

DEPARTMENT OF THE ARMY PERMIT

PERMITTEE: FLORIDA SOUTHEAST CONNECTION, LLC
ATTN: MR. RANDALL LABAUVE
700 UNIVERSE BOULEVARD JES/JB
JUNO BEACH, FLORIDA 33408

PERMIT NUMBER: SAJ-2013-03099

ISSUING OFFICE: U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate District or Division office of the U.S. Army Corps of Engineers (Corps) having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

PROJECT DESCRIPTION: The permittee is authorized to temporarily discharge clean fill material over a total of 223.79 acres of waters of the United States, including wetlands; permanently convert 32.31 acres of forested wetlands to herbaceous wetlands; and, permanently eliminate 0.006 acre of wetlands. The project also will affect unnamed lake, pond, drainage, roadside ditch, and irrigation ditch features. The work described above is generally conveyed within the Federal Energy Regulatory Commission (FERC) Final Environmental Impact Statement (FEIS) dated December 2015, including the associated Appendices (available at http://elibrary.ferc.gov/idmws/file_list.asp?document_id=14409956). The work described above is to be completed in accordance with information referenced within this permit (e.g., FERC FEIS Appendices) and/or affixed at the end of this permit instrument.

PROJECT LOCATION: The project corridor is located within portions of Osceola, Polk, Okeechobee, St. Lucie, and Martin Counties, Florida. The specific location of the project corridor is depicted on the project drawings.

1. PERMIT CONDITIONS:

a. General Conditions:

(1) The time limit for completing the work authorized by this Individual Permit ends on **August 11, 2021**. If you find that you need more time to complete the authorized activity, you must submit a request for your permit extension at least one month prior to the above date.

(2) You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

(3) If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

(4) If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

(5) If a conditioned Water Quality Certification has been issued for your project, you must comply with conditions specified in the certification as Special Conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions (Attachment 2).

(6) You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

(7) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States because of any such removal or alteration.

b. Special Conditions:

(1) Reporting Address: The Permittee shall submit all reports, notifications, documentation, and correspondence required by the general and special conditions of this permit to the following address:

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(a) For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Special Projects and Enforcement Branch, Post Office Box 4970, Jacksonville, Florida 32232-0019

(b) For electronic mail CESAJ-ComplyDocs@usace.army.mil (not to exceed 10 MB)

The Permittee shall reference this permit number, SAJ-2013-03099, on all submittals.

(2) Commencement Notification: Within 10 days from the date of initiating the work authorized by this permit for each phase of the authorized project, the Permittee shall submit a Notification of Commencement of Work form (Attachment 3) to the Corps.

(3) The permittee shall adhere to conditions, procedures, and plans outlined in the FERC FEIS dated December 2015, including but not limited to the associated Appendices listed below; and, shall also comply with all terms and conditions of the FERC Order Issuing Certificate (Docket Number CP14-554-000) dated February 2, 2016.

(a) Florida Southeast Connection Project Upland Erosion Control, Revegetation, and Maintenance Plan (submitted June 26, 2014) and Florida Southeast Connection Project Wetland and Waterbody Construction and Mitigation Procedures (submitted June 26, 2014)

(b) FERC FEIS Appendix B – Project Facility Maps

(c) FERC FEIS Appendix C – Typical Right-of-Way Construction Drawings

(d) FERC FEIS Appendix D – Oversized Tables

(e) FERC FEIS Appendix E – HDD Construction and Contingency Plans

(f) FERC FEIS Appendix F – Karst Plans

(g) FERC FEIS Appendix G – Residential Construction Plans

(h) FERC FEIS Appendix I – Spill Plans

(i) FERC FEIS Appendix J – Major Waterbody Crossing Plans

(j) FERC FEIS Appendix L – Site-Specific Crossing Plans for Recreation Areas

(4) Navigable Waters:

(a) If temporary closure of a navigable waterway would be required for utility line installation, the permittee shall submit a request to the Corps at least 15 days in advance of the planned closure. The request shall include the project location, a description of work requiring waterway closure, the date and time when waterway closure would be necessary and any other information relevant to the planned closure. Based on information provided by the permittee, the Corps will issue a Notice to Mariners concerning the waterway closure.

