

Permit

Number: _____

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**DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
COCOA REGULATORY FIELD OFFICE
400 HIGH POINT DRIVE, SUITE 600
COCOA, FLORIDA 32926**

REPLY TO
ATTENTION OF

March 26, 2008

Special Projects and Enforcement Branch
SAJ-2005-5791(NW-AWP)

FDOT
Attn: Patrick Muench
719 South Woodland Blvd.
DeLand, Florida 32720

Dear Mr. Muench:

Your request for reauthorization of Department of the Army nationwide verification number SAJ-2005-5791(NW-AWP) was received on January 31, 2008. A review of the information and drawings provided shows the proposed work is the replacement of two existing bridges at the existing State Road 402 A. Max Brewer Bridge with a new two-lane high level 65-foot fixed span bridge, and the existing west relief bridge with a new two lane low-level fixed bridge. Bridge replacement includes 0.410 acres of bare river bottom, 0.007 acre of submerged aquatic vegetation, and 0.010 acre of mangrove shoreline. The project is located at the State Road 402 A. Max Brewer Bridge, in Sections 34 & 35, Township 21 South, Range 35 East, Titusville, Brevard County, Florida.

Your project, as depicted on the received drawings, is authorized by Nationwide Permit (NWP) Number 3. In addition, project specific conditions have been enclosed. This verification is valid until March 26, 2010. Please access the U.S. Army Corps of Engineers' Jacksonville District's Regulatory web address at <http://www.saj.usace.army.mil/regulatory/permitting/nwp/nwp.htm> to access web links to view the Final Nationwide Permits, Federal Register Vol. 72, dated March 12, 2007, the Corrections to the Final Nationwide Permits, Federal Register 72, May 8, 2007, and the List of Regional Conditions. These files contain the description of the Nationwide Permit authorization, the Nationwide Permit general conditions, and the regional conditions, which apply specifically to this verification for NWP 3. Enclosed is a list of the six General Conditions, which apply to all Department of the Army authorizations. You must comply with all of the special and general conditions and any project specific condition of this authorization or you may be subject to enforcement action. In the event you have not completed

construction of your project within the specified time limit, a separate application or re-verification may be required.

The following special conditions are included with this verification:

1. Within 60 days of completion of the work authorized, the attached "Self-Certification Statement of Compliance" must be completed and submitted to the U.S. Army Corps of Engineers. Mail the completed form to the Regulatory Division, Enforcement Section, Post Office Box 4970, Jacksonville, Florida 32232-0019.

2. The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

3. No structure or work shall adversely affect or disturb properties listed in the National Register of Historic Places or those eligible for inclusion in the National Register. Prior to the start of work, the Permittee or other party on the Permittee's behalf, shall conduct a search in the National Register Information System (NRIS). Information can be found at; <http://www.cr.nps.gov/nr/research/nris.htm>. Information on properties eligible for inclusion in the National Register can be identified by contacting the Florida Master File Office by email at fmsfile@dos.state.fl.us or by telephone at 850-245-6440.

If unexpected cultural resources are encountered at any time within the project area that was not the subject of a previous cultural resource assessment survey, work should cease in the immediate vicinity of such discoveries. The permittee, or other party, should notify the SHPO immediately, as well as the appropriate Army Corps of Engineers office. After such notifications, project activities should not resume without verbal and/or written authorization from the SHPO.

If unmarked human remains are encountered, all work shall stop immediately, and the proper authorities notified in accordance with Section 872.05, Florida Statutes, unless on Federal lands. After such notifications, project activities on non-Federal lands shall not resume without verbal and/or written authorization from the Florida State Archaeologist for finds under his or her jurisdiction.

