



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
701 San Marco Boulevard
JACKSONVILLE, FLORIDA 32207-8175

FINDING OF NO SIGNIFICANT IMPACT

DREDGED MATERIAL MANAGEMENT AREA CONSTRUCTION O-7 INTRACOASTAL WATERWAY MARTIN COUNTY, FLORIDA

This finding references two Environmental Assessments conducted for the proposed action. The initial Environmental Assessment (EA) was completed in 2009 by the U.S. Army Corps of Engineers (Corps) Regulatory Division (RD) for Department of the Army Permit SAJ-2009-00178 (IP-GGL) under the Authority of Section 404 of the Clean Water Act, and evaluated construction of the Dredged Material Management Area (DMMA). The second EA was completed in 2015 by RD under the Authority of Section 404 of the Clean Water Act, and modified Department of the Army Permit SAJ-2009-00178 (IP-GGL) to include construction of an access road to the DMMA. Subsequent to completion of the EAs by RD, the project sponsor Florida Inland Navigation District (FIND) requested that the Corps complete design and construction of DMMA O-7. Therefore, this Finding adopts the existing National Environmental Policy Act (NEPA) coverage for the Corps Civil Works Program and incorporates by reference all discussions and conclusions contained in the EAs enclosed hereto. Based on information analyzed in these EAs, reflecting pertinent information obtained from other agencies and special interest groups having jurisdiction by law and/or special expertise, I conclude that the proposed action will have no significant impact on the quality of the human environment and does not require an Environmental Impact Statement. Reasons for this conclusion are, in summary:

- a. The U.S. Fish and Wildlife Service concurred with the Corps determination that the proposed action "May affect, but would be not likely to adversely affect" the eastern indigo snake and the wood stork.
- b. In coordination with the Florida State Historic Preservation Officer, it was determined that the proposed DMMA construction will have no effect on historic properties.
- c. The State concurred with the Corps Coastal Zone Management Act (CZMA) consistency determination that the proposed action is consistent with the enforceable policies of the Florida Coastal Management Program through issuance of ERP SI 43-0296831-001.
- d. Benefits to the public will be to facilitate maintenance of the navigation channel by providing a DMMA for the dredged material and therefore continued local economic stimulus and increased recreational benefits from the IWW.

e. Measures will be in place during construction to eliminate, reduce, or avoid adverse impacts below the threshold of significance to fish and wildlife resources including the following:

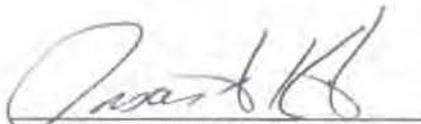
Construction activities would follow the standard protection measures for the eastern indigo snake;

Filling approximately 3.6 acres of irrigation ditches which provide suitable foraging habitat within the core foraging area of two active wood stork breeding colonies would be offset through construction of 4.39 acres of ditches with similar conveyance features;

The Jacksonville District's Migratory Bird Protection Plan would be followed during the nesting season;

In consideration of the information summarized, I find that the proposed DMMA O-7 construction will not significantly affect the human environment and does not require an Environmental Impact Statement. A copy of these documents will be made available to the public at the following website:

<http://www.saj.usace.army.mil/About/DivisionsOffices/Planning/EnvironmentalBranch/EnvironmentalDocuments.aspx>.



JASON A. KIRK, P.E.
Colonel, Corps of Engineers
Commanding

29 February 2016
Date

18 February 2016

MEMORANDUM FOR RECORD

SUBJECT: Supplement to the Department of the Army Environmental Assessment and Statement of Findings for the Above-numbered Permit.

1. Permittee:

- a. Address: Florida Inland Navigation District
1314 Marcinski Road
Jupiter, Florida 33477
- b. Is the request for the modification from the current Permittee? Yes No
- c. If no, was a transfer requested: N/A Yes No – Explanation:

2. Background:

a. The Department of the Army permit dated 5 January 2011, authorized the Florida Inland Navigation District (FIND) to construct a 33.0 dredged material management area (DMMA) on a 77.29 acre upland agricultural site. As part of the project, the Applicant proposed to place approximately 17,000 cubic yards (cy) of dredge material in 3.60 acre of waters of the United States (US) i.e., jurisdictional agricultural ditches. To replace wood stork foraging habitat lost as a result of filling 3.66 acre of ditches, FIND proposed to purchase 0.675 credits from the Bluefield Ranch Mitigation Bank. The DMMA was designed to provide a capacity of 565,000 cubic yards for the management of sediments dredged from Reach IV of the St. Lucie Canal/Okeechobee Waterway. The DMMA is located near the St. Lucie lock and dam in Martin County, Florida (latitude 27.115033, longitude -80.291393).

b. The original construction window expired on 6 January 2016. This request includes a two-year extension to the construction window.

