

Jack Long, Director Southeast District Office

JUL 1 6 2010

Florida Inland Navigation District c/o David Roach, Executive Director 1314 Marcinski Road Jupiter, Florida 33477

Dear Mr. Roach:

Florida Department of

Environmental Protection Southeast District Office 400 N. Congress Avenue, Suite 200 West Palm Beach, FL 33401 (561) 681-6600 Charlie Crist Governor

Jeff Kottkamp Lt. Governor

Michael W. Sole Secretary

Enclosed is Environmental Resource Permit No., SI 43-0296831-001 for the FIND O-7 Dredged Material Management Area issued pursuant to Part IV of Chapter 373, Florida Statutes (F.S.), and Title 62, Florida Administrative Code (F.A.C.).

Appeal rights for you as the permittee and for any affected third party are described in the text of the permit along with conditions which must be met when permitted activities are undertaken. Please review this document carefully to ensure compliance with both the general and specific conditions contained herein. As the permittee, you are responsible for compliance with these conditions. Please ensure all construction personnel associated with your activity review and understand the approved drawings and conditions. Failure to comply with this permit may result in liability for damages and restoration, and the imposition of civil penalties up to \$10,000.00 per violation per day pursuant to Sections 403.141 and 403.161, F.S.

In addition please ensure the construction commencement notice and all other reporting conditions are forwarded to the appropriate office as indicated in the specific conditions.

If you have any questions about this document, please contact me at 561/681-6640.

Sincerely,

Indar Jagnarine, P.E. Professional Engineer III Submerged Lands & Environmental Resources Program



Jack Long, Director Southeast District Office

Florida Department of Environmental Protection

Southeast District Office 400 N. Congress Avenue, Suite 200 West Palm Beach, FL 33401 (561) 681-6600 Charlie Crist Governor

Jeff Kottkamp Lt. Governor

Michael W. Sole Secretary

ENVIRONMENTAL RESOURCE PERMIT

PERMITTEE/AUTHORIZED ENTITY:

Florida Inland Navigation District c/o David Roach, Executive Director 1314 Marcinski Road Jupiter, Florida 33477 Permit No.: SI 43-0296831-001 Date of Issue: June 16 2010 Expiration Date of Construction Phase: June 15 2015 County: Martin Project: FIND O-7 Dredged Material Management Area

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 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.

ACTIVITY DESCRIPTION:

The purpose of the project is to construct a 33-acre Dredged Material Management Area (DMMA) on agricultural land located northwest of the St. Lucie Lock and Dam in Martin County. The facility will receive, dewater and provide approximately 565,000 cubic yards (cy) of storage capacity for long-term management (50 year storage) of sediments dredged from Reach IV (OWW mi 9.99 to OWW mi 15.11) of the Okeechobee Waterway and the St. Lucie Canal. The DMMA will be comprised of a berm system, a perimeter drainage ditch for the retention/percolation of stormwater and weirs for controlled discharges to the Okeechobee Waterway. The construction of this project will impact 0.5 acres of agricultural ditches. Upon assessment of the site, the Department determined that mitigation for these impacts would not be required. Construction will involve excavation of material from the basin interior to construct the site's containment dike, perimeter and access road subgrade and dike access ramp. Material surrounding the dike will be excavated to create a perimeter collection ditch. The finished dike crest will occur at an elevation of 31.5 ft NGVD. The dike cross-sectional design, including side slopes of 3H:1V and a dike crest width of 15 ft, will require approximately 175,000 cy of material for construction. Once final grading occurs, the exterior side slopes of the DMMA and the surrounding buffer areas will be vegetated with native grasses.

This permit only authorizes the construction of the O-7 DMMA Facility. Operation of the O-7 DMMA Facility including but not limited to receiving, dewatering, and storing material from the Okeechobee Waterway and the St. Lucie Canal during dredging operations is not authorized by this permit.

All wetland areas and water bodies outside the specific limits of construction authorized by this permit shall be protected from erosion, siltation, scouring, and/or dewatering. Erosion barriers shall be installed prior to any excavation or placement of fill material and shall be maintained in effective condition at all locations until construction is completed and disturbed areas are stabilized

ACTIVITY LOCATION:

Dredged Material Management Area (DMMA) O-7 site will be located (closest access point) 900 feet northwest of the St. Lucie Lock and Dam and approximately 5,500 ft south-southwest of the Florida Turnpike and

1

Interstate 95 intersection in Martin County, immediately north of Hog Creek. A 60 ft wide pipeline easement is located along the southeast corner of the site and extends south to the Okeechobee Waterway through a USACE recreation area, Section 1, Township 38 and 39 South, Range 40 East, Latitude 27° 6' 56.28"N, Longitude 80° 17' 53.89"W.

This permit also constitutes a finding of consistency with Florida's Coastal Management Program, as required by Section 307 of the Coastal Zone Management Act. This permit also constitutes certification of compliance with water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Federal authorization for the proposed project is reviewed by DEP pursuant to an agreement between the Department and the U.S. Army Corps of Engineers (Corps). The agreement is outlined in a document titled Coordination Agreement Between the U.S. Army Corps of Engineers and the Florida Department of Environmental Protection State Programmatic General Permit, Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.

Your project has been reviewed for compliance with a State Programmatic General Permit (SPGP). As shown on the attached drawings, the proposed project is **not** consistent with the SPGP program. A copy of your application has been sent to the Corps who may require a separate permit. Failure to obtain their authorization prior to construction could subject you to enforcement action. For further information, contact the Corps directly.

