

JANUARY 2013

Draft Environmental Assessment

**THREE FORKS MARSH CONSERVATION AREA
CULTURAL RESOURCES PROTECTION FEATURE
Brevard County, Florida**



**U.S. Army Corps
of Engineers
JACKSONVILLE
DISTRICT**

**FINDING OF NO SIGNIFICANT IMPACT
ENVIRONMENTAL ASSESSMENT
THREE FORKS MARSH CONSERVATION AREA
CULTURAL RESOURCES PROTECTION FEATURE
BREVARD COUNTY, FLORIDA**

I have reviewed the Environmental Assessment (EA) for the proposed action. This Finding incorporates by reference all discussions and conclusions contained in the Environmental Assessment enclosed hereto. Based on information analyzed in the EA, reflecting pertinent information obtained from agencies having jurisdiction by law and/or special expertise, I conclude that the proposed action would not significantly impact the quality of the human environment and does not require an Environmental Impact Statement. Reasons for this conclusion are in summary:

a. The proposed work would not jeopardize the continued existence of any endangered or threatened species.

b. A Fish and Wildlife Coordination Act Report has been prepared, and indicates no objection by the Department of the Interior and full compliance with the Endangered Species Act and the Fish and Wildlife Coordination Act.

c. The proposed project has been determined to be consistent with the Florida Coastal Zone Management Program and has concurrence of the State of Florida (Appendix C).

d. Historic properties eligible for listing on the National Register of Historic Places have been recorded within the Project Area of Potential Effect. Cultural resources investigations have been conducted to fulfill the requirements of the National Historic Preservation Act. Construction of the Three Forks Marsh Conservation Area Cultural Resources Protection Feature will not adversely affect historic properties.

The technical point of contact for this finding is Mr. Ivan Acosta at 904-232-1693 or Ivan.Acosta@usace.army.mil.

Col. Alan M. Dodd
Colonel, U.S. Army
District Engineer

Date

**DRAFT ENVIRONMENTAL ASSESSMENT
ON
THREE FORKS MARSH CONSERVATION AREA
CULTURAL RESOURCES PROTECTION FEATURE
BREVARD COUNTY, FLORIDA**

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**DRAFT ENVIRONMENTAL ASSESSMENT
ON
THREE FORKS MARSH CONSERVATION AREA
CULTURAL RESOURCES PROTECTION FEATURE
BREVARD COUNTY, FLORIDA**

1 PROJECT PURPOSE AND NEED

1.1 PROJECT AUTHORITY

The Three Forks Marsh Conservation Area (TFMCA) is a component of the Upper St. Johns River Basin Project (USJRBP), in itself part of the overall Central and South Florida Program, first authorized by the Flood Control Act of 1948 and then by the Flood Control Act of 3 September 1954. Currently, all project features south of the Fellsmere Grade have been complete and construction is progressing on the eastern boundary of the project between the Fellsmere Grade and highway U.S.192 (L-74N).

1.2 PROJECT LOCATION

The USJRBP is located near the coast in southeast Florida. Project features are located in Brevard County between highway U.S. 192 and the Indian River County line. The TFMCA shall be one of four marsh conservation areas in the USJRBP.

1.3 PROJECT NEED OR OPPORTUNITY

In 1984, the State Historic Preservation Officer (SHPO) concurred with the U.S. Army Corps of Engineers (Corps) that six (6) archeological sites within the USJRBP area, 8BR23, 8BR26, 8BR244, 8BR245, 8IR53 and 8IR54, were potentially eligible for listing in the National Register of Historic Places (NRHP), and if they were to be adversely affected, project impacts could be mitigated through archaeological salvage excavation. In 1987 and 1989, additional cultural resource surveys were conducted and archeological data recovery excavations were conducted. Effects to sites 8BR23 and 8BR26 were avoided by redesigning the USJRBP. In 2002, SHPO determined that the establishment of the TFMCA will have an adverse effect on sites 8BR244 and 8BR245, and recommended additional cultural resources surveys.

In 2003, TFMCA surveys and site assessments of 8BR244 and 8BR245 were conducted to prepare an archeological data recovery plan. Fragmentary human remains were encountered during the fieldwork and were reburied on the site. The Bureau of Archaeological Research Chief was immediately notified of the discovery and subsequently, the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida (the Florida tribes) were also notified. In a letter dated May 25, 2005, the SHPO reaffirmed that inundation of sites 8BR244 and 8BR245 would cause an adverse effect.

1.4 AGENCY GOAL OR OBJECTIVE

In 2009 and 2010, the Corps conducted intensive cultural resource surveys of the TFMCA area. The Corps strongly believes that all archeological sites within TFMCA have been identified. Rather than conducting additional archeological surveys to determine NRHP eligibility for the newly identified sites, the Corps made determinations of eligibility using information from the conducted archeological surveys. In the course of conducting formal consultation on TFMCA as well as other water impoundment projects, the Florida tribes have expressed to the Corps that they cannot accept inundation of human remains at archeological sites. While it was the Corps intention to conduct archeological data recovery to mitigate the adverse effects from inundation, the Corps is trying to accommodate the Florida tribes' requests to not inundate human remains, and to cease disturbing archeological sites.

The St. Johns River Water Management District (SJRWMD), the local sponsor for the USJRBP and land owner of the TFMCA, has successfully consulted with the Florida Tribes. They have reached an understanding on ways to protect tribal human remains in archeological sites from inundation. The SJRWMD has built and is a currently operating, ring levees around archeological sites containing human remains. The ring levees use solar-powered pumps that keep standing water off the sites during daylight hours.

