

Statement of Findings



Number: _____

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CESAJ-RD-NC (1145b)
SAJ-2008-3480 (IP-AWP)

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

2. Location, Project Description, Existing Conditions: The project is located in the infield of the Interstate 4 (I-4)/Maitland Blvd. interchange (northeast corner). The project is located in Section 26, Township 21 South, Range 29 East, Orange County, Florida.

The applicant proposes to fill a 2.24 acre sinkhole wetland to prepare for the I-4 ultimate alignment.

Avoidance and Minimization Information: The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

The project was evaluated in the I-4 Project Development & Environmental (EIS) - Section 2 Final Environmental Impact Statement. The proposed widening is consistent with the ultimate improvements described in the completed EIS. Copies of the I-4 PD&E - Section 2 Environmental Impact Statement can be obtained from the Florida Department of Transportation District-5 office in DeLand, Florida.

The wetland system consists of a deep water aquatic habitat system (sink hole) with a small littoral zone which transitions into a shrubby wetland fringe. The entire system is located inside of the I-4/Maitland Blvd. interchange and is impacted by routine maintenance. The system acts as a storm water management system and is interlinked with adjacent storm water management ponds which ultimately discharge to Lake Lucien.

3. Project Purpose: Basic: Improvements to Interstate 4.

Overall: I-4/Maitland Blvd. interchange improvements which are aligned with the I-4 ultimate alignment.

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

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

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

a. State Permit/Certification: The St. Johns River Water Management District (SJRWMD) permit number 4-095-62355-7 was issued on 11 October 2005.

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 4 September 2008. The application was considered complete on the same date. A fifteen day public notice was issued on 9 September 2008, 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 22 September 2008, the NMFS had no objection to the proposed project/deferred to FWS for comments on the project.

(4) State Historic Preservation Officer (SHPO): By letter dated 5 September 2008, SHPO indicated that the proposed project would have no effect on any sites listed, or eligible for

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listing, in the National Register of Historic Places, or otherwise of national, state, or local significance.

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

b. Applicant's response to the comments: The comments were not coordinated with the applicant since no adverse comments were received.

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, expanding the existing roadway, constructing a new roadway. I-4 has been in its present location since 1965. In developing this project, adverse impacts to the environment were very important in the FDOT evaluations. The applicant's assessment of impacts included not only wetlands but also other issues such as residential and business disruption, utilities, cultural resources, water quality and contamination issues. FDOT completed an Environmental Impact Statement (EIS) for the widening of I-4 from State Road (SR) 528 to SR-472. The Corps was a cooperating member of this EIS. FDOT completed an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for the widening of I-4 from SR-472 to I-95 in Volusia County. The EA was signed by Federal Highway Administration (FHWA) on 12 May 2000 and the FONSI was signed the same date. The application for the project as proposed is based on the findings and conclusions of the EA and FONSI.

The EA completed by FHWA evaluated the "no build" alternative as well as an alternatives design. The "no build" alternative included widening existing roadways within the region. The EA concluded that the "no build" would avoid right-of-way and construction costs associated with the proposed improvements, eliminate short-term disruption that would occur along the existing roadways during construction activities, and prevent business or residential impacts or impacts to undeveloped lands or wetlands. The disadvantage of the "no-build" alternative is that there would be no provision to accommodate the anticipated growth in traffic volumes.

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The EA evaluated design alternatives including Center Alignment, Right Alignment, and Left Alignment. FHWA concluded a preferred alternative would be widening to the center of the existing travel lanes including the development of a 44-foot "Future Rail Envelope". The applicant was not asked to explore avoidance alternatives given the quality of the existing resource.

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.

c. Compensatory Mitigation (Wetland enhancement, creations, etc.): The applicant has proposed compensatory mitigation to offset all unavoidable impacts to U.S Army Corps of Engineers (Corps) jurisdictional wetlands. The Corps has completed a Rapid Wetland Assessment Procedure and determined the project as proposed will cause the loss of 1.04 functional units. The applicant has proposed the deduction of credits from the FDOT owned Lake Monroe Mitigation Bank. The project site is located outside of the service area so the applicant has proposed a 2:1 mitigation ratio. The applicant will deduct 2 federal credits from the Lake Monroe Mitigation Bank (SAJ-1995-1994). The mitigation offered by the applicant is sufficient to offset impacts on the values and functions of the wetland resource.

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. The use of compensatory mitigation will further ensure the project is in compliance with the guidelines.

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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. All public interest factors have been reviewed, including but not limited to the effects the work might have on conservation, economics, aesthetics, 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. The use of compensatory mitigation will further ensure the project will not impact any of the public interest factors listed above.

c. Describe the relative extent of the public and private need for the proposed structure or work: The public need for project is documented in the EA and FOSI completed by the applicant. The roadway improvements will increase public safety, increase carrying capacity of the roadway, and more effective movement of vehicular traffic. The increased carrying capacity may also facilitate intrastate/interstate commerce.

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.

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: Detrimental impacts are expected to be minimal although they would be permanent in the construction area. 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 project is located within the core foraging area of the endangered wood stork. Due to the projects location within the existing interstate system,

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dense vegetation surrounding the deep water habitat, and the overall depth of the deep water habitat the Corps concluded the proposed project will have no effect on the wood stork or any other threatened or endangered species. This determination is supported by the lack of comments provided by the FWS.

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. 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: The Corps has evaluated cumulative secondary impacts to wetlands and will require compensatory mitigation to fully offset these impacts. The applicant will provide compensatory mitigation within the same drainage basin which will eliminate cumulative wetland loss from SJRWMD basin 18. Further, the applicant will utilize Best Management Practices to reduce any potential secondary impacts within the basin.

j. Corps Comments and Responses: Full consideration was given to all comments received during the public notice. No adverse comments were received.

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.

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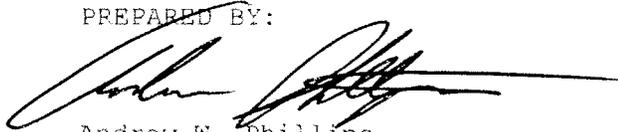
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b. Compliance with 404(b)(1) guidelines. Having completed the evaluation in paragraph 7 above, I have determined that the proposed discharge complies with the 404(b)(1) guidelines.

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.

PREPARED BY:



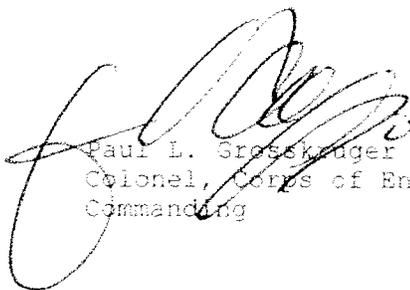
Andrew W. Phillips
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REVIEWED BY:



Irene F. Sadowski
Chief, Cocoa Permits Section

APPROVED BY:



Paul L. Grosskruger
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