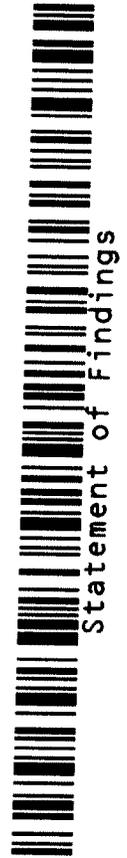


# Statement of Findings



Number: \_\_\_\_\_

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NOV 07 2008

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Environmental Assessment and  
Statement of Finding for Above-Numbered Permit Application

1. Applicant: Florida Department of Transportation-District 5  
Attn: Patrick Muench  
719 South Woodland Blvd.  
DeLand, Florida 34720

2. Location, Existing Site Conditions, Project Description,  
Changes to Project:

a. Location: The proposed project is located along the existing CSX rail line extending from Ft. Florida Road south to approximately Sand Lake Road. The project is located within Sections 9, 16, 21 & 35, Township 19 South, Range 30 East, Section 25, Township 21 South, Range 29 East, Sections 2, 3, 9, 10, 16, 20, 21, 29, & 32, Township 20 South, Range 30 East, Sections 7, 18 & 19, Township 21 South, Range 30 East, and Sections 2, 11, 13, 14, 24 & 25, Township 23 South, Range 29 East in Volusia, Seminole and Orange County, Florida. The rail line crosses the St. Johns River, Lake Mobile, and a tributary of Little Lake Conway.

b. Existing Site Conditions: The on-site wetlands can be characterized as freshwater herbaceous and forested wetlands along with linear ditches, ranging from low to moderate quality systems consisting of vegetated non-forested wetlands, mixed wetland hardwoods, willow and elderberry, cypress, wetland forested mixed communities, streams & waterways and ditches. The applicant proposes improvements to the existing rail road trestle over the St. Johns River. The proposed improvements should not cause any adverse impact to the St. Johns River.

c. Project Description: The applicant proposes to temporarily impact 4.66 acres and permanently impact 1.65 acres of waters of the United States for the construction of the Central Florida Commuter Rail Transit Phase 1 project. The project is proposed as an alternative mode of transportation to

improve the mobility of travelers along Interstate 4 (I-4) and other major roadways within the Orlando Metropolitan Region.

d. Changes to Project: No changes have been made to the project since submittal.

3. Project Purpose:

Basic: The basic project purpose is to construct the Central Florida Commuter Rail Transit Phase 1 which will provide multi modal transportation to Central Florida.

Overall: The overall purpose is to construct a rail line adjacent to an existing rail line, stormwater management system and replace the north portion of the St. Johns River Rail Bridge for the Central Florida Commuter Rail Transit project. Terminal stations will be evaluated under separate action.

4. Scope of Analysis: The scope of analysis includes the entire right-of-way and storm water pond locations.

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 of 1972, as amended.

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

a. State water quality certification (WQC): The St. Johns River Water Management District (SJRWMD) permit/certification number 4-095-114454-1 was issued on 14 October 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 CZM. Issuance of a SJRWMD permit certifies that the project is consistent with the CZM plan.

c. Other authorizations: The U.S. Coast Guard (USCG) reviewed the application and determined a permit would not be required based on vertical and horizontal clearances proposed.

7. Date of Public Notice and Summary of Comments:

a. Important dates: The Corps received the application on 14 December 2007. Due to the length of the project and the number of wetlands and waters which would be traversed the U.S. Army Corps of Engineers (Corps) determined a formal jurisdictional determination would need to be completed prior to publication of a public notice. A formal jurisdictional determination was approved by Corps Headquarters on 31 March 2008. The Corps considered the application complete on 31 March 2008. The Corps issued a public notice on 8 April 2008 and sent this notice to all interested parties including appropriate State and Federal agencies. Due to the large amount of adjacent property owners the applicant published the notice in the local news paper.

b. Public notice comments: The Corps has reviewed all of the comments submitted in response to the circulation of the public notice. The Corps has summarized these comments below:

(1) U.S. Environmental Protection Agency (EPA): No response received.