The proposed project work consists of constructing ring levees around three burial mounds located within the TFMCA (Figure 1). The ring levees will be constructed of sheet pile wall and earthen embankments. Solar pump systems will be installed at each site to regulate the water level. The Elder mound levee will encircle approximately 10.3 acres and contain 4 solar pump systems. The Loan Oak mound levee will encircle approximately 5.8 acres and contain 2 solar pump systems. The Platt mound levee will encircle approximately 6.4 acres and contain 3 solar pump systems. The borrow area, approximately 92 acres in size to be used for the earthen embankment, is improved pastures primarily composed of loamy sand and scrub oak vegetation. The borrow area and ring levees locations are located within the boundaries of the water impoundment effort.

1.5 PERMITS, LICENSES, AND ENTITLEMENTS

Full compliance with the Clean Water Act, the National Historic Preservation Act, the Farmland Protection Policy Act, the Fish and Wildlife Coordination Act and the Magnuson-Stevens Fishery Conservation and Management Act will be achieved prior to construction. No new endangered species, Coastal Barrier Systems, Wild and Scenic Rivers, National Estuary Sites, Air quality non-attainment areas, or offshore disposal areas are located on project lands. Full environmental compliance will be achieved prior to construction.

2 AFFECTED ENVIRONMENT

2.1 GENERAL ENVIRONMENTAL SETTING

The TFMCA encompasses approximately 14,000 acres of former floodplain that has been diked and drained for agricultural purposes. There has been no urban development within the immediate project area. Water inflows to TFMCA occur from rainfall and currently drainage occurs to either Canal C-1 to the north or via pumping to Canal C-40 to the west. The TFMCA is currently subdivided by internal levees into three separate parcels that will be interconnected when the project is complete.

Improvements to create pasture and native range for cattle in the northern third of TFMCA have provided partial drainage of the area since the early 1940's. Because of the long-term drainage activities, peat soils in this area have subsided several feet. The middle third of the TFMCA was drained in 1980 and intensively farmed for rowcrops until 1985. The SJRWMD acquired this property in 1985 and has maintained it as an isolated rainfall-driven impoundment since. A temporary pump station has been used to control water levels. The southern third of the TFMCA was drained in the 1960's and used initially as native pasture and then farmed for row crops beginning in 1980. The property was also purchased by the SJRWMD in 1985 and maintained as an isolated rainfall-driven impoundment. In 1990, the property was connected to the St. Johns Marsh Conservation Area and flooded to enhance project discharge capabilities. In 1992, the area was once again isolated from the marsh. Beginning in 1994, pumping began and water levels have fluctuated in response to seasonal rainfall patterns.

2.2 GEOLOGY AND SOILS

The soils that make up TFMCA are poorly to very poorly drained hydric and facultative soils. Hydric soils are defined as those soils that are saturated or flooded long enough during the growing season to favor growth and regeneration of wetland vegetation. Hydric soils can be either organic or mineral. Facultative soils are intermediate between hydric and upland soils and sometimes exhibit the characteristics of hydric soils.

Approximately 90% of the area is comprised of hydric soils, primarily Monteverde and Micco peat. Monteverde and Micco peat are poorly drained, highly organic soils that generally occur in freshwater marshes and swamps. Natural water table conditions are generally within a depth of 10 inches of the soil surface for 6 to 12 months a year and between 10 and 40 inches for the rest of the year (USDA 1974). Water can stand on the surface for 6 months each year. Monteverde and Micco peat typically support freshwater marsh vegetation such as maidencane (*Panicum hemitomon*), sawgrass (*Ciadium jamaicense*), cattail (*Typha* spp.), arrowhead (*Sagittaria lancifolia*), and buttonbush (*Cephalanthus occidentalis*).

Primary facultative soils occurring in the area are Riviera and Winder loamy sand. Riviera and Winder sand are classified as poorly drained sandy soils that occur on

broad low flats and in sloughs, depressions and cypress ponds. Organic content of these soils is generally low. The natural water table is generally within a depth of 10 inches for 1 to 6 months in most years and typically between 10 and 40 inches the rest of the year (USDA 1974). These soils are generally flooded for up to 7 days in 1 to 3 months of each year. Natural vegetation supported by facultative soils include sand cordgrass (*Spartina baken*), maidencane, and saw palmetto (*Serenoa repens*). On low ridges the vegetation is pine (*Pinus* spp.), live oak (*Quercus virginiana*) and cabbage palm (*Sabal palametto*).

2.3 PLANT COMMUNITIES

The TFMCA consist predominantly of wetland communities including wet prairie, floodplain marsh, floodplain swamp, hydric hammock and floodplain forest. Basin marsh is the predominant natural community within TFMCA (see Figure 2.). Basin marsh is characterized as an herbaceous or shrubby wetland situated in a relatively large and irregular shaped basin. Typical vegetation consists of sawgrass, pickerelweed, common reed, panicum, maidencane, cutgrass, southern watergrass, pennywort, southern needle leaf, redroot, soft rush, primrose, arrowhead, elderberry, spikerush, and buttonbush. Fire maintains this open, herbaceous community by restricting shrub invasion. Marsh burn intervals should be every 1-3 years. Areas that are currently basin marsh will have a longer burn interval; areas that are succeeding to basin swamp will have shorter burn intervals.

Basin Swamp is another predominant plant community found throughout TFMCA. Portions of this community were former basin marsh that was succeeded by shrubbier species due to fire suppression and shorter hydroperiod. Basin swamp is typically characterized as a relatively large and irregularly shaped basin that is not associated with rivers, but is vegetated with hydrophytic trees and shrubs that can withstand an extended hydroperiod. Much of this community at TFMCA is dominated by Carolina willow.

