

# DEPARTMENT OF THE ARMY PERMIT

**Permittee:** FDOT Florida's Turnpike Enterprise  
Attn: Raymond Ashe, Jr.  
P.O. Box 613069  
Ocoee, Florida 34761

**Permit No:** SAJ-2006-1361(IP-AWP)

**Issuing Office: U.S. Army Engineer District, Jacksonville**

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

**Project Description:** The placement of fill in 0.55 acre of U.S. Army Corps of Engineers (Corps) jurisdictional wetlands and 11.82 acres of other surface waters which include storm water management ditches and areas capable of impounding water for the widening of the Florida's Turnpike (SR-91) from Gotha Road to Beulah Road. The work described above is to be completed in accordance with the four (4) attachments affixed at the end of this permit instrument.

**Project Location:** The proposed project is located in Sections 25 & 26, Township 22 South, Range 27 East, and Sections 29,30,32 & 33, Township 22 South, Range 28 East, Orange County, Florida. The on-site wetlands are hydrologically connected to Lake Olivia, Lake Pearl, and Lake Nolly.

**Directions to site:** The project extends from Gotha Road to Beulah, a distance of approximately 4.18 miles.

**Latitude & Longitude:** Latitude..... 28.54098" North  
Longitude..... 81.53483" West

**Permit Conditions**

**General Conditions:**

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1. The time limit for completing the work authorized ends on August 8, 2011. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

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**Special Conditions:**

1. Within six (6) months of the issuance of this Department of the Army permit, the permittee agrees to implement the mitigation for unavoidable impacts to waters of the United States (wetlands) in accordance with Senate Bill 1986 Rule - Section 373.4137 Florida Statutes (F.S.). The compensatory mitigation plan # 4061481 is defined in the 2005 SJRWMD FDOT MITIGATION PLAN and includes the purchase of Mitigation Bank Credits at Lake Louisa and Green Swamp Mitigation Bank.
2. The permittee agrees to incorporate the Eastern Indigo Snake Protection Measures included as attachment of 3 of this permit instrument.
3. The permittee agrees to provide as-built drawings of the authorized work. The drawings are to be submitted within 60 days of completion of the authorized work or at the expiration of the construction window of the permit, whichever comes first. The drawings must be signed and sealed by a registered professional engineer. The drawings should include the following:
  - a. A plan view of overall footprint of the project showing all "earth disturbance", including wetland impacts, water management structures, and any on-site mitigation areas.
  - b. Submit an As-Built Certification Form with the drawings. A blank form is attached for your use. (Attachment 4)
  - c. The Department of the Army Permit number on each sheet.
  - d. A description of any deviations from the authorized work. In the event that the completed work deviates, in any manner, from the authorized work, the permittee shall describe, on the As-Built Certification Form, the deviations between the work authorized by the permit and the work as constructed. Any deviations shall also be depicted in the as-built drawings. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers and any deviations will be reviewed by the Enforcement Section to determine the need for enforcement action.

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**Further Information:**

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

( ) Section 10 of the Rivers and Harbors Act of 1899  
(33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

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d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

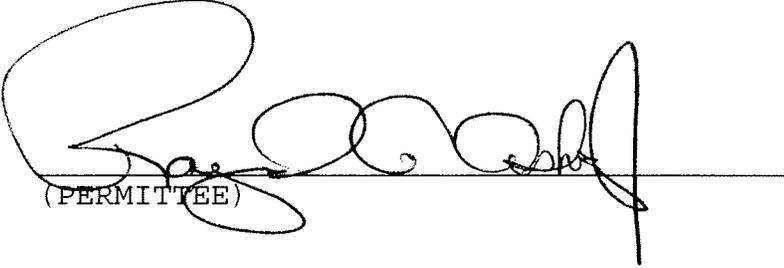
6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this

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permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

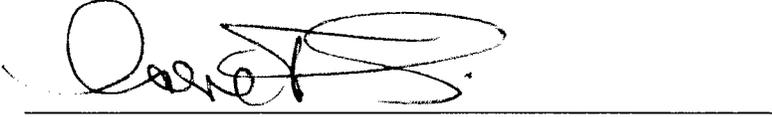


(PERMITTEE)

9/5/06  
(DATE)

Raymond A. Ashe, Jr.  
(PERMITTEE NAME-PRINTED)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.



