

# APPENDIX A

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## Agency Coordination

Operations and Maintenance Dredging and Dredged Material Placement at  
Horseshoe Cove Federal Navigation Channel in  
Dixie County, Florida



US Army Corps of Engineers  
JACKSONVILLE DISTRICT

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# United States Department of the Interior

## U. S. FISH AND WILDLIFE SERVICE

7915 BAYMEADOWS WAY, SUITE 200  
JACKSONVILLE, FLORIDA 32256-7517

IN REPLY REFER TO:

FWS Log No. 04EF1000-2017-I-0558

September 6, 2017

Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch  
Jacksonville District Corps of Engineers  
701 San Marco Boulevard  
Jacksonville, Florida 32207-0019  
(Attn: Kristen Scheler)

Dear Dr. Ralph:

Our office has reviewed your correspondence dated August 10, 2017, and accompanying information regarding the proposed operations and maintenance dredging and upland dredged material placement for the Horseshoe Cove Federal Navigation Channel in Dixie County, Florida.

The Corps proposes to continue periodic operations and maintenance dredging of the channel at any time of year on an "as needed" basis. To comply with Section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), the Corps requested concurrence with the draft Supplemental Environmental Assessment for the project and its determinations for listed species in the project area. The Corps also requested commitment to an informal understanding between the Service and the Corps to utilize the National Environmental Policy Act (NEPA; 42 U.S.C. 4321-4347 *et seq.*) review and consultation under the Act to complete coordination responsibilities under the Fish and Wildlife Coordination Act (FWCA; 16 U.S.C. 661 *et seq.*). To document this understanding, you included a signed Memorandum for the Record to be countersigned by the Service. We submit the following comments in accordance with the Act.

The Corps proposes to periodically dredge a 1.75-mile long and 75-foot wide channel connecting the town of Horseshoe Beach to the Gulf of Mexico to a depth of 7 feet in order to eliminate shoaling and allow safe and efficient vessel navigation. An estimated 120,000 cubic yards of silt and silty sand from the federal channel and a turning basin would be hydraulically pumped to a previously used 30-acre upland disposal site. The most recent dredging of the channel occurred in 2008.

The Corps reviewed this project for potential impacts to federally-listed species and determined that the proposed project may affect, but is not likely to adversely affect the wood stork (*Mycteria americana*), West Indian (Florida) manatee (*Trichechus manatus latirostris*), and the eastern indigo snake (*Drymarchon corais couperi*).

Additional information included with your letter proposed measures to eliminate or avoid impacts to the manatee and indigo snake. Proposed dredging actions will follow 2011 "Standard Manatee Protection Conditions for In-water Work." Upland sediment disposal will follow 2013 "Standard Protection Measures for the Eastern Indigo Snake."

There are no known wood stork nesting colonies near the project site and little or no suitable foraging habitat will be impacted. We concur that the proposed work may affect, but is not likely to adversely affect the wood stork. There are no "Important Manatee Areas" in Dixie County as mapped in the 2013 "Corps of Engineers, Jacksonville District and the State of Florida Effect Determination Key for the Manatee in Florida." Hydraulic dredging will likely be employed. Provided that "Standard Manatee Protection Conditions for In-water Work" are followed, we concur that the proposed work may affect, but is not likely to adversely affect the manatee.

The closest indigo snake record to the site that we are aware of is approximately 15 miles northwest of the project site. The previously used 30-acre dredged material placement site is not likely to support the indigo snake and "Standard Protection Measures for the Eastern Indigo Snake" will be followed. Therefore, we concur that the proposed work may affect, but is not likely to adversely affect the indigo snake. The disposal site does reportedly support the gopher tortoise (*Gopherus polyphemus*). A pre-construction gopher tortoise burrow survey and, if needed, gopher tortoise relocation will be conducted by an approved contractor. Prior to dredged material placement, the site will be cleared of vegetation. Be aware that if an indigo snake is discovered during gopher tortoise relocation, land clearing, or at any time prior to or during construction, all activities must cease. Within one business day the Service must be contacted for further guidance, which may include further consultation under the Act.

If modifications are made to the project that may affect the listed species or habitat in a way not previously considered, if the Corps or contractor fails to comply with conservation measures proposed, if additional information becomes available involving potential effects to a listed species not previously considered, or if take a listed species occurs, consultation will be reinitiated. We note that in addition to the currently planned dredging, the Corps proposes additional dredging at the project site "...at any time of year and on an 'as needed' basis." Given that the channel was last dredged in 2008, need for significant additional dredging may be several years away. In addition to the stated triggers for renewed consultation above, we ask that the Service be notified prior to any significant dredging at the project site conducted 5 years or more from the date of this letter.