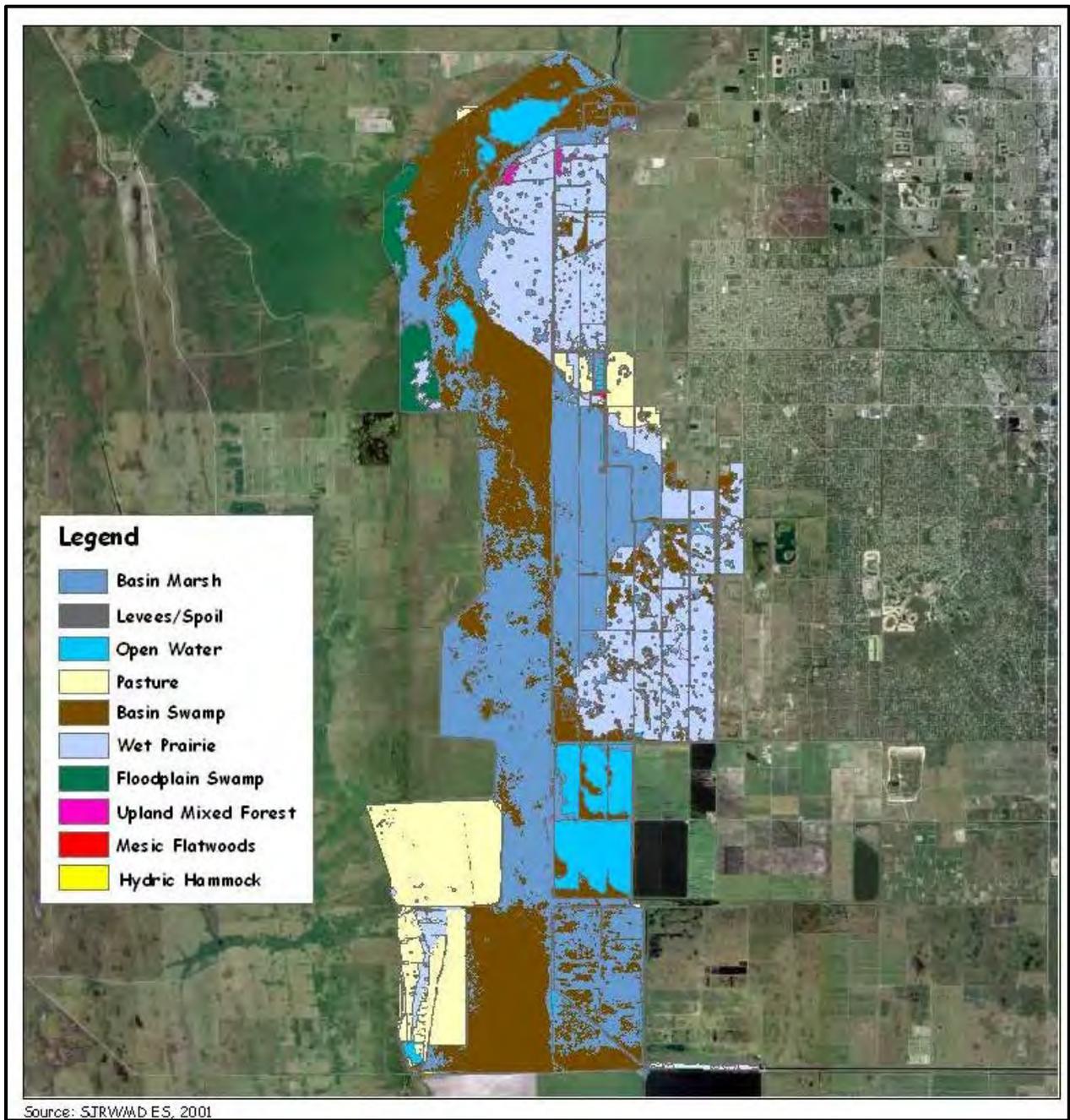


Figure 2. TFMCA Plant Communities

2.4 HISTORIC PROPERTIES

Please refer back to sections 1.3 and 1.4 for further details.

3 ENVIRONMENTAL EFFECTS

3.1 GENERAL ENVIRONMENTAL EFFECTS

The Upper St. Johns River Basin encompasses over 190,000 acres of wetlands. It is one of the largest natural marshes in the state of Florida. It is a key area for the preservation of biological diversity due to the variety of habitats present and because of its large area.

3.2 THREATENED AND ENDANGERED SPECIES

The proposed project and construction methods would not impact areas not already subject to disturbance by the USJRBP and subject to prior coordination under the act.

3.3 FISH AND WILDLIFE RESOURCES

The proposed project construction methods would be temporary in nature and impacts to fish and wildlife resources would be minimal.

3.4 ESSENTIAL FISH HABITAT

The proposed project would not cause impacts to essential fish habitat.

3.5 HISTORIC PROPERTIES

The proposed action would be accommodating the Florida tribes' requests to not inundate human remains, and to cease disturbing archeological sites.

3.6 SOCIO-ECONOMIC

The proposed action does not entail changes on impacts to socio-economic factors as stated in previous environmental and planning documents.

3.7 AESTHETICS

The proposed project construction methods would be temporary and would not impact areas not already subject to disturbance by the USJRBP.

3.8 RECREATION

The proposed project would not cause impacts to recreation resources.

