



Florida Department of Environmental Protection

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FLORIDA
DEPARTMENT OF
ENVIRONMENTAL PROTECTION

PERMIT TO CONSTRUCT
A PROJECT

Florida Department of
Environmental Protection

ENVIRONMENTAL RESOURCE PERMIT CONSTRUCTION AUTHORIZATION

PERMITTEE:

U.S. Army Corps of Engineers
701 San Marco Boulevard
Jacksonville, FL 32207

ATTENTION:

Mr. Eric Summa
Chief, Environmental Branch
Planning Division
U.S. Army Corps of Engineers, Jacksonville District

Permit Number: 0308349-001

Project: Kissimmee River Restoration

Phase: S-65EX1 Spillway Structure, Contract 18A

County: Okeechobee

Date of Issue: May 24, 2012

Expiration Date: May 24, 2017

This permit is issued under the authority of Part IV of Chapter 373, Florida Statutes (F.S.), and Title 62, Florida Administrative Code (F.A.C.). The activity is not exempt from the requirement to obtain an Environmental Resource Permit. Pursuant to Operating Agreements executed between the Florida Department of Environmental Protection (Department) and the water management districts, as referenced in Chapter 62-113, F.A.C., the Department is responsible for reviewing and taking final agency action on this activity.

This permit constitutes a finding of consistency with Florida's Coastal Zone Management Program (CZMP), as required by Section 307 of the Coastal Management Act, 16 U.S.C. § 1456, and constitutes certification of compliance with water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. § 1341. The Department's finding of consistency with Florida's CZMP and water quality standards are both conditioned upon the U.S. Army Corps of Engineers (Corps/permittee) compliance with all the general and specific permit conditions contained herein.

The Corps is hereby authorized to initiate the activities described in the application, and the approved associated drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof. The Corps agrees to construct the project in accordance with the provisions of this permit, permit application, and the associated documentation on file with the Department. To the extent sovereign immunity has been waived under 33 U.S.C. 1323 and 1344(t), the Corps' agreement to construct the project in accordance with the provisions of the permit application and supporting documentation is an enforceable condition of this permit.

PROJECT DESCRIPTION:

The Kissimmee River Restoration (KRR) project is a Congressionally authorized undertaking sponsored by the U.S. Army Corps of Engineers and the South Florida Water Management District (District), the Local Sponsor. The KRR project encompasses restoring over 40 square miles of the Kissimmee River

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floodplain ecosystem, including 43 miles of meandering river channel and 27,000 acres of wetlands. The widespread benefits achieved by the change in drainage pattern to be accomplished by the KRR project include rehydration of the floodplain, increased nutrient uptake within the floodplain, and revitalization of the oxbow system. The intention of this particular phase of project is to construct a new gated 3-bay spillway structure, which will be located 150' west of the existing S-65E spillway structure, on the C-38 Canal at the confluence of the C-41A Canal, approximately 9.5 miles upstream of Lake Okeechobee.

The S-65E spillway is the downstream outlet for the historic Kissimmee River channel and the C-38 Canal. The current structure consists of 6 bays with design discharge capacity of 4,000 cfs each, totaling 24,000 cfs. Under restored conditions which include implementation of the Headwater Revitalization Schedule for S-65, all backfill complete and historic river channel restored, additional discharge capacity is required at the downstream outlets of the basin. The increased discharge is the result of the potential for increase in discharge from S-65E under flood conditions combined with changes in flood plain storage and roughness resulting in longer travel time to the outlet. The required increased discharge capacity for Pool E is over 8,000 cfs. The existing structure is unable to handle this increased discharge without exceeding current flood stages. To achieve this capacity, three 4,000-cfs Ogee Spillway bays identical to the existing S-65E spillway bays were chosen to pass the additional flow.

The new S-65EX1 will have the same operating criteria as S-65E. The operator will have the flexibility to operate either structure (S-65E or S-65EX1) or both (S-65E and S-65EX1) to achieve the stages in the current regulation schedule.

The Permittee is authorized to dredge/excavate approximately 40,000 cubic yards of material in the C-38 Canal and dredged material mounds within the project area. The project will permanently impact approximately 2.25 acres of surface waters and gain approximately 3.60 acres of surface waters in the project area. Authorized activities are depicted on the attached exhibits.

The project described above may be conducted only in accordance with the terms, conditions and attachments contained in this permit. The issuance of this permit does not infer, nor guarantee, nor imply that future permits or modifications will be granted by the Department.

ACTIVITY LOCATION:

The activities authorized by this permit will be located on the western side of C-38 Canal directly upstream of the confluence of the C-38 Canal with the C-41A Canal, 150' west of the existing S-65E spillway structure, approximately 9.5 miles upstream of Lake Okeechobee. All activities are located in Class III Waters, Section 30 Township 37 South Range 34 East, in Okeechobee County.

STATE OWNED SUBMERGED LANDS AUTHORIZATION:

This activity also requires a proprietary authorization, as the construction of the S-65EX1 Structure is located on sovereign submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, and Section 253.002 F.S. and Chapter 258 F.S. The Department has the responsibility to review and take final action on this request for proprietary authorization in accordance with Section 18-21.0051, F.A.C., and the Operating Agreements executed by the Department and the water management districts, as referenced in Chapter 62-113, F.A.C. In addition to the above, the proprietary authorization has been reviewed in accordance with Chapter 253, F.S., Chapter 18-21, F.A.C., and Section 62-343.075, F.A.C.