(b) When implementing directional boring or horizontal directional drilling (HDD) under waters of the U.S., including wetlands, the permittee shall closely monitor the project for hydraulic fracturing or “fracking” and material from the drilling operation leaching to the surface and into jurisdictional areas. Any discharge from fracking or leaching into waters of the U.S., including wetlands, shall be reported to the appropriate Corps Regulatory Field Office within 48 hours. Restoration and/or mitigation may be required as a result of any unintended discharges.

(c) For crossings of a navigable waterway, the permittee shall provide 1) the Corps and 2) the National Ocean Service, Office of Coast Survey, N/CS261, 1315 East West Highway, Silver Spring, MD 20910-3282, accurate certified as-built location drawings showing the location and configuration of the pipeline upon completion of the construction. The data collected and depicted on the as-built drawing(s) should include the “centerline” data for the pipeline location; depth of the pipeline in relation to the bottom of the waterway and the mean low water elevation for tidal waterways or ordinary low water elevation for non-tidal waterways; and, the “toe” data showing where pipeline enters the waterway at the banks, as this is where future dredge anchors and spuds may be placed. This information must be provided within 30 days of completion of each underwater utility line crossing.

(d) The permittee shall post appropriately worded, plainly visible, and legible submarine utility line crossing signs near the entry and exit points of the waterway crossing.

(5) The permittee shall promptly comply with any future regulations or instructions affecting the work herein if and when in accordance with the law by any Department of the Federal Government for the aid or protection of navigation.

(6) Material resulting from trench excavation may be temporarily side cast into waters of the United States for no more than three months, and must be placed and stabilized in such a manner that it will not be dispersed by currents or other forces.

(7) For all temporary trenching impacts in wetlands, topsoil will be segregated as described in the Project Wetland and Waterbody Construction and Mitigation Procedures. All organic soils will be maintained for use in restoring the temporary impacts. Wetlands will be restored to pre-impact elevation and contours. Excess material will be placed in an approved upland location. Except as authorized by this permit (e.g., conversion of forested wetlands to scrub/shrub or herbaceous systems), sites will be allowed to revegetate naturally unless monitoring reflects the site is not returning to pre-impact ecological condition and requires active management. If active management is necessary, the permittee will develop a wetland mitigation plan for restoring these areas. No exotic invasive species shall be present with a percent cover greater than undisturbed areas contiguous to the construction right-of-way.

(8) A pre and post construction topographic survey of all wetland and non-navigable waterbody crossings shall be conducted and submitted to appropriate Corps district to ensure restoration of the water crossings to pre-project pattern, profile and dimensions unless otherwise noted to include bank stabilization due to a pre-existing erosion problem.

(9) All dredged or borrowed material used as fill in waters of the United States shall be from clean, uncontaminated sources and free from cultural resources. For the purposes these special permit conditions, the term "waters of the United States" includes all jurisdictional streams, wetlands, open waters, ditches, swales and other conveyance located on the project site.

(10) Annual monitoring reports shall be provided for five (5) years post-construction demonstrating wetlands and streams are being returned to pre-impact elevation, contours, and ecological condition. Each annual monitoring report shall include written and photographic documentation and must document that the effected resource is trending toward recovery (stream bottom reestablishment, vegetation reestablishment, no evidence of exaggerated erosion, undermining etc.). Photos shall be taken from established points and used repeatedly for each monitoring year.

(a) In addition to photos at designated locations, photo documentation must also include a panoramic view(s) of the construction/restoration area. Submitted photos must be formatted on standard 8 ½" x 11" paper, time stamped with the date the photo was taken, and be clearly labeled with the cardinal direction from which the photo was taken. The photo location points must be identified on an appropriate drawing (e.g. plan view).

(b) The Corps shall be responsible for evaluating the success of restoration areas in returning to pre-impact condition. If the temporary impacts to wetlands and streams are not demonstrating achieving this goal, the permittee shall provide an alternative mitigation strategy, which may include the purchase of mitigation credits from an approved wetland mitigation bank. For all monitoring reports, the permittee shall submit a copy to the FERC and the Corps for review.

(11) Unless specifically authorized by this permit, no construction, discharge of fill material, excavation, mechanized land clearing, tree or other vegetation removal, stockpiling of fill material or other work/activity shall occur in waters of the United States.