- c. Previous permit modifications: Yes No – Explanation if “yes”:
- d. Has the authorized work commenced? Yes No – Explanation if “yes”:

e. Status of work compliance: Construction was delayed in order to design the DMMA to Corps of Engineers standards as the DMMA will be constructed by the Corps and used by both the Corps and FIND for disposal of dredged material from the federal navigation channel. Construction was also delayed because of the requirement to obtain a permit modification from the Florida Department of Environmental Protection

Regulatory Division

SUBJECT: Supplement to the Department of the Army Environmental Assessment and/or Statement of Findings for file number: SAJ-2009-00178 (IP-MFB)

(FDEP) for the DMMA access road. Since construction was delayed, FIND has not incurred the authorized fill impacts nor purchased the required mitigation credits.

3. Proposed Permit Modification: FIND requested a modification to the above-numbered Department of the Army permit by letter dated 9 January 2015. The request was for the Corps to consider 4.39 acres of perimeter ditches that would be constructed for the DMMA to operate as replacement foraging habitat for the wood stork in lieu of the requirement to purchase mitigation bank credits. The initial proposal reviewed by the Corps included only the DMMA project site and not the DMMA access road, which is entirely in uplands and subject of the FDEP permit modification. The 1.8-mile access road begins at the authorized DMMA and advances southwest to the St. Lucie lock and dam adjacent to Pratt Whitney Road. Following receipt of the modification letter, an extension of the construction window was requested.

It should be noted a permit modification was provided to FIND on 11 August 2015, by the prior project manager removing the requirement to comply with special condition number 8 of the original permit. The modification did not include the requested time extension nor the special condition as requested by the FWS. A final signed MFR to support the 11 August 2015 and a signed copy of the permit modification letter was not located in the administrative record. This MFR updates the draft MFR of August 2015, and supports modification #2 issued to FIND on 18 February 2016.

4. Coordination:

a. Endangered Species:

(1) Additional coordination required: X Yes No

(2) Are all endangered species conditions current: N/A Yes X No –

Explanation: Section 7 consultation was completed for the original project which included the entire DMMA footprint but not the access road. The Permittee was required to purchase 0.675 credits from Bluefield Ranch Mitigation Bank as wood stork foraging habitat to replace foraging habitat lost through filling of the 3.66 acres of agricultural ditches. At that time the Permittee did not request the Corps and U.S. Fish and Wildlife Service (FWS) consider the 4.39 acres of constructed perimeter ditches as replacement suitable foraging habitat for wood stork. As Section 7 consultation is required for the modification request (removal of the mitigation bank credits), the Corps expanded the action area for ESA purposes to include the access road.

The action area typically includes the affected jurisdictional waters and uplands affected by the authorized work or structures within a reasonable distance. The action area may be expanded beyond limits of the immediate uplands, taking into account the following

Regulatory Division

SUBJECT: Supplement to the Department of the Army Environmental Assessment and/or Statement of Findings for file number: SAJ-2009-00178 (IP-MFB)

evaluation factors: (a) That either a causal physical relationship exists between the authorized work or structures and any indirect effects occurring in uplands, or that the extent of Corps involvement is sufficient to exert Federal control and responsibility over additional upland areas; or (b) that activities occurring in upland areas would not occur but for the authorized work or structures; and (c) that activities occurring on upland areas are interrelated activities or interdependent activities with respect to the authorized work or structures.

In consideration of criterion (a) (b) and (c) cited above, the Corps does have sufficient control and responsibility to warrant a Federal review over a larger portion of the entire project to include the 1.8 mile access road which would be constructed entirely in uplands.

The Corps determined the proposed modification may affect, but is not likely to adversely affect the federally threatened eastern indigo snake (*Drymarchon corais couperi*) and endangered wood stork, and will have no effect on the threatened Audubon's crested caracara (*Polyborus plancus audubonii*; caracara) and endangered West Indian manatee (*Trichechus manatus*; manatee). By letter dated 27 July 2015, the FWS concurred with the Corps' determination for the wood stork. Additionally, the FWS concurred that the 4.39 acres of perimeter ditches would provide suitable replacement wood stork foraging habitat in lieu of purchase of mitigation credits. The FWS provided the following to be included as a permit special condition: All burrows to be impacted will be evacuated prior to site manipulation and any encountered eastern indigo snakes allowed to vacate the area prior to further site activity as outlined in the Standard Protection Measures for the Eastern Indigo Snake (Service 2013).

b. Essential Fish Habitat (EFH):

(1) Additional coordination required: Yes X No

(2) Are all EFH conditions current: X N/A Yes No – Explanation: No EFH for federally managed species is present within the project area.

c. National Historic Preservation Act (NHPA):

(1) Additional coordination required: Yes X No

(2) Are all NHPA conditions current: X N/A Yes X No – Explanation: Consultation pursuant to Section 106 of the NHPA was completed for the original permit. The Corps Regulatory did not consult with the State Historic Preservation Officer (SHPO) on the 1.8-mile upland DMMA access road as this was handled by the Corps Planning. By letter dated 5 April 2015, Planning completed consultation with SHPO pursuant to Section 106 for the access road.