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As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the construction of the S-65EX1 project is within the boundaries described in Lease No. 4099 and Easement No. 29173 issued to the South Florida Water Management District for the Kissimmee River Restoration Project in cooperation with the U.S. Army Corps of Engineers.

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

REASONABLE ASSURANCES:

In issuing this permit, the Department finds that the Corps has provided reasonable assurances based on the following documents:

- 1) U.S. Army Corps of Engineers, Kissimmee River Restoration (KRR)- S-65EX1 Spillway Application and associated materials (October 2011);
- 2) U.S. Army Corps of Engineers, Response to Request for Additional Information, (January 19, 2012);
- 3) U.S. Army Corps of Engineers, Wetland Assessment Report and Uniform Mitigation Assessment Method (Revised January 19, 2012);
- 4) United States Department of the Interior, Fish and Wildlife Service, Biological Opinion (August 31, 2007); and
- 5) United States Department of the Interior, Fish and Wildlife Service, Biological Opinion, Amended Terms and Conditions (March 4, 2008).

The Corps and its designees are responsible for activities performed during the period of construction. The Corps is hereby authorized to construct the work shown on the application and approved drawings, plans, and other documents attached hereto or on file with the Department and made a part hereof. This permit is subject to the limits, conditions, and locations of work shown in the attached drawings, and is also subject to the provisions of this permit. You are advised to read and understand these drawings and conditions prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also shall read and understand these drawings and conditions prior to commencing the authorized activities. Failure to comply with all drawings and conditions shall constitute grounds for revocation of the permit and appropriate enforcement action.

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

GENERAL CONDITIONS:

1. This permit, including its general and specific conditions, must be construed in light of the February 2006 Interagency Cooperative Agreement for Civil Works Projects (ICA) between the Department and the Corps. As recognized in the ICA, the Department has the authority to include reasonable conditions in this permit. All of the conditions in this permit, both general and specific, are

enforceable to the extent sovereign immunity has been waived under 33 U.S.C. §§ 1323 and 1344(t). The ICA is incorporated herein by reference.

2. All activities approved shall be implemented as set forth in the drawings incorporated by reference and in compliance with the conditions and requirements of this document. The Corps shall notify the Department in writing of any anticipated changes in:
 - a. operational plans;
 - b. project dimensions, size or location;
 - c. ability to adhere to permit conditions;
 - d. project description included in the permit;
 - e. monitoring plans.

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

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

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

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

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

SPECIFIC CONDITIONS:

1. **Addresses.** Reports and notices submitted to the Department in accordance with this permit, unless otherwise specified, shall be submitted to the Office of Ecosystem Projects, Program Coordination and Regulation Section, 3900 Commonwealth Boulevard, MS 24, Tallahassee, Florida, 32399-3000, telephone no. (850) 245-3194. Electronic copies of reports and notices required by this permit shall be sent to RPPS_Comp@dep.state.fl.us.
2. **Threatened and Endangered Species.** The Permittee shall coordinate with both the Florida Fish and Wildlife Conservation Commission (FWC) and the U.S. Fish and Wildlife Service (FWS) for appropriate guidance, recommendations and/or necessary authorizations to avoid, minimize, or mitigate impacts to listed species. The Permittee shall comply with applicable Federal and State law with regard to protected species and agree to consider input from and to comply with requirements of the FWC to the extent that to do so would not create an irreconcilable conflict with the Permittee's federal responsibilities. Should a potential conflict between FWC's requirements and the Corps' federal responsibilities be identified, the Corps shall coordinate with all involved federal and state agencies to determine and implement reasonable alternatives, to the maximum extent practicable, in order to avoid such a conflict. The Corps shall adhere to all the "Terms and Conditions" contained within the Biological Opinion (BO) and any subsequent consultation so as to avoid and mitigate any impacts to the species identified within.

The Permittee and/or the contractor shall instruct all personnel associated with the project that threatened and endangered species may be present in the area, and the need to avoid harming, harassing, or killing these species and the civil and criminal consequences. Other protected species that might be observed in the region include the American alligator, wood stork, snail kite, eastern indigo snake, manatee, bald eagle, and crested caracara. Construction activities shall be kept under

constant surveillance, management, and control to minimize any interference, disturbance, or impact to these and other protected species.

