UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. 0:12-CV-60989-COHN/OTAZO-REYES

CITY OF DANIA BEACH, FLORIDA,
RAE SANDLER, and GRANT CAMPBELL,

Plaintiffs,

v.

U.S. ARMY CORPS OF ENGINEERS,

Defendant

and

BROWARD COUNTY,

Intervenor/Defendant.

AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs City of Dania Beach, Rae Sandler, and Grant Campbell, by and through undersigned counsel, bring this amended complaint against Defendant U.S. Army Corps of Engineers ("Corps"), and allege as follows:

1. This action challenges the issuance of the Department of Army Permit No. SAJ-1995-04561 (IP-MJW) ("the permit") under Section 404 of the Clean Water Act ("CWA"), 33 U.S.C. § 1344, by the Corps to Broward County, Florida to fill approximately 8.87 acres of wetlands and secondarily impact 39.17 acres of wetlands for the expansion of Runway 9R/27L (the "South Runway") at Fort Lauderdale-Hollywood International Airport (the "Airport").

2. The Corps' permit allows Broward County to fill waters of the United States east

of the Airport so that the South Runway can be extended to allow its use by commercial jet aircraft. The extension of the South Runway will shift many jet operations to the southern side of the Airport, greatly increasing noise levels over the residential neighborhoods of the City of Dania Beach. The Corps authorized the South Runway extension without discussing or analyzing how these high noise levels will adversely affect the health of local residents. It failed to do so despite the fact that Plaintiffs provided the agency with a 2011 World Health Organization report compiling powerful epidemiological studies, showing the negative impact high aircraft noise has on school age children's cognitive performance and the relationship between increased noise levels and increased incidences of hypertension and cardiovascular disease in residents surrounding commercial airports. As a result, agency decision makers and the public at large were unaware that the extension of the South Runway threatens the health of thousands of local residents. This violates the National Environmental Policy Act and the Clean Water Act.

Jurisdiction and Venue

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 2201 and 5 U.S.C. §§ 701-706.

4. Venue in this court is proper under 28 U.S.C. § 1391(e)(1) because the Corps maintains offices within the Southern District of Florida which were responsible for reviewing the permit application at issue in this case, because all or a substantial part of the events or omissions giving rise to the claims herein have occurred within this judicial district, and because Plaintiffs reside in the Southern District of Florida.

Parties

5. Plaintiff City of Dania Beach, Florida ("Dania Beach") is the oldest municipality

located in Broward County. Dania Beach is located on the south, west, and east sides of the Airport. Dania Beach currently has approximately 29,000 residents, many of whom live within a short distance of the Airport and will be directly affected by the expansion of the South Runway. Thousands of Dania Beach residents will be subjected to high noise levels as a result of the South Runway extension. According to a 2011 World Health Organization report, many of these residents may suffer adverse health conditions due to exposure to high noise levels. This harms the City by increasing the amount of services it needs to provide for its residents, by making the City a less attractive place to live, thereby driving out residents, changing the residential make-up of the City, by degrading the quality of life in the City, and by impacting the City's reputation, all of which will reduce property values in the City and the City's property tax base. The planned expansion as a whole also will have adverse impacts on Dania Beach as a City, including a reduction in the City's revenues from property taxes due to devaluation of properties within the City as a result of the expansion, the negative impact the expansion will have on the City's ability to provide high-quality local parks for its residents and the visual blight that the expansion will cause to the City.

6. Dania Beach participated in the proceedings relating to the Section 404 permit process for the Airport by submitting written comments to the Corps in September 2008, August 2010, March 2011, and April 2011 to present its concerns regarding the environmental impacts of the proposed South Runway extension.