Lastly, attached is the signed agreement regarding the request for an informal understanding between the Service and the Corps to utilize the NEPA review and consultation under the Act to complete coordination responsibilities under the FWCA.

If you have any questions regarding this response please contact Peter Plage of my staff at (904) 731-3085 or [peter\\_plage@fws.gov](mailto:peter_plage@fws.gov).

Sincerely,



Jay B. Herrington  
Field Supervisor

cc: FWC (M. Duncan)



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 San Marco Boulevard  
JACKSONVILLE, FLORIDA 32207-8175

REPLY TO  
ATTENTION OF

CESAJ-PD-E (ER 200-2-2)

AUG 10 2017

MEMORANDUM FOR THE RECORD

SUBJECT: Coordination Act Report for the Operations and Maintenance Dredging and Dredged Material Placement of Horseshoe Cove Federal Navigation Channel in Dixie County, Florida

**PURPOSE:**

To document an informal understanding between the U.S. Army Corps of Engineers (Corps), Jacksonville District, and the U.S. Fish and Wildlife Service (Service), North Florida Ecological Services Field Office.

**Background:**

Corps proposes to continue periodic operations and maintenance (O&M) dredging and upland placement of dredged material from the Horseshoe Cove federal navigation channel and turning basin, any time of the year and on an "as-needed" basis in order to maintain safe navigation in the channel. The Horseshoe Cove channel connects the town of Horseshoe Beach in Dixie County, Florida with the Gulf of Mexico. The accumulation of sediment, commonly referred to as shoaling, has restricted the width of the project channel and reduced its depths hindering safe and efficient vessel navigation. Periodic dredging is required to remove accumulated sediments and thus maintain the channel at its federally authorized depth. Maintenance dredging most recently occurred in 2008.

**Preferred Alternative – Dredging and Upland Placement of Horseshoe Cove channel:**

The channel is approximately 1.75-miles long and 75 feet wide with 3:1 side slopes on each side of the channel and a turning basin located at the northern end of the project adjacent to the shoreline. The proposed work consists of O&M dredging of an estimated 120,000 cubic yards of silt and silty sand from the federal channel and turning basin to obtain a depth of 7 feet (6 feet required project depth plus 1 foot allowable overdepth). Dredged material will be hydraulically pumped and placed in the previously used upland site, which is provided by the project stakeholder, Dixie County. The upland site is approximately 30 acres and is located approximately 4,000 feet northeast of the dredging area.

CESAJ-PD-E

SUBJECT: Coordination Act Report for the Operations and Maintenance Dredging and Dredged Material Placement of Horseshoe Cove Federal Navigation Channel in Dixie County, Florida

**Coordination:**

The Fish and Wildlife Coordination (FWCA; 16 U.S.C. 661 et seq., March 10, 1934, as amended 1946, 1958, 1978, and 1995) requires Federal agencies to consult with the Service regarding the impacts to fish and wildlife resources and the proposed measures to mitigate these impacts. Additional coordination authorities exist through the review process of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321-4347, January 1, 1970, as amended 1975 and 1982) and the consultations required under the Endangered Species Act of 1973 (ESA; 7 U.S.C. 136, 16 U.S.C. 1531 et seq. December 28, 1973).

The Service continues to coordinate and consult with Corps through NEPA and the ESA in which impacts to fish and wildlife resources are adequately addressed via these two authorities. The Service will include comments relevant to FWCA in the Services response to the Corps ESA coordination letter.

**Agreement:**

The undersigned, Corps and the Service, agree to utilize the Horseshoe Cove federal navigation channel NEPA review and ESA consultation processes to complete coordination responsibilities under the FWCA. This agreement will avoid duplicate analysis and documentation as authorized under 40 CFR section 1500.4 (k), 1502.25, 1506.4, and is consistent with Presidential Executive Order for Improving Regulation and Regulatory Review, released January 18, 2011.



