



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
2170 SW Canal Street
Stuart, FL 34997

REPLY TO
ATTENTION OF

SEP 27 2007

Regulatory Division
Special Projects and Enforcement Branch
SAJ-1996-3984 (IP-AAZ)

Florida Department of Transportation
Attn: Ms. Georgi Celusnek
3400 West Commercial Boulevard
Fort Lauderdale, Florida 33309

Dear Ms. Celusnek:

The U.S. Army Corps of Engineers (Corps) has completed the review and evaluation of your Department of the Army permit application, number SAJ-1996-3984. Our regulations require that you have an opportunity to review the terms and conditions prior to final signature by the Department of the Army. Enclosed is an unsigned Department of the Army permit instrument (permit).

Please read carefully the Special Conditions beginning on page 2 of the permit. These were developed to apply specifically to your project. Water Quality Certification is also required prior to issuance of a permit. The Corps has received a copy of the State of Florida certification for your project. In accordance with General Condition 5 of the permit, any special conditions of the Water Quality Certification have been attached to the Department of the Army permit.

Instructions for Objecting to Permit Terms and Conditions:

This letter contains an initial proffered permit for your proposed project. If you object to certain terms and conditions contained within the permit, you may request that the permit be modified. Enclosed you will find a Notification of Administrative Appeal Options and Process fact sheet and Request for Appeal (RFA) form. If you choose to object to certain terms and conditions of the permit, you must follow the directions provided in Section 1, Part A and submit the completed RFA form to the letterhead address.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria under 33 CFR Part 331.5, and that it has been received by the District office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the letterhead address by 27 NOV 2007.

Instructions for Accepting Terms and Conditions and Finalizing Your Permit: It is not necessary to submit an RFA form to the District office, if you do not object to the decision in this letter. In this case, the permit must be signed by the applicant in the space provided on the signature page of the permit. In the case of corporations, acceptance must be by an officer of that corporation authorized to sign on behalf of the corporation. The party responsible for assuring the work is done in accordance with the permit terms and conditions must sign the permit. Please type or print the name and title of the person signing below the signature and the date signed.

SIGN AND RETURN THE PERMIT, IN ITS ENTIRETY, TO THE LETTERHEAD ADDRESS, JACKSONVILLE DISTRICT.

The permit will be signed by the District Engineer and returned to you. It is important to note that the permit is not valid until the District Engineer signs it.

The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit the following link and complete our automated Customer Service Survey:

<http://per2.nwp.usace.army.mil/survey.html>.

Your input is appreciated - favorable or otherwise.

If you have any questions concerning this application, you may contact Alisa Zarbo in writing at the letterhead address, by electronic mail at Alisa.A.Zarbo@saj02.usace.army.mil, or by telephone at 772-219-8418.

Sincerely,

Lawrence M. Mason, Ph.D.

DS
David S. Hobbie
Chief, Regulatory Division

Enclosures

Copy Furnished (w/o encls):

Miller Legg, 1800 N Douglas Road, Suite 200, Pembroke Pines,
Florida, FL 33024

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: FDOT, District 4

File Number: SAJ-1996-3984

Date: 27 SEP 2007

Attached is:

See Section below

<input checked="" type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Project Manager as noted in letter

If you only have questions regarding the appeal process you may also contact:

for process:

Stuart Santos 904-232-2018

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

DEPARTMENT OF THE ARMY PERMIT

Permittee: Florida Department of Transportation
Attn: Ms. Georgi Celusnek
3400 West Commercial Boulevard
Fort Lauderdale, Florida 33309

Permit No: SAJ-1996-3984(IP-AAZ)

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 project would widen State Road 70 from two lanes to four lanes and construct a multi-use path along the north side of the roadway. The project would be designed to construct an ultimate 6 lanes for future widening. A regional canal would also be constructed on the north side of the roadway, while the canal on the south side of the road would be filled. The project would result in impacts to 57.85 acres of wetlands and 56.43 acres of surface waters (roadside ditches). As on-site mitigation, the creation of new canals with littoral plantings would be provided. For off-site mitigation, 76.97 credits would be purchased at the Bluefield Ranch Mitigation Bank. The work described above is to be completed in accordance with the ninety-seven pages of drawings affixed at the end of this permit instrument.