7. Plaintiff Rae Sandler is a resident of Dania Beach who lives in the Melaleuca Gardens neighborhood, which is located immediately adjacent to the South Runway. The extension of the South Runway will expose Ms. Sandler to the constant roar of commercial jets at her home, disturbing her quiet enjoyment of her home, reducing the value of her house, and

potentially threatening her health. Ms. Sandler also will have to endure more than a year of construction activities next to her neighborhood, exposing her to traffic, noise, and dust. Ms. Sandler also will lose the ability to enjoy the undeveloped wetlands located east of the airport, which will be filled to extend the South Runway. Ms. Sandler has submitted comments to the various agencies that must approve the South Runway extensions plan, including the Corps.

8. Plaintiff Grant Campbell is a resident of Dania Beach who lives directly west of the South Runway. The extension of the South Runway will cause commercial jet aircraft to fly directly over his house at low altitude, disturbing his quiet enjoyment of his home, potentially threatening his health, and reducing the value of his property. Mr. Campbell also enjoys observing wildlife and natural areas, and will be harmed by the destruction of the wetlands east of the South Runway. Mr. Campbell has provided comments to the Corps regarding the permit decision in this case

9. Defendant the U.S. Army Corps of Engineers is the federal agency charged with considering applications for permits to discharge dredged or fill material into waters of the United States under the Clean Water Act ("CWA"), 33 U.S.C. § 1344. In evaluating such permit applications, the Corps must ensure that the requirements of the CWA, the CWA Section 404(b)(1) Guidelines, and the National Environmental Policy Act ("NEPA") are fulfilled. The Corps has officials located in an office in Palm Beach Gardens, Florida, who were responsible for reviewing the permit application for the South Runway extension.

Statutory Background

National Environmental Policy Act

10. NEPA is the "basic national charter for protection of the environment." 40 C.F.R. § 1500.1(a). NEPA's purpose is to "insure that environmental information is available to public

officials and citizens before decisions are made and before actions are taken," and "to help public officials make decisions that are based on understanding of environmental consequences[.]" 40 C.F.R. § 1500.1(b)–(c). NEPA requires all agencies of the federal government to prepare a "detailed statement" – an Environmental Impact Statement ("EIS") – regarding all "major federal actions significantly affecting the quality of the human environment. . . ." 42 U.S.C. § 4332(C). This duty extends to any federal actions that "will or may" have a significant effect on the environment. 40 C.F.R. § 1508.3 (emphasis added).

11. NEPA establishes several criteria for determining whether an impact is significant. Among these are the "degree to which the proposed action affects public health and safety," and the "degree to which the effects on the quality of the human environment are highly uncertain or involve unique or unknown risks." 40 C.F.R. § 1508.27(b).

12. The agency's evaluation of impacts must be "concise, clear and to the point," and the agency's conclusions "shall be supported by evidence." 40 C.F.R. § 1502.1. An agency must also "insure the . . . . scientific integrity of the discussions and analyses in the environmental impact statement," "identify any methodologies used," and "make explicit reference . . . to the scientific or data sources relied upon for the [agency's] conclusions." Id. at § 1502.24.

13. NEPA regulations provide that an agency "may adopt a Federal draft or final environmental impact statement or portion thereof provided that the statement or portion thereof meets the standards for an adequate statement." 40 C.F.R. § 1506.3(a). But, an agency "shall prepare supplements to either draft or final environmental impact statements if: (i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or (ii) There are significant new circumstances or information relevant to the environmental

concerns and bearing on the proposed action or its impacts." 40 C.F.R. § 1502.9(c)(ii). As with an initial EIS, the purpose of a supplemental EIS is "to serve an action-forcing device to ensure that the policies and goals defined in [NEPA] are infused into the ongoing programs and actions of the Federal Government." Id. at § 1502.1. Where a Supplemental EIS is necessary, the agency "[s]hall prepare, circulate, and file a supplement to a statement in the same fashion . . . as a draft and final [environmental impact] statement." Id. at § 1502.9(c)(4).

Clean Water Act

14. Congress enacted the CWA "to restore and maintain the chemical, physical, and biological integrity of the Nation's waters." 33 U.S.C. § 1251(a). The CWA prohibits the discharge of any pollutant, including dredge and fill materials, into waters of the United States, without a permit. 33 U.S.C. §§ 1311(a), 1362(6).