3.9 COASTAL BARRIER RESOURCES

No coastal barrier resources would be affected by project related activities. This act is not applicable.

3.10 WATER QUALITY

It is possible proposed construction and construction methods would have a temporary impact on water quality. Transitory impacts could include increases in water turbidity and suspended solids. Per the Noticed General Permit (File No.: 05-133404-005) issued for the proposed project, turbidity and erosion control measures (e.g. silt fence

and turbidity barriers), turbidity monitoring and best management practices would be implemented to ensure project compliance with the water quality standards.

3.11 HAZARDOUS, TOXIC, AND RADIOACTIVE WASTE (HTRW)

Preliminary research (background information, literature search, etc) revealed that no known sources of HTRW materials exist in the directly impacted portions of the project area. The following signs of potential HTRW problems were not identified: landfills, non authorized dumps and disposal areas; burning or burned areas, underground basins, pits, quarries and borrow areas, wells; containers, odors, stressed or dead vegetation; water treatment plants; buildings; and transport areas, such as boat yards, harbors, airports and truck terminals. No sites with potential for contamination with HTRW were found. The proposed project would not impact areas not already subject to disturbance by the USJRBP.

3.12 IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES

3.12.1 IRREVERSIBLE

The proposed project and construction methods would not impact areas not already subject to disturbance by the USJRBP.

3.12.2 IRRETRIEVABLE

The proposed and construction methods would not involve any new project lands that would not already be impacted by the project and addressed in earlier environmental documents.

3.13 ENVIRONMENTAL COMMITMENTS

The proposed construction of the ring levees and construction methods would not impact areas not already subject to disturbance by the USJRBP.

3.14 COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS

3.14.1 NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

The preparation of this EA and subsequent coordination of any final Finding of No Significant Impact for the proposed ring levee construction and construction methods together with prior EISs would comply with the act.

3.14.2 ENDANGERED SPECIES ACT OF 1973

Consultation for the USJRBP was initiated with the National Marine Fisheries Service and the U.S. Fish and Wildlife Service (USFWS) on February 22, 1999, and is ongoing.

3.14.3 FISH AND WILDLIFE COORDINATION ACT OF 1958

A Coordination Act Report has been submitted by the USFWS. The USJRBP has been coordinated with the USFWS.

3.14.4 NATIONAL HISTORIC PRESERVATION ACT OF 1966 (INTER ALIA)

(PL 89-665, the Archeology and Historic Preservation Act (PL 93-291), and executive order 11593)

Coordination with the State Historic Preservation Officer (SHPO) and the Section 106 of the National Historic Preservation Act coordination has concluded.

3.14.5 CLEAN WATER ACT OF 1972

The project will be in compliance with the Clean Water Act. Notice of the proposed project was issued on 16 July 2012. An evaluation pursuant to Section 404(b) of the act concerning the construction of the ring levees and construction methods is in Appendix A.

3.14.6 CLEAN AIR ACT OF 1972

No standards will be violated during project construction. Full compliance with the Act was attained upon receipt of comments from the Environmental Protection Agency (EPA) on the coordinated environmental update from 1993.

3.14.7 COASTAL ZONE MANAGEMENT ACT OF 1972

A federal consistency determination in accordance with 15 CFR 930 Subpart C is included in this report as Appendix B.

3.14.8 FARMLAND PROTECTION POLICY ACT OF 1981

The proposed project and construction methods would not impact areas not already subject to disturbance by the USJRBP and subject to prior coordination under the act.

3.14.9 WILD AND SCENIC RIVER ACT OF 1968

No designated Wild and Scenic river reaches would be affected by project related activities. This act is not applicable.

3.14.10 MARINE MAMMAL PROTECTION ACT OF 1972

Marine resources would not be involved in this proposed project. This act is not applicable.

3.14.11 ESTUARY PROTECTION ACT OF 1968

No designated estuary would be affected by project activities. This act is not applicable.

3.14.12 FEDERAL WATER PROJECT RECREATION ACT, AS AMENDED

The principles of this law have been fulfilled by complying with the cost sharing criteria.

3.14.13 SUBMERGED LANDS ACT OF 1953

The project would not occur on submerged lands of the State of Florida. The project has been coordinated with the State and is in compliance with the act.

3.14.14 COASTAL BARRIER RESOURCES ACT AND COASTAL BARRIER
IMPROVEMENT ACT OF 1990

There are no designated coastal barrier resources in the project area that would be affected by this project. These acts are not applicable.

3.14.15 RIVERS AND HARBORS ACT OF 1899

The proposed work would not obstruct navigable waters of the United States. The project is in full compliance.

3.14.16 ANADROMOUS FISH CONSERVATION ACT

Anadromous fish species would not be affected. The project is in full compliance.

3.14.17 MIGRATORY BIRD TREATY ACT AND MIGRATORY BIRD
CONSERVATION ACT

No migratory birds would be affected by project activities. The project is in compliance with these acts.

3.14.18 MARINE PROTECTION, RESEARCH AND SANCTUARIES ACT

The Marine Protection, Research and Sanctuaries Act is not applicable to this project.

3.14.19 MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT
ACT

No fisheries would be affected by the proposed project activities.

3.14.20 E.O. 11990, PROTECTION OF WETLANDS

The proposed ring levee construction and construction methods would be temporary and would not impact areas not already subject to disturbance by the USJRBP.

3.14.21 E.O. 11988, FLOOD PLAIN MANAGEMENT

The project is in the base flood plain (100 year-flood) and has been evaluated in accordance with this Executive Order. Project is in compliance.