(12) Wetland and/or Stream Avoidance/Minimization Areas: The Permittee shall avoid any remaining onsite wetlands and or streams not otherwise authorized to be impacted by this permit. These natural wetland and/or stream areas were avoided as part of the permit application review process; and, therefore, will not be disturbed by any dredging, filling, mechanized land clearing, agricultural activities, or other construction work. The boundaries of impact-waters and no-impact-waters (avoided) shall be marked differently, to ensure that these areas are clearly identifiable to equipment operators.

(a) Prior to any land disturbing activity on the project site, the permittee shall clearly mark all waters of the United States that are authorized to be impacted (impact-waters). Acceptable forms of marking include high visibility orange construction fencing or flagging at eye level, at intervals of 25 feet or less along the entire jurisdictional boundary. Pin flags or other ground level marking is not acceptable. In addition, the permittee shall clearly mark any waters of the United States that are not to be impacted (no-impact-waters), if they are located on the right-of-way and within 50 feet of any construction activities. Any no-impact-waters marking shall be maintained until the entire project has been completed.

(b) The Corps reserves the right to deny review of any requests for future impacts to these natural wetland and/or stream areas.

(13) Unless specifically authorized by this permit, borrow pits or sites for stockpiling fill dirt are prohibited within 100 feet of streambanks or within 50 feet of wetlands and open waters to minimize the potential for introduction of sediment into waters of the United States.

(14) The permittee will contact local designated officials to obtain any necessary permits or clearances to ensure all floodplain ordinances and safety precautions in effect for the area are met.

(15) Construction debris, uncured concrete, demolition debris, or other waste materials shall not be discharged into streams, wetlands, or other open waters; or placed at sites near such areas, where migration into waters of the United States could be anticipated.

(16) Unless specifically authorized by this permit, equipment staging areas and equipment maintenance areas are prohibited within 100 feet of streambanks or within 50 feet of wetlands and other open waters to minimize the potential for wash water, petroleum products, or other contaminants from construction equipment entering waters of the United States.

(17) The permittee shall ensure that all features of the project's master drainage plan, such as drainage ditches, road-side ditches, swales and other storm-water conveyances, are designed and constructed to avoid: drainage of wetlands; diversion of storm-water away from wetlands; and other hydrologic alterations of natural drainage patterns that would adversely impact wetlands. The permittee shall be responsible for any inadvertent and/or unforeseen hydrologic impacts to waters of the United States resulting from alteration of natural drainage patterns. The permittee shall also ensure that secondary road ditches and/or small after-project drainage ditches do not inadvertently impact wetlands or waters of the United States.

(18) The permittee shall minimize bank erosion and sedimentation in construction areas by utilizing Best Management Practices for stream corridors, installing and maintaining significant erosion and sediment control measures, and providing daily reviews of construction and stream protection methods for areas of active construction and reviews consistent with the FERC Plan and Procedures for all other areas. Check dams and riprap placed in streams and wetlands as erosion control measures are considered a fill and not authorized under this permit unless they were specifically authorized by this permit.

(19) Compensatory Mitigation:

(a) Prior to the commencement of any permitted work in waters of the United States, the permittee shall purchase 3.016 wetland palustrine forested mitigation credits from Bluefield Ranch Mitigation Bank and submit documentation of these credits purchase to the Corps. The credit purchase documentation must reference the Corps file number assigned to the permitted project (SAJ-2013-03099); and, the Corps file number assigned to the Bluefield Ranch Mitigation Bank (SAJ-2000-02935). If all or a portion of the required credits are not available from the above referenced banks, the permittee shall obtain written approval from the Corps prior to purchasing credits from an alternate mitigation bank.

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(b) Prior to the commencement of any permitted work in waters of the United States, the permittee shall purchase 4.356 wetland palustrine forested mitigation credits from Southport Ranch Mitigation Bank and submit documentation of these credits purchase to the Corps. The credit purchase documentation must reference the Corps file number assigned to the permitted project (SAJ-2013-03099); and, the Corps file number assigned to the Southport Ranch Mitigation Bank (SAJ-2009-01047). If all or a portion of the required credits are not available from the above referenced banks, the permittee shall obtain written approval from the Corps prior to purchasing credits from an alternate mitigation bank.