15. Section 404 of the CWA authorizes the Corps to issue permits for the discharge of "dredged and fill materials" into waters of the United States, but only after providing "notice and opportunity for public hearings." 33 U.S.C. § 1344.

16. The Corps' review of CWA Section 404 permit applications is governed by the Corps' general policies for evaluating permit applications, codified at 33 C.F.R. § 320.4, including the "public interest review" regulation, 33 C.F.R. § 320.4(a). If the Corps finds that the proposed project complies with the Section 404(b)(1) guidelines, the permit "will be granted unless the district engineer determines that it would be contrary to the public interest." 33 C.F.R. § 320.4(a)(1). In the public interest review the Corps must evaluate "the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest." Id. The Corps must balance "benefits which reasonably may be expected to accrue from the proposal" against the proposal's "reasonably foreseeable detriments." Relevant factors

the Corps must consider when making the public interest determination include, among others, conservation, aesthetics, general environmental concerns, wetlands, safety, and the general needs and welfare of the people. Id. As explained by the regulations, "[t]he decision whether to authorize a proposal, and if so, the conditions under which it will be allowed to occur, are therefore determined by the outcome of this general balancing process." Id.

17. Under the CWA and its implementing regulations, when the Corps has received a complete permit application, it must issue a public notice soliciting comments from interested persons as to the advisability of granting the permit. 33 U.S.C. § 1344(a); 33 C.F.R. §§ 325.2(a)(2), 325.3. Because the notice is the "primary method of advising all interested parties of the proposed activity for which a permit is sought and of soliciting comments and information necessary to evaluate the possible impact on the public interest," the notice must include "sufficient information to give a clear understanding of the nature and magnitude of the activity to generate meaningful comment." 33 C.F.R. § 325.3(a). In particular, the notice must include a description of "all proposed activities," id. § 325.3(a)(6), and all "available information which may assist interested parties in evaluating the likely impact of the proposed activity." Id. at § 325.3(a)(13).

The Administrative Procedure Act

18. The Administrative Procedure Act ("APA") provides that "[a] person suffering legal wrong because of agency action or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof." 5 U.S.C. § 702. The October 2011 Corps Memorandum of Record and the permit is final agency action within the meaning of the APA.

19. In an APA suit, the reviewing court shall "hold unlawful and set aside agency

action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

Facts Giving Rise to Plaintiffs' Claims

20. The Airport is located in the middle of urbanized eastern Broward County, Florida. To the south, west, and north are residential neighborhoods, home to thousands of people, including children. To the east are wetlands.

21. The Airport currently has three runways. Two runways run east-west – main Runway 9L/27R and the shorter South Runway (Runway 9R/27L) – and a third runs diagonally from northwest to southeast (Runway 13/31). The passenger terminal complex is located on the east side of the Airport, and non-terminal facilities are concentrated on the north and west sides of the Airport.

22. Due to growth in commercial operations at the Airport, Broward County – the Airport's owner and operator – proposed a major physical expansion in its 1994 Airport Master Plan Update. After numerous refinements to the design of the proposed project and many iterations of draft Environmental Impact Statements for the project, the final proposed project became the lengthening of the South Runway (Runway 9R/27L) to approximately 8000-feet with a width of 150-feet. In order to extend the South Runway to the east, the County must fill wetlands east of the Airport. Extending the South Runway in this way would require it to be elevated approximately 65 feet above the surrounding grade at the eastern end, would result in the destruction of approximately 8.87 acres of federally-protected wetlands (and secondary impacts to 39.17 acres more of federally-protected wetlands), and would impose greatly increased noise levels in residential neighborhoods south, southeast, and west of the Airport.

23. The FAA's 2008 final EIS conceded that the South Runway extension would

result in more than 1,050 homes with more than 2,470 people being exposed to noise levels greater than 65 DNL – a level that FAA's own regulations state is incompatible for residential use.