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

The above named permittee is hereby authorized to construct the work shown on the application and approved drawing(s), 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 attached 19 General Conditions, and 17 Specific Conditions, which are a binding part of this permit and authorization. You are advised to read and understand these drawings and conditions prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also should read and understand these drawings and conditions prior to commencing the authorized activities. Failure to comply with all drawings and conditions shall constitute grounds for revocation of the permit and appropriate enforcement action.

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

Environmental Review: The O-7 DMMA Site is located approximately 900 ft northwest of the St. Lucie Lock and Dam and approximately 5,500 ft south-southwest of the Florida Turnpike and I-95 intersection. The site lies to the north of Hog Creek, which outflows into the Okeechobee Waterway. The project site occupies the southeastern most 77.29 acres of a 572 acre agricultural area and is comprised of row crops with large drainage ditches to the eastern and southern perimeter. Mixed hardwood and conifer are found to the east and south of the site, and a section of temperate hardwood lies on the southeast corner. Pine flatwoods occur south of the large drainage ditch near the south central area and a small forested wetland is found beyond the mixed hardwood and conifer. To the northeast are undeveloped lands and to the south between the site and the Okeechobee Waterway is the planned St. Lucie Recreation Area proposed for development by the USACOE. A 60 ft wide pipeline easement occurs along the southeast corner of the site and extends south to the Okeechobee Waterway through the recreation area. The easement is comprised of upland areas. A permanent access road is proposed for the site to be constructed at a later date. The access road will begin at SR 76, west of the St. Lucie Canal and will follow an existing farm access road in a northeasterly direction through a USACOE easement and a SFWMD right-of-way approximately 1.6 miles. The access road will follow a northeasterly direction through the St. Lucie Lock Recreation Area, then will bear to the northwest to the O-7 site. The USACOE will determine the exact route of the access road at a later date. During construction of the DMMA, the existing farm access road will be used. The access road corridor was assessed for wetlands and threatened and endangered species. One single wetland area of approximately 0.1 acre was delineated. This wetland will be traversed by bridge to avoid permanent impacts. The remainder of the access corridor is upland comprised of Shrub and Brushland (FLUCFCS 320) and Hardwood-Coniferous Mixed (FLUCFCS 434). This upland area was found to be heavily populated by gopher tortoises (*Gopherus polyphemus*). A total of 144 burrows were located either within or adjacent to the ROW of the access road. Of the 144 burrows, 138 were potentially occupied and 6 were abandoned. Construction of the access road will impact 36 potentially occupied burrows. A relocation permit will be required by FFWCC prior to construction of the access road (See Specific Condition No. 15).

Construction of the O-7 DMMA will impact 0.5 acres of jurisdictional wetlands comprised of an agricultural drainage ditch. Upon assessment of the area, the Department determined that mitigation for these impacts would not be required. The filling of the north-south drainage ditch has the potential to cause off site flooding. The adjacent property owner, Mr. Batista Madonia, Sr. and Mecca Farms, Inc, have received a copy of the construction plans and have been made aware that they, and not the permitee, will be responsible for any re-routing of the remaining drainage ditch to prevent flooding to adjacent property.

System Operation: Florida Inland Navigation District (FIND).

Water Use Permit Status: Contractor will be responsible for obtaining a dewatering permit, if necessary.

DRI Status: This project is not a DRI.

Stormwater: The finished 39 acre DMMA facility including the perimeter access road and exterior drainage ditches. The dike's crest elevation is at elevation 31.5 feet NGVD approximately 14.5 above existing mean elevation of 17.0 feet NGVD. The interior basin is excavated to elevation +11 feet NGVD and the perimeter ditch to an elevation of 14.0 NGVD. Most of the rainfall on site will fall within the containment basin, generating very little runoff. The site discharges to Hog Creek and eventually to the Okeechobee Waterway.

Right-of-way Permit Status: A right-of-way permit is not required from the South Florida Water Management District.

GENERAL CONDITIONS:

- (1) All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
- (2) This permit or a copy thereof, completes with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by the Department staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
- (3) Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. Temporary erosion control shall be implemented prior to and during construction and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible

for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

- (4) The permittee shall notify the Department of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the Department an "Environmental Resource Permit Construction Commencement" notice (Form No. 62-343.900(3), F.A.C.) indicating the actual start date and the expected completion date.
- (5) When the duration of construction will exceed one year, the permittee shall submit construction status reports to the Department on an annual basis utilizing an "Annual Status Report Form" (Form No. 62-343.900(4), F.A.C.). Status Report Forms shall be submitted the following June of each year.
- (6) Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the supplied "Environmental Resource Permit As-Built Certification by a Registered Professional" (Form No. 62-343.900(5), F.A.C.). The statement of completion and certification shall be based on on-site observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the Department that the system is ready for inspection. Additionally, if deviation from the attached drawings is discovered during the certification process, the certification must be accompanied by a copy of the attached permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.
- (7) The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, has submitted a "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (Form No. 62-343.900(7), F.A.C.); the Department determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the Department in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District August 1995, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the Department, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 62-343.110(1)(d), F.A.C., the permittee shall be liable for compliance with the terms of the permit.
- (8) Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
- (9) For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the Department along with any other final operation and maintenance documents required by sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District August 1995, prior to lot or unit sales or prior to the completion of the system, whichever occurs first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State where appropriate. For those systems which are proposed to be

maintained by the county or municipal entities, final operation and maintenance documents must be received by the Department when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.

