

26 August 2008

MEMORANDUM FOR RECORD

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

1. Applicant: Florida Department of Transportation, District 3
Attn: Joy Giddens
P.O. Box 607
Chipley, Florida 32428

2. Location, Project Description, Existing Conditions: The project is the replacement of the existing State Road 10 (SR-10) (US-90) bridge over the Perdido River. The project is located in Sections 10 and 15, Township 01 South, Range 32 West, and Section 15, Township 06 South, Range 06 East.

The applicant proposes to impact 3.69 acres of waters of the United States (wetlands and surface waters) for the replacement of the existing US-90 bridge over the Perdido River.

The Perdido River bridge was constructed in 1949 and is approximately 35-feet wide and approximately 710-feet long. The application received requests approval for construction of a new bridge and approaches on the south side of the existing roadway. The applicant has described the area proposed for impact as a freshwater wetland system associated with Perdido River floodplain. The system is dominated by cypress and swamp tupelo. Vegetation within the filled right-of-way is routinely maintained and consists of Japanese honeysuckle and Chinese privet. The jurisdictional boundaries begin at the toe of the elevated roadway.

3. Project Purpose: Basic: Replacement of an existing bridge.

Overall: Replacement of the existing US-90 bridge over the Perdido River.

4. Scope of Analysis: The scope of analysis was limited to the project site and a 300 foot secondary impact zone, and included endangered species, essential fisheries habitat concerns, and cultural resources.

5. Statutory Authority: Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

CESAJ-RD-NC (SAJ-2007-5634(IP-AWP))

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

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

a. State Permit/Certification: The Department of Environmental Protection (DEP) permit number 17-0281915-001-DF was issued on 7 May 2008.

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 DEP 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.

7. Date of Public Notice and Summary of Comments

a. The application was received on 28 September 2007. The application was considered complete on 10 October 2007. A public notice was issued on 6 November 2007, 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): FWS responded by letter dated 4 December 2007, their comments are summarized in paragraph 10(f).

(3) National Marine Fisheries Service (NMFS): By letter dated 3 December 2007, the NMFS had no objection to the proposed project.

(4) State Historic Preservation Officer (SHPO): By letter dated 15 November 2007, SHPO indicated that the proposed project would have no effect on any sites listed, or eligible for listing, in the National Register of Historic Places, or otherwise of national, state, or local significance.

(5) The Nature Conservancy submitted comments via electronic mail dated 13 December 2007. Mr. Adlai Platt stated the project will impact environmentally important lands owned by

CESAJ-RD-NC (SAJ-2007-5634(IP-AWP))

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

the Conservancy and submitted a list of questions which would need to be answered by the applicant.

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

b. Applicant's response to the comments: The comments provided by FWS and Nature Conservancy were forward to the applicant via letter dated 14 December 2007. Additionally, the U.S. Army Corps of Engineers (Corps) requested additional information regarding alternative design, minimization of wetland impact, and mitigation.

The applicant responded directly to the Nature Conservancy via letter dated 18 December 2007, and FWS via letter dated 14 January 2008. No additional responses have been received from either commenter. The applicant responded to the Corps via letter dated 15 January 2008, providing alternative alignments, cost analysis, and mitigation details.

The Corps submitted a second letter dated 1 April 2007, subsequent to a site visit by the Mitigation Review Team (MRT). The MRT consists of representatives from Corps, FWS, EPA, NMFS, Northwest Florida Water Management District (NFWFMD), and Florida Department of Transportation (FDOT). The Corps requested additional information regarding temporary impacts, erosion control, storm water management, secondary impacts, and mitigation.

The applicant responded via letter dated 8 May 2008, at which time they provided an erosion control plan, a storm water management plan, revised their compensatory mitigation proposal to account for direct, temporary, and secondary impacts as well as indicated that temporary impacts would be mitigated for.