Regulatory Division

SUBJECT: Supplement to the Department of the Army Environmental Assessment and/or Statement of Findings for file number: SAJ-2009-00178 (IP-MFB)

d. Other coordination: N/A

(1) Internal Corps coordination: Yes No – Explanation:

(2) External coordination: Yes No – Explanation:

5. Mitigation:

a. Compensatory mitigation required in original permit: Yes No

b. Evaluation: The original permit required purchase of 0.675 credits from the Bluefield Ranch Mitigation Bank primarily to replace wood stork foraging habitat loss through filling of the 3.66 acres of agricultural ditches. Although the 3.66 acres of ditches are jurisdictional waters of the US, they are not special aquatic sites, wetlands, or aquatic resources, which provide high function and services to aquatic species. The limited function and services provided by the agricultural ditches will be replaced “in kind” by the 4.39 acres of ditches that would be constructed around the perimeter of the DMMA. The 4,000 linear ft. of 20-ft. wide perimeter ditch constructed are similar in conveyance and habitat and will more than compensate for the 800 linear ft. of 20-ft. wide irrigation ditch authorized for impact. The basic concept of “self-mitigation” is not unusual and is accepted by the Corps in authorizing impacts to road side ditches as a result of transportation projects. Self-mitigation occurs when a project possesses environmental benefits that outweigh and override any adverse consequences of the project. The Council of Environmental Quality recognizes this concept, though not by name, when it explains that where sufficient mitigation is intrinsic to a proposal, an agency may conclude that the overall effects of a proposal are below the threshold for requiring an Environmental Impact Statement.

c. Compensatory mitigation status: The permit condition requiring purchase of 0.675 credits from Bluefield Ranch Mitigation Bank will be removed. No additional mitigation is required.

6. Special Conditions:

a. Special Conditions added or modified: Yes No

b. Explanation/description: Elimination of the special condition 8 requiring purchase of mitigation bank credits to offset impacts to approximately 3.66 acres of irrigation ditches. Special condition 10 of the original permit is replaced as follows: The Permittee shall comply with the Standard Protection Measures for the Eastern Indigo Snake (Service 2013) a copy of which can be downloaded from our website at

Regulatory Division

SUBJECT: Supplement to the Department of the Army Environmental Assessment and/or Statement of Findings for file number: SAJ-2009-00178 (IP-MFB)

http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/endangered_species/Indigo/20130812_EIS%20Standard%20Protection%20Measures_final.pdf. If

impacts to gopher tortoise burrows are unavoidable, the gopher tortoises must be relocated to either an on-site or off-site preserve area through issuance of a permit from the Florida Fish and Wildlife Conservation Commission. All burrows to be impacted will be evacuated prior to site manipulation and any encountered eastern indigo snakes allowed to vacate the area prior to further site activity as outlined in the Standard Protection Measures for the Eastern Indigo Snake (Service 2013).

7. Determination: The Corps has reviewed all pertinent information in the proposed modification request and has concluded that the previous determinations for this permit evaluation are still valid. The proposed permit modification impacts on the environment and navigation have been evaluated and found to be insignificant. Therefore, the requested modification is hereby approved including an extension of the construction window for two years until 6 January 2018.

PREPARED BY:



Tori White
Deputy, Regulatory Division

APPROVED BY:



Donald Kinard
Chief, Regulatory Division

CESAJ-RD-SP (1145b)
SAJ-2009-00178 (IP-GGL)

MEMORANDUM FOR RECORD

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

1. Applicant: Florida Inland Navigation District
Attention: David Roach
1314 Marcinski Road
Jupiter, Florida 33477
2. Location, Project Description, Existing Conditions:
 - a. Location: The project is located in relatively permanent waters of the United States adjacent to the St. Lucie Canal (OWW), and is physically located approximately 900 ft northwest of the St. Lucie Lock and Dam on a parcel with the following identification Number: 55-38-41-000-015-00010-4 in Martin County, Florida. (Section 1 Townships 38 and 39S Range 40E). Latitude 27.115033; Longitude -80.291393
 - b. Project Description: The applicant requested authorization to place approximately 17,000 cubic yards of fill in 3.66 acres of agricultural ditches. The ditches are tributaries of the OWW classified as relatively permanent waters. The project would construct a ±33.0 acre dredged material management area (DMMA). The long-term storage facility will provide a capacity of ±565,000 cubic yards for the management of sediments dredged from Reach IV of the St. Lucie Canal/OWW (mile 9.99 to mile 15.11).
 - c. Existing Conditions: The entire site is 77.29 acres and is comprised of the following land uses: 64.96 acres of active tomato row crops/agricultural lands, 2.76 acres of pine flatwoods; 2.26 acres of temperate hardwoods; 4.19 acres of mixed hardwood conifer; 5.71 acres of agricultural ditches; and 0.48 of forested wetlands. The DMMA requires 33.0 acres of the overall 77.29 acres. The DMMA will be located wholly within the upland agricultural area. However, approximately 3.66 acres of agricultural ditches are within the 33.0 acres proposed for the DMMA. The ditch hydrology is maintained by agricultural pumps withdrawing water from the St. Lucie Canal. The ditches are freshwater jurisdictional aquatic resources. The area proposed for DMMA construction is vegetated seasonally with tomato plants, and the irrigation ditches are vegetated along the ditch margins with nuisance weeds and grasses. The ditches are routinely maintained as

CESAJ-RD-SP (2009-00178(IP-GGL))

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

part of the agricultural activities. There will be no adverse effects to the 0.48 acres of the adjacent forested wetlands or any other aquatic resource.

