



Florida Department of Environmental Protection

Southwest District Office
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

MAY 14 2009

ENVIRONMENTAL RESOURCE PERMIT

PERMITTEE/AUTHORIZED ENTITY:

U.S. Army Corps of Engineers
c/o Eric P. Summa, Chief of Environmental
Branch
P.O. Box 4970
Jacksonville, FL 33232

Manatee County, Florida
c/o Ed Hunzecker, County Administrator
415 10th Street West
Bradenton, FL 34205

Permit/Authorization Number:
41-0260401-001

Date of Issue: **MAY 14 2009**

Expiration Date of Construction Phase:

County: Manatee **MAY 14 2014**

Project: Wares Creek Flood Control

This project requires a Standard General Permit. The Department has the authority to issue this permit per the following references:

Part IV of Chapter 373, Florida Statutes (F.S.)
Chapter 62-330 and 62-343, Florida Administrative Code (F.A.C.)
Operating Agreements with the water management districts in Chapter 62-113, F.A.C.

This permit also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Management Act.

This permit also constitutes certification of compliance with water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

The Department acknowledges that flood control dredging falls within one of the federal powers listed in the Submerged Lands Act under 43 USC 1311(d) or 43 USC 1314, and, under those provisions, needs no authorization from the Board of Trustees to utilize sovereignty submerged lands. However, under the provisions of the Coastal Zone Management Act (16 USC 1451-1465) this activity requires Florida's concurrence with a determination of consistency with the sovereignty submerged lands provisions of Florida's approved Coastal Management program prior to Federal approval of the proposed activity. The State has determined that the activity is consistent with the sovereignty submerged lands provisions of Florida's approved Coastal Management program.

This permit/certification/authorization is subject to the limits, conditions, and locations of work shown in the attached drawings, and is also subject to the attached 12 Inter-agency Coordination Agreement General Conditions and 63 Specific Conditions, which are a binding part of this permit/certification/authorization. You are advised to read and understand these drawings and conditions prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also should read and understand these drawings and conditions prior to commencing the authorized activities. Failure to comply with all drawings and conditions shall constitute grounds for revocation of the permit and appropriate enforcement action.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and the general and specific conditions of this permit/certification/authorization, as specifically described below.

You are hereby advised that authorizations also may be required by other federal, state, and local entities. This authorization does not relieve you from the requirements to obtain all other required permits and authorizations.

SPGP REVIEW – NOT APPROVED

A copy of this authorization has also been sent to the U.S. Army Corps of Engineers (USACOE) for review. The USACOE may require a separate permit. Failure to obtain this authorization prior to construction could subject you to enforcement action by that agency. You are hereby advised that authorizations also may be required by other federal, state, and local entities. This authorization does not relieve you from the requirements to obtain all other required permits and authorizations.

Authority for review - an agreement with the U.S. Army Corps of Engineers entitled "Coordination Agreement between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection State Programmatic General Permit, Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.

ACTIVITY DESCRIPTION:

The proposed project is engineered to reduce flood stages for all flood events, with a bank-full capacity greater than the 5-year flood event for most of the project reach. The 10-year flood would cause some street flooding in the project area, and in the lowest lying areas, floodwaters would begin to encroach on some homes.

Proposed flood improvements include dredging of approximately 200,000 cubic yards of material. Between Manatee Avenue and the 7th/8th Avenue West Bridge, the creek shall be dredged to -5.40 feet NGVD. Between the 7th/8th Avenue West Bridge and the 9th Avenue West Bridge the creek shall be dredged to -3.2 feet NGVD. The above dredging includes the removal of the entire mangrove island between the 7th/8th Avenue West and 9th Avenue West

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bridges. All vegetation and dredged material from the creek shall be dewatered and transported to the Manatee County (hereafter County) landfill.

From the south side of the 9th Avenue West Bridge to the north side of the 17th Avenue West Bridge, the waterway's channel shall be cleared and snagged only.

The channel between the south side of the 17th Avenue West Bridge to the north side of the US Hwy 41/14th Street West Bridge shall be excavated where necessary to attain an elevation of -1.10 foot NGVD and a width between 26 and 28 feet.

The channel south of the US Hwy 41/14th Street West Bridge to the end of the construction limits at 44th Avenue West (Cortez Road West) shall be excavated where necessary to attain an elevation of +4.00 to +5.00 feet NGVD as shown on the attached drawings.

Upland excavation within the creek widening areas shall cumulatively generate approximately 75,000 cubic yards of material that shall be disposed of in the County landfill.

The contractor may elect to protect specifically selected native trees with a diameter of 8 inches or greater, that will not significantly impact channel hydraulics during high water events, along the channel slopes which are not being reworked, however, they are not required to do so under this authorization.

Steel sheetpile walls shall be constructed on the west side of the channel at 22nd Avenue West (370 linear foot section) and 25th Avenue West (1,400 linear foot section). Approximately 400 feet south of 27th Avenue West, a 1,400 linear foot section of sheetpile wall is to be constructed on the west side of the channel. Approximately 320 feet north of the 30th Avenue West Bridge, a 700 linear foot section of sheetpile wall will be constructed.

Pedestrian footbridges may be replaced where necessary by the County, and guardrails erected in certain areas to maximize the public's safety. Slopes on either side of bridges shall be armored with approximately 80-100 feet of stone rip-rap, at slopes of 1-foot vertical to 1.5-feet horizontal. Existing stormwater pipes discharging into the channel that are impacted by construction shall be modified and new outfall structures shall be constructed. Pipes between 8 inches and 8 feet in diameter shall be grated to prevent entrapment of manatees.

Proper authorizations shall be obtained by the permittee or designated contractor prior to the replacement or relocation of any utility crossings that are required to be modified as a result of this permitted activity.

Temporary construction staging areas shall be stationed at 3 locations; south of the 17th Avenue West bridge, on the east side of the channel, immediately south of the US 41-14th Street West bridge, on the east side of the channel, and approximately 1,100 feet south of the US 41-14th Street West bridge, on the west side of the channel.

Manatee County (County) shall mitigate for the environmental impacts of the project, primarily associated with the removal of the mangrove island (FLUCCS 612), located between 7th/8th Avenue West and 9th Avenue West bridges, mitigation shall occur within the Emerson Point Park on Snead Island, located adjacent to Tampa Bay and the Manatee River, north of Bradenton. Mitigation shall consist of the enhancement of 1.63 acres (FLUCCS 612 and FLUCCS 642) by removing exotics species, and the restoration / recontouring of 0.87 acres of the 1.63 acre restoration area to restore the hydrology to a 2.5 acre system and replant with beneficial native species.

In addition, slope stabilization shall be accomplished with the installation of native sod, salt-joint grass (*Paspalum distichum*) and the removal and disposal of nuisance/exotic vegetation including Australian pine, Brazilian pepper, and carrotwood shall be conducted to minimize re-infestation along the length of the project adjacent to Wares Creek.

ACTIVITY LOCATION:

The project is located between the Manatee River and Cortez Road within Wares Creek, a Class III Florida Waterbody, Sections 26 and 27, Township 34 South, Range 17 East, and Sections 2, 34, and 35, Township 35 South, Range 17 East, Manatee County.

INTERAGENCY COOPERATION AGREEMENT (ICA) GENERAL CONDITIONS:

1. This permit, including its general and specific conditions, must be construed in light of the February 28, 2006 Interagency Cooperative Agreement for Civil Works Projects (ICA) between the Department and the Corps. As recognized in the ICA, the Department has the authority to include reasonable conditions in this permit. All of the conditions in this permit, both general and specific, are enforceable to the extent sovereign immunity has been waived under 33 U.S.C. §§ 1323 and 1344(t). The ICA is incorporated herein by reference.
2. All activities approved shall be implemented as set forth in the drawings incorporated by reference and in compliance with the conditions and requirements of this document. The Corps shall notify the Department in writing of any anticipated changes in:
 - a) operational plans;
 - b) project dimensions, size or location;
 - c) ability to adhere to permit conditions;
 - d) project description included in the permit;
 - e) monitoring plans.

If the Department determines that a modification to the permit is required then the Corps shall apply for and obtain the modification. Department approval of the modification shall be obtained prior to implementing the change, unless the change is

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determined by the Department to reduce the scope of work from that authorized under the original permit, and will not effect compliance with permit conditions or monitoring requirements.

3. If, for any reason, the Corps does not comply with any condition or limitation specified herein, the Corps shall immediately provide the Department with a written report containing the following information:
 - a) a description of and cause of noncompliance;
 - b) the period of noncompliance, including dates and times;
 - c) impacts resulting or likely to result from the non-compliance;
 - d) steps being taken to correct the non-compliance; and
 - e) the steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

Compliance with the provisions of this condition shall not preclude the Department from taking any enforcement action allowed under state law with respect to any non-compliance.

4. The Corps shall obtain any applicable licenses, permits, or other authorizations which may be required by federal, state, local or special district laws and regulations. Nothing herein constitutes a waiver or approval of other Department permits or authorizations that may be required for other aspects of the total project.
5. Nothing herein conveys to the Corps or creates in the Corps any property right, any interest in real property, any title to land or water, constitutes State recognition or acknowledgment of title, or constitutes authority for the use of Florida's sovereign submerged lands seaward of the mean high-water line or an established erosion control line, unless herein provided, and the necessary title, lease, easement, or other form of consent authorizing the proposed use has been obtained from the State.
6. Any delineation of the extent of a wetland or other surface water submitted as part of the application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this authorization or a formal determination under section 373.421(2), F.S., provides otherwise.
7. Nothing herein authorizes any entrance upon or activities on property which is not owned or controlled by the Corps or (local sponsor), or conveys any vested rights or any exclusive privileges.
8. This document or a copy thereof, complete with all conditions, attachments, modifications, and time extensions shall be kept at the work site of the authorized activity. The Corps shall require the contractor to review this document prior to commencement of the authorized activity.

9. The Corps specifically agrees to allow Department personnel with proper identification, at reasonable times and in compliance with Corps specified safety standards access to the premises where the authorized activity is located or conducted for the purpose of ascertaining compliance with the terms of this document and with the rules of the Department and to have access to and copy any records that must be kept; to inspect the facility, equipment, practices, or operations regulated or required; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance. Reasonable time may depend on the nature of the concern being investigated.
10. At least forty-eight (48) hours prior to the commencement of authorized activity, the Corps shall submit to the Department a written notice of commencement of activities indicating the anticipated start date and the anticipated completion date.
11. If historic or archaeological artifacts such as, but not limited to, Indian canoes, arrow heads, pottery or physical remains, are discovered at any time on the project site, the Corps shall immediately stop all activities in the immediate area which disturb the soil and notify the Department and the State Historic Preservation Officer. In the event that unmarked human remains are encountered during permitted activities, all work shall stop in the immediate area and the proper authorities notified in accordance with Section 872.05, Florida Statutes.
12. Within a reasonable time after completion of construction activities authorized by this permit, the Corps shall submit to the Department a written statement of completion. This statement shall notify the Department that the work has been completed as authorized and shall include a description of the actual work completed. The Department shall be provided, if requested, a copy of any as-built drawings required of the contractor or survey performed by the Corps.

SPECIFIC CONDITIONS:

The following conditions (1-18) contained in this section of the permit shall be met by both the United States Army Corps of Engineers (USACOE) and the local sponsor, the County as co-permittees for their respective construction obligations as indicated below (activities permitted pursuant to conditions 19-48 in the case of USACOE, and activities permitted pursuant to conditions 49-63 in the case of the County), and neither the USACOE nor the County shall be responsible for meeting such conditions for work undertaken by the other pursuant to this Permit.

1. The permittees, United States Army Corps of Engineers (USACOE) and the County, shall notify the Department in writing at least 48 hours prior to commencing the work authorized in this permit (see ICA General Condition #10).

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2. Submittals required herein shall be directed to:

Department of Environmental Protection
Environmental Administrator
Environmental Resource Management Program
Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926

hereafter referred to as "the Department". Submittals include, but are not limited to, record drawings, progress reports, mitigation monitoring reports and water quality monitoring reports. Submittals shall include the permittee's name and permit number.

3. The permittees (USACOE and the County as the case may be applicable) shall be aware of and operate under #1 through #12 of the aforementioned "Interagency Cooperation Agreement General Conditions for Environmental Standard General and Individual Permits". General Permit Conditions are binding upon the permittee and enforceable pursuant to Chapter 403 of the Florida Statutes.
4. The permittees (USACOE and the County) are hereby advised that Florida law states: "No person shall commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund or the Department of Environmental Protection under Chapter 253, until such person has received from the Board of Trustees of the Internal Improvement Trust Fund the required lease, license, easement, or other form of consent authorizing the proposed use." Pursuant to Rule 18-14.002(1), Florida Administrative Code, if such work is done without consent, or if a person otherwise damages state land or products of state land, the Board of Trustees may levy administrative fines of up to \$10,000 per offense.
5. The work authorized by this permit shall not be conducted on any property, other than that owned by a permittee, without the prior written approval of that property owner. Documentation of ownership or control of all properties proposed to be utilized during the permitted activities must be provided to the Department prior to construction commencement.
6. Subsequent to the selection of the contractor to perform the authorized activity and prior to the initiation of work authorized by this permit, the permittees, (USACOE and the County) and the contractor, shall attend a pre-construction conference with a representative of the Department's Submerged Lands and Environmental Resources staff. The permittee shall notify the Department in writing subsequent to contractor selection to request scheduling of the subject conference.

7. Progress reports for the project shall be submitted to the Department beginning July 1, 2009, and shall continue to be submitted quarterly until construction of the permitted project and mitigation creation is completed. The cover page shall indicate the permit number, project name and the permittee name. Progress reports must be submitted to the Department if there is no ongoing construction. Reports shall include the current project status and the construction schedule for the following three or six months. The USACOE and County shall each provide progress reports for the portions of the project that they are responsible for. Each report shall include the following information for both the work performed by the USACOE and work performed by the County as the local sponsor:
 - a. Date permitted activity was begun; if work has not begun on-site, please indicate.
 - b. Brief description and extent of the work (i.e., dredge, construction, dewatering, mangrove creation areas, monitoring) completed since the previous report or since the permit was issued. Show on copies of the permit drawings those areas where work has been completed.
 - c. Brief description and extent of the work (i.e. dredge, construction, dewatering, mangrove creation areas, monitoring, mitigation) anticipated in the next three months. Indicate on copies of the permit drawings those areas where it is anticipated that work will be done.
 - d. The progress of the permitted mangrove creation areas. The reports shall include; photographs taken from the permanent stations, some of which must be in the vegetation sampling areas, a description of problems encountered and solutions undertaken, and anticipated work for the next three months.
 - e. This report shall include on the first page, just below the title, the certification of the following statement by the individual who supervised preparation of the report: "This report represents a true and accurate description of the activities conducted during the three month period covered by this report."
8. Storage or stockpiling of tools, materials (i.e., lumber, pilings, debris.) within wetlands, along the shoreline, within the littoral zone, or elsewhere within wetlands or other surface waters is prohibited.

EROSION AND SEDIMENT CONTROL CONDITIONS:

9. Best management practices for erosion control shall be implemented prior to construction commencement and shall be maintained at all times during construction to prevent siltation and turbid discharges in excess of State water quality standards pursuant to Rule 62-302, F.A.C. Methods shall include, but are not limited to the use of staked hay bales, staked filter cloth, sodding, seeding, staged construction and the

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installation of turbidity screens around the immediate project site. Best Management practices shall be maintained until construction is completed, disturbed areas are stabilized, and turbidity levels have fallen to less than ambient background. The turbidity and erosion control devices shall be removed within 14 days once these conditions are met.

10. The permittee shall be responsible for inspecting and maintaining turbidity control devices so no degradation of State water quality standards occurs pursuant to Rule 62-302, F.A.C. outside of the turbidity screens occurs. Turbidity shall be monitored as described in the monitoring portion of this permit.

FFWCC CONDITIONS:

The permittees, USACOE and the County, shall comply with the following conditions intended to protect manatees from direct project effects:

11. 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.
12. 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.
13. 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.
14. 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.
15. 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.

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16. 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 8 1/2" 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.
17. The permittee shall ensure the contractor maintains a log detailing sightings, collisions, or injuries to manatees if they occur during the contract period. Within 30 days following project completion, a report summarizing incidents and sightings shall be submitted to the Florida Fish and Wildlife Conservation Commission, Imperiled Species Management Section at: 620 South Meridian Street, 6A, Tallahassee, Florida 32399-1600
18. At least one person shall be designated as a manatee observer when in-water work is being performed. The person shall have experience in manatee observation, and have polarized sunglasses to aid in observation. The manatee observer shall be on site during in-water construction activities and will advise personnel to cease operation upon sighting a manatee within 50 feet. Movement of a work barge, other associated vessels, or in-water work should not be performed at night when the possibility of spotting manatees is negligible.

UNITED STATES ARMY CORPS OF ENGINEERS CONDITIONS:

The United States Army Corps of Engineers is responsible for the following conditions (numbered 19-48), contained in this section of the permit. The County as a co-permittee is not responsible or liable for any of the conditions contained in this section, and not considered a responsible party for purposes of enforcing the conditions in this permit with respect to activities permitted under this section. The Actions of the United States Army Corps of Engineers in implementing the flood damage project, and any recourse the Department may have regarding the implementation of the flood damage project, shall be solely against the United States Army Corps of Engineers (USACOE) and shall be consistent with the Section IX. (Compliance and Enforcement) of the February 28, 2006 Interagency Coordination Agreement (attached) between the Florida Department of Environmental Protection and the United States Army Corps of Engineers, Jacksonville and Mobile Districts.