(DISTRICT ENGINEER)

Paul L. Grosskruger  
Colonel, U.S. Army  
District Commander

9/7/06  
(DATE)

AUG 08 2006

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings for the Above-numbered Permit Application

1. Applicant: FDOT Florida's Turnpike Enterprise  
Attn: Raymond Ashe, Jr.  
P.O. Box 613069  
Ocoee, Florida 34761

2. Location, Project Description, Existing Conditions: The proposed project is the widening of a 9.80 mile stretch of the Florida's Turnpike (SR-91) from Interstate 4 (I-4) to Gotha Road crossing. The proposed project is located in Section 3 and 11-13, Township 23 South, Range 28 East, Section 18, Township 22 South, Range 29 East, and Sections 4 and 33, Township 22 South, Range 28 East, Orange County, Florida. The on-site wetlands are hydrologically connected to Shingle Creek.

The applicant proposes to impact 3.15 acres of U.S. Army Corps of Engineers (Corps) jurisdictional wetlands and 10.41 acres of surface waters which include stormwater management ditches and areas capable of impounding water for the widening of Florida's Turnpike. The project corridor is comprised of forested wetland systems and freshwater marsh systems. The systems range from medium high quality to low quality based on the vegetative composition and surrounding land use conditions.

3. Project Purpose:

Basic: The widening of the existing Florida's Turnpike.

Overall: The widening of Florida's Turnpike from I-4 ramp bridge to 650 feet southeast of Gotha Road for the expansion of the existing four-lane roadway to an eight-lane roadway with the associated stormwater management facilities.

4. Statutory Authority: Section 404 of the Clean Water Act (33 U.S.C. 1344).

5. Other Federal, State, and Local Authorizations Obtained or Required and Pending:

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a. State Permit/Certification: The South Florida Water Management District (SFWMD) permit number 48-01443-P was issued on 8 August 2006.

b. Coastal Zone Management (CZM) consistency/permit: There is no evidence or indication from the State of Florida that the project is inconsistent with the Florida Coastal Zone Management Plan. Issuance of a SFWMD permit certifies that the project is consistent with the CZM plan.

c. Other Authorizations: No information has been received regarding any other authorizations that may be required.

6. Date of Public Notice and Summary of Comments

a. The application was received on 27 February 2006. The Corps requested additional information 8 March 2006. The application was considered complete on 15 May 2006. A public notice was issued on 22 May 2006, and sent to all interested parties including appropriate State and Federal agencies. All comments received on this application have been reviewed and are summarized below:

(1) Environmental Protection Agency (EPA): Did not respond to the public notice.

(2) U.S. Fish and Wildlife Service (FWS): Did not respond to the public notice.

(3) National Marine Fisheries Service (NMFS): By letter dated 15 June 2006, the NMFS had no objection to the proposed project.

(4) State Historic Preservation Officer (SHPO): By letter dated 30 May 2006, SHPO stated this project area has been previously reviewed (DHR No. 2006-1702) and is characterized by poor drainage and wetlands with low potential for archaeological sites. Because of the nature and location of the proposed work, it is the opinion of this office that the undertaking is not likely to affect significant historic properties, either listed or eligible for listing in the National Register of Historic Places.

(5) Individuals: Ms. Jennifer Lalani submitted comments via electronic mail dated 22 June 2006. Ms. Lalani is concerned

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about impacts to a disturbed wetland system located between her house and the turnpike expansion. She is concerned about noise pollution and endangered species.

(6) No comments were received from State or Local agencies, organizations, individuals or any other interested party.

b. Applicant's response to the comments: The applicant has worked with Ms. Lalani during a noise study and is going to be installing a noise wall between the wetland and the turnpike. No impacts are proposed to the adjacent wetland.