3. Project Purpose: The basic project purpose is to construct a dredged material management area (DMMA). The overall purpose is to construct a DMMA in Martin County specifically for maintenance dredging the OWW.

4. Scope of Analysis: The scope of analysis was limited to the project site and included jurisdictional waters, endangered species, and uplands within the DMMA footprint.

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

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

a. State Permit/Certification: The Department of Environmental Protection (DEP) permit number 43-0296831-001 was issued on 16 July 2010.

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

c. Other Authorizations: No information has been received regarding any other authorizations that may be required.

7. Date of Public Notice and Summary of Comments

a. The application was received on 16 January 2009. The application was considered complete on 5 January 2010. A public notice was issued on 6 January 2010, and sent to all interested parties including appropriate State and Federal agencies. All comments received on this application have been reviewed and are summarized below:

(1) Environmental Protection Agency (EPA): Did not respond to the public notice.

CESAJ-RD-SP (2009-00178(IP-GGL))

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

(2) U.S. Fish and Wildlife Service (FWS): The FWS did not provide any comments in regards to the public notice.

(3) National Marine Fisheries Service (NMFS): By letter dated 11 January 2010, the NMFS had no objection to the proposed project, and stated there was no essential fish habitat (EFH) within the vicinity of the proposed project.

(4) State Historic Preservation Officer (SHPO): By letter dated 16 February 2010 SHPO stated the project site was not systematically investigated by a professional archeologist or historian and that the site displayed characteristics consistent with those found at other archeological sites in Martin County. The SHPO requested a professional perform a cultural resource reconnaissance survey (CRAS) of the property including subsurface testing. The applicant prepared a CRAS which stated there were no unknown cultural resources onsite. The CRAS was submitted to SHPO by the applicant for their review and concurrence. By letter dated 8 November 2010 the SHPO found the submitted report complete and sufficient in accordance with Chapter 1 A-46, *Florida Administrative Code* and concurred with the applicant's findings. The Corps has determined that the proposed project would have no effect on any sites listed, or eligible for listing, in the National Register of Historic Places, or otherwise of national, state, or local significance.

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

b. Applicant's response to the comments: The one public notice comment from SHPO regarding the potential for cultural resources was forwarded by the Corps to FIND on 22 February 2010. The FIND notified the Corps 30 March 2010 that a cultural resource report needed to be prepared for the site; however, the report submittal date was anticipated by FIND to be October 2010. The Corps withdrew the application pending submittal of the cultural resource assessment. The FIND submitted the cultural resource assessment to the Corps on 7 October 2010. The report discussed the details of the investigation and the methods used to detect potential cultural resources at the site. The Corps archeologist (David Pugh) reviewed the report and stated 14 October 2010 by email it was sufficient. The report was sent by the Corps to SHPO 8 November 2010.

CESAJ-RD-SP (2009-00178(IP-GGL))

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

8. Alternatives:

a. Avoidance (No action, uplands, availability of other sites): The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment: The FIND prepared an evaluation of potential DMMA sites for Reach IV of the OWW. The evaluation identified sites 925 and 932 as the primary DMMA site which were parcels located on property owned by the Corps adjacent to the St Lucie Lock, and they also evaluated the O-7 DMMA as a secondary DMMA site. Sites 925 and 934 were comprised of temperate hardwoods and degraded Brazilian pepper (*Schinus terebinthifolius*) scrub-shrub habitat. The O-7 site was comprised of active agricultural operations with a network of irrigation ditches constructed in uplands. The O-7 DMMA site was selected as the preferred site since sites 925 and 932 were part of the Corps plan to develop the area as a recreational park, and by selecting the O-7 DMMA site higher functioning natural forested habitats would be avoided. Construction of the O-7 DMMA would impact low quality irrigation ditches, but is preferable to destroying natural forested uplands. The project was designed within the agricultural field to avoid the 0.48 acres of forested wetlands. Furthermore, the project was designed to be constructed in the active agricultural portion of the site to avoid adverse effects to adjacent wetlands; however, 3.6 acres of low ecologically functioning agricultural ditches will be filled. The project avoided 2.1 acres of ditches. The applicant requested to use the minimum area required in order to still achieve the intended project purpose of constructing a DMMA. The applicant was not asked to explore avoidance alternatives since the current use of the land is agricultural tomato production. The Corps believes the proposed area is suitable for the proposed construction of the DMMA at this site since no high value aquatic resources will be adversely affected.

b. Minimization (modified project designs, etc.): The aquatic resources on site are comprised of 5.71 acres of agricultural ditches. The proposal is to fill approximately 3.6 acres of agricultural ditches. The applicant will establish all temporary erosion and turbidity control measures upon mobilization to the site. The applicant will place the erosion control measures (e.g. silt fence) along the limits of construction as delineated on the final construction drawings, and place turbidity curtains at the discharge point of the large open ditches that drain offsite. The applicant will monitor and

CESAJ-RD-SP (2009-00178(IP-GGL))