19. The United States Army Corps of Engineers (USACOE) shall submit two copies of signed, as-built drawings to the Department for review for compliance with the permit conditions within a reasonable time of completion of construction. The as-built drawings shall be based on the Department permitted construction drawings, which should be revised to reflect changes made during construction. Both the

original design and constructed elevation must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. Surveyed dimensions and elevations required shall be verified and signed, by a surveyor or engineer registered in any state. *As-builts shall be submitted to the Department regardless of whether or not deviations are present. In addition to the "As-built Certification" for.*

<u>Plan View/Cross-Section</u>	<u>Page Number</u>
Dredge Plan and Section	CN 101
Dredge Plan and Section	CN 102
Dredge Plan and Dewatering Site	CN 103
Dredge Plan and Section	CN 104
Dredge Plan to 9 th Ave. W. and Clearing and Snagging Plan	CN 105
Clearing and Snagging	CN 106
Clearing and Snagging	CN 107
Channel Widening	CN 108
Seawall Widening	CN 109
Seawall Widening	CN 110
Seawall Widening	CN 111
Channel Widening	CN 112
Channel Widening	CN 113
Channel Widening	CN 114
Channel Widening	CN 115
Seawall Typical	CN 116
Channel and Seawall Widening Sections	CN 120

TURBIDITY MONITORING CONDITIONS:

20. The USACOE shall monitor for turbidity in accordance with Attachment E, "Turbidity and Disposal Monitoring Plan" and specific conditions 21 through 25 of the specific conditions included in this permit.
21. The turbidity monitoring plan submitted by the USACOE shall include (at a minimum) the method of dredging, location and type of turbidity control devices, the location and duration of the mixing zone, the location of each turbidity sampling site, and methods of sampling.
22. Monitoring for turbidity shall be conducted by the USACOE or its designee for the duration of the project at 4 hour intervals during construction hours until the dredging project is completed. Sampling shall commence prior to, but no more than 24 hours before initiation of any dredging activities.
23. The USACOE shall comply with the following QA/QC requirements for each sample collected:

- a. Turbidity analysis shall be performed on instruments that produce results in Nephelometric measurements.
 - b. The instrument shall be calibrated each morning and each time the instrument is turned on, and recalibrated every four hours thereafter.
 - c. Calibrations shall be performed against a blank, and at least one formazin or gel-type standard. The standard value should be in the same range as the sample readings.
 - d. Calibration procedures shall be recorded in a permanent logbook, and copies must be submitted with the data.
24. Turbidity monitoring reports shall be submitted to the Department each Monday following project commencement; reports shall include the permittee name and permit number. When submitting this information to the Department, please include, at the top of each page or as a cover page to the submittal: "This information being provided in partial fulfillment of the monitoring requirements in Permit No. 41-0260401-001." Failure to submit reports in a timely manner constitutes a violation of the permit and may be grounds for revocation.

Monitoring data shall contain the following information:

- a. Permit number;
- b. Dates of sampling and analysis;
- c. A statement describing the methods used in collection and analysis of the samples;
- d. A map showing the sampling locations, along with indicating the latitude and longitude;
- e. Copies of the Quality Assurance/Quality Control log; and
- f. A statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision and accuracy of the data;

Monitoring reports shall also include the following information for each sample that is taken:

- a. Time of day samples taken;

- b. Depth of water body;
- c. Depth of sample;
- d. Tidal stage and direction of flow; and
- e. Antecedent weather conditions, including wind direction and velocity.

The compliance locations shall be considered the limits of the temporary mixing zone for turbidity allowed during construction.

25. If monitoring reveals turbidity levels outside the mixing zone exceed 29 NTU's, the permittee shall take the following measures:
- a. Immediately cease all work contributing to the water quality violation. Work which may contribute to the violation shall not resume until corrective measures have been taken and turbidity levels have returned to acceptable levels; and
 - b. Stabilize exposed soils contributing to the violation. Modify work procedures responsible for the violation, install additional turbidity containment devices, repair non-functioning turbidity containment devices; and
 - c. Increase monitoring frequency to every 2 hours until turbidity levels no longer exceed 29 NTU's. Interim samples collected following the violation(s) shall be collected in the same manner and locations as the routine monitoring. Operations may not resume until the water quality standard for turbidity no longer exceeds the ambient water quality of the Outstanding Florida Waterbody.
 - d. The violation(s) shall be immediately reported to the Department. The report shall include the description of the corrective actions being taken or proposed to be taken. The report shall be made to the Department as soon as normal business hours resume if violation(s) are noted after normal business hours, on holidays, or on weekends. A copy of the monitoring data sheets, which indicate violation(s), shall be forwarded immediately to the Department.

Failure to report violation(s) or to follow correct procedures before resuming work shall constitute grounds for permit revocation and may subject the permittee to formal enforcement action.

MIXING ZONE CONDITIONS:

26. If a hydraulic dredge is utilized a mixing zone shall be granted for a distance no further than 150 meters downstream from the return flow discharge.

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27. If a mechanical dredge is utilized a mixing zone shall be granted for a distance no further than 150 meters downstream from the dredge activity.
28. The mixing zone is granted exclusively for the duration of the construction activities.

DREDGING CONDITIONS:

29. Areas to be dredged shall be in accordance with the attached permit drawings and shall not exceed the areas and depths indicated on the permit drawings, Sheet CN 109 through Sheet CN 115. If any structures are proposed to be removed that are not owned by the permittee or local sponsor, the permittee shall obtain authorization from the owner prior to the removal of the structure. If the limits of the proposed project deviate from the attached permit drawings in order to avoid existing structures the revisions shall be reflected in the as-built drawings.
30. The USACOE shall provide to the Department a copy of the drawings, which show the locations of the proposed pipeline corridors, as required in Attachment D (for any areas proposed to be hydraulically dredged), at least 60 days prior to dredging. The pipeline shall be a floating pipeline if the dredge pipeline is proposed to cross over seagrass beds. Areas impacted by the installation of the pipeline shall be restored to the pre-construction condition within 30 days of completion of construction.
31. All material dredged, excavated, or removed as a result of the authorized activities shall be deposited in the County landfill for final disposal within 30 days of completion of construction. All other proposed alternative disposal locations are not part of this permit and shall be coordinated with the Department for determination of the need for possible permit modifications.

CLEARING AND SNAGGING CONDITIONS:

32. All clearing and snagging shall be conducted by hand as described in the clearing and snagging notes, included on Sheet 107 of the attached project drawings. The permittee may elect to protect native trees with an 8 inch diameter or greater, however, the permittee is not required to do so as a condition of this permit.
33. All material removed during the clearing and snagging activities shall be transported and deposited at the County landfill within 30 days of completion of clearing and snagging activities.
34. Exposed slopes within the clearing and snagging and channel and seawall widening portions of the flood control project, shown on sheets CN 105- CN 115, shall be stabilized through the installation of native sod, salt-joint grass (*Paspalum distichum*).

CREEK WIDENING CONDITIONS:

35. All construction activities within areas labeled as channel widening and seawall widening on sheets CN 108- CN 115 of the attached project drawings, shall be conducted from adjacent uplands.
36. The USACOE or designated contractor must obtain or assure that appropriate authorizations have been received from the Department and all other federal, state, and local (not obtained by County) authorizations for the relocation of utilities necessary for the construction of this activity. Prior to commencement of the channel widening and seawall widening activities the permittee must provide copies of Department authorizations if any were required.

RIPRAP CONDITIONS:

37. Riprap shall be installed at the locations shown on sheets CN 105, and sheets CN 109- 115, of the attached project drawings.

STAGING AREA CONDITIONS:

38. The USACOE shall provide the Department with a detailed staging area construction plan in accordance with "Attachment D" for each staging area 60 days prior to utilization of any construction staging area.
39. The USACOE shall submit as-built drawings of the staging area construction plans, in accordance with "Attachment D," 14 days prior to utilization of the site(s). Drawings submitted shall include all information required in "Attachment D" of this permit and shall be signed by a professional engineer registered in any state.
40. The staging areas shall be restored to pre-construction conditions within 60 days of the completion of construction activities. The USACOE shall submit as-built drawings of the restoration for Department review within 60 days of construction completion per the requirement of specific condition no. 19.

TEMPORARY DISPOSAL/ DEWATERING SITE CONDITIONS:

41. The temporary disposal/dewatering area shall be constructed as outlined in the Dewatering Site Specs (2 pages) attached hereto and incorporated herein as "Attachment D".
42. The USACOE shall submit as-built drawings of the construction plans in accordance with "Attachment D," 14 days prior to the placement of any spoil material at the temporary disposal/ dewatering site. Drawings submitted shall include all

information required in "Attachment D" of this permit and shall be signed by a professional engineer registered in any state.

43. The authorized spoil dewatering/disposal area shall be restored to pre-construction conditions within 60 days of the completion of dredge/dewatering activities. The permittee shall submit as-built drawings for Department review within 60 days of restoration.

DEWATERING/ POLYMER CONDITIONS:

44. The following information must be submitted by the USACOE or designated contractor and received by the Department at least 30 days prior to initiation of a discharge from a treatment system utilizing polymer / flocculant, if required for project.
 - a. Name and MSDS for polymer / flocculant that will be used
 - b. Description / schematic of treatment system including maximum dosage rates
 - c. Description of control measures in place to ensure residual polymer is not being discharged. This should include descriptions of any testing methods in place to measure residual polymer and the frequency that these measurements will be conducted.
 - d. Acute and chronic toxicity test results following methods described below. In order for a polymer to be utilized in this treatment system, the conducted tests must result in an $LC_{50} > 100\%$ for acute testing and an $NOEC = 100\%$ for chronic testing.
45. If the USACOE and/or designated contractor changes to a chemically different polymer / flocculant or adds an additional polymer / flocculant during the project, all of the above information must be re-submitted to the Department for the new / added polymer / flocculant at least 14 days prior to addition to the treatment system.

ACUTE ELUTRIATE TOXICITY TESTING:

46. The USACOE and designated contractor shall comply with the elutriate toxicity testing requirements provided in Attachment "A" and initiate the series of tests described within to evaluate acute toxicity of elutriate discharge from dredged material dewatering operations using polymers or other flocculants. These tests shall be completed and the results submitted to and received by the Department at least 30 days prior to discharge to surface waters.

CHRONIC ELUTRIATE EFFLUENT TOXICITY TESTING:

- 47. The USACOE and designated contractor shall comply with the chronic elutriate toxicity testing requirements provided in Attachment "B" and initiate the series of tests described within to evaluate chronic toxicity of elutriate discharge from dredged material dewatering operations using polymers or other flocculants. These tests shall be completed and the results submitted to and received by the Department at least 30 days prior to discharge to surface waters.

ON-GOING MONITORING REQUIREMENTS:

- 48. The USACOE and designated contractor shall provide the Department the information included in Attachment "C" in order to evaluate the on-going operation of the dredge / dewatering system over the period of operation. The on-going monitoring shall be submitted to the Department in a monthly report.

MANATEE COUNTY CONSTRUCTION CONDITIONS:

The County is responsible for the following conditions (numbered 49- 63), contained in this section of the permit. The United States Army Corps of Engineers as a co-permittee is not responsible nor liable for any of the conditions contained in this section, and shall not be considered a responsible party for purposes of enforcing the conditions of this permit with respect to the activities permitted under this section.

- 49. The County shall submit two copies of signed and sealed, as-built drawings of pedestrian crossings to the Department for review for compliance with the permit conditions within a reasonable time of completion of construction. The as-built drawings shall be based on the Department permitted construction drawings, which should be revised to reflect changes made during construction. Both the original design and constructed elevation must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. Surveyed dimensions and elevations required shall be verified, signed, and sealed, by a surveyor or engineer registered in the State of Florida. *As-builts shall be submitted to the Department regardless of whether or not deviations are present. In addition to the "As-built Certification" form.*

<u>Plan View/Cross-Section</u>	<u>Drawing Number</u>
Pedestrian Bridge Plan and Profile	CN 117
Pedestrian Bridge Plan and Profile	CN 118
Pedestrian Bridge Plan and Profile	CN 119

PEDESTRIAN CROSSING CONDITIONS:

- 50. Pedestrian crossings that must be removed as a result of creek widening activities shall be replaced and constructed substantially in accordance with Sheets CN 117, 118 and 119 of the attached project drawings. Any deviations from the attached permit drawings must be documented in the as-builts required in specific condition 49.

FFWCC CONDITIONS:

- 51. To reduce the risk of entrapment and drowning of manatees, during construction grating shall be installed over existing outfall pipes greater than 8 inches, but smaller than 8 feet in diameter. Bars or grates no more than 8 inches apart shall be placed on the accessible end(s) to restrict manatee access. The installation of grates applies to submerged or partially submerged pipes and culverts reasonably accessible to manatees.

MITIGATION CONDITIONS:

- 52. The County shall submit two copies of signed and sealed, as-built drawings of the mitigation activities to the Department for review for compliance with the permit conditions within a reasonable time of completion of construction. The as-built drawings shall be based on the Department permitted construction drawings, which should be revised to reflect changes made during construction. Both the original design and constructed elevation must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. Surveyed dimensions and elevations required shall be verified, signed, and sealed, by a surveyor or engineer registered in the State of Florida. *As-builts shall be submitted to the Department regardless of whether or not deviations are present. In addition to the "As-built Certification" form.*

The following information shall be verified on the as-built drawings from the engineering drawings signed and sealed by Steve Shoyer, P.E., #32052, on July 28, 2008:

<u>Plan View/Cross-Section</u>	<u>Drawing Number</u>
Aerial	001
Mitigation Plan	002
Best Management Practices (Mitigation)	003
Grading Sections (Mitigation)	004
Planting Details and Sections (Mitigation)	005
Site Details (Mitigation)	006

- 53. Mitigation shall be implemented as show on sheets 001-006 of the attached mitigation drawings, and shall consist of the enhancement of 1.63 acres (FLUCCS 612 and

FLUCCS 642) and the restoration / recontouring of 0.87 acres within the 1.63 acre restoration area. Exotic species shall be removed from the 1.63 acre enhancement area. The 0.87 acre area, located within the enhancement area, shall be recontoured to restore the hydrology of 2.5 acre system and shall be replanted with beneficial native species.

54. Earthwork associated with the construction of the mitigation areas required by the permit shall be initiated concurrent with and completed prior to the completion of all permitted wetland encroachment. The earthwork shall be completed within 90 days of commencement of mitigation construction.
55. The County shall submit a certified as-built survey of the mitigation area(s) to the Department within 2 weeks of achieving final grades and prior to planting. The Department will notify the permittee to proceed with planting if it is in compliance. Planting shall commence within 10 days upon Department's notification. The survey shall include the following for each mitigation area:
 - a. Surface area (total square footage or acreage).
 - b. Locations and elevations for each permanent benchmark.
 - c. Topographic survey on one-foot vertical intervals based on a 50 ft. grid
56. Planting of the mitigation area shall be completed by the County within 90 days of receipt of approval of the land survey required in specific condition 55.
57. The Department's approval of the mitigation plan pursuant to this permit does not constitute a finding by the Department the mitigation will meet the required success criteria. The County acknowledges its obligation to meet the intent of the permit regarding the mitigation objective until the mitigation is determined by the Department to be successful. Any recourse the Department may have regarding the implementation of mitigation shall be solely against Manatee County.
58. A "Time Zero" Monitoring Report shall be submitted by the County within 30 days of completion of planting of the mitigation area(s) and shall include the following:
 - a. Date the planting was completed;
 - b. Color photographs to provide an accurate representation of each mitigation area. The photographs shall be taken from fixed reference points and directions which are shown on a scaled plan view, and
 - c. A table depicting numbers, spacing, and sizes (including tree height) of each species planted.

59. Subsequent Mitigation Monitoring Reports shall be submitted to the District office for a minimum of five years; bi-annually for the first year, and annually for years 2, 3, 4, and 5. These monitoring reports shall include the following for each mitigation area: (Data shall be submitted in tabular form; subsample number and size shall be determined by a statistically valid method referenced in the Bibliography section of this permit).
- a. Color photographic prints taken from the reference points established in the Time Zero Monitoring Report.
 - b. Detailed description of statistical methods used which must include the following:
 - i. Subsample method and map of sampling locations.
 - ii. Method used to determine percent cover and growth.
 - iii. Statistical analyses used.
 - c. Total percent cover by planted and naturally recruited herbaceous species.
 - d. Total percent cover of planted and naturally recruited mangrove species.
 - e. Plant species composition with estimates of the contribution of each species to percent cover.
 - f. Plan view depicting the locations of specimens replanted, if necessary. (Indicate numbers of each species replanted).
 - g. Growth data for tree species. Data shall include measurements of height, diameter, at breast height (dbh) and mean annual growth rate to date.
60. The County shall meet the following mitigation success criteria:
- a. Planted herbaceous and naturally recruited species have achieved a minimum 85% cover.
 - b. Planted tree species have achieved a minimum 80% survival, and exhibit vigorous growth characteristics consistent with the species.
 - c. Total contribution to percent cover by non-native wetland species and species not listed in 62-340.450, F.A.C. shall be maintained below 5%.

- e. The mitigation area has been inspected by Department personnel and it has been determined to be within the landward extent of surface waters and wetlands of the State pursuant to 62-340 F.A.C.
 - f. The mitigation shall be deemed successful when the above criteria has been continuously met for a period of at least one (1) year, without intervention in the form of irrigation, removal of undesirable vegetation, or replanting of desirable vegetation.
- 61. The responsibility to assess if the mitigation is meeting the permit-specified success criteria shall not fall solely on the Department. In the event the County becomes aware mitigation is not meeting the success criteria (based on either site observations or review of monitoring reports), Manatee County no later than 6 months before the permit construction phase expiration date, shall be responsible to submit an alternative mitigation plan to the Department for review and approval.
 - 62. The County shall implement the alternative restoration plan no later than 60 days after receiving Department approval.
 - 63. Failure of the Department to notify the County of mitigation failure does not prevent the Department from requiring Manatee County to meet mitigation success criteria as defined in permit specific condition No. 60.

END OF SPECIFIC CONDITIONS

RIGHTS OF AFFECTED PARTIES

This permit is (are) hereby granted. This action is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under sections 120.569 and 120.57 of the Florida Statutes as provided below. If a sufficient petition for an administrative hearing is timely filed, this action automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because an administrative hearing may result in the reversal or substantial modification of this action, the applicant is advised not to commence construction or other activities until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time have expired.

Mediation is not available.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received

by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Under rule 62-110.106(4) of the Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

In accordance with rule 62-110.106(3), Florida Administrative Code, petitions for an administrative hearing by the applicant must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. Under section 120.60(3) of the Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an

- explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
 - (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
 - (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
 - (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; and
 - (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301.