3.14.22 E.O. 12898, ENVIRONMENTAL JUSTICE

The proposed action would not result in adverse human health or environmental effects, nor would it disproportionately impact minority or low-income populations. The project would not impact subsistence consumption of fish and wildlife. Therefore the proposed action is in compliance with this Executive Order.

3.14.23 E.O. 13089, CORAL REEF PROTECTION

The proposed action would not impact coral reefs or those species, habitats, and other natural resources associated with coral reefs. The project is in compliance with this Executive Order.

3.16.23 E.O. 13112, INVASIVE SPECIES

The work would not spread or introduce invasive species into any new area. The work is in compliance with this Executive Order.

4 PUBLIC INVOLVEMENT

4.1 SCOPING AND EA

A scoping letter was mailed out on July 16th, 2012. A copy of the scoping letter, mailing list, summary of responses, and response letters received to the scoping letter are presented in Appendix C.

4.2 AGENCY COORDINATION

The proposed project has been or will be coordinated with the following agencies: St. Johns River Water Management District, U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, Florida State Clearinghouse, Florida Fish and Wildlife Conservation Commission, Florida Department of Environmental Protection, and Florida State Historic Preservation Officer. Agency coordination letters are in Appendix C.

4.3 COMMENTS RECEIVED AND RESPONSE

Letters of comment on this Draft EA will be attached to the Final EA. The EA and unsigned FONSI will be sent out for review by the public for 30 days before a determination is made of whether or not the FONSI will be signed by the CE District Engineer. The EA and FONSI will be sent to those who have expressed an interest in receiving a copy, otherwise they will be made available to the public by Notice of Availability.

5 LIST OF PREPARERS

This document was prepared by Diana Martuscelli, Biologist, USACE and David McCullough, Archeologist, USACE.

REFERENCES

- St. Johns River Water Management District. 1996. Interim environmental water management plan for the Upper St. Johns River Basin Project.
- United States Department of Agriculture. 1974. Soil survey of Brevard County, Florida. United States Dept. of Agriculture Soil Conservation Service .123 pp.
- United States Army Corps of Engineers. June 1985. Central and Southern Florida Project for Flood Control and Other Purposes Part III, Upper St. Johns River Basin and Related Areas; Supplement 2, General Design Memorandum, Upper St. Johns River Basin Addendum III with Draft Environmental Impact Statement.
- United States Army Corps of Engineers. September 1991. Preliminary water control manual central and southern project for flood control and other purposes Upper St. Johns River Basin.
- United States Army Corps of Engineers. June 2003. Proposed Modifications to Project Features North of Fellsmere Grade (CC#5H), Central and Southern Florida Flood Control Project, Upper St. Johns River Basin and Related Areas.
- United States Environmental Protection Agency clean lakes program, Phase I diagnostic-feasibility study of the upper St. Johns River chain of lake. Volume 1: Diagnostic study. Technical Publication SJ84-15, St. Johns River Water Management District, Palatka FL. 118 pp.
- United States Environmental Protection Agency clean lakes program, Phase I diagnostic-feasibility study of the upper St. Johns River chain of lakes. Volume II : Feasibility study. Technical Publication SJ84-15, St. Johns River Water Management District, Palatka FL. 72pp.
- Upper St. Johns River Basin Surface Water Management Plan, Volume 2. St. Johns River Water Management District, Palatka FL. 500 pp.

APPENDIX A - SECTION 404(B) EVALUATION

SECTION 404(b) EVALUATION

THREE FORKS MARSH CONSERVATION AREA CULTURAL RESOURCES PROTECTION FEATURE BREVARD AND INDIAN RIVER COUNTIES, FLORIDA

I. Project Description

a. Location. The Three Forks Marsh Conservation Area (TFMCA) is a component of the Upper St. Johns River Basin Project (USJRBP). Project features are located in Brevard County between highway U.S. 192 and the Indian River County line.

b. General Description. The proposed project work consists of constructing ring levees around three burial mounds located within the TFMCA. The sites will be constructed of sheet pile wall and earthen embankments. Solar pump systems will be installed at each site to regulate the water level.

c. Authority and Purpose. The Three Forks Marsh Conservation Area (TFMCA) is a component of the Upper St. Johns River Basin Project (USJRBP), in itself part of the overall Central and South Florida Program, first authorized by the Flood Control Act of 1948 and then by the Flood Control Act of 3 September 1954. The proposed project work consists of constructing ring levees around three burial mounds located within the TFMCA. The ring levees will be constructed of sheet pile wall and earthen embankments. Solar pump systems will be installed at each site to regulate the water level. Per the USJRBP, the borrow area and ring levees locations are part of the water impoundment effort.

d. General Description of Dredged or Fill Material.

(1) General Characteristics of Material. The material to be used for fill primarily consists of sands and loamy soils.

(2) Quantity of Material. Borrow area is approximately 92 acres in size. Final quality yet to be determined. Per the USJRBP, the borrow area(s) and the ring levees areas are part of the water impoundment effort.

(3) Source of Material. All fill material used during construction and/or embankment will come from the TFMCA site. No material would be brought into the project from outside sources.

e. Description of the proposed Discharge Site.

(1) Location. Earthen embankments of 3 ring levees.

(2) Size. Elder Mound is 10.3 acres, Loan Oak Mound is 5.8 acres, and Platt Mound is 6.4 acres.

(3) Type of Site. Cultural resources burial mounds.

(4) Type of Habitat. Wet prairie and uplands.

(5) Timing and Duration of Discharge. Not Applicable.

f. Description of Disposal Method. Not Applicable.