- (10) Should any other regulatory agency require changes to the permitted system, the permittee shall notify the Department in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
- (11) This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C.
- (12) The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
- (13) The permittee is advised that the rules of the South Florida Water Management District require the permittee to obtain a water use permit from the South Florida Water Management District prior to construction dewatering, unless the work qualifies for a general permit pursuant to subsection 40E-20.302(4), F.A.C., also known as the "No Notice" rule.
- (14) The permittee shall hold and save the Department harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
- (15) Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under section 373.421(2), F.S., provides otherwise.
- (16) The permittee shall notify the Department in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of section 62-343.130, F.A.C. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
- (17) Upon reasonable notice to the permittee, Department authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
- (18) If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate Department office.
- (19) The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.

SPECIFIC CONDITIONS:

(1) This permit only authorizes the construction of the O-7 DMMA Facility. Operation of the O-7 DMMA facility including but not limited to receiving, dewatering, and storing material from the Okeechobee Waterway during dredging operations is not authorized.

(2) Maintenance of Facility. Maintenance of the O-7 site shall be the responsibility of Florida Inland Navigation District (FIND). The facility shall conduct inspections of the throughout the dredging and dewatering operations to ensure the integrity of the containment facility as outlined in Section 4.0 of the FDEP ERP Review Criteria Summary March 2009 (Updated November 2009).

Drawings and Attachments. Attached Drawing Exhibits 1-16, Permit Review Checklist, a table (3) of Exotic Plants shall be downloaded at <u>www.fleppc.org/list/List-WW-F09-final.pdf</u> and DEP forms: 62downloaded 343.900(3), (4), (5), (6),and (7) F.A.C., shall be at http://www.dep.state.fl.us/water/wetlands/erp/forms.htm, attached to and become part of this permit. If the approved permit drawings conflict with the specific conditions, then the specific conditions shall prevail.

(4) The central north-south agricultural ditch shall be re-routed prior to site construction.

(5) During construction, a maximum water level within the dike shall be maintained 4 feet below top of dike at elevation 27.5 feet NGVD and weir invert elevation shall set @ 16.0 feet NGVD. Upon completion of construction of the DMMA, six 6-ft by 6-ft timber flashboards shall be installed in the weir system.

(6) A 2-feet minimum ponding depth within the basin shall be maintained in order to provide adequate retention time for proper sedimentation.

(7) Three corrugated metal half pipes, each with 8-ft sections shall provide the required 24-ft total weir crest length and equipped with 5.5 inch by 5.5 inch flashboards for regulating the release of clarified water.

(8) Upon completion of construction, ground water monitoring wells (5) shall be installed and sample <u>monthly</u> for conductivity, salinity and water table elevation recorded. During dredging operations, the ground water monitoring wells (5) shall be installed and sampled <u>weekly</u> for conductivity, salinity and water table elevation recorded. Ground water monitoring results when available to Department of Environmental Protection, Southeast District Branch Office, Submerged Lands & Environmental Resources Program, Attention: Eric Shea, 1801 SE Hillmoor Drive, Suite C-204, Port St. Lucie, Florida 34952.

(9) After selection of the contractor to perform the authorized activities and prior to the initiation of any work authorized by this permit, the permittee (or authorized agent) and the contractor shall attend a preconstruction conference with a representative of the Department. The permittee shall contact the Department by phone or in writing to schedule the conference: Department of Environmental Protection, Southeast District Branch Office, Submerged Lands & Environmental Resources Program, Compliance/Enforcement Section, Attention: Eric Shea, 1801 SE Hillmoor Drive, Suite C-204, Port St. Lucie, Florida 34952 (phone: 772/398-2806).

(10) The permittee shall be responsible for ensuring that the permit conditions are explained to all construction personnel working on the project, and for providing each contractor and subcontractor with a copy of this permit before construction begins.

(11) The work authorized by this permit shall not be conducted on any property, other than that owned by the permittee, without the prior written approval of that property owner.

(12) All storage or stockpiling of tools and materials (i.e., lumber, pilings, debris, etc.) and operation of heavy equipment associated with construction shall be limited to adjacent uplands.

(13) All wetland areas and water bodies outside the specific limits of construction authorized by this permit shall be protected from erosion, siltation, scouring, and/or dewatering. Methods shall include, but are not limited to the use of staked hay bales, staked filter cloth, sodding, seeding, and mulching; staged construction; and the installation of silt fences around the immediate project site. Staked filter cloth shall be positioned at the edge of the permitted fill slopes where they are adjacent to wetlands in order to prevent turbid run-off and erosion. Erosion barriers shall be installed prior to any excavation or placement of fill material and shall be maintained in effective condition at all locations until construction is completed and disturbed areas are stabilized. Thereafter, the permittee must remove the barriers. The permittee shall be responsible for ensuring that erosion control devices and procedures are inspected and maintained daily during all phases of construction authorized by this permit. Once these conditions are met, the erosion control devices shall be removed within 14 days.