4. The permittee agrees to follow the Standard Manatee Construction conditions during all in-water work. Attachment 1

5. The permittee agrees to incorporate the Sea Turtle Friendly Lighting Recommendations provided by the U.S. Fish and Wildlife Service. Attachment 2

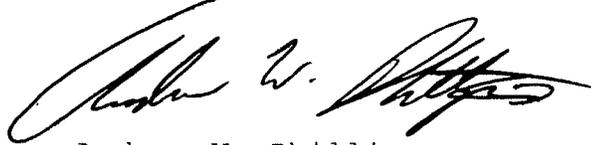
This letter of authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required. In Florida, projects qualifying for this NWP must be authorized under Part IV of Chapter 373 by the Department of Environmental Protection, a water management district under §. 373.069, F.S., or a local government with delegated authority under §. 373.441, F.S., and receive Water Quality Certification (WQC) and Coastal Zone Consistency Concurrence (CZCC) (or a waiver), as well as any authorizations required by the State for the use of sovereignty submerged lands. You should check State-permitting requirements with the Florida Department of Environmental Protection or the appropriate water management district.

This letter does not give absolute Federal 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 area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program.

If you are unable to access the internet or require a hardcopy of any of the conditions, limitations, or expiration date for the above referenced NWP, please contact Andrew Phillips by telephone at 321-504-3771 ext 14.

Thank you for your cooperation with our permit program. 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://regulatory.usacesurvey.com/>. Your input is appreciated - favorable or otherwise.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew W. Phillips". The signature is fluid and cursive, with a large initial "A" and "P".

Andrew W. Phillips
Project Manager

Enclosures

bcc:
CESAJ-RD-PE

GENERAL CONDITIONS
33 CFR PART 320-330

PUBLISHED FEDERAL REGISTER DATED 13 NOVEMBER 1986

1. The time limit for completing the work authorized ends on **date identified in the letter**. 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 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 a representative 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.

SELF-CERTIFICATION STATEMENT OF COMPLIANCE

Permit Number: NW-3
Application Number: SAJ-2005-5791

Permittee's Name & Address (please print or type): _____

Telephone Number: _____

Location of the Work: _____

Date Work Started: _____ Date Work Completed: _____

Description of the Work (e.g., bank stabilization, residential or commercial filling, docks, dredging, etc.): _____

Acreage or Square Feet of Impacts to Waters of the United States:

Describe Mitigation completed (if applicable): _____

Describe any Deviations from Permit (attach drawing(s) depicting the deviations): _____

I certify that all work, and mitigation (if applicable) was done in accordance with the limitations and conditions as described in the permit. Any deviations as described above are depicted on the attached drawing(s).

Signature of Permittee

Date

DEPARTMENT OF THE ARMY PERMIT TRANSFER REQUEST

PERMIT NUMBER: SAJ-2005-5791 (NW-AWP)

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. Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.

To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Enforcement Section, Post Office Box 4970, Jacksonville, FL 32232-0019.

(TRANSFEREE-SIGNATURE)

(SUBDIVISION)

(DATE)

(LOT)

(BLOCK)

(NAME-PRINTED)

(STREET ADDRESS)

(MAILING ADDRESS)

(CITY, STATE, ZIP CODE)

STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

July 2005

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-561-562-3909) for south Florida.
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used. One sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for "Idle Speed/No Wake" and the shutdown of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities.

Attachment 1

FWC Approved Manatee Educational Sign Suppliers

ASAP Signs & Designs

624-B Pinellas Street
Clearwater, FL 33756
Phone: (727) 443-4878
Fax: (727) 442-7573

Wilderness Graphics, Inc.

P. O. Box 1635
Tallahassee, FL 32302
Phone: (850) 224-6414
Fax: (850) 561-3943
www.wildernessgraphics.com

Cape Coral Signs & Designs

1311 Del Prado Boulevard
Cape Coral, FL 33990
Phone: (239) 772-9992
Fax: (239) 772-3848

Municipal Supply & Sign Co.

1095 Fifth Avenue, North
P. O. Box 1765
Naples, FL 33939-1765
Phone: (800) 329-5366 or
(239) 262-4639
Fax: (239) 262-4645
www.municipalsigns.com

Vital Signs

104615 Overseas Highway
Key Largo, FL 33037
Phone: (305) 451-5133
Fax: (305) 451-5163

Universal Signs & Accessories

2912 Orange Avenue
Ft. Pierce, FL 34947
Phone: (800) 432-0331 or
(772) 461-0665
Fax: (772) 461-0669

New City Signs

1829 28th Street North
St. Petersburg, FL 33713
Phone: (727) 323-7897
Fax: (727) 323-1897