II. Factual Determinations

a. Physical Substrate Determinations.

(1) Substrate Elevation and Slope. Not higher than the nearby L-74N Levee.

(2) Sediment Type. Loamy soil.

(3) Dredge/Fill Material Movement. No significant fill material movement is anticipated. Erosion control measures would be implemented to prevent and contain any turbidity during fill material deposit.

(4) Physical Effects on Benthos. No measurable impacts within proposed project area or borrow areas since the TFMCA is predominantly wet prairie and uplands.

b. Water Circulation, Fluctuation and Salinity Determination.

(1) Water and Salinity Gradients (consider effects on: Salinity, Water Chemistry (pH, etc), Clarity, Color, Odor, Taste, Dissolved Gas Levels, Nutrients, Eutrophication, and others as appropriate). Should not be impacted since only freshwater areas would be involved.

(2) Current Patterns and Circulation. The ring levees and the earthen embankment should have minimal effect on current hydrologic patterns. The proposed project and construction methods would be temporary and would not impact areas not already subject to disturbance by the USJRBP.

(3) Normal Water Level Fluctuation. Should not be affected by the proposed project.

c. Suspended Particulate/Turbidity Determinations.

(1) Expected Changes in Suspended Particulates and Turbidity Levels in the Vicinity of the Disposal Site. There may be some temporary increase in turbidity levels in the project area. Turbidity would be short-term and localized.

(2) Effects on the Chemical and Physical Properties of the Water Column. There should be minimal temporary impacts to the chemical and physical properties of nearby water during the embankment of the ring levees. There are no acute or chronic chemical impacts anticipated as a result of construction. An environmental protection plan, prepared during detailed design, would address concerns regarding monitoring of equipment, maintenance and security of fuels, lubricants, etc.

(a) Light Penetration. Some decrease in light penetration may occur in the immediate vicinity of the construction of the ring levees.

(b) Dissolved Oxygen. Dissolved oxygen levels would not be altered by this project.

(c) Toxic Metals, Organics, and Pathogens. No toxic metals, organics, or pathogens are expected to be release by the project.

(d) Aesthetics. The aesthetic quality of the water in the immediate project area may experience some temporary turbidity due to the sheet pile placement. This would be a short-term and localized condition.

(3) Effects on Biota.

(a) Primary Productivity and Photosynthesis. The ring levees and earthen embankments would displace some wetlands through construction and. Long term plans are to use this area as a water management area as part of the USJRBP.

(b) Suspension/Filter Feeders. An increase in turbidity could adversely impact burrowing invertebrate filter feeders within and adjacent to the immediate construction area. It is not expected that a short-term, temporary increase in turbidity would have any long-term negative impact on these organisms.

(c) Sight Feeders. No significant impact on these organisms is expected as the majority of sight feeders are highly motile and can move outside the project area.

d. Contaminant Determinations. Material from the proposed borrow site would not introduce, relocate, or increase contaminants at the fill area.

e. Aquatic Ecosystem and Organism Determinations.

(1) Effects on Plankton. No effect.

(2) Effects on Benthos. No effect.

(3) Effects on the Aquatic Food Web. Adverse impacts on the food web should be temporary until the area becomes stabilized and recolonized.

(4) Effects on Special Aquatic Sites.

(a) Hard ground and Coral Reef Communities. No effect.

(b) Sanctuaries and Refuges. No sanctuaries or refuges are within the proposed project area.

(c) Wetlands. Upon completion of construction activities, the area would be rewetted and eventually re-vegetated with wetland species. Long term plans are to use this area as a water management area as part of the USJRBP.

(6) Endangered and Threatened Species. No adverse impacts to endangered or threatened species are expected.

(7) Other Wildlife. No adverse impacts to small foraging mammals, reptiles, wading birds, or other wildlife are expected.

(8) Actions to Minimize Impacts. All practical safeguards would be taken during construction to preserve and enhance environmental, aesthetic, recreational, and economic values in the project area.

f. Proposed Disposal Site Determinations.

(1) Mixing Zone Determination. Not applicable to this site.

(2) Determination of Compliance with Applicable Water Quality Standards. Would not be violated.

(3) Potential Effects on Human Use Characteristics.

(a) Municipal and Private Water Supplies. Would not be impacted.

(b) Recreational and Commercial Fisheries. Would not be impacted.

(c) Water Related Recreation. Maybe temporarily impacted during construction. Long term plans are to use this area as a water management area.

(d) Aesthetics. Would not likely be impacted.

(e) Parks, National and Historic Monuments, National Seashores, Wilderness Areas, Research Sites, and Similar Preserves. No effect.

(f) Determination of Cumulative Effects on the Aquatic Ecosystem.
No cumulative effects expected.

(g) Determination of Secondary Effects on the Aquatic Ecosystem.
No secondary effects expected.

III. Findings of Compliance or Non-compliance with the Restrictions on Discharge.

a. No significant adaptations of the guidelines were made relative to this evaluation.

b. No practicable alternative exists which meets the study objectives that does not involve discharge of fill into waters of the United States.

c. The construction of the levees and earthen embankment would not cause or contribute to, violations of any applicable State water quality standards for Class III waters. The discharge operation would not violate the Toxic Effluent Standards of Section 307 of the Clean Water Act.

d. The Three Forks Marsh Conservation Area Cultural Resources Protection Feature would not jeopardize the continued existence of any species listed as threatened or endangered or result in the likelihood of destruction or adverse modification of any critical habitat as specified by the Endangered Species Act of 1973, as amended.

e. The construction of the levees and earthen embankment would not result in significant adverse effects on human health and welfare, including municipal and private water supplies, recreational and commercial fishing, plankton, fish, shellfish, wildlife, and special aquatic sites. The life stages of aquatic species and other wildlife would not be adversely affected. Significant adverse effects on aquatic ecosystem diversity, productivity and stability, and recreational, aesthetic, and economic values would not occur.

