CESAJ-RD-NC
SAJ-2008-2645(IP-AWP)

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 project is located along Interstate 95 (I-95) between State Road (SR) 50 and SR 46, in Sections 13 and 24, Township 21 South, Range 34 East, and Sections 6,7,18,19,30, and 31, Township 21 South, Range 35 East, Brevard County, Florida. The project as proposed will impact unnamed wetlands hydrologically connected to the St. Johns River.

b. Existing Site Conditions: Existing land cover and vegetative communities were identified based on field reviews of the project corridor and aerial photography and classified using the Florida Land Use, Cover and Forms Classification System (FLUCFCS), 1999. The project corridor contains eleven (11) primary land use types consisting of Roads and Highways (FLUCFCS 814), Improved Pasture (FLUCFCS 211), Sand Pine (FLUCFCS 413), Sand Live Oak (FLUCFCS 432), Hardwood Conifer Mixed (FLUCFCS 434), Ditches (FLUCFCS 511), Mixed Wetland Hardwoods (FLUCFCS 617), Willow and Elderberry (FLUCFCS 618), Brazilian Pepper-dominated wetlands (FLUCFCS 619), Reservoirs (FLUCFCS 534), Shrub Wetlands (FLUCFCS 632), and Freshwater Marsh (FLUCFCS 641).

Many of the wetlands have been disturbed by the presence of the interstate systems and adjacent developments. Many of the wetlands proposed for impact are fragmented remnant systems which have reduced buffers and altered hydrology.

c. Project Description: The applicant proposes to widen approximately 7.4 miles of I-95 from four lanes to six lanes. All roadway widening will occur inside the existing right of

way. No wetland impacts are expected to occur within the existing travel lanes. However, impacts will occur as a result of shoulder improvements and storm water management improvements. The applicant proposes impacts to 3.62 acres of waters of the United States (wetlands) and 2.24 acres of surface waters due to the widening and construction of storm water management facilities.

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

3. Project Purpose:

Basic: Widening of an existing interstate system.

Overall: Widening of the existing interstate system including the associated stormwater management system in Brevard County, Florida.

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

5. Statutory Authority: 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 4-009-112019-1 was issued 9 December 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 will certify that the project is consistent with the CZM plan.

c. Other authorizations: N/A

7. Date of Public Notice and Summary of Comments:

a. Important dates: The Corps received the application on 9 July 2008. The Corps considered the application complete on 8 August 2008. The Corps issued a public notice on the same date and sent this notice to all interested parties including appropriate State and Federal agencies. Due to the length of the project and the large number of adjacent property owners the applicant published the public notice in the local news paper with the widest distribution on one week day and one weekend day.

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 22 August 2008, stating that 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 responded via letter dated 26 September 2008, stating that the

project 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: The Corps has reviewed and incorporated comments received in response to the public notice in this decision document.

8. Alternatives

a. Avoidance: The Florida Department of Transportation (FDOT) 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 widening to the inside of existing lanes was the best alternative based on the fact that no wetlands are located within the median. The no action alternative was evaluated, however; it was determined that it would not allow for roadway expansion which would lead to traffic delays, safety concerns, increased fuel usage, and ultimately a decrease in LOS. Impacts to wetlands from the selected alternative are due to entrance and exit ramp modifications for safety of operations and for stormwater management and treatment facilities.

b. Minimization: The applicant has minimized impacts to the greatest extent possible while still meeting the project purpose. As stated above, impacts to wetlands occur due to ramp modifications and stormwater management facilities. The applicant has completed a pond siting analysis to determine the best location for stormwater ponds while minimizing impacts to wetlands. It was determined that stormwater ponds were the

preferred treatment method over roadside swales due to safety concerns and long term function. Widening to the inside of the existing roadway has also minimized impacts to wetlands. The applicant has completed an Environmental Assessment as part of the Project Development and Environmental (PD&E) and determined the plans submitted are the least damaging alternative and include the most minimization of wetland impacts. The Corps generally concurs with these findings.

c. Project As Proposed: The project as proposed would result in direct impacts to 3.62 acres of jurisdictional wetlands and 2.24 acres of jurisdictional surface waters.

d. Conclusions of Alternatives Analysis: The applicant has completed a PD&E study and determined the proposed project will not have a significant impact on the human environment. The road system is considerably under sized for the existing traffic loads. 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 conducted a desktop Wetland Rapid Assessment Procedures (WRAP) and determined the project as proposed will generate 1.5 functional loss due to direct impacts. A total of 1.5 credits are required to fully off-set Corps jurisdictional wetland impacts. No mitigation is required to offset impacts to jurisdictional surface waters.