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Jay Herrington  
Field Supervisor  
North Florida Field Office



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Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 San Marco Boulevard  
JACKSONVILLE, FLORIDA 32207-8175

REPLY TO  
ATTENTION OF

Planning and Policy Division  
Environmental Branch

AUG 10 2017

Mr. Jay Herrington  
Field Supervisor  
North Florida Field Office  
U.S. Fish and Wildlife Service  
7915 Baymeadows Way, Suite 200  
Jacksonville, Florida 32256

Dear Mr. Herrington:

In order to comply with Section 7 of the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), the U.S. Army Corps of Engineers (Corps), Jacksonville District, respectfully requests a letter of concurrence from the U.S. Fish and Wildlife Service (USFWS) on the draft Supplemental Environmental Assessment (EA) for operations and maintenance (O&M) dredging and dredged material placement of Horseshoe Cove federal navigation channel located in Dixie County Florida.

The Horseshoe Cove channel connects the town of Horseshoe Beach in Dixie County, Florida with the Gulf of Mexico. The accumulation of sediment, commonly referred to as shoaling, has restricted the width of the project channel and reduced its depths hindering safe and efficient vessel navigation. Periodic dredging is required to remove accumulated sediments and thus maintain the channel at its federally authorized depth. Maintenance dredging most recently occurred in 2008.

Corps has determined that the proposed project may affect, but is not likely to adversely affect the West Indian (Florida) manatee (*Trichechus manatus manatus*), the eastern indigo snake (*Drymarchon corais couperi*), and the wood stork (*Mycteria americana*). Included with this letter is additional information describing the project background, project location and proposed action, listed species under USFWS jurisdiction, potential effects to listed species, and efforts to eliminate/avoid impacts.

Corps respectfully requests that USFWS provide a letter of concurrence within 21 days of the receipt of this letter. If you have any questions, or need additional information, please contact Kristen Scheler by email [Kristen.L.Scheler@usace.army.mil](mailto:Kristen.L.Scheler@usace.army.mil) or telephone 904-232-2918. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina Paduano Ralph". The signature is fluid and cursive, with a long horizontal stroke at the end.

Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure

## **Operations and Maintenance (O&M) Dredging and Dredged Material Placement Horseshoe Cove Federal Navigation Channel in Dixie County, Florida**

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In order to comply with Section 7 of the Endangered Species Act (ESA) of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*), the U.S. Army Corps of Engineers (USACE), Jacksonville District, respectfully requests a letter of concurrence within 21 days of the date of this letter from the U.S. Fish and Wildlife Service (USFWS) on the O&M dredging and dredged material placement of Horseshoe Cove federal navigation channel in Dixie County, Florida. USACE has determined that the proposed project may affect, but is not likely to adversely affect the West Indian (Florida) manatee (*Trichechus manatus manatus*), the eastern indigo snake (*Drymarchon corais couperi*), and the wood stork (*Mycteria americana*).

Pursuant to our request, the Corps is providing the following information:

- Description of the Project Background and Location;
- Description of the Preferred Alternative;
- Listed Species Under USFWS Jurisdiction;
- Potential Effects to Listed Species and Efforts to Eliminate/Avoid Impacts;
- Effect Determination;

**Description of the Project Background and Location.** The Horseshoe Cove channel connects the town of Horseshoe Beach in Dixie County, Florida with the Gulf of Mexico. The accumulation of sediment, commonly referred to as shoaling, has restricted the width of the project channel and reduced its depths hindering safe and efficient vessel navigation. Periodic dredging is required to remove accumulated sediments and thus maintain the channel at its federally authorized depth. Maintenance dredging and placement of dredged material in the upland disposal site most recently occurred in 2008.

**Description of the Preferred Alternative: Dredging and Upland Placement of Horseshoe Cove channel.** USACE proposes to continue periodic dredging of the Horseshoe Cove federal navigation channel and turning basin, any time of the year and on an "as-needed" basis in order to maintain safe navigation in the channel. Horseshoe Cove channel is approximately 1.75-miles long and 75 feet wide with 3:1 side slopes on each side of the channel and a turning basin located at the northern end of the project adjacent to the shoreline. The proposed work consists of routine operations and maintenance (O&M) dredging of an estimated 120,000 cubic yards of silt and silty sand from the federal channel and turning basin to obtain a depth of 7 feet (6 feet required project depth plus 1 foot allowable overdepth). Dredged material will be hydraulically pumped and placed in the previously used upland site, which is provided by the project stakeholder, Dixie County. The upland site is approximately 30 acres and is located approximately 4,000 feet northeast of the dredging area.

