permit**

   On May 10, 1993, OCC submitted a set of construction plans along with corresponding drainage calculations to SFWMD for the construction of two wet bottom ponds on Parcel 20 of OCC (refer to Exhibit III-9 and Appendix 4 for permit package). On July 14, 1993, SFWMD approved said construction permit application. In October 1993, pond construction plans, along with the approved SFWMD permit were submitted to Osceola County’s Engineering Department for approval. Construction commencement for both Parcel 20 ponds is expected to be February-March 1994.
EXHIBIT III
OSCEOLA CORPORATE CENTER
EXISTING LAND USE AND VEGETATION ASSOCIATIONS

LEGEND
120 Residential medium density
129 Residential medium density under construction
141 Retail sales and services
142 Wholesale sales and services
180 Open land
211 Abandoned improved pasture
310 Herbaceous rangeland
411 Pine flatwoods
427 Live oak
441 Tree plantations
510 Streams and waterways
534 Reservoirs less than 10 acres
613 Gum swamps
617 Mixed wetland hardwoods
621 Cypress
641 Freshwater marshes
743 Spoil areas
744 Fill areas (highways)
810 Railroads
814 Roads and highways
817 Gas transmission lines
832 Electrical power transmission lines

WETLANDS MITIGATION PLAN

OSCEOLA CORPORATE CENTER
MITIGATION PLAN
PLAN CONSISTS OF 22.5 ACRES OF UPLAND CREATION AT A LAKE TO BE PRESERVED IN ORDER TO OFFSET 6.5 ACRES OF IMPACTED WETLANDS AT A MITIGATION RATIO OF 3.42:1

PROPOSED WETLAND RETENTION SYSTEM
IMPACTED WETLANDS
UPLAND MITIGATION AREAS
November 4, 1992

RECEIVED

ARMY CORPS OF ENGINEERS

1 H & W

200 E, Suite 200
-1200

to your correspondence received October 16, 1992, for determination for "OSCEOLA CORPORATE CENTER" at Sections 24 South, Range 29 East, Orange County, and Sections 5 South, Range 29 East, Osceola County, Florida.

shown on the August 12, 1992 survey by G.F. Livernoise, RE, which was submitted with your correspondence, has Michael Zimmerman and represents the approximate area for purposes of determining the U.S. Army Corps of Engineers line in accordance with the 1987 Jurisdictional Divided that this jurisdictional delineation shown icy and regulations and is valid for a period no longer than six years. If after the 3-year period, determination has not been specifically revalidated by us, it shall automatically expire. Any reliance upon correspondence beyond that time frame may lead to incorrect efforts as well as possible violations of current regulations. You may revalidate or update the map as appropriate for your project duration. Any staking will then reflect current Federal laws and

nal areas are regulated by the U.S. Army Corps of Engineers to Section 10 of the Rivers and Harbors Act of 1899 of the Clean Water Act. Any activities undertaken in spire Department of the Army authorization. Other local permits may also be required.

EXHIBIT III-14