

REPLY TO
ATTENTION OF:

Regulatory Division

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

DEPARTMENT OF THE ARMY

**Programmatic General Permit SAJ-83
SAJ-2004-03931**

SEMINOLE TRIBE OF FLORIDA

Upon recommendation of the Chief of Engineers, pursuant to Section 404 of the Clean Water Act (U.S.C. 1344), general authority is hereby given for the discharge of fill material on the Big Cypress Seminole Indian Reservation (BCSIR) for the following minor activities: single family home sites, utility lines, recreational facilities, boating, agricultural use, commercial use, government facilities, water control activities, ditch maintenance, and road construction. This authorization is valid subject to the following General and Special Conditions and is issued consistent with the associated Coordination Agreement entitled "Coordination Agreement Between the U.S. Army Corps of Engineers Jacksonville District and the Seminole Tribe of Florida Programmatic General Permit Big Cypress and Brighton Seminole Indian Reservations." This authorization is for a Programmatic General Permit (PGP), and replaces the prior Regional General Permit Authorizations, and any activities authorized by the prior authorizations but not yet completed will continue to be authorized under this authorization and its conditions.

SPECIAL CONDITIONS:

1. This permit is limited to filling waters of the United States for the following minor activities: single family home sites, utility lines, recreational facilities, boating, agricultural use, commercial use, government facilities, water control activities, ditch maintenance, and road construction. Acreage thresholds and conditions for use are contained in **Attachment 1**.
2. Specific use is limited to the areas shown in **Attachments 2 and 3**, located within the BCSIR.
3. This PGP authorizes minor activities involving the placement of fill material in up to 50 acres of federally jurisdictional wetlands per year, not to exceed a total of 100 acres of jurisdictional wetlands at the BCSIR over a five-year period, beginning on the effective date of this PGP.

4. **Compensatory Mitigation:** Mitigation requirements will be satisfied by functional capacity credit generated under the Advanced Mitigation Program, previously authorized by Nationwide Permit 27 (**Attachment 4**). No additional compensatory mitigation credit, to also include Panther Habitat Units, will be added to the Big Cypress Reservation Programmatic General Permit (SAJ-83) Ledger without prior approval by the Corps.

5. **Pre-construction Notification:** Before any activities may be conducted pursuant to this authorization, the applicant must submit a pre-construction notification to the Seminole Tribe of Florida (Tribe). The Tribe will forward a copy of all PCN's to the Corps, with the Tribe's determination of compliance with this authorization, as a part of the quarterly reporting requirements prescribed by the associated Coordination Agreement. All PCN submittals shall include the following information, at a minimum:

a. Section A of the Joint Application or ENG FORM 4345 (signed by an authorized representative of the Tribe).

b. Maps will identify federally jurisdictional wetlands consistent with the 1987 Corps of Engineers Wetland Delineation Manual, as modified by the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0, November 2010, or most recent version). A minimum of two sets of data sheets per wetland shall be submitted. The total number of data sheets will vary with each site, depending on the number of wetlands.

c. Provide a clear description (including maps) of the proposed work and wetland impact areas; analysis of impacts to Federally listed wildlife species; Wetland Rapid Assessment Procedure analysis of direct and secondary wetland impacts; and an updated version of the Big Cypress Reservation Programmatic General Permit (SAJ-83) Ledger (**Attachment 5**).

6. **Erosion Control:** Prior to the initiation of any work authorized by this PGP, the permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas adjacent to wetlands shall be stabilized using sod, degradable mats, or a combination of similar stabilizing materials to prevent erosion. For dredging activities, all dredged or excavated materials will be deposited and retained in an area that is not a water of the United States unless specifically approved by the Corps under a separate authorization and proper siltation controls must be used. The erosion and siltation control measures

shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

7. Cultural Resources/Historic Properties: If cultural resources, as defined by the Seminole Tribe of Florida's Cultural Resource Ordinance (Ordinance # C-02-14; which includes but is not limited to places and items of special cultural importance, historic properties, archaeological sites/materials, and burial resources) are encountered, then the Applicant shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the THPO within the same business day (8 hours). After such notification, work authorized by this PGP may not resume without written authorization from the THPO. The Corps may (based on the circumstances of the discovery, equity to all parties, and considerations of the public interest) modify, suspend or revoke authorization under this PGP for Applicant's failure to obtain such written authorization from THPO and/or appropriately notifying THPO of any inadvertent discoveries.