#### 7. Alternatives:

a. Avoidance (No action, uplands, availability of other sites): This section of the SR-91 provides access to one of the world's largest concentrations of hotels and major tourist attractions. This segment of the corridor exhibits high vehicle occupancy rates, largely controlled by the tourist industry's family orientation. This section of the SR-91 is also a vital link in the transportation network of Orange County and the surrounding Central Florida region. SR-91 is one of the primary commuting corridors in the Central Florida region and connects the region's primary business and tourism centers. As substantial population and employment growth is expected through the year 2020, growth and congestion on SR-91 will also continue. This section of the SR-91 is expected to exceed capacity in 2020 by more than 30%. The no action alternative would not allow for project completion. The purpose of this project is to upgrade the SR-91 route to an eight-lane highway. Severe traffic congestion and the rising numbers of accidents result in regular delays to the transportation system. These issues, coupled with a growing population, constitute the most serious transportation problems affecting the region today. This project involves the widening of an existing roadway. There are no alternative locations that would satisfy the basic project purpose.

b. Minimization (modified project designs, etc.): The project has been minimized to the maximum extent possible that would allow the applicant to achieve the basic project purpose. There are no other designs or structures which will perform the intended function of the road system and produce less impacts.

Minimization of wetland impacts has been a prime focus of the design alternatives analysis. Wherever avoiding wetlands was not

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possible, impacts to wetlands were minimized to the greatest extent possible based on safe and sound engineering judgment and construction constraints. Ponds were placed within uplands and along right-of-way alignments wherever possible. The use of silt screens, floating turbidity barriers, hay bales, and other discharge prevention measures during construction will minimize impacts to wetlands within the vicinity of the project.

c. Compensatory Mitigation (Wetland enhancement, creations, etc.): The applicant has proposed compensatory mitigation to offset all unavoidable impacts to Corps jurisdictional wetlands. Wetland impacts will be mitigated pursuant to the Senate Bill 1986 Rule - Section 373.4137 Florida Statutes (F.S.). The applicant has completed a Wetland Rapid Assessment Procedure and determined the project as proposed would have 2.14 functional units of loss, 1.62 for direct impacts and 0.52 for secondary impacts.

There will be 3.20 acres of permanent wetland impacts and 0.13 acres of temporary wetland impacts. This 3.20 figure includes 0.05 acre of secondary impacts to Wetland WS 4 (physically occurring within the SJRWMD Lake Olivia Basin boundaries) that the SFWMD is picking up mitigation responsibility for as part of an inter-governmental agreement. The SFWMD permit calls for FDOT Turnpike to purchase of 1.4 freshwater herbaceous credits from the Florida Mitigation Bank, and 1.2 freshwater forested credits from the Reedy Creek Mitigation Bank.

The mitigation proposal offered by the applicant exceeds the minimum amount required to off-set the proposed impacts. The additional mitigation provided will address unforeseen cumulative impacts associated with the proposed project.

8. Evaluation of the 404(b)(1) Guidelines: The proposed project has been reviewed in accordance with the 404 (b)(1) Guidelines. The review shows that all the alternatives have been reviewed and it has been adequately demonstrated that the proposed alternative is the least environmentally damaging and only practicable alternative considering cost, existing technology and logistics. It would not cause or contribute to violations of State Water quality standards, jeopardize the existence of any endangered species or impact a marine sanctuary. No significant degradation would be expected and all appropriate and practicable steps have been taken to minimize impacts.

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9. Public Interest Review:

a. Corps analysis of comments and responses: All comments received in response to the public notice have been considered in the following public interest review.

b. All public interest factors have been reviewed, including but not limited to the effects the work might have on conservation, economics, esthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, land use, recreation, water quality, safety, and consideration of property ownership. It has been determined that the proposed work will not adversely impact any of the public interest factors.

c. Describe the relative extent of the public and private need for the proposed structure or work: Public needs include increased travel safety. Private needs include safer and easier access through the SR-91/I-4 interchange area.

d. Describe the practicability of using reasonable alternative locations and methods to accomplish the objective of the purposed work where there are unresolved conflicts as to resource use: There are no unresolved conflicts regarding resource use.

e. Describe the extent and permanence of the beneficial and/or detrimental effects which the proposed work is likely to have on the public and private uses to which the area is suited: The beneficial effects for public transportation may include an increase in public safety, increased carrying capacity of the roadway and the more effective movement of vehicular traffic. The increased carrying capacity may also facilitate intrastate/interstate commerce.

f. Threatened or Endangered Species: The proposed project will not jeopardize the continued existence or critical habitat of any threatened or endangered species.