(20) This permit does not authorize the interference with any existing or proposed Federal Project and the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein, which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

(21) A copy of this permit, including the approved drawings and plans; special conditions; and any amendments shall be maintained at each work site whenever work is being performed. The permittee(s) shall assure that all contractors, subcontractors, and other personnel performing the permitted work are fully aware of the permit's terms and conditions.

(22) This permit does not authorize the Permittee to take an endangered species. In order to legally take a listed species, the Permittee must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a BO under ESA Section 7, with "incidental take" provisions with which you must comply). The attached (Attachment 4) United States Fish and Wildlife Service (FWS) Biological Opinion (BO) (dated 25 May 2016) contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Authorization under this permit is conditional upon compliance with all of the mandatory terms and conditions associated with incidental take of the enclosed BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute noncompliance with this permit. The United States Fish and Wildlife Service is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

(23) Except as authorized by the BO noted in Special Condition 22, above, if you or your contractors discover any federally listed threatened or endangered species and/or their habitat while accomplishing the activities authorized by this permit, you

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must immediately STOP work and notify the Corps within 24 hours. The Corps will contact with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service to determine if the species and/or habitat warrant further consultation.

(24) The Permittee shall utilize a Horizontal Directional Drill to install the pipeline under Lake Kissimmee, as indicated in the FERC FEIS Appendix E – HDD Construction and Contingency Plans. The Permittee shall provide As-Built drawing(s) and an As-Built Form (Attachment 5) for this crossing.

(25) The Permittee shall utilize a Horizontal Directional Drill to install the pipeline under C-23 canal, as indicated in the FERC FEIS Appendix E – HDD Construction and Contingency Plans. The Permittee shall provide As-Built drawing(s) and an As-Built Form (Attachment 5) for this crossing.

(26) Within 60 days of completion of the overall work authorized by this permit, the Permittee shall complete the attached Self-Certification Statement of Compliance form (Attachment 6) and submit it to the Corps. In the event that the completed work deviates in any manner from the authorized work, the Permittee shall describe the deviations between the work authorized by this permit and the work as constructed on the Self-Certification Statement of Compliance form. The description of any deviations on the Self-Certification Statement of Compliance form does not constitute approval of any deviations by the Corps.

2. FURTHER INFORMATION:

a. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 United States Code (U.S.C.) § 403), Section 14 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 408), and/or Section 404 of the Clean Water Act (33 U.S.C. § 1344).

b. Limits of this Authorization.

(1) This permit does not obviate the need to obtain other federal, state, or local authorizations required by law.

(2) This permit does not grant any property rights or exclusive privileges.

(3) This permit does not authorize any injury to the property or rights of others.

(4) This permit does not authorize interference with any existing or proposed federal projects.

c. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

(1) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

(2) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

(3) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

(4) Design or construction deficiencies associated with the permitted work.

(5) Damage claims associated with any future modification, suspension, or revocation of this permit.

d. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

e. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require reevaluation include, but are not limited to, the following:

(1) You fail to comply with the terms and conditions of this permit.

(2) The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

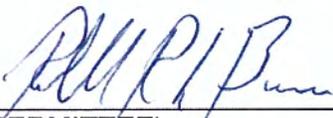
(3) Significant new information surfaces which this office did not consider in reaching the original public interest decision. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 Code of Federal Regulations (C.F.R.) § 325.7, or enforcement procedures such as those contained in 33 C.F.R. § 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order, which requires you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate.

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(4) You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 C.F.R. § 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

f. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the U.S. Army Corps of Engineers will normally consider a request for an extension of time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.



(PERMITTEE)

August 10, 2016
(DATE)

Randall R. LaBauve
(PERMITTEE NAME-PRINTED)

This permit becomes effective when the federal official, designated to act for the Secretary of the Army, has signed below.



(DISTRICT ENGINEER)

11 August 2016
(DATE)



Jason A. Kirk
Colonel, U.S. Army
District Commander

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When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE)

(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To request the transfer of this permit and the associated liabilities with compliance with its terms and conditions, the permittee and transferee must sign and date below.