24. In evaluating the impacts of noise on people living around the Airport, the final EIS simply applied a table found in 14 C.F.R. Part 150 (the "Part 150 Table"). The purpose of this table is to identify areas which will be eligible for FAA noise mitigation funding and to assist an airport in identifying possible noise abatement measures. The Part 150 Table describes what levels of noise are "compatible" with different types of land use categories (e.g., residential use) and allows for the federal noise mitigation funding for programs in those areas where there are noise levels deemed "incompatible" pursuant to the table. The Part 150 Table does not purport to identify land uses which are incompatible with high noise levels from a zoning or scientific perspective. The Part 150 Table was prepared based on the "statistical variability for the responses of large groups of people to noise," that "generally provides a highly reliable relationship between projected noise exposure and surveyed reactions of people to noises[,]" and concededly "might not . . . accurately assess an individual's perception of an actual noise environment." 14 C.F.R. §§ 150.1; A150.101(b) (emphasis added). The Part 150 Table does not – and was not designed to – account for the negative impact of noise on people's cardiovascular health, hypertension, or on children's cognitive processes.

25. In the final EIS, the FAA discussed noise impacts solely from the perspective of annoyance. All of the studies referenced by the FAA in the final EIS's noise impacts analysis section discuss noise from an annoyance perspective, *i.e.*, a person's subjective reaction to the noise – not the impact of the noise on their physical well-being or mental processes. In particular, the studies pointed to by the FAA focus on sleep disturbance caused by increased

noise and general annoyance by people living in and around the noise. Moreover, the most recent study referenced in the final EIS is more than thirty years old. Recent studies that explain the correlation between increased noise and prevalence of cardiovascular disease such as hypertension or cognitive performance decreases were never mentioned in, or examined by, the final EIS.

26. In January 2008, Plaintiffs provided FAA with more than ten recent studies that linked high aviation noise levels with stress-related health impacts, such as heart disease, hypertension, or high blood pressure. The studies applied various methodologies in analyzing the impact of aviation noise on health, including use of epidemiological surveys or studies, stratified random sampling questionnaires, a matched-case control study, and a cross-national cross-sectional study, among others. Many of the studies involved thousands of people viewed over long periods of time, and controlled for factors like lifestyle, personal characteristics, economic status, and exposure to other noise. Conclusions reached by the studies included that there are "excess risks of hypertension related to long term noise exposure, primarily for night-time aircraft noise[,]" Lars Jarup, Wolfgang Babisch, Danny Houthuijs, et. al, Hypertension and Exposure to Noise Near Airports – the HYENA Study, Envt'l Health Perspectives (National Institute of Environmental Health Sciences), December 11, 2007; that there are "significant effects on blood pressure of night-time aircraft noise,"; and that "[t]he prevalence of hypertension was found to be higher among subjects exposed to time weighted energy averaged aircraft noise levels of at least 55 dBA, or maximum levels above 72 dBA occurring at least three times during the average 24 hour period in 1 year[,]" Mats Rosenlund, Niklas Berglind, Goran Pershagen, et. al, Increased Prevalence of Hypertension in a Population Exposed to Aircraft Noise, Occup. Environ. Med. 58:769-73 (2001). The final EIS issued in June 2008, however,

never discussed or addressed the stress-related health impacts of noise on people who live around the Airport or on the cognitive development of children who live in homes surrounding the Airport.

27. In response to Plaintiffs' comments raising concerns on the health issue, the Final EIS never directly analyzed or evaluated the impacts of noise on the health issue. Instead, the Final EIS stated that it relied on established methodologies, including the Integrated Noise Model (INM) and associated methodologies, in determining noise impacts on the human environment and that the methodology that focused exclusively on annoyance and sleep disturbance was "developed in 1978, [and] has been accepted and concurred with by the U.S. Environmental Protection Agency." In other words, the Final EIS simply evaluated the annoyance and sleep disturbance potential of the noise on people living around the Airport, and ignored the possible impact of increased noise on the cardiovascular health of people living around the Airport or on the cognitive development of children living around the Airport. Nowhere did the Final EIS evaluate the scientific validity of the studies submitted by Plaintiffs; analyze or discuss whether elevated noise levels cause adverse physiological effects on people living near airports; or explain how the FAA's "established methodologies" take into account health effects such as cardiovascular disease, hypertension, and cognitive impairment in children.