3. **Contaminated Sites and Residual Agrichemicals.** The permittee shall coordinate with the local sponsor, the District, and the Department concerning assessment and remediation of any contamination, including agricultural chemical residuals (hereafter collectively referred to as "contamination"), identified within the project footprint. The permittee shall coordinate with the District to address any contamination within the project footprint so that (1) any detrimental impacts to Threatened or Endangered species are minimized to the maximum extent practicable and (2) state water quality standards are not violated by construction of the project and the interim operations covered by this permit. Any information on identification and delineation of the extent of the contamination shall be promptly provided to the Department. The permittee shall coordinate with the District and provide any District proposed remedial action plan to redress the contamination to the Department no later than 90 days prior to the initial operation or use of the completed project, unless the Department approves an alternative schedule, whichever is earlier. All assessment and remedial activities shall be performed in accordance with applicable Federal and State law. When contamination has been identified in the project footprint, operation of the facility shall not commence until the Department has reasonable assurance that the operation of the project will not cause the contamination to result in a violation of water quality standards for those particular contaminants of concern and that impacts to threatened or endangered species have been sufficiently addressed. If contamination is discovered after initial operations, any operations which may result in a violation of water quality standards shall cease until the permittee coordinates with the District to provide an assessment and remedial action plan for Department at the address listed in Specific Condition No. 1. Operations which may cause or contribute to a violation of water quality standards shall not re-commence until the Department has provided concurrence on the proposed remediation plan.
4. **Wetland and Other Surface Waters Protection.** This project is expected to have permanent and temporary impacts of approximately 8.51 acres of surface waters. Project construction in and near wetlands or other surface waters shall at all times be implemented to minimize impacts on these natural resources. Prior to the commencement of construction, effective physical barriers to prevent encroachment into the protected wetlands and other surface waters shall be installed by the Permittee. The Permittee shall notify the Department in writing at the address identified in Specific Condition No. 1, upon the contractor's placement of staking/fencing/turbidity curtains to schedule a joint inspection of this work. Additionally, the Permittee shall schedule a final site visit with the Department for inspection of the project site after the temporary works have been removed.
5. **Project Benefits Analysis.** A Uniform Mitigation Assessment Method (UMAM) was conducted on March 23, 2011, to assess the impacts to wetlands and other surface waters due to project construction. The wetland and other surface water impacts are estimated to have a total functional loss score of 1.28 which is less than the total functional gain score of 2.05 as stated in the Wetland Assessment Report for Kissimmee River Project, Contract 18A. The project benefits analysis indicates that the future habitat and ecological wetland functions of this part of the restoration project are greater than the existing habitat and ecological wetland functions that will be impacted by construction of the project; therefore, no mitigation is required.

CONSTRUCTION

6. **Authorized Construction.** This permit authorizes construction of the KRR - S-65EX1 Spillway Structure Project, Contract 18A in accordance with the plans and documentation submitted by the

Corps as part of the permit application and any subsequent submittals that have been reviewed and are on file with the Department. A copy of this permit will be kept on site at all times until construction is complete.

7. **Instructions to Construction Personnel and/or Contractors.** The Permittee shall ensure that all construction personnel working on the project are briefed on the permit conditions and shall give a copy of this permit to each contractor and subcontractor before the authorized work begins. Prior to construction, the Permittee shall schedule a pre-construction meeting and invite the contractor(s), and representatives from the U.S. Army Corps of Engineers, the Department, and other environmental regulatory agencies. The Department shall receive at least two weeks' prior notice of the meeting (email is the preferred method of notification). Within 30 days from the Notice-to-Proceed to the contractor or upon Permittee's approval of a proposed construction schedule, whichever occurs first, the Permittee shall provide the proposed construction schedule to the Department at the address identified in Specific Condition No. 1.
8. **Site Inspections / Construction Meetings.** Throughout the construction of the S-65EX1 Structure project, the Department may conduct periodic site inspections to ensure permit compliance and to monitor progress. The Department will coordinate with the designated Corps Construction Manager or other Corps representative prior to performing any on-site inspections. Representatives of the Department may be accompanied by a third-party inspector and/or consultant at any time. Upon, or prior to, receipt of the written statement of completion and certification, the Department shall conduct substantial and final inspections of the Project as defined in the Specifications. It is anticipated that this activity may be completed in conjunction with other regulatory agencies and may be accomplished in stages as the project progresses.
9. **Quality Control Inspections.** For quality control purposes, the Corps shall ensure that quality control testing and inspections occur during all phases of construction consistent with the accepted Contractor Quality Control Plan as outlined in the technical specifications.
10. **Environmental Protection Plan.** At least thirty (30) days prior to the commencement of construction, the Permittee shall submit an Environmental Protection Plan to the Department, which addresses compliance with the requirements of the Biological Opinion (BO) of the FWS dated August 31, 2007, the amended BO dated March 4, 2008, or the latest BO. The Department will review and provide a determination of whether or not the plan is consistent with Department statutes and rules. In accordance with Specific Condition No. 2, the plan shall describe the methods used to protect environmental resources, including fish and wildlife and adjacent wetland areas, to ensure that there shall be no unauthorized impacts to listed species, wetland plants or water quality as a direct result of construction activities.
11. **Construction Best Management Practices (BMPs).** At all times during construction and maintenance activities that could generate project-generated turbidity, the Permittee shall use best management techniques for erosion and sedimentation control. At least 30 days prior to commencement of construction activities for each contract or phase, the Permittee shall submit the contractor's plan which details the use of sediment controls to minimize the suspension and transport of soils, levee materials, and roadway materials into waters adjacent to or downstream of the construction site to the Department for a review and determination of consistency with Department rules and Statutes at the address listed in Specific Condition No. 1. Acceptable plan formats may include Erosion Control Plans, Storm Water Pollution Prevention Plans (SWPPP) or an Environmental Protection Plan (EPP). Modifications to the site specific plan may necessitate further review and a determination of consistency with Department rules and statutes. Sediment barriers shall remain in place until all adjacent construction activities are complete.