Under sections 120.569(2)(c) and (d) of the Florida Statutes, a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This permit constitutes an order of the Department. Subject to the provisions of paragraph 120.68(7)(a) of the Florida Statutes, which may require a remand for an administrative hearing, the applicant has the right to seek judicial review of the order under section 120.68 of the Florida Statutes, by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the order is filed with the Clerk of the Department. The applicant, or any party within the meaning of section 373.114(1)(a) or 373.4275 of the Florida Statutes, may also seek appellate review of the order before the Land and Water Adjudicatory Commission under section 373.114(1) or 373.4275 of the Florida Statutes. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the order is filed with the Clerk of the Department.

Executed in Temple Terrace, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

for William J. Vostedt
Deborah A. Getzoff
District Director
Southwest District

DAG/(am)

Copies furnished to:

DEP, Office of General Counsel

U.S. Army Corps of Engineers

The Honorable Joe McClash, P.O. Box 1000, Bradenton, FL 34206-1000

Bradenton City Hall, ATTN: Councilman Patrick Roff, 101 Old Main St., Bradenton, FL 34205

William Clague, Assistant County Attorney, P. O. Box 1000, Bradenton, FL 34206

Marilyn Stasica, 1131 Palma Sola Blvd., Palma Sola, FL 34209

File

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this permit and authorization to use sovereign submerged lands, including all copies, were mailed before the close of business on 5/14, 2009, to the above listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, under 120.52(7) of the Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

E Robinson 5/14/09
Clerk Date

Permittee: U.S. Army Corps of Engineers and Manatee County/ Wares Creek Flood Control

File No: 41-0260401-001

Page 24 of 25

Attachments:

Project Drawings, 27 pages

Project Location Map

Interagency Coordination Agreement, 26 pages

Attachment A, 2 pages

Attachment B, 2 pages

Attachment C, 3 pages

Attachment D, Dewatering Site Condition Specs, 2 pages

Commencement notice/ 62-343.900(3)

Annual status report/62-343.900(4)

As-built certification/62-343.900(5)

Inspection certification/62-343.900(6)

Application for transfer of an ERP permit/62-343.900(8)

ENVIRONMENTAL RESOURCE PERMIT Construction Commencement Notice

Project:

Phase:

I hereby notify the Department of Environmental Protection that the construction of the surface water management system authorized by Environmental Resource Permit Number _____ has commenced / is expected to commence on _____ and will require a duration of approximately _____ months _____ weeks _____ days to complete. It is understood that should the construction term extend beyond one year, I am obligated to submit the Annual Status Report for surface Water Management System Construction.

PLEASE NOTE: If the actual construction commencement date is not known, Department staff should be so notified in writing in order to satisfy permit conditions.

Permittee or Authorized Agent

Title and Company

Date

Phone

Address

Environmental Resource Permit Annual Status Report

Florida Department of Environmental Protection

PERMIT NUMBER:

COUNTY:

PROJECT NAME:

PHASE:

The following activity has occurred at the above referenced poroject during the past year, between June 1, and May 30,

<u>Permit Condition/Activity</u>	<u>% of Completion</u>	<u>Date of Anticipated Completion</u>	<u>Date of Completion</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(Use Additional Sheets As Necessary)

Benchmark Description (one per major control structure): _____

Print Name

Phone

Permittee's or Authorized Agent's Signature

Title and Company

Date

This form shall be submitted to the above referenced Department Office during June of each year for activities whose duration of construction exceeds one year.

ENVIRONMENTAL RESOURCE PERMIT
AS-BUILT CERTIFICATION BY A REGISTERED PROFESSIONAL

Permit Number:

Project Name:

I hereby certify that all components of this surface water management system have been built substantially in accordance with the approved plans and specifications and are ready for inspection. Any substantial deviations (noted below) from the approved plans and specifications will not prevent the system from functioning as designed when properly maintained and operated. These determinations are based upon on-site observation of the system conducted by me or by my designee under my direct supervision and/or my review of as-built plans certified by a registered professional or Land Surveyor licensed in the State of Florida.

Name (please print)

Signature of Professional

Company Name

Florida Registration Number

Company Address

Date

City, State, Zip Code

Telephone Number

(Affix Seal)

Substantial deviations from the approved plans and specifications:

(Note: attach two copies of as-built plans when there are substantial deviations)

Within 30 days of completion of the system, submit two copies of the form to:

ENVIRONMENTAL RESOURCE PERMIT INSPECTION CERTIFICATION

Permit Number:

Project Number:

Inspection Date(s):

Inspection results: (check one)

I hereby certify that I or my designee under my direct supervision have inspected the system at the above referenced project and that the system appears to be functioning in accordance with the requirements of the permit and Chapter 373 F.S. (as applicable).

The following necessary maintenance was conducted:

I hereby certify that I or my designee under my direct supervision has inspected the system at the above referenced project and that the system does not appear to be functioning in accordance with the requirements of the permit and Chapter 373 F.S. (as applicable). I have informed the operation and maintenance entity of the following: (a) that the system does not appear to be functioning properly, (b) that maintenance is required to bring the system into compliance, and (c) if maintenance measures are not adequate to bring the system into compliance, the system may have to be replaced or an alternative design constructed subsequent to Department approval.

Name

Signature of Professional Engineer

Company Name

Florida Registration Number

Company Address

Date

City, State, Zip Code

Telephone Number

(affix seal)

Within 30 days of completion of the inspection, submit two copies of the form to the following Department Office:

Department of Environmental Protection

Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase

(To be completed and submitted by the operating entity)

Florida Department of Environmental Protection

It is requested that Department Permit Number _____ authorizing the construction and operation of a surface water management system for the below mention project be transferred from the construction phase permittee to the operation phase operating entity.

Project:

From: Name:
Address:
City: State: Zip:

To: Name:
Address:
City: State: Zip:

The surface water management facilities are hereby accepted for operation and maintenance in accordance with the engineers certification and as outlined in the restrictive covenants and articles of incorporation for the operating entity. Enclosed is a copy of the document transferring title of the operating entity for the common areas on which the surface water management system is located. Note that if the operating entity has not been previously approved, the applicant should contact the Department staff prior to filing for a permit transfer.

The undersigned hereby agrees that all terms and conditions of the permit and subsequent modifications, if any, have been reviewed, are understood and are hereby accepted. Any proposed modifications shall be applied for and obtained prior to such modification.

Operating Entity:

Name

Title:

Telephone:

Enclosure

- copy of recorded transfer of title surface water management system
- Coy of plat(s)
- Copy of recorded restrictive covenants, articles of incorporation, and certificate of incorporation.

APPLICATION FOR TRANSFER OF ENVIRONMENTAL RESOURCE PERMIT AND NOTIFICATION
OF SALE OF A FACILITY OR SURFACE WATER MANAGEMENT SYSTEM

Permit No. _____ Date Issued _____ Date Expires _____

FROM (Name of Current Permit Holder) _____

Mailing Address _____

City _____ State _____ Zip Code _____

Telephone: (_____) _____

Identification or Name of Facility/Surface Water Management System: _____

Phase of Facility/Surface Water Management System (if applicable): _____

The undersigned hereby notifies the Department of the sale or legal transfer of this facility, or surface-water management system, and further agrees to assign all rights and obligations as permittee to the applicant in the event the Department agrees to the transfer of permit.

Signature of the current permittee: _____

Title (if any): _____ Date: _____

TO (Name of Proposed Permit Transferee): _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Telephone: (_____) _____

The undersigned hereby notifies the Department of having acquired the title to this facility, or surface-water management system. The undersigned also states he or she has examined the application and documents submitted by the current permittee, the basis of which the permit was issued by the Department, and states they accurately and completely describe the permitted activity or project. The undersigned further attests to being familiar with the permit, agrees to comply with its terms and with its conditions, and agrees to assume the rights and liabilities contained in the permit. The undersigned also agrees to promptly notify the Department of any future changes in ownership of, or responsibility for, the permitted activity or project.

Signature of the applicant (Transferee): _____

Title (if any): _____ Date: _____

Project Engineer Name (if applicable) _____

Mailing Address: _____

Telephone: (_____) _____

**INTERAGENCY COORDINATION AGREEMENT
FOR CIVIL WORKS PROJECTS
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
UNITED STATES ARMY CORPS OF ENGINEERS JACKSONVILLE DISTRICT
UNITED STATES ARMY CORPS OF ENGINEERS MOBILE DISTRICT**

I. Parties, Purposes and Goals

- A. Parties: Florida Department of Environmental Protection (FDEP), United States Army Corps of Engineers Jacksonville District (SAJ), and United States Army Corps of Engineers Mobile District (SAM). SAJ and SAM shall jointly be known as the Corps.
- B. Common Vision: Mutual recognition of the environmental and economic benefits to the State of Florida and the nation associated with planning, designing, constructing, and operating Federal water resource projects that are consistent with Federal law and the State of Florida's environmental regulatory and proprietary requirements.
- C. Goals:
1. Work together cooperatively within the Corps' schedules and budgets and the state's statutory and rule timeframes and requirements during project development and throughout the project lifecycle, to develop and review project designs and process permit applications.
 2. Provide quality service to the taxpayers through the planning and implementation of environmentally sound public works projects and environmental protection and restoration programs.
 3. Fully satisfy appropriate environmental standards and requirements applicable to Corps public works activities covered by this agreement.
- D. Objectives:
1. Establish and maintain close, professional partnership.
 2. Establish better integration of Corps civil works processes with FDEP regulatory, Sovereignty submerged lands, and Coastal Zone Management (CZM) requirements.
 3. Implement effective project coordination at early stages of project development.
 4. Streamline application submittal and processing requirements.
 5. Establish a clear understanding of criteria and parameters for development of specific conditions.
 6. Meet mutual expectations with regard to business processes and regulatory requirements.

II. Acknowledgements

- A. The Corps agrees to apply for and the FDEP is responsible for taking action on the following permits:
1. Joint Coastal Permits (JCPs) issued pursuant to Ch. 161 and Part IV of Ch. 373, F.S.
 2. Comprehensive Everglades Restoration Plan Regulation Act (CERPRA) permits issued pursuant to Section 373.1502, F.S.
 3. Lake Okeechobee Protection Act Permits (LOPA) issued pursuant to Section 373.4595, F.S.
 4. Environmental Resource Permits (ERPs) and Wetland Resource Permits (WRPs) processed by FDEP pursuant to Part IV of Ch. 373, F.S.
- B. For the purposes of this agreement, the term “permit” or “permits” means one of the permit types referenced in Section II. A., the issuance of which constitutes the granting of water quality certification and concurrence with the CZM program. Issuance of such Joint Coastal Permits, Comprehensive Everglades Restoration Plan Regulation Act Permits, Lake Okeechobee Protection Act Permits, Environmental Resource Permits and Wetland Resource Permits constitutes certification of compliance with state water quality standards pursuant to Section 401 of the Clean Water Act, 33 U.S.C. Section 1341, and where applicable constitutes a finding of consistency with Florida’s Coastal Zone Management Program, as required by Section 307 of the Coastal Management Act, 16 U.S.C. Section 1456, 15 C.F.R. Part 930, and Section 380.23 of the Florida Statutes.
- C. The Corps is engaged in its mission in Florida, which includes activities for which water quality certification is required pursuant to 33 U.S.C. Section 1341.
- D. The Corps considers its mission in Florida to include the requirement to be consistent to the maximum extent practicable with the Florida Coastal Zone Management Plan under 16 U.S.C. Section 1456, as defined by 15 C.F.R. §930.32, in accordance with Corps regulations at 33 C.F.R. Parts 335-337. It is the Corps’ position that the state can impose reasonable conditions on water quality certification, consistency concurrence, and other required permits. The Corps contends that “reasonableness” is defined by a comparison to a “Federal standard,” which is the least costly environmentally acceptable alternative consistent with engineering requirements established for the project. Pursuant to Corps regulations, the District Engineer will cooperate to the maximum extent practicable to achieve consistency to the maximum extent practicable with an approved coastal zone management program. 33 CFR 337.2(a). Corps regulations provide that the District Engineer may request the State or local sponsor to pay for costs above the Federal standard. If a state agency attempts to impose conditions or controls which in the District Engineer’s opinion cannot be reasonably accommodated or requires additional conditions or activities above that required for the Federal standard, the project may be referred to Corps headquarters with deferral likely. See 33 CFR § 335-338.
- E. FDEP contends that 33 CFR § 335-338, which includes the “Federal standard”, cannot apply to consistency determinations under the CZMA, and disagrees that there is a

“reasonableness test” different from or in addition to the requirements of the CZMA and NOAA’s implementing regulations, which require that the COE comply with the CZMP to the maximum extent practicable, as defined by 15 C.F.R. § 930.32. FDEP also contends that there is no “irreconcilable conflict” test apart from the requirements of the CZMA and NOAA’s implementing regulations.

- F. Pursuant to Florida Statute 403.061(4), during the feasibility phase of a project, the FDEP’s Office of Intergovernmental Programs serves as the Florida State Clearinghouse for CZM review. The Clearinghouse solicits and coordinates comments from other agencies and regulatory programs within FDEP for the preliminary CZM consistency determination. Once a permit application is submitted, the FDEP’s regulatory program coordinates the CZM review. The FDEP regulatory program solicits and coordinates comments from other agencies and other programs within FDEP for the final CZM consistency determination, which is granted as part of the permit. As stated in II D. above, the Corps agrees to comply with reasonable comments and requirements of the commenting agencies to the maximum extent practicable, as defined by 15 C.F.R. § 930.32, and 33 CFR § 335-338 unless to do so creates an irreconcilable conflict with the Corps’ view of its federal responsibilities.
- G. It is the intent of the parties to coordinate with all involved federal and state agencies to determine if there are mutually acceptable alternatives that would avoid an irreconcilable conflict with the Corps’ interpretation of its federal responsibilities. The parties agree that conditions that are inconsistent with the Corps’ view of its Federal responsibilities shall not be imposed in FDEP permits, but rather, a permit application will be denied and the denial will include alternatives, if any, that would make the project consistent with state requirements. Nothing in this agreement will be construed to imply that the State will issue a permit that does not comply with State requirements.
- H. The parties recognize that the provisions of Section 404(r) of the Clean Water Act could be used for projects with National Environmental Policy Act (NEPA) documents which are approved by Congress. For a project authorized under 404(r), the COE is not required to obtain water quality certification from the state. However, it is not current Corps policy to avail itself of the provisions of 404(r). The parties will make all reasonable efforts to avoid the use of the provisions of 404(r) but recognize that the Corps may consider it necessary in certain cases.
- I. All parties maintain positions regarding their authority and sovereign immunity and do not waive their respective positions by entering into this agreement.
- J. Nothing in this agreement will be construed to imply that the State waives any rights it has to mediation or judicial challenge regarding any requirement under the CZMA.

III. Early Project Coordination

A. General

1. It is the intent of the parties to coordinate with all involved federal and state agencies to determine if there are mutually acceptable alternatives that would avoid an irreconcilable conflict between the State's view of Federal and state requirements and the Corps' view of its federal responsibilities. The goal of including all project requirements into the planning documents and plans and specifications is critical to the success of the parties' respective missions.
2. The parties agree that early participation by, and close coordination among the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), and the Florida Fish and Wildlife Conservation Commission (FFWCC) on listed species protection measures recommended for proposed projects is critical to the success of the parties' respective missions. The parties agree to promote and facilitate such participation and coordination in order to avoid conflicts between federal and state requirements, to the extent possible within the responsibilities and capabilities of the parties. It is the intent of the parties to coordinate with all federal and state agencies to determine if there are mutually acceptable alternatives that would avoid an irreconcilable conflict.
3. As previously stated in II D., the Corps complies with Federal law with regard to protected species and agrees to consider input from and to comply with reasonable requirements of the Florida Fish and Wildlife Conservation Commission for consistency with the FCMP to the maximum extent practicable to the extent that to do so would not create an irreconcilable conflict with the Corps' view of its federal responsibilities.
4. The parties agree to work to identify other agencies that are a part of Florida's Coastal Management Program that may have a heightened interest in a particular project (such as Department of Agriculture and Consumer Services with respect to CERPRA and LOPA projects) early in project development and to promote and facilitate coordination and participation of such agencies to the extent possible within the responsibilities and capabilities of the parties.
5. The parties, within their respective authorities and funding allocations, shall ensure that, for Joint Coastal Permits, beach compatible dredged material is disposed on Florida's beaches to the extent economically feasible consistent with Florida's beach management plan adopted pursuant to Chapter 161 F.S. and other beneficial uses criteria as may be specified by the FDEP and applicable federal standards. To further the parties' goals for sediment management, the Corps shall provide the FDEP with geotechnical information characterizing the sediments to be dredged and alternative disposal options with projected costs to allow the FDEP to participate in funding alternative disposal options over the least costly method.

6. The goal for obtaining required permits from the State is one year prior to the expected start of the work.

B. New Work

This category of work includes any new project being considered for Federal Involvement. The process normally begins with a series of studies, including reconnaissance and feasibility studies, to determine if Federal involvement is warranted. Project design can begin after the Federal interest is determined. Each project with a Federal interest is also authorized in public law. Construction can begin after the project is authorized (and needed permits are obtained). Project operation and maintenance (O&M) commences when construction is completed. The responsibility for O&M varies from Federal to local depending upon the project type. Navigation projects are typically federally maintained while flood control projects are typically locally maintained.

1. Reconnaissance Phase (Applies to ERP, WRP, and JCP)

Under this phase, there is a reconnaissance study which includes tasks to determine if a proposed project has sufficient merit to warrant moving into more detailed studies prior to authorization of the project. The study includes reconnaissance and assembly of the Project Management Plan (PMP). Reconnaissance is designed to compile the best input in the shortest amount of time. At its conclusion, all potential issues that may derail a project should be identified. Participation by the State is critical to help identify these issues.

- a) At the initiation of the reconnaissance phase the Corps will contact appropriate persons on the contact list (Appendix A) for initial input on the proposed activity. The State will identify any critical issues over which the state has authority to the Corps project manager.
- b) The Corps will include all comments in the Draft Reconnaissance (905b) Report.
- c) A copy of the draft report will be sent to all contacts to ensure their issues are accurately captured.
- d) A copy of the draft report will be provided to the state clearinghouse for interagency review

2. Project Management Plan

The Project Management Plan (PMP) lists all the activities which are required to complete the feasibility phase. Examples of activities are cultural resource surveys, endangered species reports, and seagrass surveys. The PMP has cost estimates, time estimates and identifies who performs the activities. It is critical for the State to participate in its formulation to ensure its issues are fully explored and that any requirements are included prior to funding.