(PERMITTEE-Printed Name)

(PERMITTEE-Signature)

(DATE)

(TRANSFEREE-Printed Name)

(TRANSFEREE-Signature)

(DATE)

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***Attachments to Department of the Army
Permit Number SAJ-2013-03099***

1. PERMIT DRAWINGS: Within the FERC FEIS dated December 2015, including the associated Appendices
2. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 2 of this DA permit – 531 pages
3. NOTIFICATION OF COMMENCEMENT FORM – 1 page
4. U.S. FISH AND WILDLIFE BIOLOGICAL OPINION (dated May 25, 2016) – 101 pages
5. AS-BUILT CERTIFICATION FORM – 2 pages
6. SELF-CERTIFICATION FORM – 1 page



US Army Corps of Engineers
Jacksonville District

NOTIFICATION OF COMMENCEMENT OF WORK

Permit Number: SAJ-2013-03099

Name of Permittee: Florida Southeast Connection, LLC

Location of the Work: The project corridor is located within portions of Osceola, Polk, Okeechobee, St. Lucie, and Martin Counties, Florida. The specific location of the project corridor is depicted on the project drawings.

**Upon commencement of the authorized work,
you must complete and return this notification to:**

**U.S. Army Corps of Engineers
Regulatory Division, Special Projects and Enforcement Branch
Post Office Box 4970, Jacksonville, Florida 32232-0019**

or by electronic mail to:

CESAJ-ComplyDocs@usace.army.mil

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with all terms and conditions of this permit the permit is subject to permit suspension, modification, or revocation and you are subject to an enforcement action by this office.

IT SHALL NOT BE LAWFUL TO DEVIATE FROM SUCH PLANS EITHER BEFORE OR AFTER COMPLETION OF THE WORK, unless modification of said plans has previously been submitted to and received the approval of the Department of the Army. If for any reason it becomes necessary to make a material change in location or plans for this work, revised plans should be submitted promptly to the District Engineer in order that the revised plans may receive the approval required by law before work is begun.

PERMITTEE TO COMPLETE THE FOLLOWING:

Date Work Commenced: _____

Signature of Permittee

Date

AS-BUILT CERTIFICATION BY PROFESSIONAL ENGINEER

Submit this form and one set of as-built engineering drawings to the U.S. Army Corps of Engineers, Enforcement Section, Post Office Box 4970, Jacksonville, Florida 32232. If you have questions regarding this requirement, please contact the Enforcement Branch at 904-232-3131.

1. Department of the Army Permit Number: SAJ-2013-03099

2. Permittee Information:

Name: _____

Address: _____

3. Project Site Identification (physical location/address):

4. As-Built Certification: I hereby certify that the authorized work, including any mitigation required by Special Conditions to the permit, has been accomplished in accordance with the Department of the Army permit with any deviations noted below. This determination is based upon on-site observation, scheduled, and conducted by me or by a project representative under my direct supervision. I have enclosed one set of as-built engineering drawings.

Signature of Engineer

Name (*Please type*)

(FL, PR, or VI) Reg. Number

Company Name

City

State

ZIP

(Affix Seal)

Date

Telephone Number

Identify any deviations from the approved permit drawings and/or special conditions (attach additional pages if necessary):

SELF-CERTIFICATION STATEMENT OF COMPLIANCE

Permit Number: SAJ-2013-03099

Permittee's Name & Address (please print or type): _____

Telephone Number: _____

Location of the Work: _____

Date Work Started: _____ Date Work Completed: _____

PROPERTY IS INACCESSIBLE WITHOUT PRIOR NOTIFICATION: YES _____ NO _____
TO SCHEDULE AN INSPECTION PLEASE CONTACT _____
AT _____

Description of the Work (e.g. bank stabilization, residential or commercial filling, docks, dredging, etc.): _____

Acreage or Square Feet of Impacts to Waters of the United States: _____

Describe Mitigation completed (if applicable): _____

Describe any Deviations from Permit (attach drawing(s) depicting the deviations):

I certify that all work, and mitigation (if applicable) was done in accordance with the limitations and conditions as described in the permit. Any deviations as described above are depicted on the attached drawing(s).

Signature of Permittee

Full Name of Permittee (printed or typed)

Date