(14) The project area has not been subjected to a systematic professional archaeological or historical investigation and contains environmental conditions consistent with those found at other archaeological sites in Martin County. The permitee shall have a professional perform a cultural resource reconnaissance survey of the property, including judgmental subsurface testing, in order to assess the probability of the presence of historic properties before commencing any construction activities. The purpose of this survey will be to locate and assess any cultural resources that may be present. The resultant survey report must conform to the specification set forth in Chapter 1A-46, *Florida Administrative Code*, and be forwarded to Michael Hart, Historic Sites Specialist, Division of Historical Resources, 500 S. Bronough Street, Tallahassee, FL 32399-0250, in order to complete the reviewing process for this proposed project and its impacts. The results of the analysis will determine if significant cultural resources would be disturbed by this development. In addition, if significant remains are located, the data described in the report and the consultant's conclusions will assist this office in determining measures that must be taken to avoid, minimize, or mitigate adverse impacts to archaeological sites and historical properties listed, or eligible for listing in the NRHP.

(15) **Protection of Gopher Tortoise** (*Gopherus polyphemus*) **burrows.** All active gopher tortoise burrows on site will be barricaded using silt fence barriers and surrounded by orange safety fences for visibility if they are located near areas of heavy equipment traffic. All barricades near construction areas shall be inspected regularly to prevent tortoises from escaping. Upon completion of work, all barricades shall be removed. Any relocation whether temporary or permanent of gopher tortoises will require a permit from FFWCC. For additional information on gopher tortoise regulations please visit: http://www.myfwc.com/License/Permits_ProtectedWildlife.htm#gophertortoise.

(16) All areas to be filled and excavated shall be in accordance with the attached permit drawings and shall not exceed the areas and elevations indicated on those drawings.

(17) Within 60 days after completion of construction, the permittee shall submit record drawings (asbuilts) to the office listed in specific condition number 5. The drawings shall be in a format that will facilitate a direct comparison of the permitted activities and the work actually constructed.

RIGHTS OF AFFECTED PARTIES

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

Mediation is not available.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

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

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

In accordance with rules 28-106.111(2) and 62-110.106(3)(a)(4), petitions for an administrative hearing by the applicant must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. Under section 120.60(3) of the Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication.

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

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

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no

such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule

28-106.301.

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

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

Executed in West Palm Beach, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

nnifer Smit Date

Program Administrator Submerged Lands & Environmental Resources Program

JS/ij/ia

Copies furnished to:

FDEP - Compliance and Enforcement – Eric Shea <u>Eric.Shea@dep.state.fl.us</u> FDOS Division of Historical Resources – Michael Hart <u>mrhart@dos.fl.us</u> USACOE - Palm Beach Gardens – Garrett Lips – <u>Garrett.Lips@usace.army.mil</u> FFWCC - Bureau of Imperiled Species Management – Chance Cowan <u>Chance.Cowan@MyFWC.com</u> Taylor Engineering, Inc. – Ms. Lori Schick – <u>l.brownell@taylorengineering.com</u> Florida Inland Navigation District - David Roach - <u>droach@aicw.org</u>