**United Rentals Highway
Technologies**

309 Angle Road
Ft. Pierce, FL 34947
Phone: (772) 489-8772
or (800) 489-8758 (FL only)
Fax: (772) 489-8757

CAUTION: MANATEE HABITAT

All project vessels

IDLE SPEED / NO WAKE

**When a manatee is within 50 feet of work
all in-water activities must**

SHUT DOWN

Report any collision or injury to:

1-888-404-FWCC (1-888-404-3922)

Florida Fish and Wildlife Conservation Commission

Sea turtle friendly lighting recommendations

The first recommendation would be to shield the streetlights with add-on shields. Some of these shields are pieces of sheet metal or black paint. The addition of these homemade shields can void the fixture manufacturer's warranty and drastically change the wind-loading for the fixture. It can also alter the photometric footprint. This improves the photometric footprint by redirecting the wasted photons back onto the roadway. Please look at the examples: <http://www.outdoorlight.com/>

The second option is the GE flat-faced amber lens fixture. The amber lens greatly reduces the efficacy of the HPS lamp by cutting the amount of lumens output. The filtering material is not monochromatic and allows some short wavelength light to be emitted directly onto the beach.

Another option is the use of LPS or HPS bollard fixtures with 180 degree beachside shields. With only a 42" mounting height and careful placement to ensure cars cannot hit them - these are a great option for some roads (<http://www.darksky.org>)

To retrofit existing pole lights on streets. The use of slip-fit, low-pressure sodium, full cut-off fixtures should be adapted. These fixtures meet all wind load requirements, are the most energy efficient of any HID light source (highest lamp efficacy) and they can be slip fit onto the existing roadway poles/arms. They produce excellent photometrics and are available in a variety of configurations based on pole spacing and road width. <http://www.darksky.org/fixtures/ips.html>.

Attachment 2

Statement of Findings

Number: _____



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26 March 2008

MEMORANDUM FOR RECORD

SUBJECT: Statement of Findings/Environmental Assessment/Finding of No Significant Impact/Public Interest Determination

1. For each of the reissued and new Nationwide Permits (NWP), HQUSACE issued a decision document that contains an Environmental Assessment (EA), Statement of Findings, public interest review, and as appropriate, a Section 404(b)(1) Guidelines analysis. The Office of the Chief of Engineers has determined that division and district engineers will impose, as necessary, additional conditions on the NWP authorization or exercise discretionary authority to address locally important factors relating to the public interest, including any potential adverse effects on the human environment, and to ensure that the authorized activity results in no more than minimal individual and cumulative adverse effects on the environment. Supplemental documentation was prepared for the division engineer to address the individual and cumulative effects of the NWP(s) on local resources. On 12 July 2007, the supplemental documentation was issued by the division engineer and the Jacksonville District's proposed regional conditions were approved. Where required by the terms of the permit, general conditions, and/or regional conditions, the Jacksonville District will continue to perform case-specific review to ensure that the NWP will authorize only activities with no more than minimal individual and cumulative adverse effects on the environment and those activities will not be contrary to the public interest.

2. Name and address of applicant:

FDOT
Attn: Patrick Muench
719 South Woodland Blvd.
DeLand, Florida 32720

3. Project description: The applicant has requested re-authorization of Department of Army nationwide permit verification number SAJ-2005-5791(NW-AWP) issued to FDOT on 6 January 2006. The verification authorized the replacement of two existing bridges at the existing State Road 402 A. Max Brewer Bridge with a new two-lane high level 65-foot fixed span bridge, and the existing west relief bridge with a new two lane low-level fixed bridge. Bridge replacement includes 0.410 acres of bare river bottom, 0.007 acre of submerged aquatic vegetation, and 0.010 acre of mangrove shoreline. The previously authorized activity has not changed and continues to meet the terms and conditions for authorization under Nationwide Permit 14, as published in the 12 March 2007, issue of the Federal Register (72 FR 11092).