- i) **Turbidity Barriers.** During work within or immediately adjacent to existing surface waters of the Kissimmee River and its tributaries, floating turbidity barriers that extend to such depths as to provide coverage of the entire water column shall be installed and anchored both upstream and downstream of the S-65EX1 Spillway. Turbidity barriers/curtains shall also be placed where deemed appropriate by the Corps and the Department.
 - ii) **Adjacent Wetlands.** Wetlands and Preserve Areas adjacent to construction activities shall be staked and fenced off with construction fencing or other effective physical barriers to prevent encroachment into these wetlands prior to the commencement of construction. All areas of exposed soils shall be isolated from wetlands and surface waters to prevent erosion and deposition of sediments into these wetlands during permitted construction activities. All excavated or dredged material shall be placed strategically to prevent the transport of any material into wetlands and surface waters both during and after completion of the construction.
 - iii) **Inspections.** Once installation of the erosion controls identified through the plan(s) has been completed, the Permittee shall contact the Department at the address listed in Specific Condition No. 1 to determine whether inspections of the installed controls are necessary. The permittee shall be responsible for ensuring that erosion control devices are inspected and maintained daily during all phases of construction. Turbidity barriers and erosion control devices shall be inspected daily, maintained in good working order, and relocated or stabilized as necessary during construction to prevent surface water quality violations.
 - iv) **Site Stabilization.** All graded areas shall be stabilized and vegetated immediately after construction to prevent erosion. All screens, silt fences, sheet pile, and other turbidity control devices and preventive operation procedures shall remain in place for the duration of the project and maintained until all turbidity has subsided, the project site has been stabilized, and the turbidity level at the point of discharge from the construction or maintenance work area to receiving waters meets state standards. Once these conditions are met, turbidity and erosion control devices shall be removed within a timely manner and prior to final completion of construction. If there are multiple work zones within a contract or phase, individual work zones shall be stabilized if there will be a significant lag time prior to completion of the entire contract.
12. **Turbidity Monitoring During Construction and Maintenance.** Effective means of turbidity control, such as, but not limited to, turbidity curtains shall be employed during all construction or maintenance activities that could result in project-generated turbidity levels beyond the work area that have the potential to be discharged to the receiving water body. Turbidity control measures shall be in accordance with Specific Condition No. 11 and best management practices contained in the Erosion Control Plan, Storm Water Pollution Prevention Plan (SWPPP) or Environmental Protection Plan (EPP) referenced in Specific Condition No. 10.

Turbidity Standard

- a. Turbidity shall not exceed 29 Nephelometric Turbidity Units (NTUs) above background in Class III receiving waters.

Sampling Protocols

- b. Sampling and analyses shall be performed as required by Chapter 62-160, F.A.C. (FDEP Standard Operating Procedures (FDEP-SOP), located at <http://www.dep.state.fl.us/water/sas/sop/sops.htm>). Field turbidity monitoring equipment and personnel trained to use it shall be available on site at all times during construction or maintenance activities that could result in project-generated turbidity levels beyond the work area that have the potential to be discharged to the receiving water body.
- c. During construction or maintenance activities, the Permittee shall monitor turbidity levels at least twice daily, with samples taken a minimum of once every four hours during all operations, at the following locations:
 - 1. Background Sample(s): One background sample station, at least 30.5 meters (100 feet) upstream of each construction or maintenance work area, in the adjacent canal or water body, outside any visible plume generated by the construction or maintenance activity; and clearly outside of the influence of construction activities.
 - 2. Compliance Sample(s): One monitoring station located no greater than 150 meters (492 feet) downstream of the work site and within the densest portion of any visible turbidity plume.
- d. For monitoring purposes, work areas are defined by the turbidity curtains.
- e. If there are multiple work areas where construction is creating a visible turbidity plume, each construction activity shall be monitored separately.

Turbidity Exceedance

- f. The following measures shall be taken whenever project-generated turbidity levels exceed the standard stated above in any receiving waters:
 - i. Immediately cease all project activities contributing to elevated turbidity;
 - ii. Notify the Department by phone and at RPPS_Comp@dep.state.fl.us within 24 hours;
 - iii. Identify the possible cause of the violation;
 - iv. Modify work procedures that may have contributed to the violation such as installing additional turbidity or erosion protection devices; repairing any non-functional turbidity containment devices, stabilizing exposed soils, and checking calibration of the meter.
 - v. Work shall not resume until the activities can be conducted in compliance with the turbidity standards. Please provide notification to the Department at RPPS_Comp@dep.state.fl.us when compliance is achieved. If compliance is achieved after normal business hours then please notify the Department on the next consecutive business day.

Monitoring Logs and Reports

- ~~g.~~ Turbidity monitoring results shall be compiled daily and summarized quarterly (every three calendar months) by project component beginning with the first calendar month in which construction or maintenance activities occur that could generate turbidity in receiving waters and continuing until all construction, dredging, stabilization and/or excavation is completed. Monitoring data with supporting documents shall be submitted to the Department quarterly, to the address identified in Specific Condition No. 1 or by email to the RPPS_Comp@dep.state.fl.us. If no construction activities occur that could generate turbidity

and the project site has been stabilized, during the entire or a specific portion of the quarterly monitoring period, this shall be noted in the report and include information regarding continuation of monitoring.