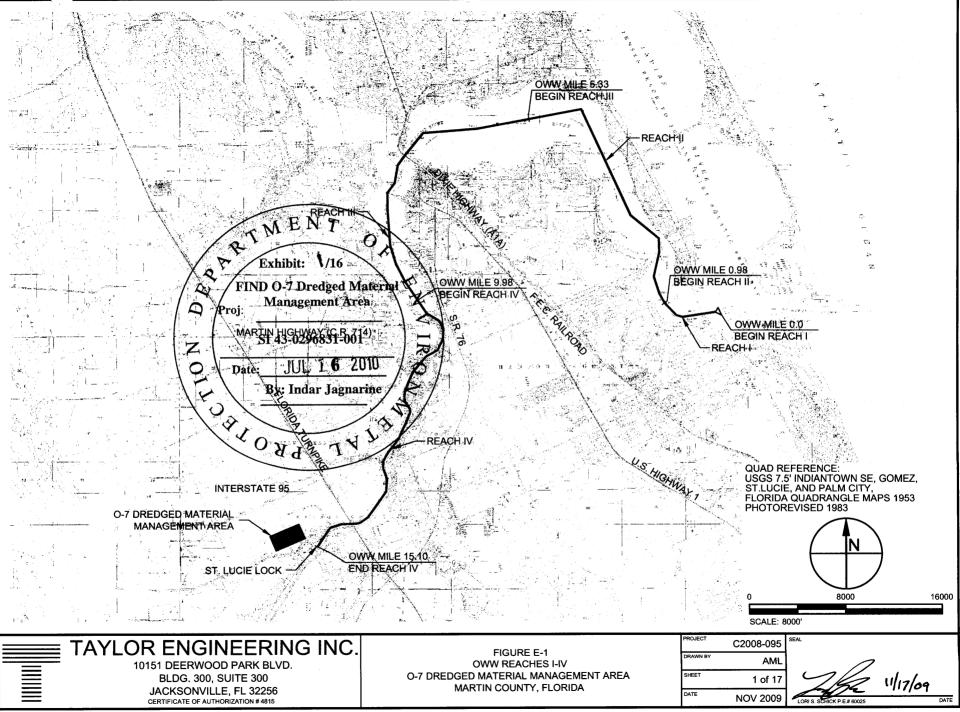
CERTIFICATE OF SERVICE

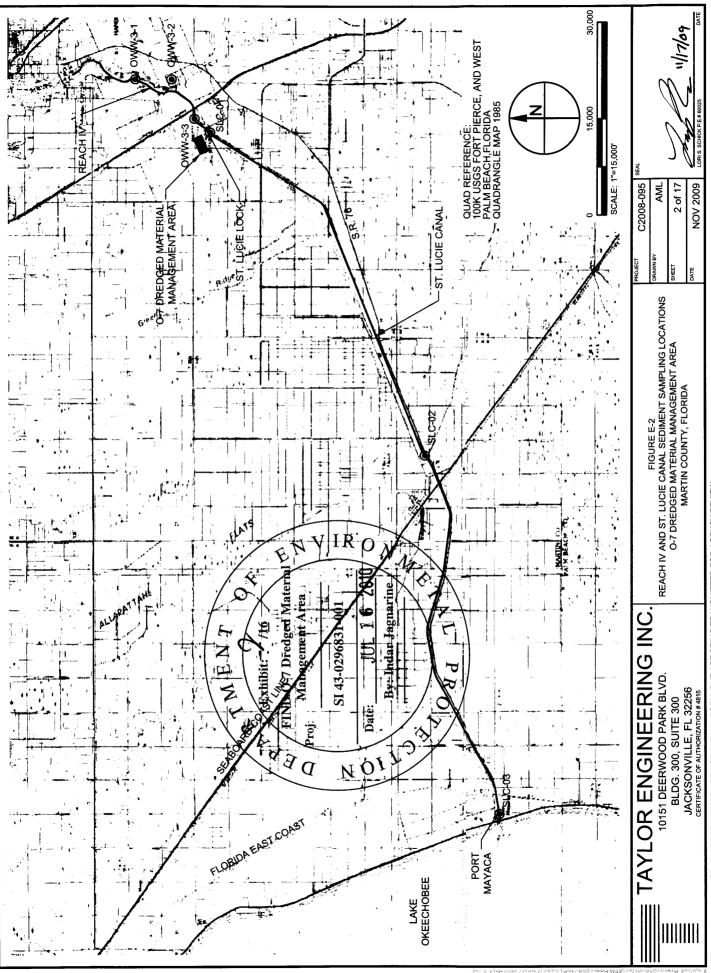
The undersigned duly designated deputy clerk hereby certifies that this permit, including all copies, was mailed before the close of business on ________, to the above listed persons.

