



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
40 HIGH POINT DRIVE, SUITE 600
COCOA, FLORIDA 32926

May 8, 2025

Regulatory Division
North Permits Branch
Cocoa Section

PUBLIC NOTICE

Permit Application No. SAJ-2024-01402

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344), as described below.

If you are interested in receiving additional project drawings associated with this public notice, please send an e-mail to the project manager by electronic mail at Tucker.J.Feyder@usace.army.mil.

APPLICANT: Attn: Marc Porosoff
EW Property Holdings, LLC
401 East Las Olas Boulevard, Suite 1870
Fort Lauderdale, FL 33301

WATERWAY AND LOCATION: The project would affect aquatic resources associated with the Lake Tohopekaliga watershed. The project site is located near 4101 Hunt Road in Osceola County, Florida within Sections 33 and 34; Township 26 South; Range 29 East, and Sections 04, 05, and 09; Township 27 South; Range 29 East.

Directions to the site are as follows: Travel south along Poinciana Parkway. Turn left onto Cypress Parkway. Travel east on Cypress Parkway to West Southport Road. Turn right onto West Southport Road. The gated entrance to the property is just after Hunt Road.

APPROXIMATE CENTRAL COORDINATES: Latitude: 28.16815°
Longitude: -81.41741°

PROJECT PURPOSE:

Basic: Residential Development.

Overall: The project's overall purpose is to develop an economically viable residential development in Osceola County to meet rising local demand.

EXISTING CONDITIONS: The subject property is best described as lands with historical and on-going cattle management. Portions of the site fall along the western shoreline of Lake Tohopekaliga. Wetland systems on the western and southern portions of the site extend offsite to larger continuous systems. Excavated ponds and ditches have been created to manage cattle.

PROPOSED WORK: The applicant seeks authorization to discharge fill material into 28.16± acres of waters of the United States (WOTUS); 17.14-acres of wetlands and 11.02-acres of surface waters; for the construction of a residential development with requisite amenities, roadways and stormwater treatment. The proposed 526-acre residential development includes 144.5-acres of single-family residential lots, 13.2-acres of multi-family residential lots, a 5.3-acre community center, 12.2-acres of parks, 178.7-acres of open space, 79-acres of roads, and 79.7-acres of stormwater ponds.

AVOIDANCE AND MINIMIZATION INFORMATION – The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

“The applicant has avoided and minimized wetland impacts to the greatest extent practicable, resulting in 110.89-acres of WOTUS (107.2-acres wetlands and 3.69-acres of surface waters) proposed for preservation in the post-development condition. Several design configurations were evaluated during the planning of the proposed development. The proposed layout of residential lots and stormwater management systems is designed to avoid impacts to the larger and higher quality herbaceous wetland systems throughout the site, while meeting density requirements in the South Lake Toho Conceptual Master Plan. Proposed impacts are to wetlands that have been hydrologically altered due to decades of management for cattle & sod production. Wetlands were initially drained by the South Florida Flood Control (federal) project, resulting in reduced stage and hydroperiod, and were subsequently altered by these agricultural land uses. Utilization of the site by cattle has increased the spread of nuisance/exotics and nutrients within the wetlands and surface waters.

The project design ensures protection of Lake Tohopekaliga through compliance with the Lake Toho Protection Area (LTPA) requirement for a 250-foot minimum, 500-foot average buffer along the Lake Tohopekaliga lakeshore, measured from the controlled high-water line elevation of 55.0 feet, NGVD. No structures are allowed in this area.”

COMPENSATORY MITIGATION – The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

“Compensatory mitigation to offset the functional loss incurred via the project’s direct and secondary wetland impacts will be provided through the purchase of federal credits from a federally approved mitigation bank. The exact number of credits will be determined during the Corps permit review process.”

The Corps has not yet determined the adequacy of the Applicant's proposed compensatory mitigation.