- h. Daily monitoring logs shall clearly identify the following information:
 - i. Dates and time of sampling and analysis;
 - ii. Name of individual collecting samples;
 - iii. Identification of the specific instrument unit(s) used for sample collection, include brand and model.
 - iv. Measurement value and reporting units;
 - v. Water depth;
 - vi. Depth of sample;
 - vii. Weather conditions;
 - viii. Water level stage in the canal or water body and direction of flow;
 - ix. Clear description of project component activities taking place at the time of sampling that may have contributed to turbidity;
- i. Quarterly reports shall include the following information:
 - i. Project name and current permit number;
 - ii. Summary of construction activities that have taken place (e.g., construction progress meeting minutes, SWPPP Inspection Reports, or other relevant information may be submitted to fulfill this requirement);
 - iii. Statement describing the methods used in collection, handling, storage, and analysis of the samples;
 - iv. Statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection, and accuracy of the data;
 - v. Statement regarding sampling results, the net difference between compliance and background results, and whether the turbidity levels are in compliance;
 - vi. Summary of any significant compliance issues and how they were resolved;
 - vii. Statement which explains any gaps in sampling activity (e.g., contractor not onsite, work shut down due to weather conditions);
 - viii. Map indicating the sampling locations and construction activity taken place during the reporting period;
 - ix. Signature and statement of authenticity by a properly trained individual indicating that the instrument meets the outlined specifications and has been calibrated.
- j. If no construction or maintenance activity occurs that could contribute to turbidity generation in receiving waters and the project site(s) are stabilized such that a rain event will not generate turbidity in receiving waters during the entire quarterly monitoring period(s), the Permittee may submit a written statement to the RI'PS_Comp@dep.state.fl.us in lieu of a quarterly report.

13. **Mixing Zone.** A 150-meter (492 feet) temporary mixing zone for turbidity downstream of the construction work area in the C-38 and C-41A canals and existing oxbows is hereby authorized in accordance with Rule 62-4.244, F.A.C. The mixing zone is authorized for a period not to exceed the permit expiration date or within two weeks after all construction activities which may result in turbidity are completed, whichever is earlier. A maximum limit of twenty-nine (29) nephelometric turbidity units (NTU) above background for turbidity shall be met within a 150-meter mixing zone in surface waters downstream of the construction work area. Failure to achieve the requirements for turbidity at the 150-meter boundary or boundaries may result in the temporary suspension of construction. Construction shall only resume once requirements for turbidity are met at the 150-

meter boundary as listed in Specific Condition No. 12 and corrective actions are taken to prevent exceedances from occurring.

Compliance with the mixing zone criteria shall be measured at least twice daily during construction of activities that may create turbidity and shall be reported in the quarterly reports required by Specific Condition No. 12 of this permit. Notification of any non-compliance event shall be submitted electronically within 24 hours of such event to the address in Specific Condition No. 1.

14. **Surface Waters.** Under no circumstances shall the construction or maintenance of the S-65EX1 Structure cause or contribute to a violation of state water quality standards. The permittee shall comply with all applicable state water quality standards described in Chapter 62-302, F.A.C.
15. **Water Use Permits.** For activities that require a water use permit from the State, such as, but not limited to, construction dewatering, industrial use of surface or ground water, and public water supply wells, the Corps shall ensure that their contractor(s) submit the required application, fees and applicable site-specific information to the District for review and approval in accordance with the requirements of Rules 40E-2 and 40E-20, F.A.C., and as follows:
 - **Water Supply Wells.** For activities that require temporary use of a water supply well during construction (e.g. construction trailers), the Corps shall ensure that their contractor(s) obtain all required permits. If the water supply well will serve permanent facilities (e.g., pump station), the Corps shall ensure that site-specific information is also submitted to the address in Specific Condition #1. Prior to transfer of the facility to the local sponsor (District) for permanent operations, the Corps shall coordinate with the District to ensure that the Department has received a permit request and copies of the well permit for review and authorization by the Department under a separate action.
 - **Industrial Use of Surface or Ground Water.** For activities that require industrial use of surface or ground water within or adjacent to the project (e.g. soil-cement mixtures or equipment wash down), the Corps shall ensure that their contractor(s) obtain all required permits. For larger or more complex facilities, the Corps shall ensure that, upon the contractor(s) submission to District, a copy of the application and site-specific information is also provided to the Department at the address in Specific Condition #1.
 - **Construction Dewatering.** For activities that require removal of surface or ground water as part of construction, the Corps shall ensure that their contractor(s) will obtain all required permits. If the contractor intends to commence dewatering activities under the conditions of the "No Notice" until a permit is issued, the contractor shall submit a notification to District and the Department accordingly. The Corps shall ensure that, upon the contractor(s) submission to District, a copy of the application and site-specific information is also provided to the Department. The Corps shall also ensure that all proposed modifications to permitted activities proposed by their contractor(s) are submitted to District and Department through the same process. All dewatering authorizations or modifications to existing authorizations issued by the District for projects permitted by the Department are subject to review and a determination with Department rules and statutes before that action is considered final and effective.
16. **NPDES Generic Permit for Stormwater Discharge from Large and Small Construction Activities.** The issuance of this permit does not constitute coverage under the National Pollutant Discharge Elimination System (NPDES) Generic Permit for Stormwater Discharge from Large and Small Construction Activities (CGP) pursuant to Rule 62-621.300(4), F.A.C. Prior to the commencement of any construction, the Permittee is advised to contact the Department's NPDES Stormwater Program at (850) 245-7522 or toll free at (866) 336-6312 or to download application information from the Department's web site at <http://www.dep.state.fl.us/water/stormwater/npdes/construction3.htm#permit>