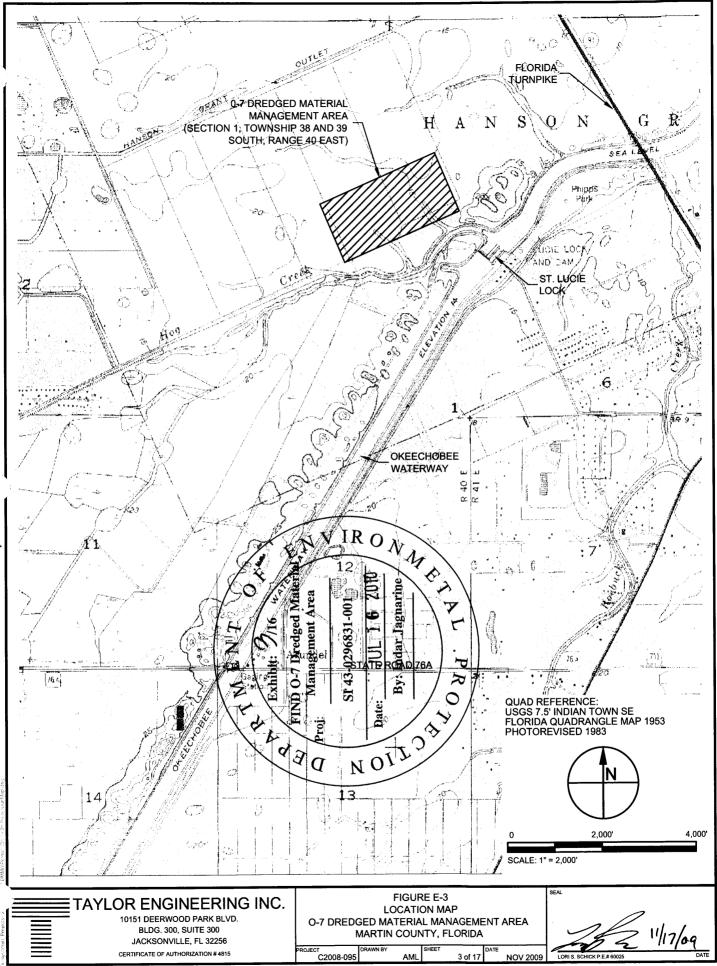
FILING AND ACKNOWLEDGMENT

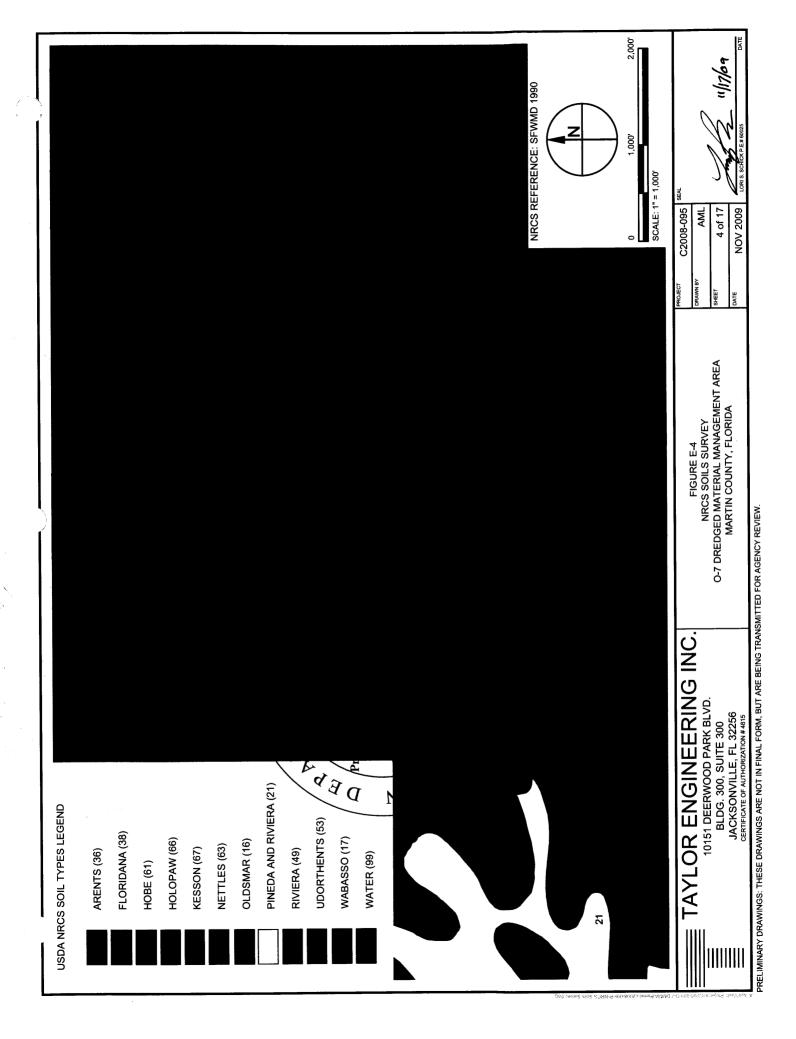
FILED, on this date, under 120.52(7) of the Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