8. Alternatives:

a. Avoidance (No action, uplands, availability of other sites): In the evaluation of any roadway expansion project, four aspects should be assessed for avoidance. These aspects include the "no action" alternative, the no build alternative, expansion of the existing roadway and construction of a new roadway. The Perdido River bridge was constructed in 1949. In developing this project, adverse impacts to the environment were very important

CESAJ-RD-NC (SAJ-2007-5634(IP-AWP))

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

in the FDOT evaluations. This included not only wetlands but also other issues such as residential and business disruption, utilities, cultural resources, water quality and contamination issues.

The "no action" alternative is not feasible as the existing bridge is structurally deficient with a rating of 31 out of 100. If the bridge was closed it would cause adverse impacts to residents and business who utilize the bridge. A detour route is not feasible at this location.

The "no build" alternative is not feasible as it would cause the same disruptions as the "no action" alternative.

The temporary bridge alternative was not feasible. The use of a temporary bridge was considered during the alternative analysis process. Additional right of way would be required for stormwater ponds to facilitate the runoff due to the Outstanding Florida Waterway requirements for the additional impervious area. Also, the temporary bridge would require additional right of way and temporary construction easements along the north or south sides of the existing alignment which would have impacts to wetlands. Phased construction of the bridge would mostly likely be required causing longer construction duration.

The selected build alternative was found to be the most practicable alternative because the applicant must maintain traffic flow during construction. The construction of a temporary bridge and replacement within the current alignment would cause environmental and economic impacts.

The applicant evaluated 3 design alternatives which met the geometric requirements of the road alignment and maintained access to existing development. The alternative selected proposes the least amount of wetland impacts. With the alignment shifted to the south as shown in the plans, construction of the bridge can occur in a shorter amount of time, is more cost feasible, and with approximately the same overall impacts to the project site as a temporary bridge. The southern shifted alignment also allowed less right of way impacts by utilizing the existing right of way for the stormwater pond on the eastern side of the project.

The proposed structure is 741 feet long and estimated to cost ±\$2 million. The applicant was asked to evaluate bridging the entire

CESAJ-RD-NC (SAJ-2007-5634(IP-AWP))

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

floodplain as an alternative design. The applicant determined that design would require an additional 1,958 feet of bridge at a cost of ±\$6 million.

b. Minimization (modified project designs, etc.): The project has been minimized to the maximum extent possible that would allow the applicant to achieve the project purpose. The applicant was not asked to further explore minimization alternatives beyond those already achieved, given the quality of the existing resource. The applicant has designed the new bridge to incorporate stormwater management features in uplands to treat areas which are not currently treated. The applicant has also developed an erosion control plan to minimize impacts to the aquatic environment.

c. Compensatory Mitigation (Wetland enhancement, creations, etc.): The applicant has completed a functional assessment of direct, temporary, and secondary impacts associated with this project. Direct impacts will eliminate 3.7 functional units. These direct impacts are divided into two polygons A = 1.32 acres and B = 2.33 acres. The functional values of polygons A & B were determined to be 0.53 and 0.80 respectively. Secondary impacts will eliminate 6.4 units of functions (0.15 x 42.68 acres). Secondary impacts were assessed within a distance of 300 feet from edge of pavement of the proposed alignment at a functional loss of 0.15 functional units. All functional values were collaboratively agreed to by the mitigation review team which consists of USACE, USFWS, NMFS, and FFWCC in a field meeting held on 23 January 2008. The applicant has also identified temporary impacts within the project build area. Additional secondary impacts which convert forested wetlands to herbaceous wetlands were estimated at 1.0 acre with a total functional loss of 0.2 units. Total mitigation needed to replace all functions and values totals 10.3 units.