28. Although the methodology the Final EIS used is accepted for evaluating noise abatement measures and determining eligibility for federal funding, it has never been accepted as an appropriate methodology to evaluate the health impacts of increased noise on people. Such a use of this methodology to address health impacts is arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

29. Following issuance of the final EIS, the EPA itself wrote comments highlighting

the FAA's lack of analysis of the impacts of noise on children's health. Specifically, the EPA commented that, "the FEIS does not consider the impacts of aircraft noise exposure on children's health[.]" Although EPA noted there were no schools in the immediate project area, it implicitly acknowledged the final EIS did not analyze the health impacts of aircraft noise exposure on children who live around the Airport. In responding, the FAA admitted that "[i]mpacts of aircraft noise exposure on children's health were not considered," but tried to sidestep the physical health issue by stating that the general "impacts of aircraft noise exposure on populations [*i.e.*, annoyance levels], including children, are disclosed," and that "it is assumed that there are no schools or noise sensitive public facilities frequented by children in the immediate project area," again, making no mention of children living in their homes around the Airport.

30. In December 2008, the FAA issued its Record of Decision (the "FAA's ROD"), approving the South Runway extension.

31. Broward County applied to the Corps for a Clean Water Act Section 404 permit on or about December 2, 2010.

32. After Broward County applied for its Corps permit, the World Health Organization issued a 2011 report entitled "The burden of disease from environmental noise" (the "WHO Report") analyzing the impact of noise in general – and aircraft noise in particular – on adverse health effects. The WHO is the branch of the United Nations responsible for providing leadership on global health matters, setting norms and standards related to health issues, and articulating evidence-based policy options. The WHO Report based its findings on working groups with scientists from more than fifteen countries, including the United States, Canada, the United Kingdom, and Australia. The WHO Report represented a significant

advance in the scientific materials available to Plaintiffs and the agencies.

33. The WHO Report concluded, among other things, that "aircraft noise increase[s] the risk of high blood pressure," "well-designed, powerful epidemiological studies have found cardiovascular diseases to be consistently associated with exposure to environmental noise," "there is increasing evidence that . . . aircraft noise increase[s] the risk of hypertension," and "[o]ver 20 studies have shown negative effects of noise on reading and memory in children[.]" The WHO Report also contains a risk assessment that links specific levels of noise response to numerical risk factors for a human population. On the issue of children, according to the WHO Report:

> "One of the most compelling studies in this field is the naturally-occurring longitudinal quasi-experiment reported by Evans and colleagues, examining the effect of relocation of the Munich airport on children's health and cognition. In 1992, the old Munich airport was closed and relocated. Prior to relocation, high noise exposure was associated with deficits in long-term memory and reading comprehension. Two years after the closure of the airport, these deficits disappeared ... Most convincing was the finding that deficits in the very same memory and reading comprehension tasks developed over a two-year follow-up in children who became newly exposed to noise near the new airport."

34. On March 1, 2011, the Corps issued its first Public Notice for the South Runway project. That Notice did not provide even the most rudimentary information about the project or the Corps' reasoning on why the project qualified for a 404 permit under the applicable regulations. In response to that Public Notice, Plaintiffs submitted the 2011 WHO Report to the Corps in April 2011, along with additional studies linking aircraft noise to negative human health effects. Plaintiffs asked the Corps to consider these impacts prior to issuing the permit, issue a supplemental EIS, and to hold a public hearing.

35. On or about October 21, 2011, and without doing any additional analysis or holding any public hearings, the Corps issued its permit for the South Runway project,

accompanied by a Memorandum of Record (the "Corps ROD"). The Corps did not notify Plaintiffs of its decision and would only provide Plaintiffs with the ROD pursuant to a Freedom of Information Act request. On November 8, 2011 – less than three weeks after issuing the Corps' ROD and without ever holding a public hearing or analyzing any of the new information submitted by Plaintiffs – the Corps issued a permit to Broward County for the filling of approximately 8.87 acres of wetlands for the construction of the South Runway.