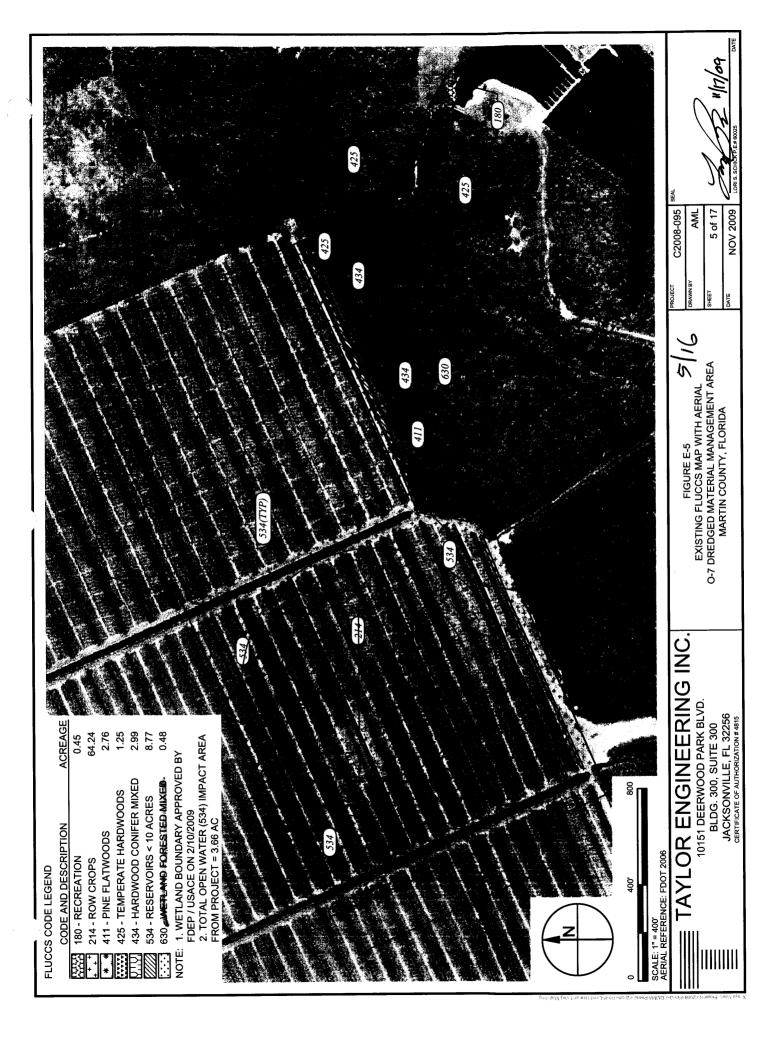
Me 7/10/10 Clerk Date

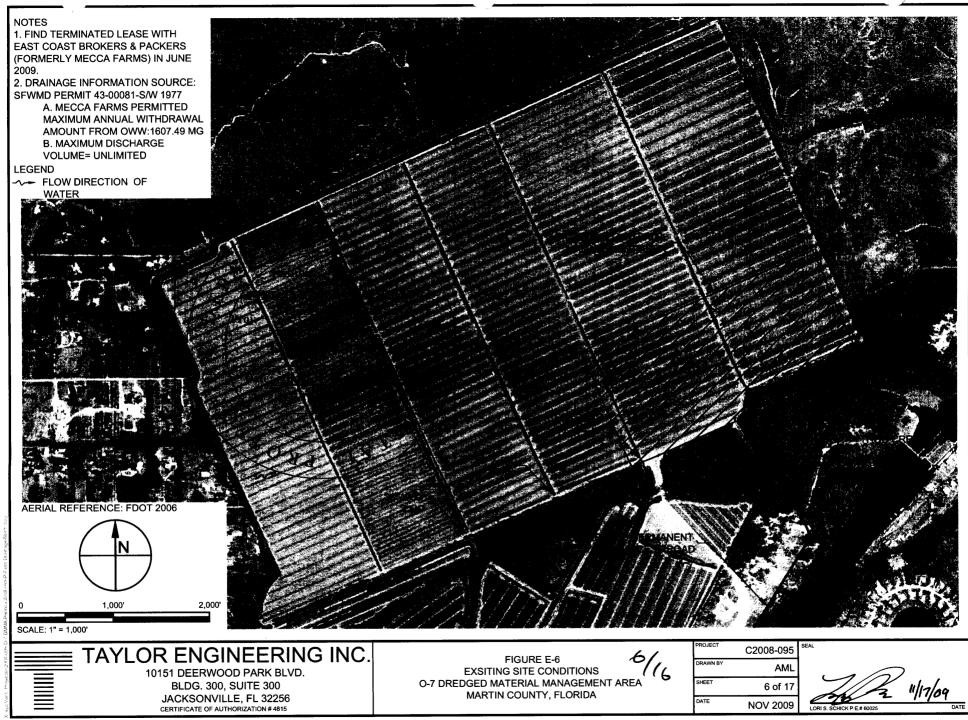


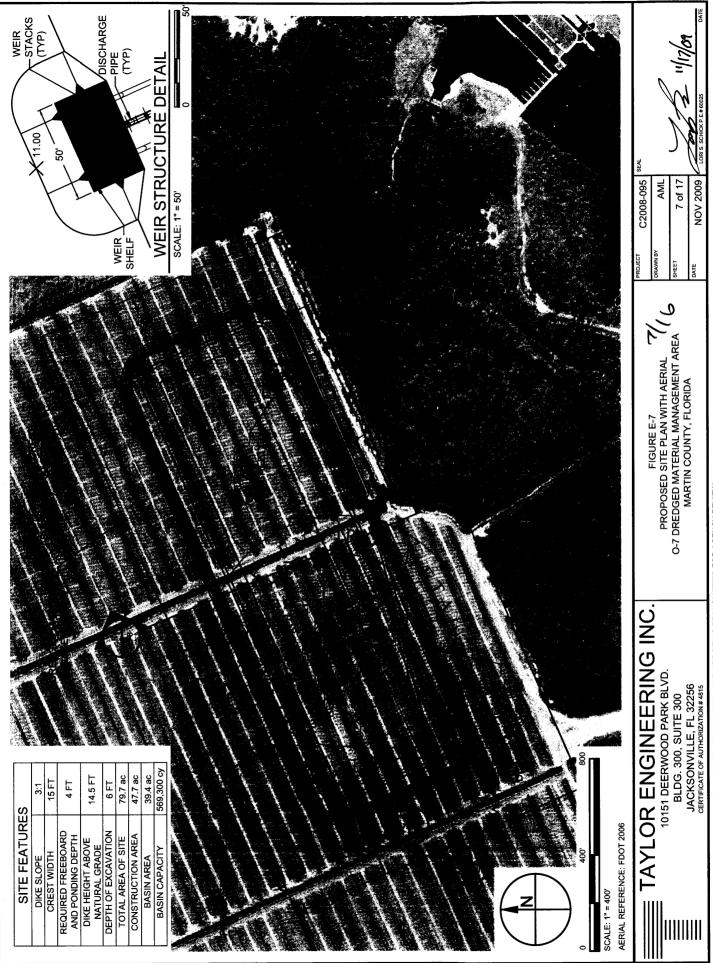


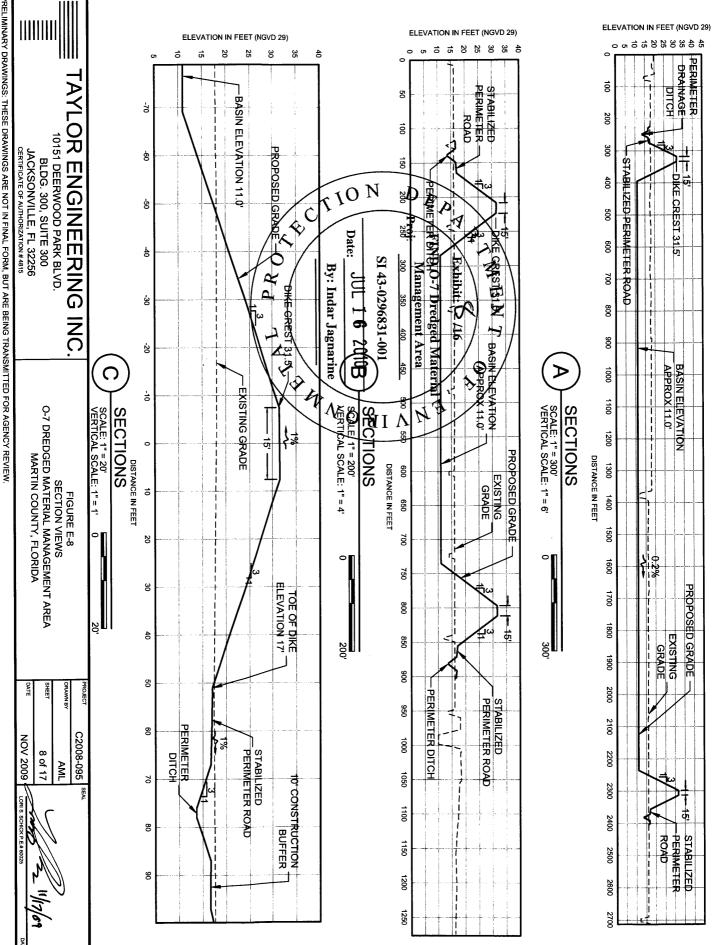