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

maintain these erosion control devices according to FDEP protocol. Following final site grading the contractor will establish permanent vegetation (e.g. grass, sod, etc.). The project has been minimized to the maximum extent possible that would allow the applicant to achieve the project purpose. The applicant was not asked to further explore minimization alternatives beyond those already achieved, given the quality of the existing resource.

c. Compensatory Mitigation (Wetland enhancement, creations, etc.): The mitigation offered by the applicant is sufficient to offset impacts on the values and functions of the wetland resource. The onsite aquatic resources proposed for impact were assessed using Wetland Rapid Assessment Procedure, and resulted in the following: Wildlife Utilization=1; Wetland Canopy=N/A; wetland Groundcover=0.0; Habitat support/Buffer=0.5; field hydrology=1; water quality treatment and input=0.5; pretreatment=0.25 for a total of 0.19 functional capacity units (FCU). The 0.19 FCUs multiplied by the impact acreage of 3.6 acres equals 0.68 WRAP units. Therefore, the permittee is required to purchase 0.68 freshwater herbaceous credits from Bluefield Ranch Mitigation Bank (BRMB) to offset the ecological functional loss of the onsite aquatic resources. The BRMB is located within the same 03090206 Hydrologic Unit Code watershed as the proposed impact. The impact site is not within a service area of any federal mitigation bank. The Corps has determined the purchase of credits from BRMB whose service area does not overlap the impact site is appropriate based on the low ecological functions and services of the impacted aquatic resource.

9. Evaluation of the 404(b)(1) Guidelines: The proposed project has been reviewed in accordance with the 404 (b)(1) Guidelines. The review shows that all the alternatives have been reviewed and it has been adequately demonstrated that the proposed alternative is the least environmentally damaging and only practicable alternative considering cost, existing technology and logistics. It would not cause or contribute to violations of State Water quality standards, jeopardize the existence of any endangered species or impact a marine sanctuary. No significant degradation would be expected and all appropriate and practicable steps have been taken to minimize impacts.

10. Public Interest Review:

CESAJ-RD-SP (2009-00178(IP-GGL))

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

a. Corps analysis of comments and responses: All comments received in response to the public notice have been considered in the following public interest review.

b. All public interest factors have been reviewed, including but not limited to the effects the work might have on conservation, economics, esthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, land use, shore erosion and accretion, recreation, water quality, safety, and consideration of property ownership. Furthermore, the Palm Beach Gardens Regulatory Office requested the Operations Division to review the proposed project plans and public notice by email dated 7 January 2010. By email dated 11 January 2010 from NavPermits, the Navigation Division stated they had no objection to the proposed project. However, they also noted that Real Estate Division may need to be involved some time in the future. Based on discussions with the applicant it was determined FIND will construct the DMMA, and the DMMA is not within the OWW right of way and will not require an easement from the CESAJ Real Estate Division. It has been determined that the proposed work will not adversely impact any of the public interest factors.

c. Describe the relative extent of the public and private need for the proposed structure or work: Public benefits include employment opportunities during construction and for FIND to provide long term disposal and management of the sediments within the OWW to maintain safe navigation.

d. Describe the practicability of using reasonable alternative locations and methods to accomplish the objective of the purposed work where there are unresolved conflicts as to resource use: There are no unresolved conflicts regarding resource use.

e. Describe the extent and permanence of the beneficial and/or detrimental effects which the proposed work is likely to have on the public and private uses to which the area is suited: Detrimental impacts are expected to be minimal although they would be permanent in the construction area. The beneficial effects associated with utilization of the property would be permanent. The O-7 DMMA will provide a facility for FIND to properly dispose dredged material.

CESAJ-RD-SP (2009-00178(IP-GGL))

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

f. Threatened or Endangered Species: The proposed project will not jeopardize the continued existence or critical habitat of any threatened or endangered species. By letter dated 5 January 2010, the Corps requested United States Fish and Wildlife's (USFWS) concurrence for the determination of may affect but not likely to adversely affect the eastern indigo snake (*Drymarchon corais*) pursuant to Section 7 of the Endangered Species Act. The Corps received approval 27 January 2010 from the USFWS to use the *Eastern Indigo Snake Programmatic Effect Determination Key (key)*, and the Corps notified the USFWS by email dated 16 February 2010 that written concurrence for this specific project was no longer needed and programmatic concurrence could be determined using the indigo snake key. The Corps' analysis of the project's effects is based on the *key*, and the results are as follows: A-B-C-D-E-may affect, but is not likely to adversely affect the eastern indigo snake. By letter dated 27 January 2010 from the USFWS, the Corps received programmatic concurrence with this determination and no further consultation is required.

The project is within the range of the wood stork (*Mycteria americana*). The Corps analyzed the effects of the project on the wood stork using the *Wood Stork Effect Determination Key*. The results of the Corps analysis resulted in a determination of may affect not likely to adversely affect the wood stork. The Corps has received prior concurrence for the anticipated project's effects on the wood stork from the USFWS through a programmatic concurrence letter dated 25 January 2010 and no further consultation is required.