36. The Corps refused to prepare a supplemental EIS for its permit, rubberstamping the project. The Corps also refused to discuss or consider the effects the South Runway extension would have on the health of people, including children, living around the Airport. Although Plaintiffs submitted the WHO Report to the Corps and asked the Corps to consider the health impacts of noise on people living around the Airport, in responding to comments in the ROD, the Corps specifically ignored these concerns. In refusing to analyze these impacts, the Corps stated that "noise impacts" were an issue "outside the Corps' purview."

37. The Corps' ROD also included the "public interest review" required by 33 C.F.R. § 320.4. In considering the "general needs and welfare of the people" – one of the relevant factors for a public interest review – the Corps stated that "[t]he project provides for an increased transportation efficiency and safety for the people that use the Fort Lauderdale Airport," without considering or even mentioning the health impacts of increased aircraft noise on thousands of people living around the Airport.

38. As a result of the Corps' failure to disclose and analyze the human health issues associated with the proposed extension of the South Runway, Corps decision makers and the general public were unaware that issuance of the permit could harm or even kill local residents. This lack of disclosure undermined the entire decision-making process that led to the approval of

the South Runway extension.

Plaintiffs' Claims for Relief

Claim One – Violations of the National Environmental Policy Act and the Administrative Procedure Act

39. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint and all allegations contained within them.

40. The Corps violated NEPA and its implementing regulations, 40 C.F.R. § 1500, et seq., and the APA, because it:

a) Failed to consider, discuss, or evaluate the adverse health effects of the South Runway extension on nearby residents, specifically, the adverse health effects caused by elevated noise levels;

b) Failed to prepare a Supplemental EIS despite receiving significant new information demonstrating that increased noise from the extension of the South Runway will cause health impacts on people surrounding the Airport, which was not discussed or analyzed in the 2008 final EIS;

c) Failed to take a hard look at the evidence provided by Plaintiffs in the Spring of 2011 regarding the human health effects of high noise levels caused by the extension of the South Runway;

d) Deferred to the FAA on the issue of the effects of noise, including health effects, when the FAA never actually analyzed or disclosed whether noise and the extent to which noise causes adverse health effects;

e) Misapplied the table at 14 C.F.R. Part 150 by treating the table as the definitive guide to analyze the environmental effects of aircraft noise, rather than a tool to be used only for determining eligibility of noise mitigation projects for Federal grant assistance;

f) Improperly segmented and artificially limited the scope of its analysis of environmental impacts from the project, by treating noise impacts as "outside the Corps' purview"; and

g) Failed to respond adequately to comments submitted by agencies, including Plaintiff the City of Dania Beach and the Environmental Protection Agency.

41. The Corps' failure to comply with NEPA and its implementing regulations is arbitrary, capricious and abuse of discretion, and not in accordance with the law, and thus violates the APA, 5 U.S.C. § 706.

Claim Two – Violations of the Clean Water Act and the Administrative Procedure Act (Public Interest Review and Meaningful Public Comment)

42. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint and all allegations contained therein

43. The Corps violated the CWA, and its implementing regulations, 33 C.F.R. § 320, et seq., and the APA, because the Corps' public interest review:

a) Failed to consider all the relevant factors, including the general needs and welfare of the people, as it did not consider the negative health impacts that increased noise from the extended South Runway will have on people, including children, living around the Airport; and

b) Failed to properly balance the "benefits" alleged, including expanding the South Runway to reduce delays at the Airport by a few minutes on average, with the reasonably foreseeable detriments of imperiling the health of thousands of local residents;

44. The Corps violated the CWA, and its implementing regulations, 33 C.F.R. § 320, et. seq., and the APA, because the Corps failed to apprise the public of the entire rationale behind its decision and failed to disclose key documents underlying that decision – in particular

documents that allegedly support its complete disregard for the health impacts of noise on residents from the expanded South Runway, the Corps did not provide a realistic opportunity for meaningful comments in violation of 33 C.F.R. § 325.3(a).