Wetland impacts for this project will be mitigated through the Northwest Florida Umbrella, Watershed-Based, Regional Mitigation Plan (PLAN), as defined in the agreement between the NFWFMD and the U.S. Army Corps of Engineers (Corps), Jacksonville District, 31 July 2006. The PLAN includes a combination of land acquisition, preservation, and restoration at the Perdido River site identified in section 5.1.4 Perdido River Water Management Area, 7 April 2008 update. To mitigate for impacts to waters of the United States (wetlands and surface waters) caused by this project, the NFWFMD will deduct 10.3 credits from the Perdido

CESAJ-RD-NC (SAJ-2007-5634(IP-AWP))
SUBJECT: Department of the Army Environmental Assessment and
Statement of Findings on the Above-Numbered Permit Application.

River WMA ledger. Section 8.1 of the PLAN, Mitigation Credit Ledger, will be adjusted accordingly to reflect the credits used above.

9. 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.

10. 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. Public interest factors: The Corps reviewed all of the public interest factors. The Corps considers the public interest factors identified below as relevant to this proposal. The Corps considered both cumulative and secondary impacts on these public interest factors.

(1) Conservation: The Corps has received correspondence from the Nature Conservancy describing the value of the Perdido River floodplain and the need for protection. The applicant has proposed compensatory mitigation adjacent to the project which will fully offset the ecological impact of the project. Furthermore, the applicant will install wildlife fencing to reduce wildlife impacts and reduce illegal dumping thereby reducing impacts to adjacent conservation areas.

(2) Economics: The applicant will construct a new bridge and maintain the current bridge until construction is completed thereby reducing potential economic impacts.

(3) Aesthetics: The applicant will meet all state and local county vegetation ordinances thereby maintaining aesthetic quality of the area.

CESAJ-RD-NC (SAJ-2007-5634(IP-AWP))

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

(4) General environmental concerns: The applicant will install a wildlife fence to reduce impacts to wildlife and cumulative and secondary impacts associated with illegal dumping which occurs along the roadway.

(5) Wetlands: The applicant has avoided impacts to wetlands to maximum extent practicable. The completion of compensatory mitigation within the same drainage basin will reduce cumulative impact losses. The applicant will restore existing wetlands at the mitigation site as part of the compensatory mitigation plan.

(6) Fish and wildlife values: The applicant has coordinated with FWS and will incorporate Gulf sturgeon and West Indian manatee provisions in the construction plans. The applicant has designed a guardrail between the proposed bridge west to the relief bridge located in Alabama. This guardrail will reduce secondary impacts associated with light, noise and illegal dumping. The applicant will construct the new roadway with environmentally appropriate materials and remove the existing creosote bridge pilings from the Perdido River. Creosote pilings have been found to leech harmful chemicals into the environment.

(7) Flood hazards: The applicant proposes to construct a causeway similar to the existing causeway which should not cause additional flood hazards.

(8) Floodplain values: The Perdido River is an ecologically important floodplain based on its blackwater watershed. The Gulf Ecological Management Sites Program (GEMS) has identified the Perdido River corridor as Alabama's largest and most ecologically significant blackwater watershed. GEMS is an initiative of the U.S. Environmental Protection Agency, Gulf of Mexico Program (GMP) and the five Gulf of Mexico states to provide a framework for protection of ecologically important Gulf habitats. Much of the floodplain has already been purchased and placed in a conservation easement. The applicant has proposed to install a storm water management treatment system to treat runoff from the proposed structure. Additionally, the applicant will conduct compensatory mitigation within the same watershed. Both the storm water management system and compensatory mitigation will benefit the Perdido River floodplain by providing water quality enhancement.

CESAJ-RD-NC (SAJ-2007-5634(IP-AWP))

SUBJECT: Department of the Army Environmental Assessment and Statement of Findings on the Above-Numbered Permit Application.

(9) Land use: The applicant will maintain access to all adjacent properties.

(10) Navigation: The applicant will maintain existing vertical clearance over the Perdido River. The applicant will remove the existing bridge upon completion of the new bridge.

(11) Recreation: The anticipated mitigation on state owned lands will increase recreation opportunities.

(12) Safety: The replacement of the existing bridge will ensure safe travel along the roadway.