The onsite hydrology is artificially maintained by pumps for agricultural irrigation within uplands. The onsite aquatic resources are freshwater, and are not accessible by the West Indian manatee (*Trichechus manatus*) because of existing structures acting as a barrier. Therefore, the project will have no effect on the manatee.

g. Essential Fisheries Habitat (EFH): The public notice included an initial determination that the project would not have an adverse impact on EFH or Federally managed fisheries. The NMFS did not provide any EFH conservation recommendations in response to the public notice. The NMFS stated in a letter dated 11 January 2010 that the project would not occur in the vicinity of EFH. Therefore, the Corps is satisfied that the consultation procedures outlined in 50 CFR Section 600.920 of the regulation

CESAJ-RD-SP (2009-00178(IP-GGL))

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

to implement the EFH provisions of the Magnuson-Stevens Act have been met.

h. Corps Wetland Policy: The project avoided impacting 0.48 acres of forested wetlands. No high quality wetlands are proposed to be adversely affected by the proposed project and the adverse effects associated with the 3.66 acres of agricultural ditch impacts are anticipated to result in no more than minimal adverse environmental impacts. The benefits of the project would outweigh the minimal detrimental impacts. The project would result in a no-net loss of wetland functions and services. Therefore the project is in accordance with the Corps wetland policy.

i. Cumulative and Secondary Impacts: Cumulative and secondary impacts would not be unacceptable. Filling of relatively permanent waters at this project site would not set precedent for additional filling activities in waters of the United States to occur. The project's impacts on the environment resulting from the incremental impact of the project when added to the past, present, and reasonably foreseeable future actions are minor and discountable given the current requirements of federal laws including the Clean Water Act, the Corps regulatory program regulations, and the conditions of the DA permit. The current baseline condition in the watershed includes past and ongoing wetland, wildlife, and water quality impacts resulting from residential, commercial, and agricultural development. The impacts of these development activities overlap in time and space with the effects of the proposed project. However, this project's cumulative aquatic habitat impacts would be discountable since the applicant will be required to completely offset the functions and values of the impacted aquatic resources with appropriate in-kind mitigation using a watershed approach. Cumulative water quality impacts will be discountable given the permit erosion control conditions, State permitting requirements with respect to water quality certification, and the wetland compensatory mitigation requirements. Cumulative wildlife and fisheries impacts would also be discountable given the existing use of the roadway corridor, the low quality of the impacted wetlands, and the mitigation proposed for the impacts. No other measurable cumulative impacts are expected for any other resource.

Authorizing this project would not set precedent for additional filling activities in waters of the United States to occur. The project will not provide new access to land for development. The DMMA is a single and complete project required to provide an

CESAJ-RD-SP (2009-00178(IP-GGL))

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

economically feasible location for the placement of dredged material from the OWW. The impact site and the BRMB are located within the same watershed hydrologic unit code 03090206.

j. Corps Comments and Responses: Full consideration was given to all comments received during the public notice. The comments received from SHPO were addressed by requiring the applicant to prepare a CRAS for the site, and in addition, the DA authorization was conditioned to provide information to the permittee in the eventuality of discovering unanticipated cultural resources during construction. There were no other comments received. The DA authorization will be conditioned to require the implementation of the STANDARD PROTECTION MEASURES FOR THE EASTERN INDIGO SNAKE during construction, the use of best management practices to avoid adverse effects to water quality, to follow the FDEP permit criteria, and measures to address unanticipated adverse effects to unknown cultural resources. The permit is conditioned requiring the permittee to purchase 0.68 freshwater herbaceous credits from the Bluefield Ranch Mitigation Bank for unavoidable impacts to the aquatic environment and wood stork foraging habitat.

11. Determinations:

a. Finding of No Significant Impact (FONSI). Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action will not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement will not be required.

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

c. Public interest determination: I find that issuance of a Department of the Army permit is not contrary to the public interest.

d. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit will not exceed de

CESAJ-RD-SP (2009-00178(IP-GGL))

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

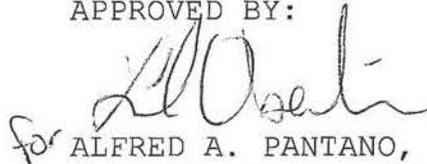
minimis levels of direct emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

PREPARED BY:



GARETT LIPS
Project Manager

APPROVED BY:



for ALFRED A. PANTANO, JR.
Colonel, Corps of Engineers
Commanding

REVIEWED BY:



TORI K. WHITE
Chief, Palm Beach Gardens Section



United States Department of the Interior



FISH AND WILDLIFE SERVICE
South Florida Ecological Services Office
1339 20th Street
Vero Beach, Florida 32960

December 10, 2015

Donnie Kinard
U.S. Army Corps of Engineers
4400 PGA Boulevard, Suite 500
Palm Beach Gardens, Florida 33410

Service CPA Code: 41420-2010-CPA-0190
Service Consultation Code: 41420-2010-I-0475
Service Re-initiation Code: 41420-2010-I-0475-R001
Corps Application Number: SAJ-2009-00178 (SP-GGL)
Date Received: December 15, 2014
Project: Dredged Material Management
Area Construction
Applicant: Florida Inland Navigation District
County: Martin