**Listed Species Under USFWS Jurisdiction.** Listed species which may occur in the vicinity of the proposed work and are under the jurisdiction of the USFWS include the West Indian (Florida) manatee (*Trichechus manatus manatus*) - threatened, the eastern indigo snake (*Drymarchon corais couperi*) - threatened, and the wood stork (*Mycteria americana*) - endangered.

### **Potential Effects to Listed Species and Efforts to Eliminate/Avoid Impacts** *West Indian (Florida) Manatee*

The Florida manatee is a subspecies of the West Indian manatee (*Trichechus manatus*) and can be found throughout the southeastern United States. The manatee is a large, plant-

eating aquatic mammal that move between freshwater and saltwater environments. They can be found in shallow coastal waters, rivers, and springs. Adult manatees are approximately 10 feet long, weighing between 800 – 1200 pounds, and consume approximately 4-9% of their body weight each day. Although manatees feed underwater, they frequently rest just below the water surface with only the snout above water. Manatees were listed as endangered throughout its range for both the Florida and Antillean subspecies (*Trichechus manatus latirostris* and *Trichechus manatus manatus*) in 1967 (32 FR 4001). In May 2017, the USFWS reclassified the manatee from endangered to threatened.

Federal law, specifically the Marine Mammal Protection Act of 1972 and the 1973 ESA protects manatees. Critical habitat is defined under the ESA as specific areas within and/or outside a geographical area that are occupied by a species at the time of listing, that contain physical or biological features essential to the conservation of the species and therefore require special management considerations or protection for the benefit of the species. Although critical habitat for the Florida manatee was described in 1976 in 50 CFR 17.95 for Florida, Dixie County is not within a USFWS designated critical habitat for this species or a Florida Fish and Wildlife Conservation Commission Manatee Protection Zone. Habitat requirements currently present in the project area to sustain manatees' essential life history functions likely include:

- Shallow, secluded water areas for resting, mating, and calving
- Submerged, emergent, and floating vegetation for foraging

Dredging will occur within areas where manatees may be present, however, applicable standard protective measures will be taken during in-water construction activities to ensure the safety of manatees that may be in the project vicinity (see Attachment 1).

#### *Eastern Indigo Snake*

The eastern indigo snake (*Drymarchon corais couperi*) is the largest non-venomous snake in North America, reaching lengths of up to 2.6 meters. The snakes are glossy black with iridescent blue highlights that are visible in natural light except for a red or cream color on the chin, throat, and sometimes cheeks. The eastern indigo snake was listed as endangered in 1978. No areas have been specifically designated or identified as critical habitat, however, the species is generally active and lives in a variety of habitats throughout Florida. Often times, this species will use the burrows of gopher tortoises (*Gopherus Polyphemus*), if available. A field visit to the project in May 2017 confirmed gopher tortoise burrows are present in the upland placement site.

Dredged material placement activities will occur in areas where eastern indigo snakes may be present, however, applicable standard protective measures will be taken during construction activities to ensure the safety of snakes that may be in the project vicinity (see Attachment 1). In addition, the absence/presence of gopher tortoise burrows will be confirmed prior to the start of construction. If burrow presence is confirmed, USACE will obtain an approved/permitted contractor to relocate gopher tortoises prior to the start of construction. If any snakes are found during this time, standard protection measures would be followed.

#### *Wood Storks*

Wood storks (*Mycteria americana*) can grow up to 50 inches tall with a wingspan of up to 65 inches. Mainly white in color, the wood stork has an unfeathered head and neck that are dark gray in color. The wood stork is a colonial species and nests in large rookeries, primarily in cypress or mangrove swamps located in South Florida in the Everglades. No nesting sites have been identified in or around the project area. Wood storks have a particularly unique feeding technique and require high concentrations of prey more so than other wading birds. Feeding occurs in flocks in freshwater marshes, narrow tidal creeks, or flooded tidal pools with the diet

consisting mainly of small fish from 1-6 inches long and in water that is 6-10 inches deep. Depressions in marshes or swamps where fish become concentrated are particularly preferred feeding sites. The USFWS proposed to reclassify the wood stork status from endangered to threatened in December 2013, however, no official rule has been finalized.

### **Effect Determination**

#### *West Indian (Florida) Manatee*

USACE has determined that the proposed dredge work may affect, but is not likely to adversely affect manatees. This determination was based on the implementation of species specific protective measures and the type of dredging equipment typically used to dredge the channel.