(13) Considerations of property ownership: The applicant will maintain access to adjacent properties.

c. Describe the relative extent of the public and private need for the proposed structure or work: The applicant determined the existing bridge is structurally deficient; replacement of the bridge will ensure safe travel along the roadway corridor. Private benefits will be afforded to those residents who own property along the existing roadway which will have safer access onto their land.

d. Describe the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed work where there are unresolved conflicts as to resource use: There are no unresolved conflicts regarding resource use. The applicant will install wildlife fencing along the new roadway to reduce impacts to wetlands and wildlife. Additionally, the applicant will provide compensatory mitigation adjacent to the impact site.

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

CESAJ-RD-NC (SAJ-2007-5634(IP-AWP))
SUBJECT: Department of the Army Environmental Assessment and
Statement of Findings on the Above-Numbered Permit Application.

previously coordinated with FWS and will incorporate Gulf sturgeon and West Indian manatee provisions in all construction plans. The FWS responded via letter dated 4 December 2007, stating they concurred with the applicant's determination of may affect, not likely to adversely affect the gulf sturgeon or the West Indian manatee. The applicant will incorporate special construction provisions in the construction contract. No further consultation was required with FWS. FWS requested additional information regarding avoidance and minimization of wetland impacts. FWS also requested information regarding storm water treatment. All of FWS concerns were relayed to the applicant and the applicant provided supporting detail. FWS was a participating member in the Umbrella Plan Mitigation Review team. They have fully evaluated the project plans and mitigation site. No objections have been received since the mitigation review meeting.

g. Essential Fisheries Habitat (EFH): The public notice included an initial determination that the project would not have an adverse impact on EFH or Federally managed fisheries. In response to the public notice, the NMFS indicated on 3 December 2007, that the proposed project will include stormwater management features along with Best Management Practices during construction which will reduce any potential adverse impacts that might occur on marine and anadromous fishery resources to minimal levels. The NMFS did not provide any EFH conservation recommendations in response to the public notice. Therefore, the Corps is satisfied that the consultation procedures outlined in 50 CFR Section 600.920 of the regulation to implement the EFH provisions of the Magnuson-Stevens Act have been met.

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.

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. The applicant has proposed compensatory mitigation within the same drainage basin as the impacts which will reduce cumulative impacts

CESAJ-RD-NC (SAJ-2007-5634(IP-AWP))
SUBJECT: Department of the Army Environmental Assessment and
Statement of Findings on the Above-Numbered Permit Application.

within the basin. The applicant will implement Best Management Practices and erosion control measures to reduced potential secondary impacts. The applicant has designed the roadway to include guardrails which will help to reduce human disturbance from the roadway. These disturbances include noise, light, and dumping.

j. Corps Comments and Responses: Full consideration was given to all comments received during the public notice. The Corps agrees with Mr. Platt that the Perdido River floodplain is an environmentally important watershed. Mr. Platts' access concerns have been addressed by the applicant and they have taken corrective measures to ensure the Nature Conservancy's property will be protected to the maximum extent practicable.

The Corps has provided additional information to FWS and has not received any additional objections to the project.

11. 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.

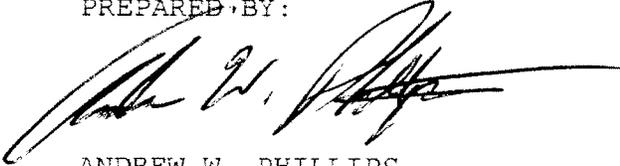
c. Public interest determination: I find that issuance of a Department of the Army permit is not contrary to the public interest.

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

CESAJ-RD-NC (SAJ-2007-5634(IP-AWP))
SUBJECT: Department of the Army Environmental Assessment and
Statement of Findings on the Above-Numbered Permit Application.

controlled by the Corps. For these reasons a conformity
determination is not required for this permit action.

PREPARED BY:



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REVIEWED BY:



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Acting Chief, North Permits
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APPROVED BY:



PAUL L. GROSSKRUGER
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For

CF:
CESAJ-RD-PE