17. **NPDES General Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity.** The issuance of this permit does not constitute coverage under the NPDES General Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity pursuant to 62-621.300(2), F.A.C. If any offsite discharges will occur due to construction dewatering activities, then coverage under the aforementioned General Permit may be required and the Permittee is advised to review Rule 62-621.300(2), F.A.C. Before discharge of produced ground water can occur, analytical tests on samples of the proposed discharge water shall be performed to determine if contamination exists. If the analytical results comply with applicable criteria for use of the General Permit, then a short summary of the proposed activity and copy of the analytical tests shall be sent to the address in Specific Condition No. 1 within one week after discharge begins and the Permittee may proceed with the project while abiding by all conditions of the General Permit.
18. **Archaeological Resources.** The Permittee shall comply with applicable State and Federal law with regard to cultural and historical resources and shall coordinate with all involved Federal and State agencies. After completion of consultation with the Florida Department of State, Division of Historical Resources, the Permittee shall implement their recommendations throughout construction of the project. Prior to construction, a copy of the letter of recommendations from the Florida Department of State, Division of Historical Resources shall be provided to the Department to the addresses listed in Specific Condition No. 1. If historic or archaeological artifacts such as, but not limited to, Indian canoes, arrow heads, pottery or physical remains, are discovered at any time on the project site, the Permittee shall immediately stop all activities which disturb the soil and notify the Department and the State Historic Preservation Officer.
19. **Haul Roads and Project Access.** Permittee shall utilize existing local roads for the transport of equipment and materials. This permit does not authorize the construction of temporary or permanent access roads outside the project footprint.
20. **Manatee Conditions for Construction.** During all in-water work, the Permittee shall comply with the standard manatee protection construction conditions listed in the attached 2-page "Standard Manatee Conditions for In-Water Work, 2012" (Exhibit 2).

MONITORING, REPORTS AND NOTICES

21. **Data Quality.** - All monitoring data required by this permit shall be conducted in accordance with the following:
 - A. **Quality Assurance and Quality Control.** The standard sampling and monitoring data shall be collected, analyzed, reported and retained in accordance with Chapter 62-160, F.A.C. Any laboratory test required by this permit shall be performed by a laboratory that has been NELAP-accredited (primary or secondary) with the Florida Department of Health (DOH) under Chapter 64E-1, F.A.C., where such certification is required by Rule 62-160.300, F.A.C.. The laboratory must be certified for all specific method/analyte combinations that are used to comply with this permit. The analytical method used shall be appropriate so as to determine if the sample complies with Class III surface water quality standards as specified in Chapter 62-302, F.A.C. All field activities including on-site tests and sample collection, whether performed by a laboratory or another organization, must follow all applicable procedures described in DEP-SOP-001/01 (effective December 3, 2008). Alternate field procedures and laboratory methods may be used only after they have been coordinated with the Department for a determination of consistency with the requirements of Rules 62-160.220, and 62-160.330, F.A.C.

B. Method Detection Limits (MDLs). The sample collection, analytical laboratory test methods and method detection limits (MDLs) applicable to this permit shall be performed and reported in accordance with Rule 62-4.246, F.A.C. A list of Department established analytical laboratory methods, and corresponding MDLs (method detection limits) and PQLs (practical quantification limits), which is titled "Florida Department of Environmental Protection Table as Required by Rule 62-4.246(4) Testing Methods for Discharges to Surface Water" dated April 25, 2006, is available from the Department on request. The MDLs and PQLs as described in this list shall constitute the minimum acceptable MDL/PQL values and the Department shall not accept results for which the laboratory's MDLs or PQLs are greater than those described above unless alternate MDLs and/or PQLs have been coordinated with the Department for a determination of consistency with Department rules. More stringent MDLs and PQLs may be necessary for specific parameters. If required these will be identified in the permit monitoring plan for projects that have interim operations.

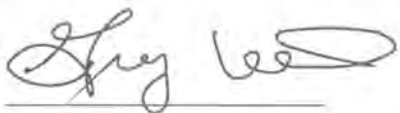
22. **Construction Status Reports.** Construction Status Reports or Construction Meeting Minutes for the project shall be provided to the Department upon request and such reports shall continue to be available throughout the construction activities until all disturbed areas are successfully stabilized. These Reports may be requested through the Project Manager, Construction Manager, or obtained at the construction meetings.
23. **Construction Completion and Record Drawing.** In accordance with General Condition No. 12, the permittee shall submit a written statement of construction completion and as-built drawings or equivalent construction documentation to the Department. The statement of completion shall be based on on-site observation of construction and review of the as-built construction drawings for the purpose of determining whether or not the work was completed in compliance with permitted plans and specifications. If there is a deviation from the permitted plans, the construction completion statement shall note these deviations and may require inclusion of revised plan sheets and specifications identifying the changes. Note that major deviations may require a modification to this permit. Plans submitted to the Department shall be clearly labeled as "as-built" or "record" drawings with one electronic copy provided in PDF format and one hard copy. The permittee shall furnish the construction statement and record drawing information to the Department within 60 days or a reasonable timeframe from substantial completion of construction.
24. **Operation, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R).** The Permittee shall maintain the S-65EX1 Spillway Structure area until the project is turned over to the Non-Federal Sponsor of the project as provided in the Project Cooperation Agreement. Routine inspections shall be performed by the Permittee to confirm the restored area's hydraulic connections are functional.
25. **Annual Status Report.** The Permittee shall submit an "Annual Status Report" to the Department detailing the construction activities on an annual basis. If additional reporting modifications are required, the Permittee may request a modification to the annual report submission date and upon approval by the Department, the Permittee may modify the Annual Report submission date to coincide with other reporting requirements and time periods needed for data acquisition and analysis. In addition to the permit number and name of the permit administrator, the Annual Reports shall contain, at a minimum the following information: the project component name, a summary of monitoring results from the work conducted under Specific Condition No. 13, problems encountered during the period covered, actions taken to address problems encountered.

