

**United States Department of the Interior
U.S. Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021
Telephone: (602) 242-0210 FAX: (602) 242-2513**

AESO/FA

April 1, 2003

Ms. Cindy Lester
Chief, Regulatory Branch
U.S. Army Corps of Engineers
3636 North Central Avenue, Suite 760
Phoenix, Arizona 85012-1936

Dear Ms. Lester:

The U.S. Fish and Wildlife Service has reviewed Public Notice 200-01622-DE (PN) dated March 5, 2003. Boum Partners has submitted an application for a Section 404 Clean Water Act (CWA) permit to construct a 30-acre mixed-use commercial development known as Oracle Crossings in an unincorporated portion of Pima County, Arizona (Section 36; T12S, R13E). These comments are provided under the authority of and in accordance with the Fish and Wildlife Coordination Act (48 Stat. 401, as amended U.S.C. 661 et. seq.) (FWCA), but do not constitute our final review of the permit application under the FWCA.

The proposed project involves construction of retail and restaurant facilities, parking areas, and access roads. A total of 1.26 acre of waters of the U.S. would be filled. We believe the total impact of the 30-acre development which would be authorized by your agency should be assessed, including indirect and cumulative effects and interrelated and interdependent activities, particularly those that occur in upland areas above the ordinary high water mark. The PN states that a preliminary determination has been made that an environmental impact statement is not required for the proposed work. As such, we assume that your agency is preparing an environmental assessment (EA) in accordance with the National Environmental Policy Act. We request that a copy of the draft EA be submitted to our office to assist in our assessment of the project.

The PN provides no information regarding the development and implementation of a mitigation and monitoring plan. In accordance with existing regulations and procedures, mitigation measures should be developed that first address avoidance, minimization, and compensation. For compensation, mitigation and monitoring measures should be based on a thorough impact analysis that addresses the totality of unavoidable project-related impacts. The mitigation plan should be developed in coordination with the appropriate resource agencies. We request the mitigation plan be submitted to our office for review prior to finalization and acceptance.

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The 404(q) Memorandum of Agreement Between the Department of the Interior and the Department of the Army provides for cooperation in acquiring and conveying project information needed by either agency to fulfill permit review responsibilities. We have not been provided adequate project information to prepare project-specific comments. Therefore, we request that you do not issue this permit until we have had an opportunity to review the draft EA, mitigation plan, and other pertinent project-related documents; and provide our review in accordance with the FWCA and CWA.

If we can be of further assistance please contact Mike Martinez (x224) or Don Metz (x217).

Sincerely,

/s/ Steven L. Spangle
Field Supervisor

cc: Regional Administrator, Environmental Protection Agency, San Francisco, CA
Supervisor, Project Evaluation Programs, Arizona Game and Fish Department, Phoenix, AZ

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