- a) The Corps will include the issues raised by the State in the "issue gathering" phase when planning activities under the PMP.
- b) A template of a typical PMP is included under Appendix B.
- c) The Corps will provide a copy of the current PMP to the contact person at FDEP.

3. Feasibility Phase

The feasibility phase continues the study process to determine Federal Interest in construction of a project. The study efforts include gathering a significant amount of information for engineering, environmental, and economic analysis. The National Environmental Policy Act (NEPA) document is prepared during this phase and is normally incorporated as part of the feasibility report. The entire report is coordinated with the public and numerous Federal, State, and Local agencies. The Project Implementation Report (PIR) phase serves the same function for CERP projects as the feasibility phase.

The State has three mechanisms under which they may participate in this early coordination including the Feasibility Study scoping letter, serving as a Project Delivery Team (PDT) member(s) and serving as a cooperating agency under NEPA.

- a) The Corps will send a Feasibility Study scoping letter to the State Clearinghouse. The State Clearinghouse will provide comments upon receipt of the letter. The Corps will include a copy of the reconnaissance study in the scoping letter when possible.
- b) The State agrees to designate a member to serve on the PDT. Members will be encouraged to attend team meetings when possible, comment on interim products when possible, and express any concerns on resource or regulatory issues. At a minimum State PDT members agree to participate in Feasibility Scoping Meetings (FSM) and the Alternative Formulation Briefings (AFB).
- c) As an additional option the state may elect to be a cooperating agency under NEPA. This will entail attendance at the scoping meeting, in progress reviews on portion(s) of the NEPA document (Environmental Assessment (EA)/Environmental Impact Statement (EIS)), input into project descriptions and alternatives, comments on draft EIS, comments on a response matrix and on the draft EIS and final EIS.

It is the goal of the Corps to submit the permit application when the Draft NEPA document is completed. The draft NEPA document will contain the preferred alternative which will form the basis of the permit application. At the conclusion of the feasibility phase the final NEPA document is approved and a decision document is written (Finding of No Significant Impact/Record of Decision).

It is the ultimate goal to obtain the State authorizations which constitute Water Quality Certification and Coastal Zone Management concurrence when the decision document is completed at the Corps District level. It is recognized that receipt of a

permit during this part of the Federal process may result in the need to apply for a permit modification at a later date due to changes to the project.

4. Design Phase

This phase focuses on preparation of plans and specifications which take into account all pertinent issues identified in the feasibility phase and permitting requirements, and will contain more detailed information on geotechnical data and various required surveys. Occasionally additional studies will need to be done at the request of sponsors, due to the discovery of unknown site conditions, or reevaluations that occur due to new technology.

Plans and specifications will be provided to all state PDT members. Differences between plans and specifications and a permitted project will be identified by the Corps and the Corps will notify FDEP when there are changes in:

- a) Plans for operation of facilities such as water control structures
- b) Dimensions, size or location of proposed work
- c) Ability to adhere to permit conditions
- d) Project Description included in the permit
- e) Monitoring plans
- f) Environmental impacts

If the FDEP determines that a modification to the permit is required, then the Corps shall apply for and obtain the modification. FDEP approval of the modification shall be obtained prior to implementing the change, unless the change is determined by the FDEP to reduce the scope of work from that authorized under the original permit, and will not affect compliance with permit conditions or monitoring requirements.

If the FDEP determines that a modification would affect the consistency concurrence of a partner FCMP agency, the partner agency's concurrence with the modification will be required.

Communication between the Corps and FDEP will occur during the design phase through participation in the PDT, and plans and specifications sent to PDT members via electronic means such as CDs, email, phone, or letters when appropriate.

5. Construction Phase

During the construction phase unforeseen site conditions or other environmental conditions may require that modifications to permits be obtained. The parties recognize that there are significant costs whenever the Corps requests a modification during the construction phase. The FDEP and the Corps will expedite the processing of modifications to the extent possible.

Plans and specifications will be provided to all state PDT members. Differences between plans and specifications and a permitted project will be identified by the Corps and the Corps will notify FDEP when there are changes in:

- a) Plans for operation of facilities such as water control structures
- b) Dimensions, size or location of proposed work
- c) Ability to adhere to permit conditions
- d) Project Description included in the permit
- e) Monitoring plans
- f) Environmental impacts

If the FDEP determines that a modification to the permit is required, then the Corps shall apply for and obtain the modification. FDEP approval of the modification shall be obtained prior to implementing the change, unless the change is determined by the FDEP to reduce the scope of work from that authorized under the original permit, and will not effect compliance with permit conditions or monitoring requirements.

If the FDEP determines that a modification would affect the consistency concurrence of a partner FCMP agency, the partner agency's concurrence with the modification will be required.

C. Operations and Maintenance Projects

Projects included under this category include, for example, maintenance dredging of federal channels and revision of regulation schedules for lakes, canals, and structures. Procedures similar to those described above in Section III.B.5. Construction Phase will apply for renewal of state permits (water quality certification and certification of consistency with the State CZMP) for existing Operations and Maintenance projects with no new project features or significant changes in operation and maintenance activities. Application for renewal of the state permit for a routine Operations and Maintenance project would be submitted one year prior to expiration of the current State permit, with the goal to obtain the renewal permit prior to expiration of the current State permit.

Procedures similar to those described above in Sections III.B.3, Feasibility Phase and III.B. 5. Construction Phase would apply to Operations and Maintenance projects with new project features or significant changes in project operations and maintenance activities. The level of reporting documentation, e.g. Post Authorization Change Report with Congressional approval, PAC with higher level Corps approval, revision to a Dredged Material Management Plan, revision to an Operational Manual, modification of the permit, etc., would be determined depending on the specifics of the change. Regardless of the level of reporting documentation, the Corps will involve the FDEP at the earliest stage of planning to define the issues of concern as described in Section III.B.3.

IV. Permit Application Fees

The Corps contends that the requirement to pay permit application fees is dependent on whether the specific federal law that waives sovereign immunity and requires the Corps to obtain a particular type of permit also waives sovereign immunity as to fees. The parties agree that the Corps will pay permit application fees as follows:

Permit Type	Corps To Pay Application Fee
Joint Coastal Permits issued pursuant to Ch. 161 and Part IV of Ch. 373, F.S.	No
Comprehensive Everglades Restoration Plan Regulation Act permits issued pursuant to Section 373.1502, F.S.	No
Lake Okeechobee Protection Act Permits issued pursuant to Section 373.4595, F.S.	No
Environmental Resource Permits and Wetland Resource Permits pursuant to Part IV of Ch. 373, F.S.	No
*NPDES Generic Permit for Stormwater Discharges From Large and Small Construction Activities pursuant to 403.0885, F.S.	Yes
*NPDES Discharge Permits pursuant to 403.0885, F.S.	Yes
*Underground Injection Control Permits (for aquifer storage and recovery) pursuant to 403.087, F.S.	Yes
*Air Pollution Control Permits Pursuant to 403.087, 403.0872, 403.08725, F.S.	Yes
*Solid Waste Disposal Permits pursuant to 403.704(16), 403.707(1), F.S.	Yes
*Hazardous Waste Disposal Permits pursuant to 403.722(1), F.S.	Yes

* This agreement does not specifically address these permitting programs, but this information is included here for completeness.

V. Permit Application Submittal and Review

- A. The parties agree to communicate and coordinate on the anticipated submittal dates of applications. To this end, the Corps agrees to provide FDEP a list of project applications expected to be submitted in the next year, along with the desired date of receipt of the permit. The list shall be updated at least monthly.

- B. The Corps agrees to make every effort to submit permit applications that are well organized, clear and complete in order to facilitate timely and efficient review by FDEP.
- C. FDEP recognizes that engineering drawings and analysis submitted by the Corps as part of a permit application are not subject to the Florida's statutory requirement that the information be signed and sealed by a professional engineer (P.E.) registered in the State of Florida. However, the engineering documents including permit drawings shall be signed, and may be sealed, by a P.E. registered in any state. Professional certification may be required for other portions of the permit application.
- D. The Corps shall make every attempt to submit, as part of the application, the specific requirements that will be included in the plans and specifications for the project (for example, standard specifications) as a method for providing FDEP with the necessary reasonable assurances.
- E. The parties agree that it shall be a goal to minimize requests for additional information (RAI). The parties agree that communication by phone or e-mail will be used as appropriate to resolve minor informational issues that do not warrant a formal RAI.
- F. Weekly or biweekly teleconferences may be held with SAJ and SAM to review and discuss active permit applications.
- G. The parties acknowledge that for Corps maintenance dredging projects the Corps performs preconstruction bathymetric surveys shortly before actual construction and that these surveys may not be available at the time of application for water quality certification. The Corps will send preconstruction surveys prior to the start of construction.

VI. Permit Condition Principles

A. General

1. Notwithstanding the different positions reflected in II. D and E. above, the parties agree to work together in good faith in an attempt to resolve any issues concerning permit conditions. The parties agree to follow the dispute resolution procedures contained in this agreement prior to referral to Corps headquarters
2. The parties agree that the state and the Corps have an interest in protecting resources, and agree to work together to agree to mutually acceptable resource provisions related to the project that do not conflict with federal laws. Where necessary, the parties will work with federal resources agencies concerning appropriate resource protections.
3. In the event of a disagreement regarding the acceptability of certain state requirements for a federal project, the parties recognize that a local sponsor may

agree to resolve the dispute by accepting responsibility for meeting such requirements. The parties acknowledge that the Corps' position is that it cannot cost share in requirements agreed to by the local sponsor in a separate agreement with FDEP that is not also part of the permit.

B. Specific Parameters for Permit Conditions

The parties agree that brand name restrictions, e.g. for equipment or materials used, are generally not acceptable but may be included if the parties agree that specification of a brand name is necessary and appropriate and consistent with Federal law.

2. The parties agree that permit conditions should not require the use of a specific contractor or provider of services or supplies.
3. The parties agree that conditions will not require specific licensing of Federal contractors.
4. The parties agree that they will strive to avoid requirements for specific methodology or equipment (such as requiring the use of a cutter head dredge) in order to allow flexibility in the Corps bidding process; however, the parties recognize that there may be situations in which the prohibition of specific equipment may be acceptable.
5. As stated in II.D. above, the Corps agrees that permit conditions requiring reasonable monitoring and testing are generally acceptable.
6. The parties agree that anchorage restrictions should be specifically tailored to resources to be protected (known hard bottoms, sea grass areas, etc.) and are generally acceptable conditions; however, restrictions on anchoring outside of the project limits will be reviewed on a case-by-case basis. (For example, depending on methodology, channel dredging usually requires anchorage outside the channel.)
7. As stated in II.D. above, the Corps recognizes that reasonable restrictions on hours of operation may impact project costs but are generally acceptable conditions.
8. As stated in II.D. above, the Corps agrees that reasonable lighting restrictions are generally acceptable conditions within project boundaries.
9. The Corps agrees that conditions requiring aerial over-flight for environmental protection are acceptable to the extent the Corps contends is allowed by Federal standards. (For example, Federal Aviation Administration and the Department of Homeland Security may regulate such flights.)
10. The parties acknowledge that permit conditions that address direct and indirect effects outside of project boundaries due to the construction, operation or

maintenance of the project may be appropriate. The parties acknowledge that conditions that require work outside of project boundaries may not be within the control of the Corps or may be outside the scope of the Corps' authority.

11. If any conditions required by the State prompt safety concerns, the Corps will provide justification to support their request that the condition be modified. The parties commit to work together to resolve the conflict.
12. The parties agree that early coordination should eliminate the need for conditions requiring notice to proceed from the state prior to construction and agree to avoid such conditions.

C. General Conditions

The parties agree that the general conditions in Appendix C shall be included in permits issued to SAM or SAJ. These conditions shall be enforceable to the extent sovereign immunity has been waived under Federal law.

VII. Operating Permits

The parties recognize that some Corps projects include the construction of structures that will require long-term operation and maintenance. In most cases an entity other than the Corps, usually the local sponsor, will have the responsibility for long term operation and maintenance. For these projects, one of the following approaches may be taken:

- A. The Corps and the local sponsor may be co-applicants for the permit. The conditions of the subsequently issued permit shall clearly indicate which activities are the responsibility of the Corps and which are the responsibility of the local sponsor; or
- B. The Corps may be the permittee, and the permit shall contain a condition that requires that the permit be transferred to the appropriate operation and maintenance entity following project construction.
- C. Separate permits may be issued to Corps (construction) and the local sponsor (operation and maintenance). Ideally, both permit applications would be applied for at the same time.

The parties recognize that operations must meet Federal requirements, and the state, Corps and local sponsor are encouraged to work together to ensure that conflicts are resolved prior to issuance of the operating permit.

VIII. Sovereignty Submerged Lands:

- A. It is the Corps' position that no authorization to use sovereignty submerged lands is required for the projects it constructs because of navigation servitude which extends to its civil works projects under the commerce clause.
- B. The state concurs that certain projects constructed by the Corps in the State of Florida (navigation, flood control, and power generation) fall within one of the federal powers listed in the Sovereign Submerged Lands Act under 43 USC 1311(d) or 43 USC 1314, and, under those provisions, needs no authorization from the Board of Trustees to utilize sovereignty submerged lands. However, under the provisions of the Coastal Zone Management Act (16 USC 1451-1465), the state's position is that this activity requires Florida's concurrence with a determination of consistency with the sovereignty submerged lands provisions of Florida's approved Coastal Management program prior to Federal approval of the proposed activity. For these projects, the state shall include a determination of the consistency with the sovereignty submerged lands provisions of Florida's approved Coastal Management program in permits issued for Corps projects.
- C. For projects not covered in B. above, such as beach restoration and nourishment, it is the FDEP's position that the appropriate form of consent of use is required. Without waiving their respective positions, the parties agree that authorization to use sovereignty submerged lands may be issued to the project local sponsor. The parties recognize that the Corps is concerned that no additional costs be imposed on the Corps, or on the local sponsor that the Corps would be required to cost-share, as part of the authorization. The Corps is also concerned that no additional conditions will be imposed on the federal project or which will interfere with the requirements for local cooperation imposed by federal law on the local sponsor. The intent of the parties is that the state submerged lands process, to the maximum extent allowable under applicable laws, will not add additional cost or time to the process. Nothing in this paragraph waives the state's rights under the Coastal Zone Management Act.
- D. The parties recognize that the State's interests in submerged lands include tracking what submerged lands are being used in order to avoid conflicting uses by other parties. The Corps agrees to provide the State the information the State needs in an agreed upon format.

IX. Compliance and Enforcement

- A. The parties have a mutual interest in protecting environmental resources. Where sovereign immunity has been waived by Congress, State permit and CZMA conditions are part of the Congressional intent to protect those resources. In addition, the parties recognize that non-compliance with permit conditions has resulted in significant adverse environmental impacts and problems in obtaining permits for subsequent projects. Non-compliance can lead to imposition of more extensive, time-consuming or expensive permit conditions on subsequent projects, or permit denial.

- B. In furtherance of the parties' mutual goals, the Corps agrees that it will monitor performance of its contractors for compliance with state permit conditions, and will use all contractual means available to it to ensure compliance with both permit conditions and any corrective actions required by the Corps or FDEP.
- C. If non-compliant activities are observed at the project site by either FDEP or the Corps, the other entity shall be notified by phone or e-mail as soon as practicable.
- D. During the Corps' responsibility determination for prospective contractors, the Corps will coordinate with both the Corps project managers and FDEP about the contractor's past performance in complying with FDEP permit conditions and taking any corrective action required by the Corps or FDEP. The Corps will consider such comments in its determination of responsibility. The Corps will include appropriate provisions in the bid package informing contractors.
- E. On contracts where past performance is an evaluation factor, the Corps will ask both the Corps project managers and FDEP for past performance of contractors in complying with FDEP permit conditions, and taking any corrective action required by the Corps or FDEP. The Corps will consider such comments in its evaluation of past performance of prospective contractors. The Corps will include appropriate provisions in the bid package informing contractors.
- F. Contractor performance will be considered in rating Quality of Work, Contractor Quality Control, Effectiveness of Management, and any other applicable element of contractor performance that is rated. Unsatisfactory performance on one or more of the elements to be rated may be sufficient to justify an overall unsatisfactory rating.
- G. When subcontractors receive a performance rating, the Corps agrees to follow the same procedures for subcontractors.
- H. The Corps agrees, and may state in its specifications, that the Corps may not issue its final performance evaluation of the contractor until it has consulted with Corps project managers and FDEP on the contractor's compliance with FDEP permits or any corrective actions required by the Corps or FDEP for violations of permit conditions.
- I. The Corps agrees, and may state in its specifications, that the contractor's failure to comply with FDEP permit conditions, or to take the corrective action required by FDEP or the Corps, may be considered as a basis for an unsatisfactory performance rating.
- J. The Corps of Engineers agrees that federal law waives sovereign immunity for certain state penalties for Underground Injection Control (aquifer storage and recovery), Air Pollution Control, Solid Waste Disposal, Hazardous Waste Disposal, the state's NPDES Stormwater programs for Point Sources for Construction Activities, and the

State's NPDES permits where applicable. The Corps' position is that the extent of liability for penalties depends on the exact language of the federal law waiving sovereign immunity for penalties in that area.

- K. The standard federal Permits and Responsibilities clause, required in all federal contracts, provides that: "The Contractor shall, without additional expense to the Government, be responsible for ... complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work." The Corps' position is that this contract clause does not waive sovereign immunity of the federal government itself. However, the Corps also agrees that under this contract clause, federal contractors are liable for penalties for violations of State permit conditions.
- L. The Corps agrees to include in its bid package and contract documents a provision advising prospective contractors that failure of any subcontractor to comply with any permit condition for the purposes of this section or perform any required corrective actions may be deemed to be a failure of the contractor to supervise the work and comply with the Permits and Responsibilities Clause.

X. Staff Training

- A. The parties agree to train their respective staffs on the provisions of this agreement within 90 days of its execution.
- B. The parties commit to training each other's staff on agency processes and policies to promote a better understanding of each other's requirements and limitations.

XI. Dispute Resolution

The parties will use the specific dispute resolution agreement, if any, applicable to that work, or, if there is none, then the provisions of this paragraph.