Dear Mr. Kinard:

The U.S. Fish and Wildlife Service (Service) has reviewed the U.S. Army Corps of Engineers (Corps) request to initiate consultation dated December 11, 2014, for construction of an access road (Project) associated with the previously permitted O-7 Dredged Material Management Area (DMMA). The Corps determined the proposed Project may affect, but is not likely to adversely affect the federally threatened eastern indigo snake (*Drymarchon corais couperi*) and threatened wood stork (*Mycteria Americana*), and will have no effect on the threatened Audubon's crested caracara (*Polyborus plancus audubonii*; caracara) and endangered West Indian manatee (*Trichechus manatus*; manatee). This letter is submitted in accordance with section 7 of the Endangered Species Act of 1973, as amended (Act) (87 Stat. 884; 16 U.S.C. 1531 *et seq.*).

Consultation History

On January 11, 2010, the Service received a letter dated January 5, 2010, and Public Notice dated January 6, 2010, from the Corps concerning construction of a 33 acre (ac) DMMA. The Corps made a no effect determination for the manatee, and a may affect, but is not likely to adversely affect determination for the eastern indigo snake and wood stork. The Service provided concurrence for the may affect not likely to adversely affect determinations for the wood stork and eastern indigo snake in the Service's programmatic concurrence letter dated November 9, 2007 (Service 2007).

On December 15, 2014, the Service received a letter and supplemental documents dated December 11, 2014, from the Corps to modify the project by adding the construction access

road. The Corps' letter identified that the Corps had programmatic concurrence concerning the wood stork (Service 2010), but only referred to the Standard Protection Measures for the Eastern Indigo Snake (Service 2013) and not a programmatic concurrence.

On June 22, 2015, the Service received an email from the Corps outlining that the Florida Inland Navigation District (Applicant) will create 400 feet (ft) of new ditches to mitigate for approximately 300 ft of ditches to be filled, rather than purchasing mitigation bank credits per the agreement in 2010.

On July 21, 2015, the Service emailed the Corps a request for additional information concerning the availability of more current wildlife surveys.

On July 22, 2015, the Corps emailed the Service a response to our request for additional information. Based on our review, the Service made a second request for additional information.

On July 23, 2015, the Corps emailed the Service a response to our second request for additional information. Included in the Corps' response was a copy of their January 5, 2011 Statement of Findings which addressed construction of the DMMA but not the access road and change in mitigation.

On July 24, 2015, the Service emailed the Corps a third request for additional information. Later that day, the Corps responded to our request for additional information. Based on our review, the Service had sufficient information to complete our review of the potential effects of the Project on the eastern indigo snake and wood stork. The Corps determined that the Project will have no effect on caracara or the West Indian manatee; no further consultation is required for these species.

PROJECT DESCRIPTION

The proposed Project is for the construction of an access road from the authorized DMMA, southwest to the St. Lucie lock and dam adjacent to Pratt Whitney Road (latitude 27.088783, longitude -80.302700) (Figure 1). The access road is approximately 1.8 mi in length. To offset impacts to approximately 3.60 ac of irrigation ditches, the Applicant will construct 4.39 ac of ditches with similar conveyance features.

THREATENED AND ENDANGERED SPECIES

Eastern indigo snake

Suitable habitat for the eastern indigo snake consists of a mosaic of habitat types where snakes establish mean home ranges of 120 and 183 ac for females and males, respectively (Layne and Steiner 1996). Eastern indigo snakes appear to be associated with burrows excavated by other animals such as gopher tortoises (*Gopherus polyphemus*), as well as naturally occurring cavities.

The Project occurs within the geographic range of the eastern indigo snake. The ecological assessment conducted throughout the Project area on October 13-14, 2009, documented 144 burrows, of which 138 were potentially occupied and 6 abandoned. It is estimated that the Project may impact approximately 36 gopher tortoise burrows. If impacts to gopher tortoise burrows are unavoidable, the gopher tortoises must be relocated to either an on-site or off-site preserve area through issuance of a permit from the Florida Fish and Wildlife Conservation Commission. Although no eastern indigo snakes were observed during the surveys, because they are closely associated with gopher tortoise burrows, all burrows to be impacted will be evacuated prior to site manipulation and any encountered eastern indigo snakes allowed to vacate the area prior to further site activity as outlined in the Standard Protection Measures for the Eastern Indigo Snake (Service 2013). According to the Service's GIS database, the closest indigo snake observation (alive or dead) is over 5 mi west of the Project area. The Corps determined the Project may affect, but is not likely to adversely affect the eastern indigo snake and the Service concurs with this determination based on the commitment to implement the Standard Protection Measures for the Eastern Indigo Snake (Service 2013).

Wood stork

The Project is located in the geographic range of the wood stork and within a core foraging area (CFA) of two active wood stork breeding colonies. The CFA is defined as all lands within 18.6 mi of a wood stork colony. During the ecological assessment conducted throughout the Project area in October 13-14, 2009, no wood storks were observed.