8. Biological Opinion: This Corps permit does not authorize the Tribe to take an endangered species, in particular the Florida panther (*Puma concolor coryi*). In order to legally take a listed species, you 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 enclosed U.S. Fish and Wildlife Service's (Service) Biological Opinion (BO) (**Attachment 6**) 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. Your authorization under this PGP is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached 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 non-compliance with your PGP. The Service is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

a. The Tribe shall monitor the number of SAJ-83 verifications and provide quarterly reports to the Corps and Service regarding the number of permits issued under this PGP. The Tribe shall provide information on Corps project number, permit date, total project acreage, project wetland acreage, latitude and longitude in decimal degrees, and PHU values per project, per year, and the PGP impact and mitigation totals (wetland and PHUs) be sent to the Service annually. This information may be incorporated into the AMP credit/debit ledger and the annual compensatory mitigation report. Wetland impact PHUs shall not exceed the amount of PHUs available on the ledger.

b. Upon locating a dead, injured, or sick threatened or endangered species, initial notification must be made to the nearest Service Law Enforcement Office; Fish and Wildlife Service; 9549 Koger Boulevard, Suite 111; St. Petersburg, Florida 33702; 727-570-5398. Secondary notification should be made to the FWC; South Region; 3900 Drane Field Road; Lakeland, Florida; 33811-1299; 1-800-282-8002.

c. Care should be taken in handling sick or injured specimens to ensure effective treatment and care or in the handling of dead specimens to preserve biological material in the best possible state for later analysis as to the cause of death. In conjunction with the care of sick or injured panthers or preservation of biological materials from a dead animal, the finder has the responsibility to carry out instructions provided by Law Enforcement to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.

9. **Audubon's Crested Caracara:** The Tribe shall comply with the U.S. Fish and Wildlife Service (Service) "Audubon's Crested Caracara Effect Determination Key" provided in the April 17, 2006 consultation response letter from the Service (**Attachment 7**). All project determinations of "*may affect*" Audubon's crested caracara require the Corps to re-consult with the Service.

10. **Eastern Indigo Snake Protection Measures:** The Tribe shall comply with Service "Standard Protection Measures for the Eastern Indigo Snake" (dated August 12, 2013) during project site preparation and construction (**Attachment 8**). The following shall also apply:

a. All gopher tortoise burrows, active or inactive, will be evacuated prior to site manipulation in the burrow vicinity. The excavation method selected should also minimize the potential for injury of an indigo snake.

b. Holes, cavities, and snake refugia other than gopher tortoise burrows will be inspected each morning before planned site manipulation of a particular area, and if occupied by an indigo snake, no work will commence until the snake has vacated the vicinity of proposed work.

11. **Water Quality Certification:** The Tribe issued 401 Water Quality Certification, dated May 30, 2013, for this PGP (**Attachment 9**).

12. **Fill Material:** The Tribe shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils

contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.

13. **Self-Certification:** Within 60 days of completion of the authorized work, and any mitigation required, a *Self-Certification Statement of Compliance* (**Attachment 10**) must be completed and submitted to the Tribe. The form must reference the site specific Department of the Army permit number associated with the work.

14. **Reporting Address:** All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division (CESAJ-RD), P.O. Box 4970, Jacksonville, Florida 32232-0019. The Tribe shall reference permit number **SAJ-2004-03931** on all submittals.

15. This PGP shall be valid for a period of five years from the date of issuance, unless suspended or revoked by issuance of a public notice by the District Engineer. A review will be conducted to determine if continuance of the permit is in the public interest after the 5-year expiration date. If this permit expires or is revoked prior to completion of the authorized work, authorization of activities that have commenced or are under contract to commence in reliance on this permit will remain in effect provided the activity is completed within 12 months of the date this permit expired or was revoked.

BY AUTHORITY OF THE SECRETARY OF THE ARMY



ALAN M. DODD
Colonel, Corps of Engineers
Commanding

GENERAL CONDITIONS FOR DEPARTMENT OF THE ARMY GENERAL PERMITS

General Conditions

1. The time limit for completing the work authorized ends on 15 MARCH 2020.
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 and mailing address of the new owner in the space provided below 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 the conditions specified in the certification as special conditions to this permit.
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.

Further Information:

1. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal projects.
2. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. 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.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

- d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
3. 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.
4. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 3 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.
5. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. 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 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.
6. 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 associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEEE-SIGNATURE)

(DATE)

(NAME-PRINTED)

(ADDRESS)

GENERAL PERMIT