APPENDIX B - COASTAL ZONE MANAGEMENT CONSISTENCY

**FLORIDA COASTAL ZONE MANAGEMENT PROGRAM
FEDERAL CONSISTENCY EVALUATION PROCEDURES**

**ENVIRONMENTAL ASSESSMENT
THREE FORKS MARSH CONSERVATION AREA
CULTURAL RESOURCES PROTECTION FEATURE
BREVARD AND INDIAN RIVER COUNTIES, FLORIDA**

1. Chapter 161, Beach and Shore Preservation. The intent of the coastal construction permit program established by this chapter is to regulate construction projects located seaward of the line of mean high water and which might have an effect on natural shoreline processes.

Response: This chapter does not apply to the proposed project.

2. Chapters 163(part II), 186, and 187, County, Municipal, State and Regional Planning. These chapters establish the Local Comprehensive Plans, the Strategic Regional Policy Plans, and the State Comprehensive Plan (SCP). The SCP sets goals that articulate a strategic vision of the State's future. Its purpose is to define in a broad sense, goals, and policies that provide decision-makers directions for the future and provide long-range guidance for an orderly social, economic and physical growth.

Response: The proposed project has been and will continue to be coordinated with various Federal, State and local agencies during the planning process.

3. Chapter 252, Disaster Preparation, Response and Mitigation. This chapter creates a state emergency management agency, with the authority to provide for the common defense; to protect the public peace, health and safety; and to preserve the lives and property of the people of Florida.

Response: The proposed project does not interfere with the efforts of Division of Emergency Management.

4. Chapter 253, State Lands. This chapter governs the management of submerged state lands and resources within state lands. This includes archeological and historical resources; water resources; fish and wildlife resources; beaches and dunes; submerged grass beds and other benthic communities; swamps, marshes and other wetlands; mineral resources; unique natural features; submerged lands; spoil islands; and artificial reefs.

Response: The proposed project has been and will continue to be coordinated with the State.

5. Chapters 253, 259, 260, and 375, Land Acquisition. This chapter authorizes the state to acquire land to protect environmentally sensitive areas.

Response: No land acquisition is necessary for the proposed project.

6. Chapter 258, State Parks and Aquatic Preserves. This chapter authorizes the state to manage state parks and preserves. Consistency with this statute would include consideration of projects that would directly or indirectly adversely impact park property, natural resources, park programs, management or operations.

Response: The proposed project area does not contain any state parks or aquatic preserves nor are there any within the immediate vicinity of the project that would be affected. The project is consistent with this chapter.

7. Chapter 267, Historic Preservation. This chapter establishes the procedures for implementing the Florida Historic Resources Act responsibilities.

Response: This project's coordination with the State Historic Preservation Officer (SHPO) has concluded.

8. Chapter 288, Economic Development and Tourism. This chapter directs the state to provide guidance and promotion of beneficial development through encouraging economic diversification and promoting tourism.

Response: The purpose of the USJRBP project is to improve fish and wildlife resources. This would be compatible with tourism for this area and therefore, is consistent with the goals of this chapter.

9. Chapters 334 and 339, Transportation. This chapter authorizes the planning and development of a safe balanced and efficient transportation system.

Response: No public transportation systems would be impacted by this project.

10. Chapter 370, Saltwater Living Resources. This chapter directs the state to preserve, manage and protect the marine, crustacean, shell and anadromous fishery resources in state waters; to protect and enhance the marine and estuarine environment; to regulate fishermen and vessels of the state engaged in the taking of such resources within or without state waters; to issue licenses for the taking and processing products of fisheries; to secure and maintain statistical records of the catch of each such species; and, to conduct scientific, economic, and other studies and research.

Response: The proposed project does not involve work in saltwater or involve saltwater resources. Therefore, this chapter does not apply.

11. Chapter 372, Living Land and Freshwater Resources. This chapter establishes the Game and Freshwater Fish Commission and directs it to manage freshwater aquatic life and wild animal life and their habitat to perpetuate a diversity of species with densities and distributions which provide sustained ecological, recreational, scientific, educational, aesthetic, and economic benefits.

Response: The purpose of the USJRBP project is to improve fish and wildlife resources.

12. Chapter 373, Water Resources. This chapter provides the authority to regulate the withdrawal, diversion, storage, and consumption of water.

Response: The SJRWMD is coordinating the use and consumption of State waters, as appropriate.

13. Chapter 376, Pollutant Spill Prevention and Control. This chapter regulates the transfer, storage, and transportation of pollutants and the cleanup of pollutant discharges.

Response: The contract specifications would prohibit the contractor from dumping oil, fuel, or hazardous wastes in the work area and would require that the contractor adopt safe and sanitary measures for the disposal of solid wastes. A spill prevention plan would be required.

14. Chapter 377, Oil and Gas Exploration and Production. This chapter authorizes the regulation of all phases of exploration, drilling, and production of oil, gas, and other petroleum products.

Response: This project does not involve the exploration, drilling or production of gas, oil or petroleum product and therefore, this chapter does not apply.

15. Chapter 380, Environmental Land and Water Management. This chapter establishes criteria and procedures to assure that local land development decisions consider the regional impact nature of proposed large-scale development. This chapter also deals with the Area of Critical State Concern program and the Coastal Infrastructure Policy.