#### *Eastern Indigo Snake*

USACE has determined that the proposed dredged material placement at the upland site may affect, but is not likely to adversely affect eastern indigo snakes. This determination was based on the implementation of species specific protective measures and the pre-construction gopher tortoise burrow absence/presence survey and relocation by an approved contractor.

#### *Wood Storks*

USACE has determined that the proposed dredged material placement at the upland site may affect, but is not likely to adversely affect, wood storks. Only one sighting of a wood stork was reported in August 2010 in Horseshoe Cove beach (eBird 2017). The likelihood of encountering a wood stork is so unlikely as to be discountable.

## References:

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- USFWS, 2017. Eastern Indigo snake. (*Drymarchon corais couperi*). Retrieved from <https://ecos.fws.gov/ecp0/profile/speciesProfile?sPCODE=C026>. Website accessed 3 August 2017.
- USFWS, 2016a. West Indian Manatee (*Trichechus manatus*). Retrieved from <https://www.fws.gov/southeast/wildlife/mammal/manatee/>. Website accessed 4 February 2017.
- USFWS, 2016b. Wood stork. Retrieved from <https://www.fws.gov/northflorida/Species-Accounts/Wood-stork-2005.htm>. Website accessed 2 August 2017.
- USFWS, 2013. Standard protection measures for the eastern indigo snake. Accessed 1 March 2017. [https://www.fws.gov/northflorida/indigosnakes/20130812\\_EIS%20Standard%20Protection%20Measures\\_final.pdf](https://www.fws.gov/northflorida/indigosnakes/20130812_EIS%20Standard%20Protection%20Measures_final.pdf)
- USFWS, 2011. Standard manatee conditions for in-water work. Retrieved from [https://www.fws.gov/northflorida/manatee/Manatee\\_Key\\_Programmatic/20130425\\_gd\\_Appendix%20B\\_2011\\_Standard%20Manatee%20Construction%20Conditions.pdf](https://www.fws.gov/northflorida/manatee/Manatee_Key_Programmatic/20130425_gd_Appendix%20B_2011_Standard%20Manatee%20Construction%20Conditions.pdf). Website accessed 4 February 2017.

**ATTACHMENT 1:**  
**SPECIES SPECIFIC PROTECTIVE MEASURES**

## STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

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

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at [ImperiledSpecies@myFWC.com](mailto:ImperiledSpecies@myFWC.com)
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at [MyFWC.com/manatee](http://MyFWC.com/manatee). Questions concerning these signs can be sent to the email address listed above.

**STANDARD PROTECTION MEASURES FOR THE EASTERN INDIGO SNAKE**  
**U.S. Fish and Wildlife Service**  
**August 12, 2013**

The eastern indigo snake protection/education plan (Plan) below has been developed by the U.S. Fish and Wildlife Service (USFWS) in Florida for use by applicants and their construction personnel. At least **30 days prior** to any clearing/land alteration activities, the applicant shall notify the appropriate USFWS Field Office via e-mail that the Plan will be implemented as described below (North Florida Field Office: [jaxregs@fws.gov](mailto:jaxregs@fws.gov); South Florida Field Office: [verobeach@fws.gov](mailto:verobeach@fws.gov); Panama City Field Office: [panamacity@fws.gov](mailto:panamacity@fws.gov)). As long as the signatory of the e-mail certifies compliance with the below Plan (including use of the attached poster and brochure), no further written confirmation or “approval” from the USFWS is needed and the applicant may move forward with the project.

If the applicant decides to use an eastern indigo snake protection/education plan other than the approved Plan below, written confirmation or “approval” from the USFWS that the plan is adequate must be obtained. At least 30 days prior to any clearing/land alteration activities, the applicant shall submit their unique plan for review and approval. The USFWS will respond via e-mail, typically within 30 days of receiving the plan, either concurring that the plan is adequate or requesting additional information. A concurrence e-mail from the appropriate USFWS Field Office will fulfill approval requirements.

The Plan materials should consist of: 1) a combination of posters and pamphlets (see **Poster Information** section below); and 2) verbal educational instructions to construction personnel by supervisory or management personnel before any clearing/land alteration activities are initiated (see **Pre-Construction Activities** and **During Construction Activities** sections below).