The applicant has conducted extensive endangered species surveys and has observed the presence of federally endangered species within the project corridor. The applicant has determined that the proposed project will impact wetlands which may be used by the wood stork for foraging areas. The applicant has also indicated the proposed project contains suitable habitat for the

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threatened Eastern Indigo snake. The Corps has determined that with the inclusion of the Eastern Indigo snake standard protection measures with any permit issued, the proposed project "may affect, not likely to adversely affect" the Eastern Indigo snake. The Corps has also determined that with the inclusion of wetland compensation for the loss of wetland habitat, the proposed project "may affect, not likely to adversely affect" the wood stork. The applicant has indicated that a bald eagle nest (Orange County Nest # ORO39) occurs in the southwest quadrant of the Turnpike/Beulah Road intersection (where Turnpike lies east to west, and Beulah Road lies north to south). FWS office previously provided a letter to the applicant stating "Because the road and its associated disturbances have been in place for some time, construction activities would be confined within the existing right-of-way, and only a portion of the widening project would be included in the outer edge of the primary zone, the proposed widening may be conducted at any time of the year without monitoring." Based on this letter the Corps determined the proposed project will have "no effect" on the bald eagle. The Corps requested concurrence with its determinations pursuant to Section 7 of the Endangered Species Act via letter dated 13 June 2006.

FWS responded via letter dated 26 July 2006, stating they concur with the determination of "no effect" for the eagle. It is the FWS view that with wetland compensation for the loss of wood stork foraging habitat, the proposed project may affect, but is not likely to adversely affect the wood stork. Further, the FWS agreed that with the inclusion of the Eastern Indigo Snake Protection Measures, the proposed project may affect but is not likely to adversely affect the Eastern Indigo snake.

g. Essential Fisheries Habitat (EFH): The proposed project should have no effect on EFH as the project is located outside of EFH areas. The lack of comments from NMFS supports this determination.

h. Corps Wetland Policy: The proposed wetland alteration is necessary to realize the project purpose and should result in minimal adverse environmental impacts. The benefits of the project would outweigh the minimal detrimental impacts. The project would result in a no-net loss of wetland functions and values. Therefore the project is in accordance with the Corps wetland policy.

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i. Cumulative and Secondary Impacts: Cumulative and secondary impacts would not be unacceptable. Filling of wetlands at this project site would not set precedent for additional filling activities in waters of the United States to occur.

j. Corps Comments and Responses: Full consideration was given to all comments received during the public notice. The Corps conducted a field jurisdictional determination and determined no impacts are proposed to the wetland located behind Ms. Lalani's house. Additionally, the subject wetland is dominated by nuisance vegetation and does not provide suitable habitat for federally listed species. Further, the wetland appears to be hydrologically isolated and not within the Corps jurisdiction.

10. Determinations:

a. Finding of No Significant Impact (FONSI). Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement will not be required.

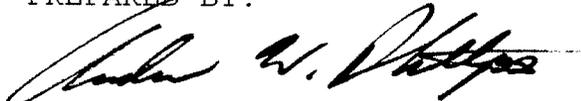
b. Compliance with 404(b)(1) guidelines. Having completed the evaluation in paragraph 7 above, I have determined that the proposed discharge complies with the 404(b)(1) guidelines.

c. Public interest determination: I find that issuance of a Department of the Army permit is not contrary to the public interest.

d. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed *de minimis* levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

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PREPARED BY:



ANDREW W. PHILLIPS  
Project Manager

REVIEWED BY:



OSVALDO COLLAZO  
Chief, North Permits Branch

APPROVED BY:



PAUL L. GROSSKRUGER  
Colonel, Corps of Engineers  
Commanding

CF:  
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