If disputes arise during the permitting coordination outlined in this agreement, the parties shall make all efforts to resolve the dispute at the staff level. If resolution is not reached, the issue shall be elevated within the FDEP and the Corps to the next supervisory level until the dispute is resolved. If an issue has not been resolved after involving the highest level staff, the issue shall be raised to the Secretary of FDEP and the appropriate Corps District Engineer. The parties may also use dispute resolution mechanisms as provided by law.

XII. Superseded Agreements

This Agreement supersedes the Standard Operating Procedure Related to Corps Coastal Activities between the United States Army Corps of Engineers and the State of Florida Department of Environmental Protection, dated June 5, 1998.

The parties recognize that as of the effective date of this agreement, many Corps Civil works projects are in various stages of development and permitting. For these projects the parties

agree that the provisions of this agreement will be implemented to the greatest extent practicable.

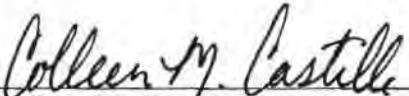
XIII. Effective Date

This Agreement shall become effective upon execution by all parties.

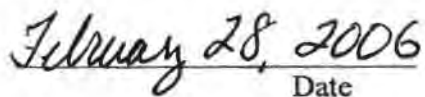
XIV. Termination

Any party to this Agreement may terminate, with or without cause, its participation hereunder by giving 60 days written notice to all parties. In the event of termination by FDEP, the Corps waives any right to an administrative hearing under Sections 120.569 or 120.57, F.S.

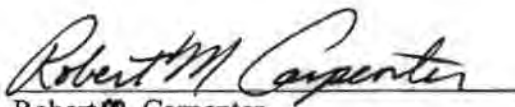
Signatures



Colleen M. Castillo, Secretary
Department of Environmental Protection
State of Florida



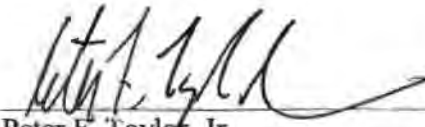
Date



Robert M. Carpenter
Colonel, Corps of Engineers
District Engineer, US Army Engineer District Jacksonville



Date



Peter F. Taylor, Jr.
Colonel, Corps of Engineers
District Engineer, US Army Engineer District Mobile



Date

Appendices:

- Appendix A: List of Contacts with the State of Florida
- Appendix B: Project Management Plan Format
- Appendix C: General Conditions

Appendix A: List of Contacts with the State of Florida

Activity Type	Geographical Area	Responsible Office	Contact Name	Contact Title	Telephone Number	E-mail	Mailing Address
CERP	Any County	Office of WQS & Special Projects	Temperince Morgan	Envir. Manager	850-245-8424	Temperence.Morgan@dep.state.fl.us	
LOPA	Any County	Office of WQS & Special Projects	Temperince Morgan	Envir. Manager	850-245-8425	Temperence.Morgan@dep.state.fl.us	
Kissimmee River SF Restoration Project	Any County	Office of WQS & Special Projects	Temperince Morgan	Envir. Manager	850-245-8426	Temperence.Morgan@dep.state.fl.us	
Beach Restoration	Any County	Bureau of Beaches and Coastal Systems	Michael Barnett	Bureau Chief	850-488-7708	Michael.Barnett@dep.state.fl.us	3900 Commonwealth Blvd. M.S. 300 Tallahassee, FL 32399-3000
Beach Renourishment	Any County	Bureau of Beaches and Coastal Systems	Michael Barnett	Bureau Chief	850-488-7708	Michael.Barnett@dep.state.fl.us	3901 Commonwealth Blvd. M.S. 300 Tallahassee, FL 32399-3000
Deep Water Ports	Any County	Bureau of Beaches and Coastal Systems	Michael Barnett	Bureau Chief	850-488-7708	Michael.Barnett@dep.state.fl.us	3902 Commonwealth Blvd. M.S. 300 Tallahassee, FL 32399-3000
Inlet Work**	Any County	Bureau of Beaches and Coastal Systems	Michael Barnett	Bureau Chief	850-488-7708	Michael.Barnett@dep.state.fl.us	3903 Commonwealth Blvd. M.S. 300 Tallahassee, FL 32399-3000
Other Dredging and Restoration	Escambia	Northwest District Main Office	Connie Lasher	Administrator	850-595-8300	Connie.Lasher@dep.state.fl.us	160 Governmental Center Pensacola, FL 32502
Other Dredging and Restoration	Santa Rosa	Northwest District Main Office	Connie Lasher	Administrator	850-595-8302	Connie.Lasher@dep.state.fl.us	162 Governmental Center Pensacola, FL 32502
Other Dredging and Restoration	Okaloosa	Northwest District Main Office	Connie Lasher	Administrator	850-595-8305	Connie.Lasher@dep.state.fl.us	165 Governmental Center Pensacola, FL 32502
Other Dredging and Restoration	Walton	Northwest District Main Office	Connie Lasher	Administrator	850-595-8306	Connie.Lasher@dep.state.fl.us	166 Governmental Center Pensacola, FL 32502
Other Dredging and Restoration	Holmes	Northwest District Main Office	Connie Lasher	Administrator	850-595-8309	Connie.Lasher@dep.state.fl.us	169 Governmental Center Pensacola, FL 32502
Other Dredging and Restoration	Bay	Pamana City Branch Office	Diana Athnos	Environmental Manager	850-872-4375	Diana.Athnos@dep.state.fl.us	2353 Jenks Avenue Panama City, FL 32405
Other Dredging and Restoration	Washington	Pamana City Branch Office	Diana Athnos	Environmental Manager	850-872-4378	Diana.Athnos@dep.state.fl.us	2356 Jenks Avenue Panama City, FL 32405
Other Dredging and Restoration	Jackson	Pamana City Branch Office	Diana Athnos	Environmental Manager	850-872-4379	Diana.Athnos@dep.state.fl.us	2357 Jenks Avenue Panama City, FL 32405
Other Dredging and Restoration	Calhoun	Pamana City Branch Office	Diana Athnos	Environmental Manager	850-872-4382	Diana.Athnos@dep.state.fl.us	2360 Jenks Avenue Panama City, FL 32405
Other Dredging and Restoration	Gulf	Pamana City Branch Office	Diana Athnos	Environmental Manager	850-872-4383	Diana.Athnos@dep.state.fl.us	2361 Jenks Avenue Panama City, FL 32405
Other Dredging and Restoration	Gadsden	Tallahassee Branch Office	Tom Franklin	Envir. Supervisor II	850-488-3705	Thomas.Franklin@dep.state.fl.us	2816 Remington Green Circle Tallahassee, FL 32308-1513
Other Dredging and Restoration	Leon	Tallahassee Branch Office	Tom Franklin	Envir. Supervisor II	850-488-3706	Thomas.Franklin@dep.state.fl.us	2817 Remington Green Circle Tallahassee, FL 32308-1513
Other Dredging and Restoration	Liberty	Tallahassee Branch Office	Tom Franklin	Envir. Supervisor II	850-488-3709	Thomas.Franklin@dep.state.fl.us	2820 Remington Green Circle Tallahassee, FL 32308-1513
Other Dredging and Restoration	Wakulla	Tallahassee Branch Office	Tom Franklin	Envir. Supervisor II	850-488-3710	Thomas.Franklin@dep.state.fl.us	2821 Remington Green Circle Tallahassee, FL 32308-1513
Other Dredging and Restoration	Franklin	Tallahassee Branch Office	Tom Franklin	Envir. Supervisor II	850-488-3713	Thomas.Franklin@dep.state.fl.us	2824 Remington Green Circle Tallahassee, FL 32308-1513
Other Dredging and Restoration	Jefferson(split w/NE District)	Tallahassee Branch Office	Tom Franklin	Envir. Supervisor II	850-488-3714	Thomas.Franklin@dep.state.fl.us	2825 Remington Green Circle Tallahassee, FL 32308-1513
Other Dredging and Restoration	Nassau	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3300	Jim.Maher@dep.state.fl.us	7825 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Duval	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3301	Jim.Maher@dep.state.fl.us	7826 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	St. Johns	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3302	Jim.Maher@dep.state.fl.us	7827 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Flagler	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3303	Jim.Maher@dep.state.fl.us	7828 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Putnam	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3304	Jim.Maher@dep.state.fl.us	7829 Baymeadows Way, Suite B200 Jacksonville, FL 32256

Other Dredging and Restoration	Clay	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3305	Jim.Maher@dep.state.fl.us	7830 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Union	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3306	Jim.Maher@dep.state.fl.us	7831 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Bradford	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3307	Jim.Maher@dep.state.fl.us	7832 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Baker	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3308	Jim.Maher@dep.state.fl.us	7833 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Alachua	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3309	Jim.Maher@dep.state.fl.us	7834 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Levy	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3310	Jim.Maher@dep.state.fl.us	7835 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Gilchrist	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3311	Jim.Maher@dep.state.fl.us	7836 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Columbia	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3312	Jim.Maher@dep.state.fl.us	7837 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Dixie	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3313	Jim.Maher@dep.state.fl.us	7838 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Lafayette	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3314	Jim.Maher@dep.state.fl.us	7839 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Suwannee	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3315	Jim.Maher@dep.state.fl.us	7840 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Hamilton	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3316	Jim.Maher@dep.state.fl.us	7841 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Madison	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3317	Jim.Maher@dep.state.fl.us	7842 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Jefferson(split w/NW District)	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3318	Jim.Maher@dep.state.fl.us	7843 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Taylor	Northeast District Main Office	Jim Maher	Environmental Administrator	904-807-3319	Jim.Maher@dep.state.fl.us	7844 Baymeadows Way, Suite B200 Jacksonville, FL 32256
Other Dredging and Restoration	Marion(split w/SW District)	Central District Office	Dave Herbster	Environmental Administrator	407-894-7555	Dave.Herbster@dep.state.fl.us	3319 Maguire Blvd. Suite 232 Orlando, FL 32803-3767
Other Dredging and Restoration	Lake	Central District Office	Dave Herbster	Environmental Administrator	407-894-7556	Dave.Herbster@dep.state.fl.us	3320 Maguire Blvd. Suite 232 Orlando, FL 32803-3767
Other Dredging and Restoration	Orange	Central District Office	Dave Herbster	Environmental Administrator	407-894-7557	Dave.Herbster@dep.state.fl.us	3321 Maguire Blvd. Suite 232 Orlando, FL 32803-3767
Other Dredging and Restoration	Volusia	Central District Office	Dave Herbster	Environmental Administrator	407-894-7558	Dave.Herbster@dep.state.fl.us	3322 Maguire Blvd. Suite 232 Orlando, FL 32803-3767
Other Dredging and Restoration	Seminole	Central District Office	Dave Herbster	Environmental Administrator	407-894-7559	Dave.Herbster@dep.state.fl.us	3323 Maguire Blvd. Suite 232 Orlando, FL 32803-3767
Other Dredging and Restoration	Osceola	Central District Office	Dave Herbster	Environmental Administrator	407-894-7560	Dave.Herbster@dep.state.fl.us	3324 Maguire Blvd. Suite 232 Orlando, FL 32803-3767
Other Dredging and Restoration	Brevard	Central District Office	Dave Herbster	Environmental Administrator	407-894-7561	Dave.Herbster@dep.state.fl.us	3325 Maguire Blvd. Suite 232 Orlando, FL 32803-3767
Other Dredging and Restoration	Indian River	Central District Office	Dave Herbster	Environmental Administrator	407-894-7562	Dave.Herbster@dep.state.fl.us	3326 Maguire Blvd. Suite 232 Orlando, FL 32803-3767
Other Dredging and Restoration	Marion(split w/SW District)	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6100	Cece.McKiernan@dep.state.fl.us	3804 Coconut Palm Dr. Tampa, FL 33619-8318
Other Dredging and Restoration	Sumter	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6101	Cece.McKiernan@dep.state.fl.us	3805 Coconut Palm Dr. Tampa, FL 33619-8318
Other Dredging and Restoration	Citrus	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6102	Cece.McKiernan@dep.state.fl.us	3806 Coconut Palm Dr. Tampa, FL 33619-8318
Other Dredging and Restoration	Hernando	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6103	Cece.McKiernan@dep.state.fl.us	3807 Coconut Palm Dr. Tampa, FL 33619-8318
Other Dredging and Restoration	Pasco	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6104	Cece.McKiernan@dep.state.fl.us	3808 Coconut Palm Dr. Tampa, FL 33619-8318
Other Dredging and Restoration	Pinellas	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6105	Cece.McKiernan@dep.state.fl.us	3809 Coconut Palm Dr. Tampa, FL 33619-8318
Other Dredging and Restoration	Hillsborough	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6106	Cece.McKiernan@dep.state.fl.us	3810 Coconut Palm Dr. Tampa, FL 33619-8318

Other Dredging and Restoration	Manatee	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6107	Cece.McKiernan@dep.state.fl.us	3811 Coconut Palm Dr. Tampa, FL 33619-8318
Other Dredging and Restoration	Sarasota	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6108	Cece.McKiernan@dep.state.fl.us	3812 Coconut Palm Dr. Tampa, FL 33619-8318
Other Dredging and Restoration	DeSoto	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6109	Cece.McKiernan@dep.state.fl.us	3813 Coconut Palm Dr. Tampa, FL 33619-8318
Other Dredging and Restoration	Hardee	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6110	Cece.McKiernan@dep.state.fl.us	3814 Coconut Palm Dr. Tampa, FL 33619-8318
Other Dredging and Restoration	Polk	Southwest District Office	Cece McKiernan	Environmental Administrator	813-744-6111	Cece.McKiernan@dep.state.fl.us	3815 Coconut Palm Dr. Tampa, FL 33619-8318
Other Dredging and Restoration	Charlotte	Punta Gorda Branch Office	Calvin Alvarez	Environmental Manager	941-575-5810	Calvin.Alvarez@dep.state.fl.us	A-10 Airport Road Punta Gorda, FL 33982
Other Dredging and Restoration	Highlands	Punta Gorda Branch Office	Calvin Alvarez	Environmental Manager	941-575-5811	Calvin.Alvarez@dep.state.fl.us	A-10 Airport Road Punta Gorda, FL 33983
Other Dredging and Restoration	Glades	Punta Gorda Branch Office	Calvin Alvarez	Environmental Manager	941-575-5812	Calvin.Alvarez@dep.state.fl.us	A-10 Airport Road Punta Gorda, FL 33984
Other Dredging and Restoration	Lee	South District Office	Lucy Blair	Environmental Administrator	239-332-6975	Lucy.Blair@dep.state.fl.us	P.O. Box 2549 Ft. Myers, FL 33902
Other Dredging and Restoration	Heridry	South District Office	Lucy Blair	Environmental Administrator	239-332-6976	Lucy.Blair@dep.state.fl.us	P.O. Box 2549 Ft. Myers, FL 33903
Other Dredging and Restoration	Collier	South District Office	Lucy Blair	Environmental Administrator	239-332-6977	Lucy.Blair@dep.state.fl.us	P.O. Box 2549 Ft. Myers, FL 33904
Other Dredging and Restoration	Monroe	Marathon Branch Office	Tania McMillan	Environmental Manager	305-289-2310	Tania.McMillan@dep.state.fl.us	2796 Overseas Hwy. Marathon, FL 33050
Other Dredging and Restoration	Okeechobee	Port St. Lucie Branch Office	Kim Hefty	Envir. Specialist III	772-398-2806	Kimberly.Hefty@dep.state.fl.us	1801 SE Hillmoor Dr. Suite C-204 Port St. Lucie, FL 34952
Other Dredging and Restoration	St. Lucie	Port St. Lucie Branch Office	Kim Hefty	Envir. Specialist III	772-398-2807	Kimberly.Hefty@dep.state.fl.us	1802 SE Hillmoor Dr. Suite C-204 Port St. Lucie, FL 34952
Other Dredging and Restoration	Martin	Port St. Lucie Branch Office	Kim Hefty	Envir. Specialist III	772-398-2808	Kimberly.Hefty@dep.state.fl.us	1803 SE Hillmoor Dr. Suite C-204 Port St. Lucie, FL 34952
Other Dredging and Restoration	Palm Beach	Southeast District	Vacant	Environmental Administrator	561-681-6600		400 N. Congress Ave. Suite 200 West Palm Beach, FL 33401
Other Dredging and Restoration	Broward	Southeast District	Vacant	Environmental Administrator	561-681-6601		401 N. Congress Ave. Suite 200 West Palm Beach, FL 33401
	Dade	Southeast District	Vacant	Environmental Administrator	561-681-6602		402 N. Congress Ave. Suite 200 West Palm Beach, FL 33401

Appendix B: Project Management Plan Format

U.S. Army Corps of Engineers

Project Management Plan/Program Management Plan (PMP/PgMP) Minimum Content

This reference defines the minimum requirements for Project/Program Management Plans (PMPs/PgMPs). The PMP/PgMP is required to provide the framework so that all team members can work together efficiently. The PMP/PgMP communicates critical project/program information to all interested parties. The PMP/PgMP serves as the planning, communications, and quality management tool for the project. It encompasses all aspects, phases, and resources for the lifecycle of a project. The Environmental Operating Principles (<http://www.hq.usace.army.mil/cepa/envprinciples.htm>) should be considered as a critical component in the planning and execution of the project. The document records endorsement by the PDT. The following items comprise the PMP/PgMP:

- a. Scope, based on customer need** (project definition, objective, identification of customer(s) and stakeholder(s), description of services to be provided, key products, authority, location, unique customer requirements/concerns stored within P2 as notebook items or other features, etc.). Refer to Project Scope and Customer Requirements Definition – PROC2010.
- b. Team Identification**; refer to Team Establishment – PROC2020.
- c. Critical Assumptions and Constraints.** Critical assumptions are considered to be true at the time the PMP/PgMP is written/updated and if changed, could cause major impact to the project. Constraints are items that limit the PDT's options.
- d. Work Breakdown Structure (WBS).** Specifies the task and subtask necessary to fulfill the objectives of the project. Refer to Activity/Schedule Development – PROC2030
- e. Funding** (sources, available budget, customer requirements for requesting/receiving funds and reporting of expenditures, resource estimates). Refer to Resource Estimate Development – PROC2040
- f. Schedule** (schedule in Project Manager™, continuously maintained to show actual completion status and show how schedule will be progressed). Refer to Activity/Schedule Development – PROC2030 and Project Execution and Control – PROC3000.
- g. Project Quality Control Plan and Objectives** (customer expectations, applicable Quality Management Plans, criteria and regulations) Refer to Quality Management Plan – REF8008G.

h. Acquisition Strategy. Refer to Project Delivery Acquisition Strategy – PROC2050.