**POSTER INFORMATION**

Posters with the following information shall be placed at strategic locations on the construction site and along any proposed access roads (a final poster for Plan compliance, to be printed on 11” x 17” or larger paper and laminated, is attached):

**DESCRIPTION:** The eastern indigo snake is one of the largest non-venomous snakes in North America, with individuals often reaching up to 8 feet in length. They derive their name from the glossy, blue-black color of their scales above and uniformly slate blue below. Frequently, they have orange to coral reddish coloration in the throat area, yet some specimens have been reported to only have cream coloration on the throat. These snakes are not typically aggressive and will attempt to crawl away when disturbed. Though indigo snakes rarely bite, they should NOT be handled.

**SIMILAR SNAKES:** The black racer is the only other solid black snake resembling the eastern indigo snake. However, black racers have a white or cream chin, thinner bodies, and WILL BITE if handled.

**LIFE HISTORY:** The eastern indigo snake occurs in a wide variety of terrestrial habitat types throughout Florida. Although they have a preference for uplands, they also utilize some wetlands

and agricultural areas. Eastern indigo snakes will often seek shelter inside gopher tortoise burrows and other below- and above-ground refugia, such as other animal burrows, stumps, roots, and debris piles. Females may lay from 4 - 12 white eggs as early as April through June, with young hatching in late July through October.

**PROTECTION UNDER FEDERAL AND STATE LAW:** The eastern indigo snake is classified as a Threatened species by both the USFWS and the Florida Fish and Wildlife Conservation Commission. "Taking" of eastern indigo snakes is prohibited by the Endangered Species Act without a permit. "Take" is defined by the USFWS as an attempt to kill, harm, harass, pursue, hunt, shoot, wound, trap, capture, collect, or engage in any such conduct. Penalties include a maximum fine of \$25,000 for civil violations and up to \$50,000 and/or imprisonment for criminal offenses, if convicted.

Only individuals currently authorized through an issued Incidental Take Statement in association with a USFWS Biological Opinion, or by a Section 10(a)(1)(A) permit issued by the USFWS, to handle an eastern indigo snake are allowed to do so.

**IF YOU SEE A LIVE EASTERN INDIGO SNAKE ON THE SITE:**

- Cease clearing activities and allow the live eastern indigo snake sufficient time to move away from the site without interference;
- Personnel must NOT attempt to touch or handle snake due to protected status.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Immediately notify supervisor or the applicant's designated agent, **and** the appropriate USFWS office, with the location information and condition of the snake.
- If the snake is located in a vicinity where continuation of the clearing or construction activities will cause harm to the snake, the activities must halt until such time that a representative of the USFWS returns the call (within one day) with further guidance as to when activities may resume.

**IF YOU SEE A DEAD EASTERN INDIGO SNAKE ON THE SITE:**

- Cease clearing activities and immediately notify supervisor or the applicant's designated agent, **and** the appropriate USFWS office, with the location information and condition of the snake.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Thoroughly soak the dead snake in water and then freeze the specimen. The appropriate wildlife agency will retrieve the dead snake.

**Telephone numbers of USFWS Florida Field Offices to be contacted if a live or dead eastern indigo snake is encountered:**

**North Florida Field Office – (904) 731-3336**  
**Panama City Field Office – (850) 769-0552**  
**South Florida Field Office – (772) 562-3909**

## **PRE-CONSTRUCTION ACTIVITIES**

1. The applicant or designated agent will post educational posters in the construction office and throughout the construction site, including any access roads. The posters must be clearly visible to all construction staff. A sample poster is attached.
2. Prior to the onset of construction activities, the applicant/designated agent will conduct a meeting with all construction staff (annually for multi-year projects) to discuss identification of the snake, its protected status, what to do if a snake is observed within the project area, and applicable penalties that may be imposed if state and/or federal regulations are violated. An educational brochure including color photographs of the snake will be given to each staff member in attendance and additional copies will be provided to the construction superintendent to make available in the onsite construction office (a final brochure for Plan compliance, to be printed double-sided on 8.5" x 11" paper and then properly folded, is attached). Photos of eastern indigo snakes may be accessed on USFWS and/or FWC websites.
3. Construction staff will be informed that in the event that an eastern indigo snake (live or dead) is observed on the project site during construction activities, all such activities are to cease until the established procedures are implemented according to the Plan, which includes notification of the appropriate USFWS Field Office. The contact information for the USFWS is provided on the referenced posters and brochures.