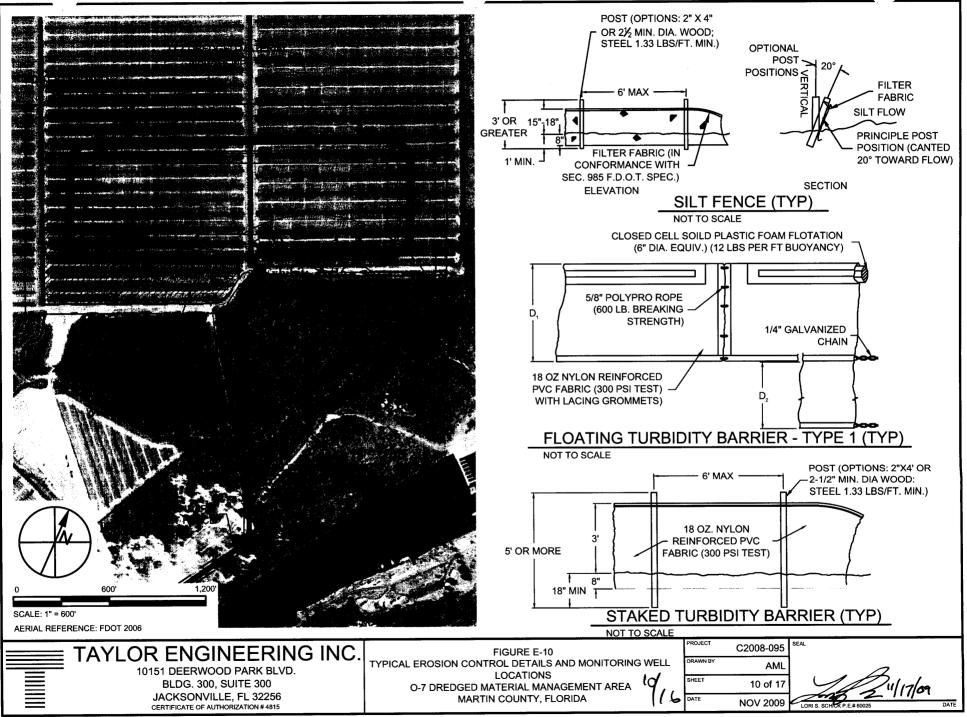


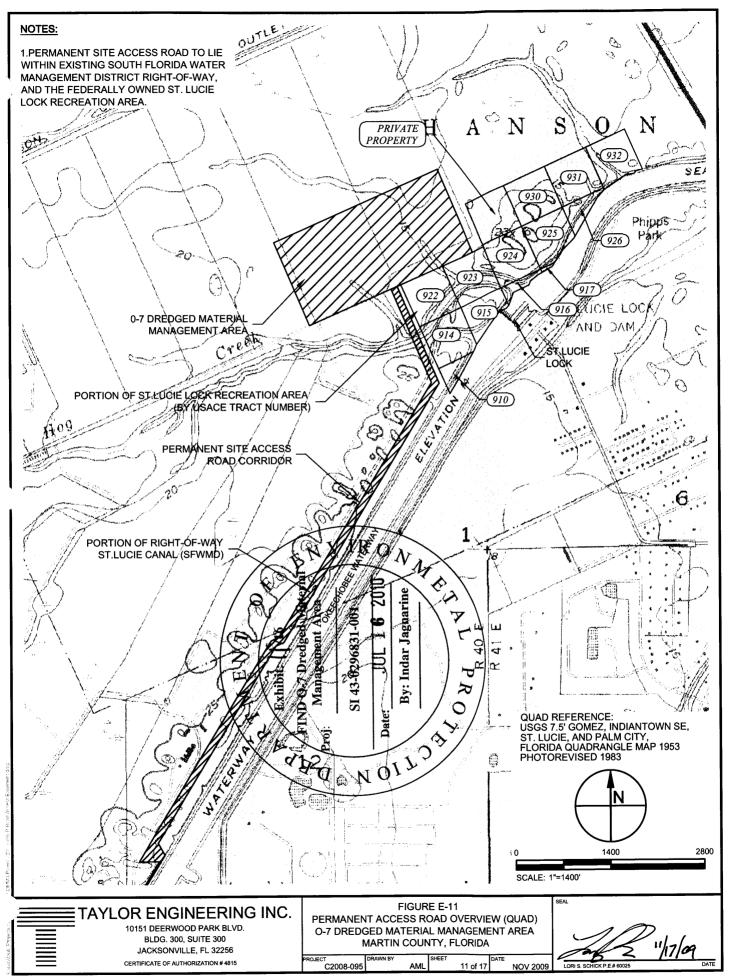












PRELIMINARY DRAWINGS: THESE DRAWINGS ARE NOT IN FINAL FORM, BUT ARE BEING TRANSMITTED FOR AGENCY REVIEW.