The mitigation for these projects was updated as part of the SJRWMD 2008 FDOT Mitigation Plan (pgs. 21-23). Previously approved mitigation planned for this mitigation group consists of a combination of preservation and habitat enhancement and purchase of mitigation bank credits. Up to 5.44 acres of impact may be offset by credit purchase at two credits per impact acre. The lowest price from either East Central Florida (South) Mitigation Bank, Colbert Cameron Mitigation Bank, TM Econ Bank or Farmton West Mitigation Bank will determine which bank is used. In the event that the SJRWMD is not able to obtain a cost-effective price for credits, the preservation and enhancement component of this mitigation group will be increased to provide mitigation for the impacts. The remaining impacts will be offset by preservation and enhancement of approximately 50 to 200 acres of preservation and enhancement as additions to existing conservation lands within the basin.

The compensatory mitigation provided by the applicant may exceed the amount of compensatory mitigation required by the Corps to off-set impacts to waters of the United States (wetlands) due to State of Florida's legislative control. The applicant will not be required to provide more mitigation than what is required to off-set impacts. Each of the federally approved mitigation banks referenced above has a service area that encompasses the project site and has federal credits for sale.

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 roadway 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 roadway 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 roadway will be widened to the inside of the existing travel lanes 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 to the inside of the existing travel lanes. Impacts associated with pond sites are not avoidable due to availability of land and surrounding development. 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 it has been determined that 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. The improvement of the existing stormwater management system will have a net benefit to fish and wildlife values. No adverse impacts are anticipated.

(8) Flood hazards: N/A.

(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. Pond sites will be acquired from the property owner. No adverse impacts are anticipated.

(11) Navigation: The proposed project does not cross navigable waters. No impacts are anticipated.

(12) Shore erosion and accretion: The proposed project will not have an adverse impact on shore erosion or accretion as it is not located in navigable waters. Stormwater treatment systems will reduce any potential impacts associated with sedimentation in drainage ditches.

(13) Recreation: The proposed project is located along the existing interstate; 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 proposed project is needed to address the increase in travel along I-95. This portion of I-95 in Florida has a very low level of service and is anticipated to reach a level of service "F" in the next 5 years. The proposed widening will provide for safer travel and improve the level of service along the roadway. No adverse impacts to safety are anticipated. The applicant will conduct improvements in accordance with federal and state safety guidelines.

(18) Food and fiber production: The widening of I-95 will allow for faster and safer movement of food and fiber products within the State of Florida.

(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 proposed 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 applicant has conducted endangered species surveys and did not observe the presence of federally endangered species within the project corridor.

The U.S. Army Corps of Engineers (Corps) has determined that the proposed project is within the Core Foraging Habitat of the endangered wood stork. The applicant has indicated the proposed project contains suitable habitat for the endangered Eastern Indigo snake. The Corps has determined that with the inclusion of the Eastern Indigo Snake Standard Protection Measures with any permit issued, the proposed project "may affect, not like to adversely affect" the eastern indigo snake. The Corps has also determined that with the inclusion of wetland compensation for the loss of wetland habitat the proposed project "may affect, not like to adversely affect" the wood stork. The Corps has determined the project will have no effect on Florida scrub jay.

The USFWS concurred with the Corps determinations via letter dated 18 November 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 roadway which is undersized for future roadway capacity. Mitigation provided by the applicant would provide long-term functional replacement; 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 use of compensatory mitigation within the same drainage basin will reduce overall cumulative wetland losses within the basin.

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.

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