Response: The proposed project would not have any regional impact on resources in the area. Therefore, the project is consistent with the goals of this chapter.

16. Chapters 381 (selected subsections on on-site sewage treatment and disposal systems) and 388 (Mosquito/Arthropod Control). Chapter 388 provides for a comprehensive approach for abatement or suppression of mosquitoes and other pest arthropods within the state.

Response: The project would not further the propagation of mosquitoes or other pest arthropods.

17. Chapter 403, Environmental Control. This chapter authorizes the regulation of pollution of the air and waters of the state by the Florida Department of Environmental Regulation (now a part of the Florida Department of Environmental Protection).

Response: This Environmental Assessment addressing project impacts has been prepared and will be reviewed by the appropriate resource agencies including the Florida Department of Environmental Protection. The project complies with the intent of this chapter.

18. Chapter 582, Soil and Water Conservation. This chapter establishes policy for the conservation of the state soil and water through the Department of Agriculture. Land use policies will be evaluated in terms of their tendency to cause or contribute to soil erosion or to conserve, develop, and utilize soil and water resources both onsite or in adjoining properties affected by the project. Particular attention will be given to projects on or near agricultural lands.

Response: The proposed project will be coordinated with the Department of Agriculture.

APPENDIX C – PERTINENT CORRESPONDENC AND RESPONSES

Scoping Letter

SHPO Coordination Letter

Mailing List

Responses to scoping letter



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P.O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO
ATTENTION OF

Planning Division
Environmental Branch

JUL 16 1999

To Whom It May Concern:

The U.S. Army Corps of Engineers, Jacksonville District, is beginning to gather information which will aid in identifying issues and concerns to be addressed in an Environmental Assessment for the Three Forks Marsh Conservation Area (TFMCA) Cultural Resources Protection Feature. This project is a component of the Upper St. Johns River Basin Project, in itself part of the overall Central and South Florida Program, first authorized by the Flood Control Act of 1948 and then by the Flood Control Act of 3 September 1954. Currently, all project features south of the Fellsmere Grade were complete and construction is progressing on the eastern boundary of the project between the Fellsmere Grade and highway U.S.192 (L-74N).

The scope of this study is to evaluate the feasibility and/or effects of the proposed construction activities in the TFMCA (see attachment). Construction will entail building earthen levees around significant archeology sites. Environmental considerations will include the effects of the proposed action on wetlands, aesthetics, water quality, fish and wildlife habitats and values, endangered or threatened species, and historical or archeological resources.

We welcome your views, comments and information about resources, study objectives and important features within the study area, as well as any suggested improvements. If you know of anyone else who may wish to comment, please notify them of this opportunity. Letters of comments and/or inquiry should be addressed to the letterhead address to the attention of Diana Martuscelli, Planning Division, Environmental Branch and should be received by this office within 30 days of the date of this letter. E-mail comments can also be sent to Diana.m.martuscelli@usace.army.mil.

Sincerely,

Eric P. Summa
Chief, Environmental Branch

Enclosure



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

Mr. Eric Summa
Planning and Policy Division
Jacksonville Corps of Engineers
Post Office Box 4970
Jacksonville, Florida 32232-0019

August 29, 2012

Re: DHR Project File No.: 2012-03602/ Received: July 20, 2012
Environmental Assessment for the Three Forks Marsh Conservation Area
County: Brevard

Dear Mr. Summa,

Our office received and reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended and 36 CFR Part 800. The State Historic Preservation Officer is to advise and assist federal agencies when identifying historic properties (archaeological, architectural, and historical resources) listed, or eligible for listing, in the National Register of Historic Places, assessing the project's effects, and considering alternatives to avoid or minimize adverse effects.

Because of the nature of the project, this office concurs that no historic properties eligible for listing in the National Register will be adversely affected.

If you have any questions concerning our comments, please contact Michael Hart, Historic Sites Specialist, by phone at 850.245.6333, or by electronic mail at mrhart@dos.state.fl.us. Your continued interest in protecting Florida's historic properties is appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Laura A. Kammerer".

Laura A. Kammerer
Deputy State Historic Preservation Officer
For Review and Compliance



DIVISION OF HISTORICAL RESOURCES
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Commemorating 500 years of Florida history • www.fl500.com



**THREE FORKS MARSH CONSERVATION AREA
CULTURAL RESOURCES PROTECTION FEATURE
BREVARD AND INDIAN RIVER COUNTIES, FLORIDA
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Honorable George LeMieux
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United States Senate
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Hollywood, FL 33024

RESPONSES TO JULY 16TH, 2012 SCOPING LETTER

Florida Department of
Environmental Protection
Tallahassee, Florida 32399-3000

September 5th, 2012

1. FDEP has no objections to the proposed project.
2. Recommend that the proposed Three Forks Marsh Conservation Area (TFMCA) Cultural Resources Protection Feature may qualify for a Noticed General Environmental Resource Permit (ERP) or a Standard General ERP.

Response: The non-federal sponsor of the proposed project, the St. Johns River Water Management District, has been issued a Noticed General Permit (File No.: 05-133404-005) for the TFMCA Cultural Resources Protection Feature.

3. DEP's Drinking Water Programs recommends coordination with the City of Melbourne due to the increased flow into the St. John's Rive upstream of Lake Washington.

Response: The proposed project and its construction activities shall be kept under surveillance, management, and control to avoid pollution of surface, ground waters, and wetlands. Additionally, all construction activities shall be performed to the standards necessary to minimize adverse impact or violation of the water quality standard.