DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
10117 PRINCESS PALM DRIVE SUITE 120
TAMPA, FLORIDA 33610

REPLY TO
ATTENTION OF

February 1, 2008

Tampa Regulatory Office
SAJ-2007-306 (NW-JPF)
SAJ-2007-779 (NW-JPF)

Jim Wilt
FDOT District One
VIA E-MAIL jim.wilt1@dot.state.fl.us

Dear Applicant:

We received your requests for reverification of two Department of the Army nationwide permits on January 23, 2008. The requests were assigned their previous file numbers, SAJ-2007-306 (NW-JPF) and SAJ-2007-799 (NW-JPF). A review of the information and drawings provided shows the proposed work is the placement of scour countermeasures at the US 41 bridges at OK, Sandy, and Dutchess Canals (SAJ-2007-306-NW-JPF) and at the northbound US 41 bridge at South Creek (SAJ-2007-799-NW-JPF), each location having 0.13 acre or less of impact to waters of the United States. The projects are located along US 41 at OK Canal (Section 25, Township 52 South, Range 29 East), Sandy Canal (Section 35, Township 52 South, Range 30 East), and Dutchess Canal (Section 35, Township 52 South, Range 30 East) in Collier County, and at South Creek (Section 14, Township 38 South, Range 18 East) in Sarasota County. All four appear to be referenced by FDOT as FPID 1980853.

Your projects, as depicted on the received drawings, are authorized by Nationwide Permit (NWP) Number 13. In addition, project specific conditions have been enclosed. This verification is valid for a period of two years after the date of this letter. 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 42. Additionally, 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. 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.

3. In waters accessible to manatees, the permittee must follow the attached three-page Standard Manatee Conditions for In-Water Work. The standard manatee construction conditions shall be included in any contract issued for the work.

4. 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.

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 John Fellows by telephone at 813-769-7067.

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://www.saj.usace.army.mil/permit/forms/customer_service.htm.
Your input is appreciated - favorable or otherwise.

Sincerely,

for

Loren M. Mason
Chief, Special Projects
and Enforcement Branch

Enclosures

GENERAL CONDITIONS
33 CFR PART 320-330
PUBLISHED FEDERAL REGISTER DATED 13 NOVEMBER 1986

1. The time limit for completing the work authorized ends two years after the date of the verification 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 of 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 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.

## SELF-CERTIFICATION STATEMENT OF COMPLIANCE

Permit Number: NW-13
Application Number: SAJ-2007-306 (NW-JPF)
SAJ-2007-779 (NW-JPF)

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: NW-13
Application Number: SAJ-2007-306 (NW-JPF)
SAJ-2007-779 (NW-JPF)

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 Branch, Post Office Box 4970, Jacksonville, FL 32232-0019.

_____
(TRANSFEREE-SIGNATURE)

_____
(SUBDIVISION)

_____
(DATE)

_____ _____
(LOT) (BLOCK)

_____
(STREET ADDRESS)

_____
(NAME-PRINTED)

_____

_____
(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 81/2" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities.

## 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

CESAJ-RD-P (1145)
NATIONWIDE PERMIT VERIFICATION SAJ-2007-306 (NW-JPF)

MEMORANDUM FOR RECORD

SUBJECT: Department of the Army Decision Document for Above-Numbered Nationwide Permit Verification

1. For each of the reissued and new Nationwide Permits (NWPs), 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 District One
P.O. Box 1249
Bartow, FL 33831-1249

3. Project description: 0.13 acre of impact to waters of the United States for placement of scour countermeasures at the US 41 bridges at OK, Sandy, and Dutchess Canals. The purpose of the project is to ensure the necessary erosion control measures to meet design and safety standards. This activity meets the terms and conditions for authorization under Nationwide Permit 13, as published in the 12 March 2007, issue of the Federal Register (72 FR 11092).

4. Project location: The proposed project is located along US 41 at OK Canal (Section 25, Township 52 South, Range 29 East), Sandy Canal (Section 35, Township 52 South, Range 30 East), and Dutchess Canal (Section 17, Township 52 South, Range 30 East) in Collier County, Florida.

5. Existing site conditions:

The project area along the OK and Dutchess Canals includes the open surface waters of the canals and ruderal shoreline vegetation. The project area at the Sandy Canal includes much less open water, and more exotic and nuisance vegetation such as cattails.

6. Scope of Analysis: The scope of analysis is limited to the 0.13 acre of waters of the US directly impacted by the project and the immediately adjacent wetlands and uplands.

7. Alternatives: See *Decision Document for Nationwide Permit 13*, which was approved by the Director of Civil Works on 1 March 2007 and *Supplemental Environmental Assessment for Nationwide Permit 13*, which was approved by the South Atlantic Division Commander on 12 July 2007.

9. Evaluation of the potential adverse environmental effects (direct, indirect and cumulative) of the proposed activity: See *Decision Document for Nationwide Permit 13*, 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

10. Mitigation required to ensure that the activity being verified by the Corps will have no more than minimal adverse effects on the environment: Based on the available information, the anti-scour material will either be placed in unvegetated, open water areas, or in areas where the existing vegetation should recolonize the affected area with no significant loss of function temporarily and no permanent loss of function at all. As there is no loss of wetland function due to the proposed work, no mitigation is proposed or necessary.

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

a. Clean Water Act section 401 water quality certification (WQC): The permittee will obtain an Environmental Resource Permit authorization from the Southwest Florida Water Management District prior to commencement of the proposed activities.

b. Coastal Zone Management (CZM) consistency certification: There is no evidence or indication from the State of Florida that the project is inconsistent with the Florida CZM. Issuance of a DEP/WMD permit certifies that the project is consistent with the CZM plan.

c. Endangered Species Act compliance: The proposed project may affect but is not likely to adversely affect the West Indian manatee based on the information supplied by the applicant and the July 2005 Manatee Effect Determination Key. The verification letter will include the standard manatee protection measures. Per the key, no further consultation was necessary.

The proposed project may affect but is not likely to adversely affect the Florida panther based on the information supplied by the applicant and the February 2007 Panther Effect Determination Key. Per the key, no further consultation was necessary.

The proposed project will not affect any other threatened or endangered species based on the information supplied by the applicant.

d. National Historic Preservation Act compliance: NHPA concerns will be addressed by placement of a special condition in the verification letter advising permittees: 1) to contact the SHPO prior to initiating any work, 2) how to proceed should unexpected cultural resources be encountered.

e. Other authorizations: N/A

12. Special Conditions: The following measures are being required by the permit authorization, and/or are being assured and provided voluntarily by the permit applicant, to ensure that the

activity being authorized by the Corps will have no more than minimal adverse effects on the environment:

A. 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.

B. 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.

C. In waters accessible to manatees, the permittee must follow the attached three-page Standard Manatee Conditions for In-Water Work. The standard manatee construction conditions shall be included in any contract issued for the work.

D. 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.

13. Public interest review: See *Decision Document for Nationwide Permit 13*, which was approved by the Director of Civil Works on 1 March 2007 and *Supplemental Environmental Assessment for Nationwide Permit 13*, which was approved by the South Atlantic Division Commander on 12 July 2007.

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

15. Public Interest Determination: This activity, if conducted in accordance with the terms and conditions of the NWP and the special conditions stated in the NWP verification letter, will not be contrary to the public interest.

| PREPARED BY: | REVIEWED BY: |
| --- | --- |
| Project Manager | Bob Barson<br>Reviewer |
| Date: 01-Feb-08 | Date: 1Feb08 |