(2) U.S. Fish and Wildlife Service (USFWS): No response received. Consultation was completed via separate letter.

(3) National Marine Fisheries Service (NMFS): Responded via letter dated 21 April 2008, stating through hydrological connections, the on-site wetlands contribute plant material and other useable nutrients into aquatic food webs that include recreationally, commercially, and ecologically important

species within downstream estuaries. NMFS determined the mitigation proposed by the applicant is suitable to offset the lost functions and values to downstream federally managed fisheries species.

(4) State Historic Preservation Officer (SHPO): SHPO determined that this undertaking is not likely to affect significant historic properties, either listed or eligible for listing in the National Register of Historic Places.

(5) State and local agencies: No responses received.

(6) Organizations: No responses received.

(7) Individuals: No responses received.

c. Response to the comments: No adverse comments were received. The Corps will incorporate NMFS comments into the special conditions of the permit, if issued.

## 8. Alternatives

a. Avoidance: In the evaluation of any transportation expansion project, four aspects should be assessed for avoidance. These aspects include the "no action" alternative, the no build alternative, expanding the existing transportation facility, constructing a new transportation facility. The existing CSX rail line has been in its present location since the late 1960's and the land adjacent has been highly developed. In developing this project, adverse impacts to the environment were very important 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 applicant completed an Environmental Assessment and Finding of No Significant Impact for the project as proposed in 15 December 2006.

The "no action" is not feasible as it would hinder intrastate commerce, not provide alleviation to traffic congestion, and maintain bottleneck conditions on Interstate 4; one of the busiest roadways in central Florida.

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

The alternative evaluating the construction of a new rail line would not be economically practicable due to the development of the surrounding area and cost of eminent domain. The applicant is evaluating a rail alternative in the ultimate I-4 four lane design. The construction of a new rail line would cause disruptions in traffic flow due to new road crossings; which is counter productive to the project purpose.

The applicant has developed quality enhancement strategies for avoiding and minimizing impacts to wetlands. Alternatives were evaluated during the Project Development and Environmental study (PD&E). It was determined that utilizing the existing CSX rail line would provide a usable, less costly alternative to constructing a new rail line which would have significant cost and environmental impact.

b. Minimization: The applicant has minimized impacts to the greatest extent possible while still meeting the project purpose. Impacts to wetlands occur due to the addition of track adjacent to the existing tracks and the construction of a storm water management system.

c. Project As Proposed: The project as proposed would result in direct impacts to 1.65 acres of jurisdictional wetlands and temporary impacts to 4.66 acres of temporary impacts to waters of the United States (wetlands and surface waters).

d. Conclusions of Alternatives Analysis: The applicant has

completed a EA and PD&E study and determined the proposed project will not have a significant impact on the human environment. The proposed multi modal transportation project should reduce commute time, traffic congestion, and bottle neck conditions on adjacent roadways. The proposed impacts are within the existing right-of-way and the mitigation is sufficient to compensate for the impacts proposed.

9. Evaluation of the 404(b)(1) Guidelines:

a. Restrictions on discharges:

(1) Alternatives (See paragraph 8):

(a) The activity is located in a special aquatic site (wetlands, sanctuaries and refuges, mudflats, vegetated shallows, coral reefs, riffle and pool complexes, etc.)

yes(X) no( )

(b) The activity needs to be located in a special aquatic site to fulfill its basic purpose. yes( ) no(X)

(c) It has been demonstrated in paragraph 8 above that there are no practicable nor less damaging alternatives which would satisfy the project's overall purpose.

yes(X) no( )

(d) The least damaging alternative has no other significant environmental effects.

yes(X) no( )

(2) Other program requirements:

(a) The proposed activity violates applicable State water quality standards or Section 307 prohibitions or effluent standards.

yes( ) no(X)

(b) The proposed activity jeopardizes the continued existence of federally listed threatened or endangered species or affects their critical habitat.