. **Risk Analysis.** Refer to Risk Management Plan – REF8007G.

j. SOH hazard analysis and monitoring. Refer to Safety and Occupational Health Plan – REF8016G.

k. Change Management Plan – REF8009G (Schedule/cost risk analysis, thresholds, how cost growth and other changes to the plan will be approved, what changes require customer re-approval). Refer to Change Management – PROC3010.

l. Communications Strategy - how the team will communicate with the customer(s) and each other, customer's requirements for status reporting. Refer to Communications Plan – REF8006G.

m. Value Management. Refer to Value Management Plan - REF8023G.

n. Closeout Plan. Refer to Activity/Project/Program Closeout – PROC4000.

o. Approvals. Refer to PMP/PgMP Approval – PROC2070 . Page may include signatures of the PM and the customer(s) and may be electronic.

Additional information may be found at:

http://bp.usace.army.mil/Robo/BIN/Robo.dll?mgr=agm&tpc=%2Frobo%2Fprojects%2Fpmbp_manual%2Fpages%2Findex.html&wnd=PMBP_Manual%7CPMBP%20Manual&agt=wsm&ctxid=

Appendix C: General Conditions

GENERAL CONDITIONS

1. This permit, including its general and specific conditions, must be construed in light of the [date] Interagency Cooperative Agreement for Civil Works Projects (ICA) between the Department and the Corps. As recognized in the ICA, the Department has the authority to include reasonable conditions in this permit. All of the conditions in this permit, both general and specific, are enforceable to the extent sovereign immunity has been waived under 33 U.S.C. §§ 1323 and 1344(t). The ICA is incorporated herein by reference.
2. All activities approved shall be implemented as set forth in the drawings incorporated by reference and in compliance with the conditions and requirements of this document. The Corps shall notify the Department in writing of any anticipated changes in:
 - a) operational plans;
 - b) project dimensions, size or location;
 - c) ability to adhere to permit conditions;
 - d) project description included in the permit;
 - e) monitoring plans.

If the Department determines that a modification to the permit is required then the Corps shall apply for and obtain the modification. Department approval of the modification shall be obtained prior to implementing the change, unless the change is determined by the Department to reduce the scope of work from that authorized under the original permit, and will not effect compliance with permit conditions or monitoring requirements.

3. If, for any reason, the Corps does not comply with any condition or limitation specified herein, the Corps shall immediately provide the Department with a written report containing the following information:
 - a) a description of and cause of noncompliance;
 - b) the period of noncompliance, including dates and times;
 - c) impacts resulting or likely to result from the non-compliance;
 - d) steps being taken to correct the non-compliance; and
 - e) the steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

Compliance with the provisions of this condition shall not preclude the Department from taking any enforcement action allowed under state law with respect to any non-compliance.

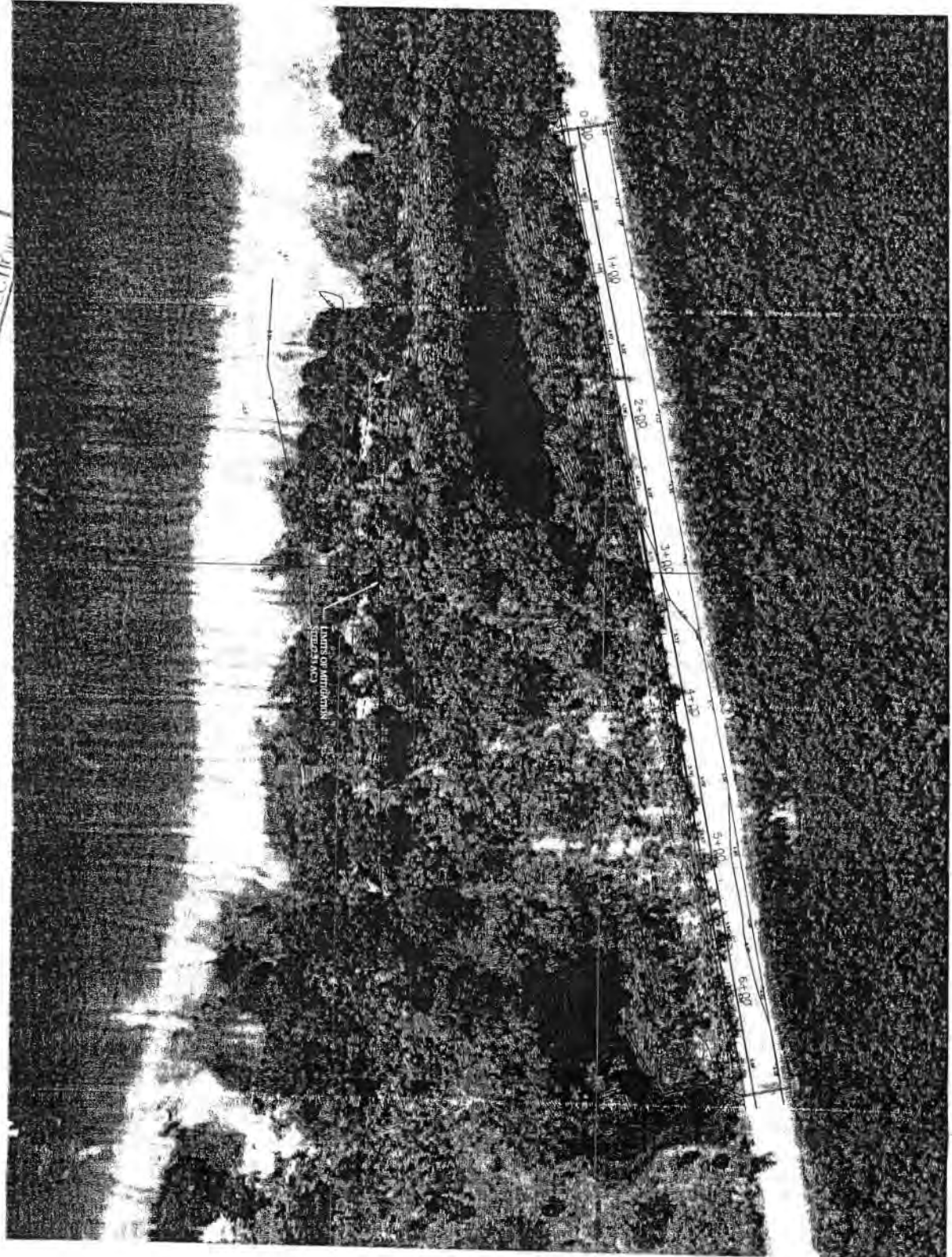
4. The Corps shall obtain any applicable licenses, permits, or other authorizations which may be required by federal, state, local or special district laws and regulations. Nothing herein constitutes a waiver or approval of other Department permits or authorizations that may be required for other aspects of the total project.
5. Nothing herein conveys to the Corps or creates in the Corps any property right, any interest in real property, any title to land or water, constitutes State recognition or acknowledgment

of title, or constitutes authority for the use of Florida's sovereign submerged lands seaward of the mean high-water line or an established erosion control line, unless herein provided, and the necessary title, lease, easement, or other form of consent authorizing the proposed use has been obtained from the State.

6. Any delineation of the extent of a wetland or other surface water submitted as part of the application, including plans or other supporting documentation, shall not be considered specifically approved unless a specific condition of this authorization or a formal determination under section 373.421(2), F.S., provides otherwise.
7. Nothing herein authorizes any entrance upon or activities on property which is not owned or controlled by the Corps or local sponsor, or conveys any vested rights or any exclusive privileges.
8. This document or a copy thereof, complete with all conditions, attachments, modifications, and time extensions shall be kept at the work site of the authorized activity. The Corps shall require the contractor to review this document prior to commencement of the authorized activity.
9. The Corps specifically agrees to allow Department personnel with proper identification, at reasonable times and in compliance with Corps specified safety standards access to the premises where the authorized activity is located or conducted for the purpose of ascertaining compliance with the terms of this document and with the rules of the Department and to have access to and copy any records that must be kept; to inspect the facility, equipment, practices, or operations regulated or required; and to sample or monitor any substances or parameters at any location reasonably necessary to assure compliance. Reasonable time may depend on the nature of the concern being investigated.
10. At least forty-eight (48) hours prior to the commencement of authorized activity, the Corps shall submit to the Department a written notice of commencement of activities indicating the anticipated start date and the anticipated completion date.

If historic or archaeological artifacts such as, but not limited to, Indian canoes, arrow heads, pottery or physical remains, are discovered at any time on the project site, the Corps shall immediately stop all activities in the immediate area which disturb the soil and notify the Department and the State Historic Preservation Officer. In the event that unmarked human remains are encountered during permitted activities, all work shall stop in the immediate area and the proper authorities notified in accordance with Section 872.05, *Florida Statutes*.

12. Within a reasonable time after completion of construction activities authorized by this permit, the Corps shall submit to the Department a written statement of completion. This statement shall notify the Department that the work has been completed as authorized and shall include a description of the actual work completed. The Department shall be provided, if requested, a copy of any as-built drawings required of the contractor or survey performed by the Corps.



APPROVED
STATE OF FLORIDA
MAY 14 2009
DEPARTMENT OF
ENVIRONMENTAL PROTECTION

VHB
Vandace Hargrett Associates, Inc.
Professional Engineers
10000 North Central Expressway
Suite 200
Dallas, Texas 75243
Tel: (972) 412-3300
Fax: (972) 412-3301
www.vhb.com



Wares Creek/Cedar Hammock
Flood Control Project
Proposed Mitigation Site

Station 5, Township 24 South, Range 17 East
Alachua County, Florida

NO	DATE	DESCRIPTION	BY	CHECKED
1	05/14/09	ISSUED FOR PERMIT	JLH	WJH
2	05/14/09	REVISED	JLH	WJH
3	05/14/09	REVISED	JLH	WJH
4	05/14/09	REVISED	JLH	WJH
5	05/14/09	REVISED	JLH	WJH
6	05/14/09	REVISED	JLH	WJH
7	05/14/09	REVISED	JLH	WJH
8	05/14/09	REVISED	JLH	WJH
9	05/14/09	REVISED	JLH	WJH
10	05/14/09	REVISED	JLH	WJH

DATE PLOTTED: 05/14/09 10:52:00 AM

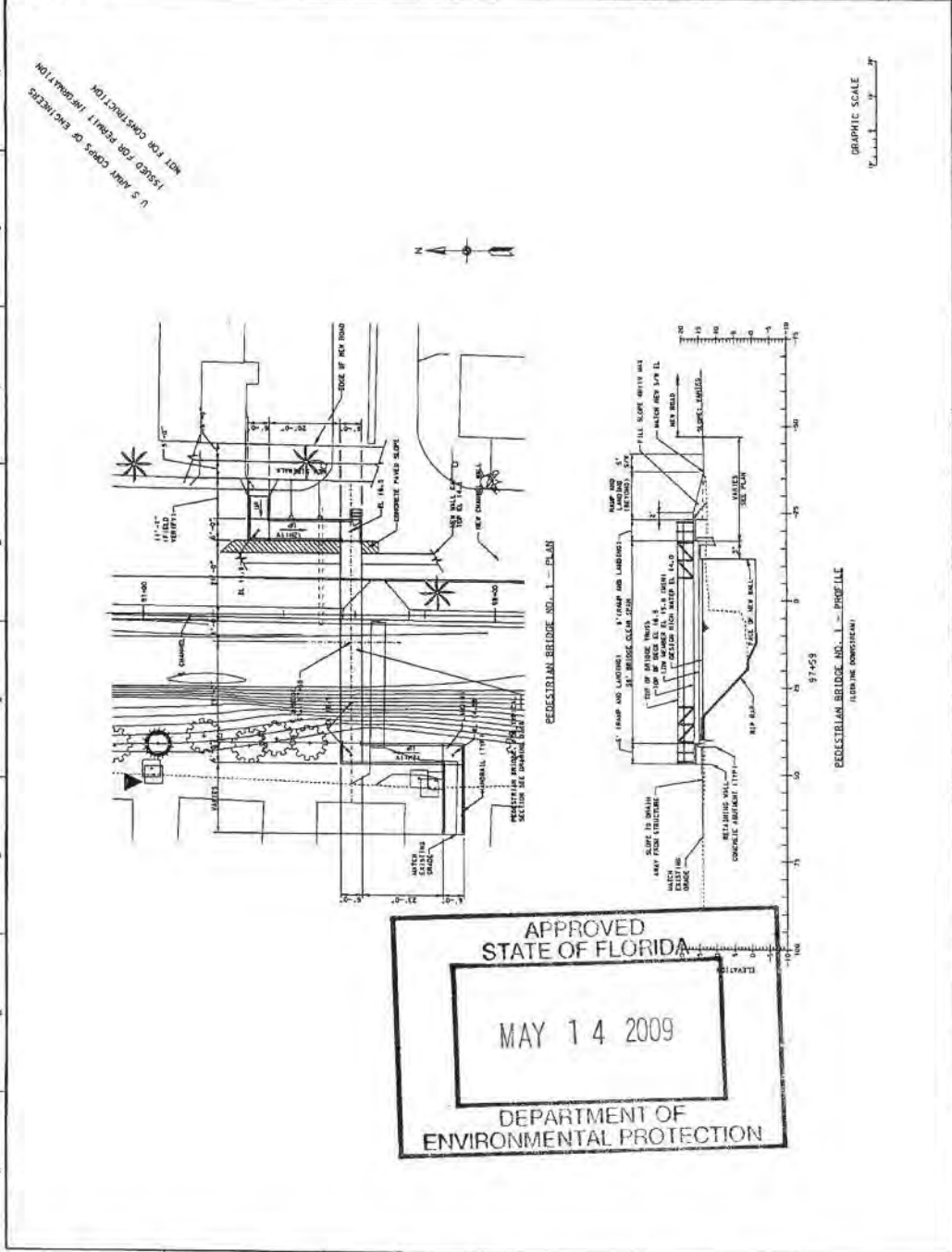
Not Approved for Construction
Aerial

[Signature]
Project Engineer
05/14/09

001

05/14/09

DEPARTMENT OF THE ENVIRONMENT FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION 2000 N.W. 11th Street, Tallahassee, Florida 32304-3000 PHONE: 904.251.2000 FAX: 904.251.2001 WWW: www.dep.state.fl.us		URS 100 N.W. 11th Street, Suite 200 Tallahassee, Florida 32304 PHONE: 904.251.2000 FAX: 904.251.2001 WWW: www.urscorp.com	DRAWING NO. CN 117
PROJECT:		CONTRACT NO.:	SHEET NO.:
DESCRIPTION:		DATE:	SCALE:
DESIGNER:		CHECKED:	APPROVED:
DRAWN:		DATE:	SCALE:

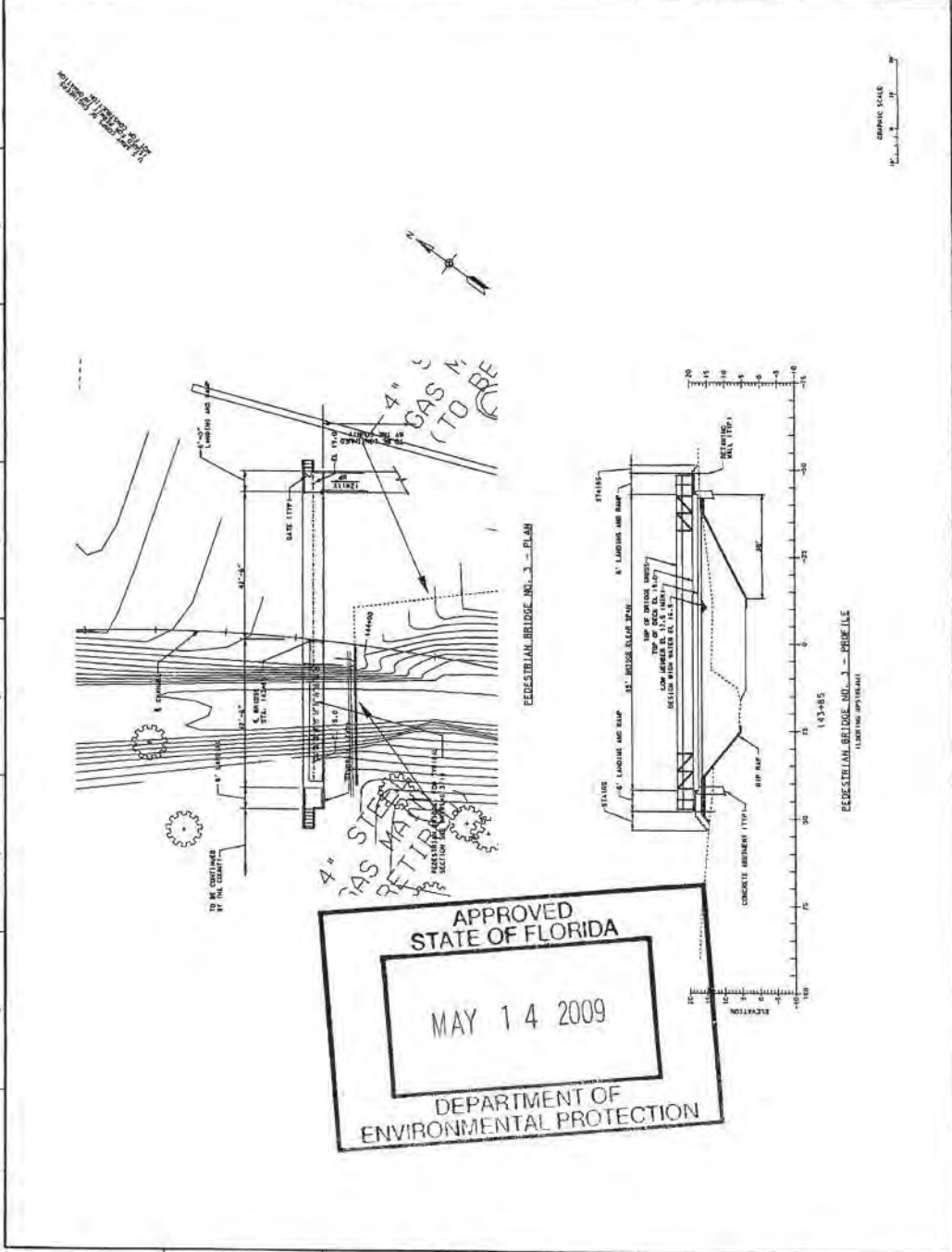


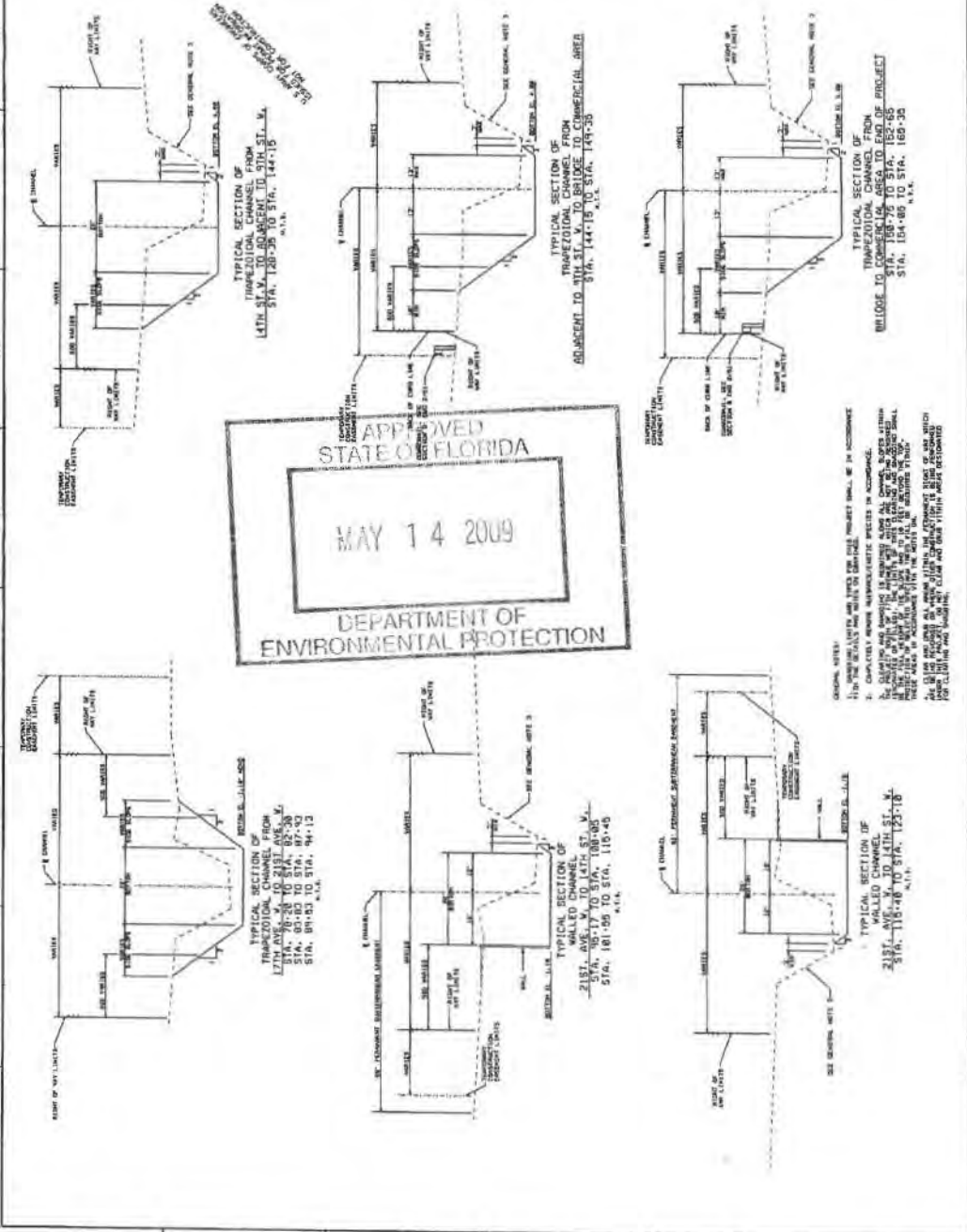
ISSUED FOR PERMIT INSURANCE
 U.S. ARMY CORPS OF ENGINEERS
 MDT FOR CONSTRUCTION

GRAPHIC SCALE
 0 1 2 3 4 5 6 7 8 9 10

APPROVED
 STATE OF FLORIDA
 MAY 14 2009
 DEPARTMENT OF
 ENVIRONMENTAL PROTECTION

DEPARTMENT OF THE ENVIRONMENT FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION 1111 GULF BLVD., SUITE 1100 TAMPA, FL 33604 TEL: 813-253-3000 FAX: 813-253-3000		URS 1111 GULF BLVD., SUITE 1100 TAMPA, FL 33604 TEL: 813-253-3000 FAX: 813-253-3000		PROJECT NO. 143-95 DRAWING NO. CN 119 DATE: 05/14/09	
PROJECT: PEDESTRIAN BRIDGE OVER RAIL AND HIGHWAY LOCATION: BAY COUNTY, FLORIDA DRAWING NO. CN 119 DATE: 05/14/09		CLIENT: FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION PROJECT NO. 143-95 DRAWING NO. CN 119 DATE: 05/14/09		DESIGNER: URS PROJECT NO. 143-95 DRAWING NO. CN 119 DATE: 05/14/09	





APPROVED
 STATE OF FLORIDA
 MAY 14 2009
 DEPARTMENT OF ENVIRONMENTAL PROTECTION

ORIGINAL NOTES:
 1. THE RESULT OF THIS REVIEW IS TO BE USED AS A GUIDE ONLY. THE USER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.
 2. COMPLETELY REVIEW ALL INFORMATION PROVIDED IN ACCORDANCE WITH THE PROJECT REQUIREMENTS.
 3. ALL INFORMATION AND SPECIFICATIONS SHALL BE IN ACCORDANCE WITH THE PROJECT REQUIREMENTS.
 4. THE USER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.
 5. THE USER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.
 6. THE USER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.
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 9. THE USER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.
 10. THE USER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED.



Vibracore Engineers, Inc.
 1700 West 10th Street
 Fort Lauderdale, FL 33304
 Phone: (954) 576-1100
 Fax: (954) 576-1101
 www.vibracore.com

Legend

Proposed	Existing
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[Dotted Pattern]	[Diagonal Lines]
[Cross-hatched Pattern]	[Horizontal Lines]
[Vertical Lines]	[Stippled Pattern]

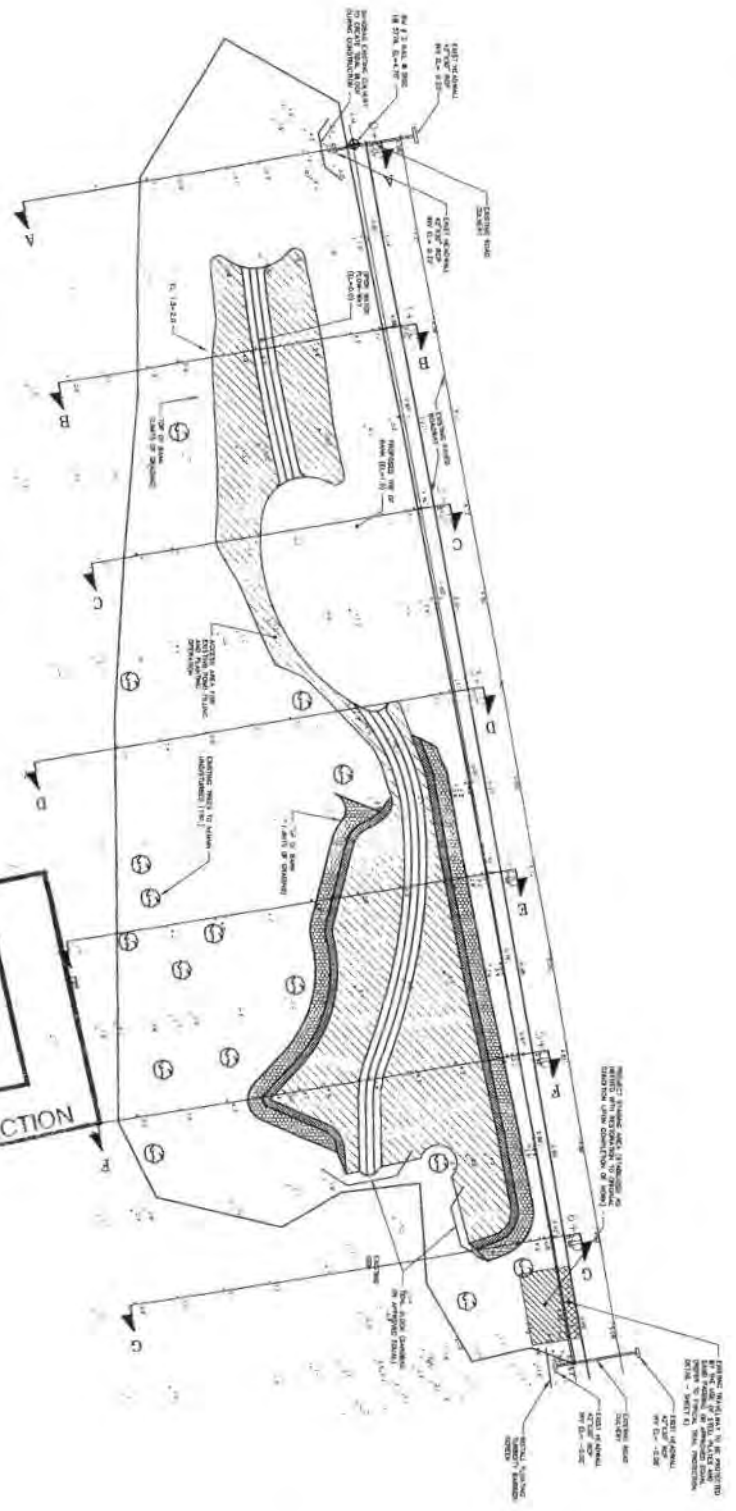


Warren Creek/Cedar Hammock Flood Control Project
 Proposed Mitigation Site
 System 1, Trussing 24 South, Segment 11 from
 Interstate 95 to Interstate 10, Broward County, Florida

Station	Station	Station	Station
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3+00	3+50	4+00	4+50
5+00	5+50	6+00	6+50
7+00	7+50	8+00	8+50
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83+00	83+50	84+00	84+50
85+00	85+50	86+00	86+50
87+00	87+50	88+00	88+50
89+00	89+50	90+00	90+50
91+00	91+50	92+00	92+50
93+00	93+50	94+00	94+50
95+00	95+50	96+00	96+50
97+00	97+50	98+00	98+50
99+00	99+50	100+00	100+50

Not Approved for Construction
 Mitigation Plan
 002
 DATE: 05/14/09
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]

APPROVED
 STATE OF FLORIDA
 MAY 14 2009
 DEPARTMENT OF
 ENVIRONMENTAL PROTECTION



- CONSTRUCTION REQUIREMENTS**
- 1) EXISTING BEST MANAGING PRACTICES INCLUDING MITIGATION OF IMPROPER CONSTRUCTION (BET) SHOULD REMAIN UNCHANGED THROUGHOUT CONSTRUCTION AND REMAIN IN PLACE THROUGHOUT CONSTRUCTION OF THE PROJECT.
 - 2) BEST MANAGING PRACTICES SHOULD BE MAINTAINED THROUGHOUT CONSTRUCTION OF THE PROJECT.
 - 3) BEST MANAGING PRACTICES SHOULD BE MAINTAINED THROUGHOUT CONSTRUCTION OF THE PROJECT.
 - 4) BEST MANAGING PRACTICES SHOULD BE MAINTAINED THROUGHOUT CONSTRUCTION OF THE PROJECT.
 - 5) BEST MANAGING PRACTICES SHOULD BE MAINTAINED THROUGHOUT CONSTRUCTION OF THE PROJECT.

- NOTES**
1. SEE SHEET 001 FOR GENERAL NOTES AND SPECIFICATIONS.
 2. SEE SHEET 002 FOR GENERAL NOTES AND SPECIFICATIONS.
 3. SEE SHEET 003 FOR GENERAL NOTES AND SPECIFICATIONS.
 4. SEE SHEET 004 FOR GENERAL NOTES AND SPECIFICATIONS.
 5. SEE SHEET 005 FOR GENERAL NOTES AND SPECIFICATIONS.
 6. SEE SHEET 006 FOR GENERAL NOTES AND SPECIFICATIONS.
 7. SEE SHEET 007 FOR GENERAL NOTES AND SPECIFICATIONS.
 8. SEE SHEET 008 FOR GENERAL NOTES AND SPECIFICATIONS.
 9. SEE SHEET 009 FOR GENERAL NOTES AND SPECIFICATIONS.
 10. SEE SHEET 010 FOR GENERAL NOTES AND SPECIFICATIONS.



VHB
 Vannest | Langston | Brantley, Inc.
 Environmental Services
 2801 Central Expressway, Suite 200
 Cary, NC 27513
 (919) 231-9900 | FAX (919) 231-8113

Legend

	Proposed
	Existing
	Water
	Wetland
	Other



Wares Creek/Cedar Hammock Flood Control Project Proposed Mitigation Site

Parcel 7, Tract 24, South, Range 17 East, Section 14, Township 24 North, Range 17 East, Eastern Wake County, North Carolina

NO.	DATE	DESCRIPTION
1	1/15/09	Initial Site Visit
2	2/10/09	Site Assessment
3	3/10/09	Design Development
4	4/10/09	Final Design
5	5/10/09	Construction
6	6/10/09	Final Inspection

Best Management Practices Plan

Not Approved for Construction

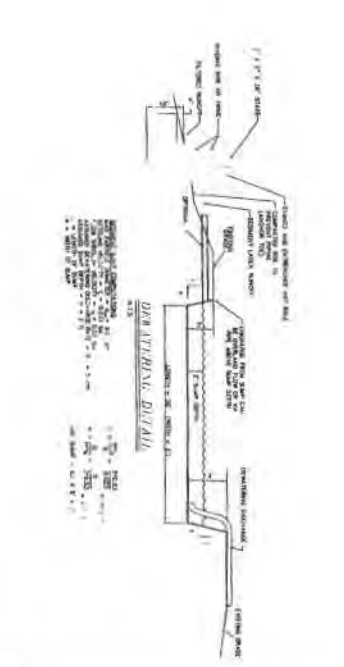
003

[Signature]
 DATE: 5/14/09

0197 09/09



- CONSTRUCTION NOTES:**
1. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. CONSTRUCTION CODE AND ALL APPLICABLE LOCAL ORDINANCES.
 2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. ENVIRONMENTAL PROTECTION ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 3. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. WATER CONTROL ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 4. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. WETLANDS ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 5. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. FLOOD CONTROL ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 6. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. AIR POLLUTION CONTROL ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 7. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. SOIL CONSERVATION ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 8. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. HISTORIC PRESERVATION ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 9. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. CULTURAL HERITAGE ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 10. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. ARCHITECTURAL HERITAGE ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 11. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. LANDMARK PRESERVATION ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 12. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. MONUMENTS ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 13. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. NATIONAL HISTORIC LANDMARKS ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 14. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. NATIONAL MONUMENTS ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 15. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. NATIONAL HISTORIC LANDMARKS ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 16. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. NATIONAL MONUMENTS ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 17. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. NATIONAL HISTORIC LANDMARKS ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 18. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. NATIONAL MONUMENTS ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 19. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. NATIONAL HISTORIC LANDMARKS ACT AND ALL APPLICABLE LOCAL ORDINANCES.
 20. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE N.C. NATIONAL MONUMENTS ACT AND ALL APPLICABLE LOCAL ORDINANCES.