The Corps determined the Project may affect, but is not likely to adversely affect the wood stork utilizing the Service's South Florida Programmatic Concurrence letter (Service 2010) and associated Wood Stork Effect Determination Key, sequential determination: A->B->C->D->E. Based on our review, the Project does impact suitable foraging habitat within the CFA of a wood stork colony. Therefore the correct sequential determination is as follows: A->B->C->E. Although no wetlands are present within the Project area, the Project includes filling approximately 3.6 acres of irrigation ditches. To offset these impacts, 4.39 acres of ditches with similar conveyance features will be constructed. Consequently, impacts to wood storks are not anticipated. Although the Service did not agree with the Corps' use of the Wood Stork Effect Determination Key, we concur that the Project may affect, but is not likely to adversely affect the wood stork.

Federally listed plant species

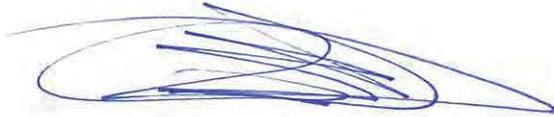
According to our GIS database, no federally listed or candidate plant species are located within or adjacent to the Project area, and none were documented during the ecological assessment conducted throughout the Project area in October 13-14, 2009.

This letter fulfills the requirements of section 7 of the Act and no further action is required. If modifications are made to the Project, if additional information involving potential effects to

listed species becomes available, or if a new species is listed, reinitiation of consultation may be necessary.

Thank you for your cooperation in the effort to conserve fish and wildlife resources. Should you have additional questions or require clarification regarding this letter, please contact Jeff Howe at 772-469-4283.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'Roxanna Hinzman', with several overlapping loops and a long horizontal stroke extending to the right.

Roxanna Hinzman
Field Supervisor
South Florida Ecological Services Office

cc: electronic only
Corps, Palm Beach Gardens, Florida (Michael Bell)
DEP, Tallahassee, Florida (Lanie Edwards)
EPA, West Palm Beach, Florida (Ron Miedema)
FWC, Tallahassee, Florida (FWC-CPS)

LITERATURE CITED

- Layne, J.N. and T.M. Steiner. 1996. Eastern indigo snake (*Drymarchon corais couperi*): summary of research conducted on Archbold Biological Station. Report prepared under Order 43910-6-0134 to the U.S. Fish and Wildlife Service. Jackson, Mississippi.
- U.S. Fish and Wildlife Service (Service). 2007. South Florida Programmatic Concurrence: Eastern Indigo Snake and Wood Stork. Service Consultation Code 41420-2007-I-0964. November 9, 2007. South Florida Ecological Services Office. Vero Beach, Florida.
- U.S. Fish and Wildlife Service (Service). 2010. South Florida Programmatic Concurrence Wood Stork. Service Consultation Code 41420-2007-I-0964. May 18, 2010. South Florida Ecological Services Office. Vero Beach, Florida.
- U.S. Fish and Wildlife Service (Service). 2013. Standard Protection Measures for the Eastern Indigo Snake. U.S. Fish and Wildlife Service; South Florida Ecological Services Office. Vero Beach, Florida.



Figure 1. Location of the O-7 DMMA and proposed access road in Martin County, Florida.



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

Dr. Dan Hughes
Jacksonville USACE, Planning & Policy Division
P.O. Box 4970
Jacksonville, Florida 32232-0019

April 6, 2015

Re: DHR Project File No. 2015-1049/ Received by DHR: March 5, 2015
Applicant: U. S. Army Corps of Engineers/ Project: Construction of Dredge Material Management Area (DMMA) for Maintenance Dredging of the Portions of the Okeechobee Waterway, Martin County

Dear Dr. Hughes:

This office reviewed the referenced project for possible effects on historic properties listed, or eligible for listing, on the *National Register of Historic Places*. The review was conducted in accordance with Section 106 of the *National Historic Preservation Act of 1966*, as amended, and its implementing regulations in *36 CFR Part 800: Protection of Historic Properties*.

We note that a cultural resource assessment survey of the proposed project area for the DMMA was conducted and that no cultural resources were located. We further note that the project area is Near the St. Lucie Lock and Dam (8MT349) and the St. Lucie Canal (8MT1316) both of which are considered eligible for the National Register. We concur with the findings of the USACE that the proposed undertaking will have no adverse effect on historic properties.

It is the recommendation of this office that the applicant makes contingency plans in the case of fortuitous finds or unexpected discoveries during ground disturbing activities within the project area:

If prehistoric or historic artifacts are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the immediate vicinity of the discovery. The applicant shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section at (850)-245-6333. Project activities shall not resume without verbal and/or written authorization. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, *Florida Statutes*.

For any questions concerning our comments, please contact Robin Jackson, Historic Preservationist, Compliance and Review by electronic mail at robin.jackson@doh.myflorida.com, or at 850.245.6333, or 800.847.7278.

Sincerely

Robert F. Bendus, Director
Division of Historical Resources
& State Historic Preservation Officer



Division of Historical Resources
R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399
850.245.6300 • 850.245.6436 (Fax) flheritage.com
Promoting Florida's History and Culture VivaFlorida.org