yes( ) no(X)

(c) The proposed activity violates the requirements of a federally designated marine sanctuary. yes( ) no(X)

(3) The activity will cause or contribute to significant degradation of waters of the United States, including adverse effects on human health; life stages of aquatic organisms; ecosystem diversity, productivity and stability; and recreational, esthetic, and economic values.

yes( ) no(X)

(4) Minimization of adverse effects:

(a) Appropriate and practicable steps have been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem.

yes(X) no( )

(b) Compensatory mitigation: Mitigation will be completed in accordance with Section 373.4137 of the Florida Statue (a.k.a. Senate Bill 1986). The Corps has preformed a Wetland Rapid Assessment Procedure (WRAP) and determined the approximate functional loss is 1.2 units due to direct impacts and 0.9 for temporary impacts. Since wetland impacts occur within two drainage basins the applicant will deduct 0.6 credits from the Lake Monroe Mitigation Bank to offset impacts occurring in the Lake Monroe Basin. The remaining functional loss will be mitigated by the use of the Senate Bill mitigation program administered by the SJRWMD and defined in the 2008 mitigation plan.

The compensatory mitigation proposed by the applicant fully offsets impacts proposed to waters of the United States.

b. Findings: The project complies with the Guidelines because the proposed site for the discharge of dredged or fill material complies with the Section 404(b)(1) guidelines with the inclusion of the special conditions for mitigation.

10. Public interest review:

a. 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: Impacts are proposed to the inside of the existing right-of-way; no conservation lands are proposed for impact.

(2) Economics: The takings of business are not anticipated for the project completion. No adverse impacts to economics are anticipated.

(3) Aesthetics: The project will be designed to current federal, state, and county design standards. No adverse impacts are anticipated.

(4) General environmental concerns: The applicant has completed endangered species surveys throughout the project corridor and did not observe any listed species. The project will be widened to the inside of the existing right-of-way and wetland impacts will be mitigated. The applicant will upgrade the existing stormwater management system to treat roadway runoff which is not currently being treated. No adverse environmental impacts are anticipated.

(5) Wetlands: The applicant has significantly reduced impacts to wetlands by widening inside of the existing travel right-of-way. Wetland impacts will be fully mitigated. No adverse wetland impacts are anticipated.

(6) Historic and cultural resources: The project has been reviewed by the State Historic Preservation Officer and determined that no historical or cultural resources will be impacted. No adverse impacts are anticipated.

(7) Fish and wildlife values: The project has been reviewed by the USFWS and they determined no federally listed species will be impacted. The State of Florida has also reviewed the project and determined no adverse impacts to fish and wildlife are anticipated. No adverse impacts are anticipated.

(8) Flood hazards: The applicant will provide compensating storage for impacts within the 100-year floodplain. No adverse impacts are anticipated.

(9) Floodplain values: The project does traverse the 100-year floodplain. However, the applicant has proposed stormwater treatment and compensating storage. No adverse impacts to floodplain values are anticipated.

(10) Land use: The widening will occur within the existing right-of-way. No adverse impacts are anticipated.

(11) Navigation: The applicant proposes to modify the existing trestle which traverses the St. Johns River. The applicant has coordinated the project with the USCG and no impacts to navigation are anticipated. The USCG determined a bridge permit would not be required based on the vertical and horizontal clearances.

(12) Shore erosion and accretion: The applicant will implement shoreline protection measure to reduce possible impacts. Stormwater treatment systems will reduce any potential impacts associated with accretion in drainage ditches.

(13) Recreation: The proposed project is located along the existing rail line; no adverse impacts to recreation are anticipated.

(14) Water supply: N/A

(15) Water quality: The applicant will provide water quality treatment and stormwater collection systems in accordance with State of Florida standards. No adverse impacts to water quality are anticipated.

(16) Energy needs: N/A

(17) Safety: The project as proposed will occur within the existing rail line right-of-way. All personnel working on the project will be required to complete safety training. Upon completion of the project the general public will be able to utilize the commuter rail which will reduce traffic and traffic related accidents. No safety impacts are anticipated.