Permittee: U.S. Army Corps of Engineers
Project: Kissimmee River Restoration (KRR)
Phase: S-65EX1 Spillway Structure, Contract 18A
Permit No.: 0308349-001
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RENEWALS AND MODIFICATIONS

26. **Future Phases.** This permit does not authorize any construction or operation activities associated with future phases of the KRR or S-65EX1 Structure Project. Future phases shall require separate review and approval by the Department.
27. **Permit Renewal.** At least 60 days prior to the expiration of this permit, the Permittee shall apply for renewal of this permit.
28. **Permit Modifications.** The Permittee shall submit to the Department prior to implementation any proposed modifications to the KRR - S-65EX1 Spillway Structure Project, Contract 18A for a determination of whether or not a permit modification will be required.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Greg Knecht
Director
Office of Ecosystem Projects

GK/swf/mbw

ATTACHMENTS:

- Exhibit 1, Project Drawings and Design, 3 pages
Exhibit 2, Standard Manatee Conditions for In-Water Work, 2012, 2 pgs.

ELECTRONIC COPIES FURNISHED TO:

Ivan Acosta, USACE
James McAdams, USACE
Javier Cortes, USACE
Rebecca Lee-Duffell, USACE
Tiphonie Jinks, USACE
Temperince Morgan, SFWMD
David Colangelo, SFWMD
Nirmala Jeyakumar, SFWMD
Sharon Kocis, USFWS
Heather Tipton, USFWS
Steve Schubert, USFWS
FWCConservation Planning Services, FFWCC
DCPPermits, FDEO
Compliance Permits, FDOS
Ray Scott, FDACS

Rebecca Elliott, FDACS
Ron Miedema, US EPA
Vikki Smith, Okeechobee County Commissioner
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Permittee: U.S. Army Corps of Engineers
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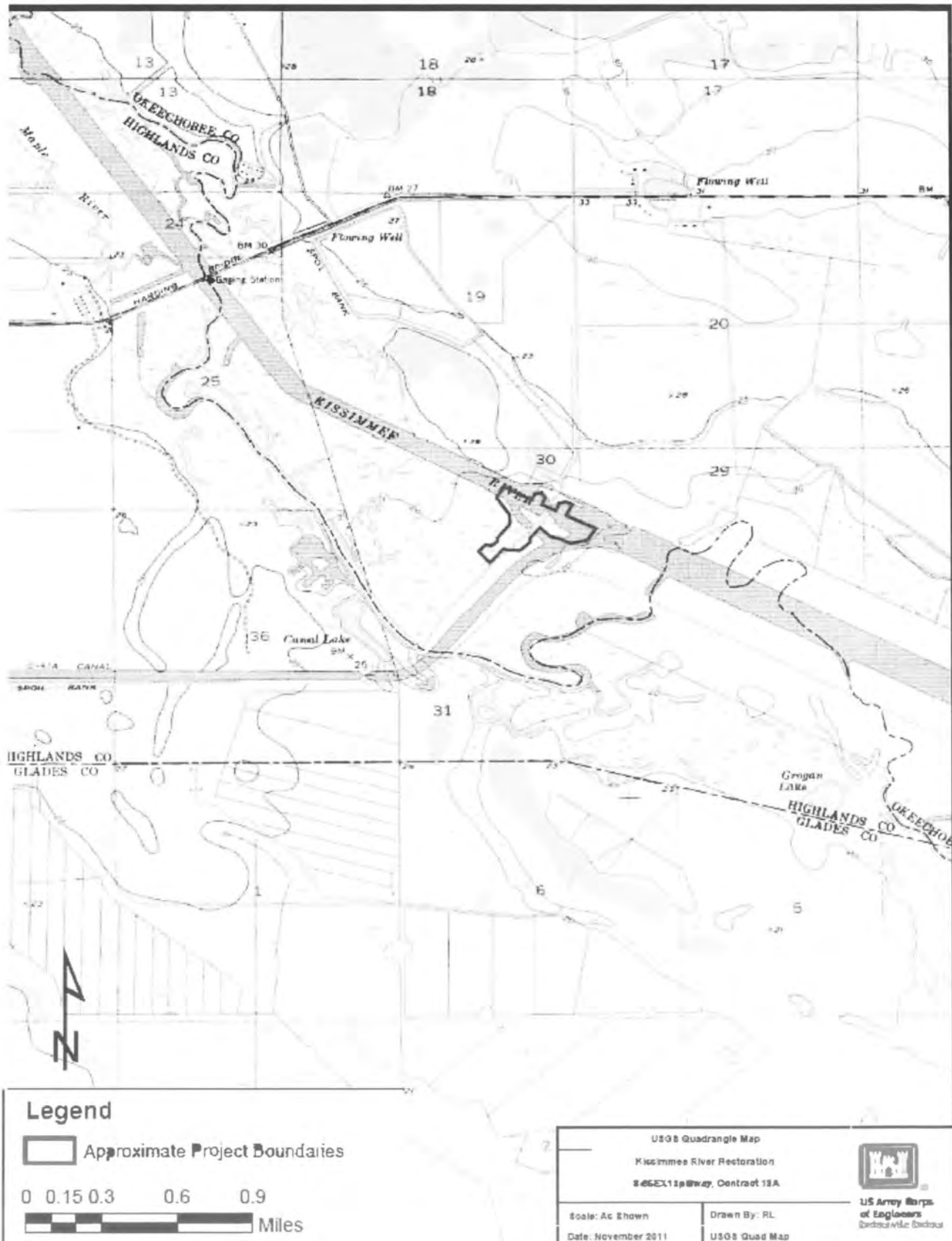
FILING AND ACKNOWLEDGMENT