45. Because the Corps did not consider the public interest review factors, properly weigh the benefits and detriments of the project, or allow the public to provide meaningful comment on the rationale underlying its decision, its analysis was arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with the law, in violation of the APA, 5 U.S.C. § 706.

PRAYER FOR RELIEF AND DEMAND FOR JURY TRIAL

WHEREFORE, Plaintiffs hereby demand a trial by jury and judgment against Defendant as follows:

a) Declare that the Corps' Permit number SAJ-1995-04561 was unlawfully issued in violation of NEPA, the CWA, and the APA, is void, and therefore has no further legal effect;

b) Remand the permit to the Corps for further consideration;

c) Vacate the Corps' Record of Decision and the permit issued for the expansion of the South Runway at the Airport and remand the matter to the Corps;

d) Enjoin the Corps and Broward County Aviation Department, its permittee, from any activity in furtherance of construction of the South Runway extension until the Corps complies with NEPA, the CWA, and the APA;

e) Award Plaintiff's costs of litigation, including reasonable attorney fees; and

f) Issue such further and additional relief as the Court may deem just and

appropriate.

Dated: August 20, 2012.

Respectfully submitted,

By: _____

T. Neal McAliley
Florida Bar No. 172091
Angela F. Benjamin
Florida Bar No. 015914
White & Case LLP
Wachovia Financial Center, Suite 4900
200 South Biscayne Boulevard
Miami, FL 33131-2352
Tel: (305) 371-2700
Fax: (305) 358-5744
Email: nmcaliley@whitecase.com
Email: abenjamin@whitecase.com
Attorneys for Plaintiffs

Of Counsel
Thomas J. Ansbro
Florida Bar No. 187513
City Attorney
City of Dania Beach
100 West Dania Beach Boulevard
Dania Beach FL 33004
Tel: (954) 924-6800
Fax: (954) 921-2604
Email: tansbro@ci.dania-beach.fl.us

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of August, 2012, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record identified below in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: _____
T. Neal McAliley

SERVICE LIST

C. Scott Spear
Trial Attorney
Ignacia S. Moreno
Assistant Attorney General
Environmental Defense Section
United States Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
Telephone: (202) 305-1597
Facsimile: (202) 616-2426
Email: scott.spear@usdoj.gov

Attorneys for Defendant
U.S. Army Corps of Engineers

Reuben S. Schifman
United States Department of Justice
Environment and Natural Resources Division
Natural Resources Section
P.O. Box 7611
Washington, D.C. 20044-7611
Telephone: (202) 305-4224
Facsimile: (202) 305-0506
Email: reuben.schifman@usdoj.gov

Attorneys for Defendant
U.S. Army Corps of Engineers

Michelle Diffenderfer
Robert P. Diffenderfer
Lewis, Longman & Walker, P.A.
515 North Flagler Drive, Suite 1500
West Palm Beach, FL 33401
Telephone: (561) 640-0820
Facsimile (561) 640-8202
Email: mdiffenderfer@llw-law.com
Email: rdiffenderfer@llw-law.com

Attorneys for Intervenor Broward County

Edwin A. Steinmeyer
Lewis, Longman & Walker, P.A.
315 South Calhoun Street, Suite 830
Tallahassee, FL 32301
Telephone: (850) 222-5702
Facsimile: (850) 224-9242
Email: esteinmeyer@llw-law.com

Attorneys for Intervenor Broward County

Joni Armstrong Coffey
County Attorney for Broward County
Tony J. Rodriguez, Assistant County Attorney
115 South Andrews Avenue
Governmental Center, Suite 423
Fort Lauderdale, FL 33301
Telephone: (954) 357-7600
Facsimile: (954) 357-7641
Email: jacoffey@broward.org
Email: trodriguez@broward.org

Attorneys for Intervenor Broward County