CULTURAL RESOURCES:

The Corps is evaluating the undertaking for effects to historic properties as required under Section 106 of the National Historic Preservation Act. This public notice serves to inform the public of the proposed undertaking and invites comments including those from local, State, and Federal government Agencies with respect to historic resources. Our final determination relative to historic resource impacts may be subject to additional coordination with the State Historic Preservation Officer, those federally recognized tribes with concerns in Florida and the Permit Area, and other interested parties.

ENDANGERED SPECIES:

The Corps has determined the proposed project will have no effect on Audubon's crested caracara (*Polyborus plancus audubonii*), Everglade Snail Kite (*Rostrhamus sociabilis*), Florida Bonneted Bat (*Eumops floridanus*), Florida Grasshopper Sparrow (*Ammodramus savannarum floridanus*), Florida scrub jay (*Aphelocoma coerulescens*) and red-cockaded woodpecker (*Picoides boreali*).

The proposed project *may affect, but is not likely to adversely affect* (NLAA), the Eastern Black Rail (*Laterallus jamaicensis jamaicensis*) and Wood Stork (*Mycteria americana*) and *may affect* the Eastern Indigo Snake (*Drymarchon corais couperi*). No critical habitat has been designated for the Florida scrub jay, red-cockaded woodpecker, eastern indigo snake, Audubon's crested caracara, or wood stork. Critical habitat has been designated for the Florida bonneted bat, but the proposed action is not located within critical habitat for the Florida bonneted bat.

Based on the Effect Determination Key for the Wood Stork in South Peninsular Florida (dated May 2010), the Corps determination sequence is as follows: A (Project impacts Suitable Foraging Habitat (SFH) at a location greater than 0.47 miles from a colony site) > B (Project impact to SFH is greater in scope than 0.5 acres) > C (Project impacts to SFH within the Core Foraging Area (CFA) of a colony site) > E (Project provides SFH compensation) = NLAA. The project will provide SFH compensation within the CFA consisting of the purchase of federally approved mitigation bank credits that provides an amount of habitat and foraging function equivalent to that of the impacted SFH; in accordance with the Clean Water Act section 404(b)(1) guidelines, and is not contrary to the habitat management guidelines. Based on the use of the Determination Key for the Wood Stork no further consultation is required.

The Corps has determined the proposed project may affect the Eastern Indigo Snake (*Drymarchon corais couperi*). This determination is based on the results of utilizing the USFWS Eastern Indigo Snake Programmatic Effect Determination Key (2013), A>B>C "May Affect", as the project will impact more than 25 acres of Eastern Indigo Snake habitat. The applicant will abide by the Standard Protection Measures and is prepared

to provide funding to the USFWS Eastern Indigo Snake fund. As a result, consultation should conclude in a NLAA.

The Corps will request U.S. Fish and Wildlife Service concurrence with this determination pursuant to Section 7 of the Endangered Species Act.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation with the National Marine Fisheries Service on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act 1996.

NAVIGATION: The proposed activity is not located in the vicinity of a federal navigation channel.

SECTION 408: The applicant will not require permission under Section 14 of the Rivers and Harbors Act (33 USC 408) because the activity, in whole or in part, would not alter, occupy, or use a Corps Civil Works project.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

COMMENTS or QUESTIONS regarding the potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the Albuquerque District, Southern Colorado Branch, 1970 East Third Avenue, Suite 109, Durango, Colorado 81301. Comments or questions may also be provided digitally at <https://rrs.usace.army.mil/rrs/public-notice> or to the project manager, Tucker Feyder, directly by electronic mail at Tucker.J.Feyder@usace.army.mil; or by telephone at (970) 259-1764 x2, within 21 days from the date of this notice.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

IMPACT ON NATURAL RESOURCES: Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area.

EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All

factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

WATER QUALITY CERTIFICATION: Water Quality Certification is required from the Florida Department of Environmental Protection (FDEP). The project is being reviewed by the St. Johns River Water Management District (SJRWMD) Environmental Resource Permitting (ERP) program application no. 19944-6.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan.

REQUEST FOR PUBLIC HEARING: Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.