(18) Food and fiber production: N/A

(19) Mineral needs: N/A

(20) Considerations of property ownership: The project occurs within the existing right-of-way. Adjacent property owners were notified of the proposed project and no adverse comments were received.

b. Describe the relative extent of the public and private need for the proposed structure or work: Public needs include employment opportunities and a potential increase in the local

tax base. Public benefits include improved travel safety and employment opportunities.

c. 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.

d. 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 associated with utilization of the property would be permanent.

e. Threatened or endangered species: The U.S. Army Corps of Engineers (Corps) has information indicating the potential for the endangered wood stork (*Mycteria americana*) to utilize freshwater wetlands and ditches in the project area. The project site has suitable habitat for the threatened eastern indigo snake (*Drymarchon corais couperi*). Also, the St. Johns River Rail Bridge improvement is located in water accessible to the West Indian manatee (*Trichechus manatus*). The applicant has agreed to adhere to the *Standard Protection Measures for the Eastern Indigo Snake* and *Standard Manatee Conditions for In-Water Work*. Additionally, the applicant will provide compensatory mitigation within the Core Foraging Area of wood stork colonies. The Corps has determined that the proposed work may affect; but is not likely to adversely affect the wood stork, eastern indigo snake, and West Indian manatee. The applicant has conducted extensive endangered species surveys and has not observed the presence of any federally threatened or endangered species within the project corridor. The applicant coordinated with the USFWS directly and provided a Biological Assessment with proposed mitigation measures to the USFWS. The

USFWS concurred with the Biological Assessment provided by the applicant and determined the project will have no adverse impacts to federally listed species.

The USFWS concurred with the Corps determination via electronic mail dated 30 October 2008.

f. Corps wetland policy: The proposed wetland alteration is necessary to realize the project purpose. The proposed work should result in minimal adverse environmental impacts. The benefits of the project would outweigh the minimal detrimental impacts. Therefore, the project is in accordance with the Corps wetland policy.

g. Cumulative and secondary Impacts: The proposed project is associated with an existing rail line. Mitigation provided by the applicant would provide long-term functional replacement for wetland impacts; therefore, there should not be a cumulative impact to wetland functions within the basin. The use of silt screens and Best Management Practices will also reduce the potential of secondary impacts. The applicant will restore the temporarily impacted wetlands to their pre-existing condition.

h. Corps analysis of comments and responses: All comments received in response to the public notice were considered in this evaluation. Wetland impacts have been avoided to the greatest extent practicable.

11. 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.

12. Public Hearing Evaluation: N/A

13. 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 8 above, I have determined that the proposed discharge complies with the 404(b)(1) guidelines.

c. 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 or indirect 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.

d. Public Hearing Request: No requests were received.

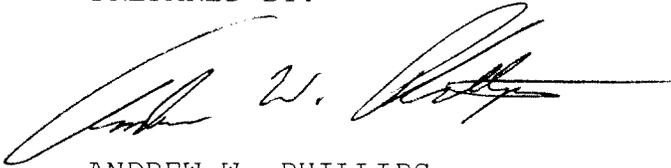
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SUBJECT: Department of the Army Environmental Assessment and Statement  
of Findings for the Above-Numbered Permit Application

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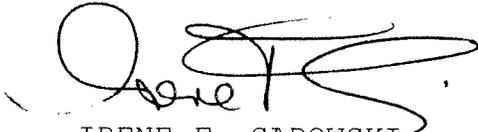
e. Public Interest Determination: I find that issuance of a Department of the Army permit is not contrary to the public interest.

PREPARED BY:



ANDREW W. PHILLIPS  
Project Manager  
North Permits Branch

REVIEWED BY:



IRENE F. SADOWSKI  
Chief, Cocoa Permits Section

APPROVED BY:



PAUL L. GROSSKRUGER  
Colonel, Corps of  
Engineers Commanding

cc: RD-PE