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

Jennifer McCain 5-24-12
Clerk Date

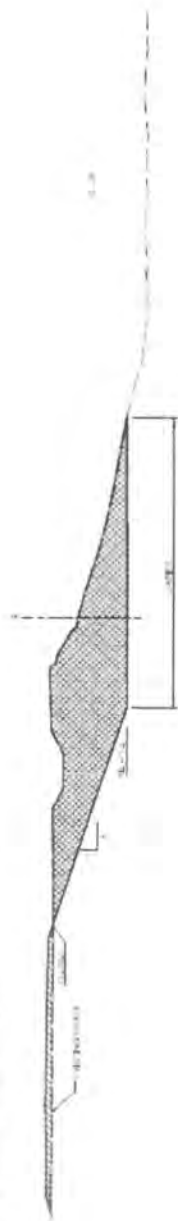
EXHIBIT 1

Figure 1. Project boundary and location map of the S-65EX1 Structure project.

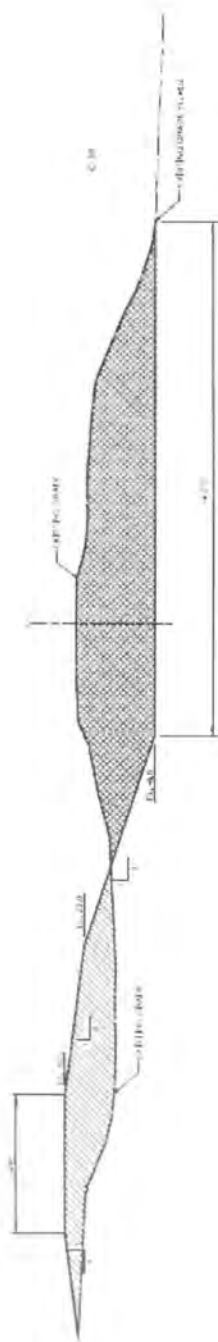


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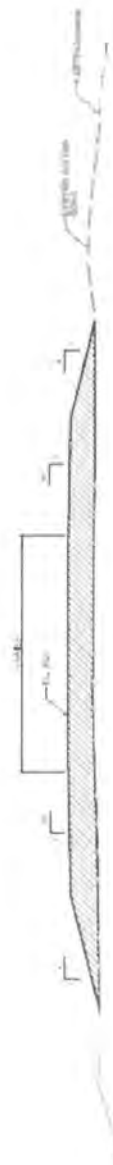
Figure 3. Cross sections of the S-65EX1 Project



SECTION AT CHANNEL SOUTHEAST OF SPILLWAY (STA. 11+40)



SECTION AT CHANNEL NORTHWEST OF SPILLWAY (STA. 4+00)



TYPICAL SECTION AT SPOIL DISPOSAL AREA



EXHIBIT 2

STANDARD MANATEE AND MARINE TURTLE CONSTRUCTION CONDITIONS FOR IN-WATER WORK

March 2012

The permittee shall comply with the following conditions intended to protect manatees and marine turtles from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of marine turtles, manatees and manatee speed zones, and the need to avoid collisions with (and injury to) these protected marine species. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees and marine turtles cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee or marine turtle movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of marine turtles and manatee(s). All in-water operations, including vessels, must be shutdown if a marine turtle or manatee comes within 50 feet of the operation. Activities will not resume until the animal(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the animal(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a marine turtle or manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922, and to FWC at ImperiledSpecies@myFWC.com. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service (for north Florida, Jacksonville 1-904-731-3336 or for south Florida Vero Beach 1-772-562-3909).
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.
- g. Lighting on offshore or onshore equipment including dredge, crew boats, and all ancillary vessels shall be minimized through reduction, shielding, lowering, and appropriate placement to avoid excessive illumination of the water's surface and visibility from adjacent marine turtle nesting beaches while meeting all Coast Guard, EM 385-1-1, and OSHA requirements. Light intensity of all fixtures on the vessels shall be reduced to the minimum standard required by OSHA for General Construction areas, in order not to misdirect marine turtles. Lights used to survey nearshore or inlet waters for manatees and sea turtles shall be mounted as low as possible and aimed to minimize visibility from adjacent nesting beaches. Shields shall be affixed to the light housing and be large enough to block light from all lamps from being transmitted outside the construction area.

CAUTION: MANATEE HABITAT

All project vessels

IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work
all in-water activities must

SHUT DOWN

Report any collision with or injury to a manatee:

Wildlife Alert:

1-888-404-FWCC(3922)

cell *FWC or #FWC