ATTACHMENT "A"
ACUTE ELUTRIATE TOXICITY TESTING
REQUIREMENTS

The contractor shall comply with the following elutriate toxicity testing requirements and initiate the series of tests described below to evaluate acute toxicity of elutriate discharge from dredged material dewatering operations using polymers or other flocculants. These tests shall be completed and the results submitted to and received by the Department at least 30 days prior to discharge to surface waters.

a. Effluent Limitation

Whole effluent acute toxicity shall not exceed in any test an LC50 of less than 100% effluent. [Rule 62-302.200(1), Rule 62-302.500(1)(a)4., and Rule 62-4.244(3)(a), F.A.C.]

b. Monitoring

The toxicity tests specified shall be conducted and the results submitted to the Department at least 30 days prior to any discharge of effluent from dredged material dewatering operations.

c. Test Requirements

- (1) Tests: All tests shall be conducted using a control (0% effluent) and a minimum of five dilutions: **100%, 50%, 25%, 12.5% and 6.25%** effluent. Effluent shall be produced as described below in Sampling and Elutriate Preparation Requirements.
- (2) If the toxicity test does not meet the effluent limitation described above, it is considered a failing test. In this case the contractor must revise its polymer / flocculant configuration and/or select a different polymer / flocculant and retest following the same procedures until a passing test is achieved.
- (3) The permittee shall conduct 96-hour acute static renewal toxicity tests using the mysid, **Americamysis (Mysidopsis) bahia**, and the inland silverside, **Menidia beryllina**, concurrently.
- (4) All test species, procedures and quality assurance criteria used shall be in accordance with **Methods for Measuring Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms**, EPA-821-R-02-012. Any deviation of the bioassay procedures outlined herein shall be submitted in writing to the Department for review and approval prior to use. In the event the above method is revised, the permittee shall conduct acute toxicity testing in accordance with the revised method.
- (5) The control water and dilution water used shall be artificial seawater and diluted to the test salinity as described in EPA-821-R-02-012, Table 7.2.4 The test salinity shall be determined as follows:
 - (a) When the salinity of the effluent is between 1 and 7 parts per thousand (ppt), the following salinity adjustment shall be used in the test of 100% effluent. For the **Mysidopsis bahia** bioassays, the effluent and the control (0% effluent) shall be adjusted to a salinity of 6-7 ppt for the 100% effluent test using artificial sea salts. No salinity adjustment shall be done for the **Menidia beryllina** bioassay test of the 100% effluent.
 - (b) When the salinity of the effluent is greater than 7 ppt, no salinity adjustment shall be made and the test shall be run at the effluent salinity.

d. Sampling and Elutriate Preparation Requirements

1. The elutriate is prepared by sub-sampling approximately 1 L of the homogenized dredged-material sample that has been treated with the proposed polymer at the maximum dosage rate proposed for the system. The dredged material and unfiltered dredging-site water are then combined in a sediment-to-water ratio of 1:4 on a volume basis at room temperature (22° +/- 2°C). Water used to achieve this ratio should be from the dredging site. This is best accomplished by volumetric displacement. After the correct ratio is achieved, the mixture is stirred vigorously for 30 min with a magnetic stirrer. At 10-min intervals, the mixture is also stirred manually to ensure complete mixing.
2. After the 30-min mixing period, the mixture is allowed to settle for 1 h. The liquid plus the material remaining in suspension after the settling period represents the 100% liquid plus suspended particulate phase. The supernatant is then carefully siphoned off, with out disturbing the settled material, and immediately used for testing. With some very fine-grained dredged materials, it may be necessary to centrifuge the supernatant until the suspension is clear enough at the first observation time for the organisms to be visible in the testing chamber.
3. The resulting liquid will constitute the effluent referenced in I.c.(1) at 100%.

e. Quality Assurance Requirements

1. A standard reference toxicant quality assurance acute toxicity test (SRT-QA) shall be conducted with each species used in the required toxicity tests either concurrently or no greater than 30 days before the date of the test conducted. The SRT-QA data shall be submitted with each companion routine or additional test required.
2. A test will be considered valid only if the control mortality does not exceed 10% for either test species and all test acceptability criteria are met as described in 3 and 5.
3. If the mortality in the control (0% effluent) exceeds 10% for either species in any test, the test(s) for that species (including the control) shall be repeated. The results of any invalid test shall be submitted to the Department in conjunction with the results of the repeat test.
4. If, in any sample test, 100% mortality occurs prior to the end of the test, and control mortality is less than 10% at that time, that test (including the control) shall be terminated and considered a failing test.
5. Tests shall be evaluated for acceptability based on the concentration-response relationship, as required and described by EPA-821-R-02-012, Section 12.2.6.2.

f. Reporting Requirements

1. A toxicity laboratory report for the test shall be prepared according to EPA-821-R-02-012, Section 12, Report Preparation and Test Review (or the most current edition) and mailed to the Department at the address below for receipt at least 30 days prior to beginning of discharge.
- 2.. All toxicity laboratory reports shall be submitted to:
Department of Environmental Protection
Southwest District Office
Attn: Environmental Resource Permitting
13051 N. Telecom Parkway
Temple Terrace, FL 33637-0926
Telephone No.: (813) 632-7600

ATTACHMENT "B"

CHRONIC ELUTRIATE EFFLUENT TOXICITY TESTING REQUIREMENTS

Chronic Elutriate Effluent Toxicity Testing

The contractor shall comply with the following elutriate toxicity testing requirements and initiate the series of tests described below to evaluate chronic toxicity of elutriate discharge from dredged material dewatering operations using polymers or other flocculants. These tests shall be completed and the results submitted to and received by the Department at least 30 days prior to discharge to surface waters.

a. Effluent Limitation

Whole effluent chronic toxicity shall not exceed a No Observed Effect Concentration (NOEC) of less than 100% effluent in any test. [Rule 62-302.530(62), F.A.C.]

b. Monitoring

The "routine" toxicity tests specified shall be conducted and the results submitted to the Department at least 30 days prior to any discharge of effluent from dredged material dewatering operations.

c. Test Requirements

- (1) Tests: All tests shall be conducted using a control (0% effluent) and a minimum of five test concentrations: **100%**, **50%**, **25%**, **12.5%**, and **6.25%** final effluent. Effluent shall be produced as described below in Sampling and Elutriate Preparation Requirements.
- (2) If the toxicity test does not meet the effluent limitation described above, it is considered a failing test. In this case the contractor must revise its polymer / flocculant configuration and / or select a different polymer / flocculant and retest following the same procedures until a passing test is achieved.
- (3) The permittee shall conduct 7-day chronic toxicity test with a mysid shrimp, **Americamysis (Mysidopsis) bahia**, Survival and Growth Test, and an inland silverside, **Menidia beryllina**, Larval Survival and Growth Test, concurrently.
- (4) All test species, procedures and quality assurance criteria used shall be in accordance with Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Saltwater Organisms, 4th ed., EPA-821-R-02-014. Any deviation of the bioassay procedures outlined herein shall be submitted in writing to the Department for review and approval prior to use. In the event the above method is revised, the permittee shall conduct chronic toxicity testing in accordance with the revised method.
- (5) The control water and dilution water used shall be adjusted to a salinity of 20 ppt (parts per thousand) using artificial sea salts as described in EPA-821-R-02-014, Section 7.2. If the effluent salinity is less than 20 ppt, adjust salinity to 20 ppt using artificial sea salts. Prepare a salinity adjustment control by diluting the control/dilution water to the salinity of the effluent and then adjusting the salinity adjustment control to 20 ppt using artificial sea salts.

d. Sampling and Elutriate Preparation Requirements

1. The elutriate is prepared by sub-sampling approximately 1 L of the homogenized dredged-material sample that has been treated with the proposed polymer at the maximum dosage rate proposed for the system. The dredged material and unfiltered dredging-site water are then combined in a sediment-to-water ratio of 1:4 on a volume basis at room temperature (22° +/- 2°C). Water used to achieve this ratio should

Attachment "B"

Chronic Elutriate Testing Requirements

File No.: 41-0260401-001

be from the dredging site. This is best accomplished by volumetric displacement. After the correct ratio is achieved, the mixture is stirred vigorously for 30 min with a magnetic stirrer. At 10-min intervals, the mixture is also stirred manually to ensure complete mixing.

2. After the 30-min mixing period, the mixture is allowed to settle for 1 h. The liquid plus the material remaining in suspension after the settling period represents the 100% liquid plus suspended particulate phase. The supernatant is then carefully siphoned off, with out disturbing the settled material, and immediately used for testing. With some very fine-grained dredged materials, it may be necessary to centrifuge the supernatant until the suspension is clear enough at the first observation time for the organisms to be visible in the testing chamber.

3. The resulting liquid will constitute the effluent referenced in II.c.(1) at 100%.

d. Quality Assurance Requirements

1. A standard reference toxicant quality assurance chronic toxicity test (SRT-QA) shall be conducted with each species used in the required toxicity tests, either concurrently or started no more than 30 days before the date of each routine or additional follow-up test conducted. The SRT-QA data shall be submitted with each companion routine or additional test required.

2. A test will be considered valid only if the control mortality does not exceed 20% for either species and all test acceptability criteria are met as described in e.3 and e.6. The results of any invalid test shall be submitted to the Department in conjunction with the results of the complete repeat test.

3. Test acceptability criteria for each species are defined in EPA-821-R-02-014, Section 14.12 (*A. bahia*) and Section 13.12 (*M. beryllina*) or the most current edition. If the mortality in the control (0% effluent) exceeds 20% for either species in any test, the test for that species (including the control) shall be invalidated and the test repeated.

4. If, in any test, 100% mortality occurs in any test concentration prior to the seven days, and the control mortality is less than 20% at that time, that test (including the control) shall be terminated with the conclusion that the test failed.

5. Tests shall be evaluated for acceptability based on the observed dose-response relationship and the percent minimum significant difference (PMSD), as required by EPA-821-R-02-014, Sections 10.2.6 and 10.2.8, respectively.

f. Reporting Requirements

1. A toxicity laboratory report for each test shall be prepared according to EPA-821-R-02-014, Section 10, Report Preparation and Test Review (or the most current edition), and submitted to the Department for receipt at least 30 days prior to beginning of discharge.

2. All toxicity reports shall be sent to:

Department of Environmental Protection
Southwest District Office
Attn: Environmental Resource Permitting
13051 N. Telecom Parkway
Temple Terrace, FL 33637-0926
Telephone No.: (813) 632-7600

ATTACHMENT "C"

ON-GOING MONITORING REQUIREMENTS

In order to evaluate the on-going operation of the dredge / dewatering system over the period of operation, the following monitoring shall be conducted as specified and submitted to the Department in a monthly report.

1. Turbidity - Daily during first month, weekly thereafter until shutdown
 - a. Point of discharge
 - b. Background location upstream of dischargeApplicable Limit: Discharge cannot exceed ambient water quality in an Outstanding Florida Waterbody. If the discharge exceeds ambient water quality, the discharge shall be ceased immediately and efforts to control the turbidity implemented. If this condition occurs, once the problem has been corrected and the discharge restarted, turbidity monitoring shall return to daily for the first two weeks following restart and monthly thereafter.
2. Chronic toxicity testing – Tests shall be conducted monthly for the first three months and every three months thereafter, following the protocol outlined below. If any of the initial (3) tests result in unacceptable toxicity, the permittee shall investigate the potential cause of this toxicity. If acute toxicity (exhibited in the chronic toxicity test) is equivalent to an $LC_{50} < 100\%$ in any test, the permittee shall cease discharge from the treatment system and immediately investigate the potential cause(s) of the toxicity.

Chronic Toxicity Testing Protocol

The permittee shall comply with the following requirements to evaluate chronic whole effluent toxicity of the discharge from the spoil dewatering operation.

- a. Effluent Limitation
 - (1) Whole effluent chronic toxicity shall not exceed a No Observed Effect Concentration (NOEC) of less than 100% effluent in any test. [Rule 62-302.530(62), F.A.C.]
- b. Monitoring Frequency
 - (1) "Routine" toxicity tests shall be conducted monthly for the first three months and every three months thereafter.
 - (2) Upon completion of four consecutive, valid "routine" tests that demonstrate compliance with the effluent limitation in 1.a. (1) above, the permittee may submit a written request to the Department for a reduction in monitoring frequency. The Department shall review this request within 45 days of receipt and approve or deny the request in writing. Requested reductions in monitoring shall only become effective upon Department approval.
 - (3) If a test within the sequence of the four is deemed invalid, but is replaced by a repeat valid test initiated within seven days of the invalidation, the invalid test will not be counted against the requirement for six consecutive valid tests for the purpose of evaluating the reduction of monitoring frequency. If two or more invalidations occur, this provision does not apply.
- c. Test Requirements
 - (1) Routine Tests: All routine tests shall be conducted using a control (0% effluent) and a minimum of five test concentrations: **100%, 50%, 25%, 12.5%, and 6.25%** final effluent.
 - (2) Additional Follow-up Testing Requirements, if required:
 - (a) If a routine test does not meet the chronic toxicity limitation in 1.a.(1) above, the permittee shall conduct two additional follow-up tests on each species that failed the test.
 - (b) Each additional follow-up test shall be conducted using a control (0% effluent) and a minimum of five dilutions: 100%, 50%, 25%, 12.5% and 6.25% effluent. The dilution

Attachment "C"

On-going Monitoring Requirements

File No.: 514-0260401-001

series may be modified in the second test to more accurately bracket the toxicity, such that at least two dilutions above (not to exceed 100% effluent) and two dilutions below the target concentration and a control (0% effluent) are run. All test results shall be statistically analyzed according to the Appendices in EPA-821-R-02-013.

- (c) The first test shall be initiated within two weeks of the end of the failed routine test and weekly thereafter until a total of two valid additional follow-up tests are completed.
 - (3) The permittee shall conduct 7-day chronic toxicity test with a mysid shrimp, **Americamysis (Mysidopsis) bahia**, Survival and Growth Test, and an inland silverside, **Menidia beryllina**, Larval Survival and Growth Test, concurrently.
 - (4) All test species, procedures and quality assurance criteria used shall be in accordance with **Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Saltwater Organisms**, 4th ed., EPA-821-R-02-014. Any deviation of the bioassay procedures outlined herein shall be submitted in writing to the Department for review and approval prior to use. In the event the above method is revised, the permittee shall conduct chronic toxicity testing in accordance with the revised method.
 - (5) The control water and dilution water used shall be adjusted to a salinity of 20 ppt (parts per thousand) using artificial sea salts as described in EPA-821-R-02-014, Section 7.2. If the effluent salinity is less than 20 ppt, adjust salinity to 20 ppt using artificial sea salts. Prepare a salinity adjustment control by diluting the control/dilution water to the salinity of the effluent and then adjusting the salinity adjustment control to 20 ppt using artificial sea salts.
- d. Sampling Requirements
- (1) For each routine or additional follow-up test conducted, a total of three 24-hour composite samples of final effluent shall be collected and used per the sampling protocol discussed in EPA-821-R-02-014, Section 8.3.
 - (2) The first sample shall be used to initiate the test. The remaining two samples shall be collected according to the protocol and used as renewal solutions on Day 3 (48 hours) and Day 5 (96 hours) of the test.
- e. Quality Assurance Requirements
- (1) A standard reference toxicant (SRT) quality assurance (QA) chronic toxicity test shall be conducted with each species used in the required toxicity tests either concurrently or no more than 30 days before the date of each routine or additional follow-up test conducted. The SRT-QA data shall be submitted with each companion routine or additional test required.
 - (2) If the mortality in the control (0% effluent) exceeds 20% for either species in any test, the test for that species (including the control) shall be invalidated and the test repeated. Test acceptability criteria for each species are defined in EPA-821-R-02-014, Section 14.12 (A. bahia) and Section 13.12 (M. beryllina).
 - (3) If during any test, 100% mortality occurs in the any test concentration prior to the end of the test, and control mortality is less than 20% at that time, that test (including the control) shall be terminated with the conclusion that the test fails and constitutes non-compliance.
 - (4) Additional follow-up tests shall be evaluated for acceptability based on the observed dose-response relationship and the percent minimum significant difference (PMSD) as required by EPA-821-R-02-014, Sections 10.2.6 and 10.2.8, respectively. Results from these evaluations shall be included with the submitted bioassay reports.
- f. Reporting Requirements
- (1) A bioassay laboratory report for each routine test shall be prepared according to EPA-821-R-02-013, Section 10, Report Preparation and Test Review and mailed to the Department at the address below within 30 days of the completion of the test.
 - (2) For additional follow-up tests, a single bioassay laboratory report shall be prepared according to EPA-821-R-02-013, Section 10 and mailed within 45 days of completion of the second valid additional follow-up test. If any additional follow-up test, or two consecutive routine tests do not meet the effluent limitation specified in a.(1) above, the permittee shall contact the Department within 30 days of the report submittal to discuss the appropriate corrective actions necessary to remedy the observed chronic toxicity.
 - (3) All bioassay reports shall be submitted to:

Florida Department of Environmental Protection
Southwest District
Environmental Resource Program
13051 N. Telecom Parkway
Temple Terrace, FL 33637

ATTACHMENT D

WARES CREEK (DEWATERING CONDITION SPECS)

The Permittee shall, at a minimum, institute the following measures as part of the construction and operation of any dredge material dewatering site (staging area) during the project, and the restoration of the site after use. The contractor shall include but is not limited to the following:

1. Preparation of the site for use as a staging area:
 - a. The contractor shall provide a detailed site construction plan to the project engineer and Department prior to construction of the facility. Construction shall not commence prior to approval of the site construction plan by the Department.
 - b. The general area desired for use as a disposal area shall be carefully inspected prior to selection of the exact location of dikes and areas for spoil deposition. Areas of uneven natural subsidence, sink-holes, pockets of organic matter, or other unstable soils shall be avoided, unless special provisions are made for their correction.
 - c. Pave, line, or use other methods to prevent percolation of decant and runoff water into local ground water system or offsite uplands.
 - d. Provide curbing or berms, sufficient to contain potential storm water and any spillage within the dewatering site.
 - e. Construct the site such that there is no uncontrolled discharge of storm or decant water from the site to offsite uplands, to waters of the state, or to ground water.
 - f. Provide appropriate treatment facilities for runoff and decant water sufficient to ensure compliance with applicable Florida Water Quality Criteria. Prior to construction, provide the engineer and the Department calculations demonstrating reasonable assurance that water quality standards will be met at the discharge of the facility. This can be accomplished by providing calculations similar to those in Chapter 4 of the COE Manual and those in Appendix C of the Manual. In addition, the COE may propose alternative methods for achieving turbidity standards such as detailed operational controls for dredge material dewatering site. In consideration of the various ways to calculate capacity, if the above calculations are not performed the corps should describe how the size of the dewatering site is calculated, and how compliance with the turbidity standards will be achieved.
2. Information to be included in the construction plan submittal required in condition 1(a) above shall include the following:
 - a. Topographic information for the site
 - b. Existing grade of the site prior to any site improvements
 - c. Detailed statement of all activities included in the staging area (fueling facilities, maintenance areas, etc.)
 - d. Location of construction barge mooring area, if necessary
 - e. Location of pipeline corridor, if hydraulic (include type of pipe, whether it is floating or fixed and how navigation will be addressed)
 - f. Erosion and sediment control BMP's
 - g. Assurances that flooding offsite will not occur as a result of construction activities
3. Management of site water and dredged material

- a. The contractor shall provide a detailed site management plan to the project engineer prior to construction of the facility.
 - b. All water from the site including storm water will be controlled and returned to waters of the state meeting, at a minimum class III water quality standards as defined by Florida Admin. Code 62-302.
 - c. Under no circumstances will an uncontrolled release of water back into Wares Creek, other local bodies of water, or uplands located offsite be allowed.
 - d. Control of odor as to prevent a nuisance to the local community.
 - e. Control of Insects as to prevent a nuisance to the local community.
 - f. Control of Birds as to prevent a nuisance to the local community.
4. Management of traffic at the site
- a. Contractor shall control traffic into and out of the site as to minimize disruption of normal traffic patterns in the area.
 - b. BMP's shall be provided to minimize truck tracking mud offsite
5. Restoration of site after use
- a. The contractor shall provide a detailed site closure plan to the project engineer prior to construction of the facility.
 - b. All equipment, supplies and dredged material shall be removed from the site at the conclusion of the project.
 - c. The site shall be returned to pre-project condition at the conclusion of operations.
 - d. The contractor shall provide an as-built topographic survey demonstrating that the site elevations have been restored to the pre-project conditions.