CESAJ-RD-P (1145b)

SUBJECT: Statement of Findings/Environmental Assessment/Finding of No Significant Impact/Public Interest Determination

4. Project location: The project is located at the State Road 402 A. Max Brewer Bridge, in Sections 34 & 35, Township 21 South, Range 35 East, Titusville, Brevard County, Florida. 28.621 / -80.798

5. Existing site conditions: The existing Max Brewer swing bridge was constructed in 1948 and opened to traffic in 1949. Inspection records indicate the bridge is structurally and functionally obsolete, with a sufficiency rating of 4 out of 100. The applicant evaluated 13 different bridge configurations which ranged from bridging shoreline to shoreline with causeway removal to the no build alternative. The shoreline to shoreline alternative was considered too expensive; while the no build alternative would not allow project completion and would significantly impact traffic patterns between the Merritt Island Wildlife Refuge/NASA and Titusville. The applicant initially proposed 0.48 acre of impact for the bridge replacement. The applicant revised the project to minimize impacts to 0.410 acre of bare river bottom, 0.007 acre of submerged aquatic vegetation, and 0.010 acre of mangrove shoreline.

6. Scope of Analysis: Our scope of analysis is limited to the immediate project area.

7. Alternatives: See Decision Document for Nationwide Permit 14, which was approved by the Director of Civil Works on 1 March 2007, and Supplemental Environmental Assessment for Nationwide Permit 14, which was approved by the South Atlantic Division Commander on 12 July 2007.

8. Evaluation of the potential adverse environmental effects (direct, indirect, and cumulative) of the proposed activity: See Decision Document for Nationwide Permit 14, which was approved by the Director of Civil Works on 1 March 2007, and Supplemental Environmental Assessment for Nationwide Permit 14, which was approved by the South Atlantic Division Commander on 12 July 2007.

9. Mitigation required ensuring that the activity being verified by the U.S. Army Corps of Engineers (Corps) will have no more than minimal adverse effect on environment: The applicant has purchased 2.5 federal credits from CGW mitigation bank.

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

CESAJ-RD-P (1145b)

SUBJECT: Statement of Findings/Environmental Assessment/Finding of No Significant Impact/Public Interest Determination

a. Clean Water Act Section 401 Water Quality Certification (WQC): The WQC, number 400-009-99580-1, was issued on 23 September 2005.

b. Coastal Zone Management (CZM) consistency certification: Issuance of a SJRWMD certifies the project is consistent with CZM.

c. Endangered Species Act compliance: The Corps previously concluded ESA consultation requirements with USFWS and NMFS via letters 28 December 2005 and 28 November 2005 respectively. Project plans have not changed nor have existing site conditions; any permit issued will include special conditions to reduce potential impacts to endangered species.

d. National Historic Preservation Act (NHPA) compliance: NHPA concerns will be addressed by the placement of a special condition in the verification letter advising Permittees to contact the State Historic Preservation Office (SHPO) prior to initiating work and how to proceed should unexpected cultural resources be encountered. Issuance of a SJRWMD requires the applicant's coordination with SHPO. No historical sites are known to exist within the project area.

e. Other authorizations: N/A.

11. Special Conditions: Any permit issued will include the following special conditions:

The permittee agrees to follow the Standard Manatee Construction conditions during all in-water work.

The permittee agrees to incorporate the Sea Turtle Friendly Lighting Recommendations provided by the USFWS.

12. Public interest review: See Decision Document for Nationwide Permit 14, which was approved by the Director of Civil Works on 1 March 2007, and Supplemental Environmental Assessment for Nationwide Permit 14, which was approved by the South Atlantic Division Commander on 12 July 2007.

13. Finding of No Significant Impact: See Decision Document for Nationwide Permit 14, which was approved by the Director of Civil Works on 1 March 2007.

14. Public Interest Determination: This activity, if conducted in accordance with the terms and conditions of the NWP and the

CESAJ-RD-P (1145b)

SUBJECT: Statement of Findings/Environmental Assessment/Finding
of No Significant Impact/Public Interest Determination

special conditions stated in the NWP verification letter, will
not be contrary to the public interest.

PREPARED BY:



Andrew Phillips
Project Manager

Date: 26 March 08

REVIEWED BY:



Jon M. Griffin
Regulatory Program Manager

Date: 26 March 2008

APPROVED BY:



for
Loren M. Mason
Chief, Special Projects
and Enforcement Branch

Date: 26 March 2008