Project Location: The proposed project is located in waters of the United States along State Road 70 from west of the C-24 Canal in St. Lucie County to Berman Road in Okeechobee County, Sections 1, 2, 10, 11, 15, 16, 20, 29, 30, and 31, Township 36 South, Range 37 East, St. Lucie and Okeechobee County, Florida.

The project site is referred to as Segment 2 and 3. The Corps has already reviewed and permitted additional segments of the overall SR 70 widening project. Segment 5 extends from the Header Canal to McCartney Road. Segment 5 was reviewed and issued under permit application number SAJ-1004-3594 on 29 April 2005. Segment 4, which is located immediately west of Segment 5, has been reviewed under a separate permit application SAJ-1996-

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3984(IP-AAZ). The Department of the Army (DA) authorization to widen Segment 4 was granted on 30 March 2005.

Directions to site: To access this site from St. Lucie County, travel on I95, exit on SR 70 (Okeechobee Boulevard). Travel west on SR 70. The project involves the widening of SR 70 from west of the C-24 Canal in St. Lucie County to Berman Road in Okeechobee County.

Latitude & Longitude:

Latitude 27° 21' 39.24" North
Longitude 80° 37' 19.43" West

Permit Conditions

General Conditions:

1. The time limit for completing the work authorized ends on _____ . 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.

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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.

Special Conditions:

1. **Reporting Address:** All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232. The Permittee shall reference this permit number, SAJ-1996-3984(IP-AAZ), on all submittals.

2. **Commencement Notification:** Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.

3. **Erosion Control:** Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas adjacent to wetlands shall be stabilized using sod, degradable mats, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

4. **Mitigation Credit Purchase:** Within 30 days from the date of initiating the authorized work or 12 months from the effective date of this permit, whichever first occurs, the Permittee shall

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provide verification to the Corps that 76.97 federal mitigation bank credits (46.97 freshwater forested and 30.0 freshwater herbaceous credits) have been purchased from the Bluefield Ranch Mitigation Bank. The required verification shall reference this project's permit number (SAJ-1996-3984).

5. **As-Builts:** Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form (Attachment 2) to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:

(a) A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

(b) List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. 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.

(c) The Department of the Army Permit number.

(d) Include pre- and post-construction aerial photographs of the project site, if available.

6. **Fill Material:** The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.

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7. The permittee shall install two box culverts no less than four feet in height and seven feet in width under the roadway in the Cypress Creek Slough.

8. Endangered Species:

(a) The permittee shall agree that the following activities would not occur within 2,000 feet of an active caracara nest: (a) removal of pasture or wetlands within pasture; (b) removal of cabbage palms or oaks; (c) removal of vegetation in the general vicinity of the nest tree that results in loss of cover; (d) construction of buildings, roadways, power lines, or canals outside of the project footprint; (e) use of chemicals or pesticides harmful to wildlife; (f) human entry into the primary zone of the nest (except as authorized by the service); and (g) hunting.

(b) The permittee shall monitor prior to and during the course of construction within the caracara nesting season, January through April, to determine if any new caracara nests are established. In the event that a nest is established within 900 feet of the project corridor, the FDOT will contact the FWS for further guidance on how to proceed.

(c) The FDOT must develop and distribute an educational pamphlet on the caracara to all construction personnel involved in the project. The pamphlet will contain instructions not to harm, harass, injure, or kill the caracara.

(d) The permittee shall install caracara warning signs along the corridor to alert motorists of the presence of the caracara. The signs will be installed at Berman Road in Okeechobee County and east of the C-24 Canal in St. Lucie County.

(e) The permittee agrees to abide by the attached Eastern Indigo Snake Construction Precautions during construction activities.

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).

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(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.

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.

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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 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.

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

(PERMITTEE)
Ms. Georgi Celusnek
Florida Department of Transportation

(DATE)

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(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

(DATE)

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When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE-SIGNATURE)

(DATE)

(NAME-PRINTED)

(ADDRESS)

(CITY, STATE, AND ZIP CODE)