## **DURING CONSTRUCTION ACTIVITIES**

1. During initial site clearing activities, an onsite observer may be utilized to determine whether habitat conditions suggest a reasonable probability of an eastern indigo snake sighting (example: discovery of snake sheds, tracks, lots of refugia and cavities present in the area of clearing activities, and presence of gopher tortoises and burrows).
2. If an eastern indigo snake is discovered during gopher tortoise relocation activities (i.e. burrow excavation), the USFWS shall be contacted within one business day to obtain further guidance which may result in further project consultation.
3. Periodically during construction activities, the applicant's designated agent should visit the project area to observe the condition of the posters and Plan materials, and replace them as needed. Construction personnel should be reminded of the instructions (above) as to what is expected if any eastern indigo snakes are seen.

## **POST CONSTRUCTION ACTIVITIES**

Whether or not eastern indigo snakes are observed during construction activities, a monitoring report should be submitted to the appropriate USFWS Field Office within 60 days of project completion. The report can be sent electronically to the appropriate USFWS e-mail address listed on page one of this Plan.

**From:** [Mark Sramek - NOAA Federal](#)  
**To:** [Scheler, Kristen L CIV USARMY CESAJ \(US\)](#)  
**Cc:** [Burch, Brandon S CIV USARMY CESAJ \(US\)](#)  
**Subject:** [Non-DoD Source] Re: For your action: EFH consultation request for the continued periodic O&M dredging and upland dredged material placement of the Horseshoe Cove federal navigation channel in Dixie County, Florida  
**Date:** Wednesday, August 16, 2017 1:03:44 PM

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NOAA's National Marine Fisheries Service, Southeast Region, Habitat Conservation Division, has reviewed your electronic mail message dated August 15, 2017, transmitting your agency's letter dated August 10, 2017, initiating essential fish habitat (EFH) consultation with our office regarding the continued periodic operations and maintenance dredging and upland dredged material placement of the Horseshoe Cove Federal Navigation Channel connecting the Town of Horseshoe Beach in Dixie County, Florida, with the Gulf of Mexico.

Based on our field observations conducted with staffs from your agency, the Florida Fish and Wildlife Conservation Commission, and Dixie County on May 10, 2017, we anticipate any adverse effects that might occur on marine and anadromous fishery resources would be minimal and, therefore, do not have any EFH conservation recommendations to provide regarding the proposed activities. This satisfies the consultation procedures outlined in 50 CFR Section 600.920, of the regulation to implement the EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act. Therefore, no further consultation is required for this action.

On Tue, Aug 15, 2017 at 1:49 PM, Scheler, Kristen L CIV USARMY CESAJ (US) <Kristen.L.Scheler@usace.army.mil> <<mailto:Kristen.L.Scheler@usace.army.mil>> > wrote:

Hi Mark!

The Jacksonville District, U.S. Army Corps of Engineers (USACE) requests EFH consultation on the continued periodic O&M dredging and upland dredged material placement of the Horseshoe Cove federal navigation channel in Dixie County, Florida. The Horseshoe Cove channel connects the town of Horseshoe Beach in Dixie County, Florida with the Gulf of Mexico. The accumulation of sediment, commonly referred to as shoaling, has restricted the width of the project channel and reduced its depths hindering safe and efficient vessel navigation. Periodic dredging is required to remove accumulated sediments and thus maintain the channel at its federally authorized depth. Maintenance dredging most recently occurred in 2008. USACE has determined that the magnitude of impacts of the continued periodic O&M dredging and upland dredged material placement of the Horseshoe Cove federal navigation channel are minor and insignificant. This project will not adversely affect EFH.

Consistent with 1999 guidance provided by the NMFS SERO to USACE, Jacksonville District regarding the coordination of EFH consultation requirements with NEPA, the EFH assessment is integrated into the draft supplemental EA. The attached letter serves as a notice of availability of the draft supplemental EA and requests initiation of the EFH assessment consultation. A copy of the proposed FONSI, draft supplemental EA, and associated appendices are available to the public on the Corps' Environmental planning website, under Dixie County, for 21 days:  
Blocked<http://www.saj.usace.army.mil/About/DivisionsOffices/Planning/EnvironmentalBranch/EnvironmentalDocuments.aspx>  
<Blocked<http://www.saj.usace.army.mil/About/DivisionsOffices/Planning/EnvironmentalBranch/EnvironmentalDocuments.aspx>>

(On that page, click on the "+" next to "Dixie" and scroll down to "Horseshoe Cove".)

We are striving to complete EFH consultation by the end of the comment period, which is September 4, 2017. If you have any questions or require additional information, please do not hesitate to reach out to me via email or phone.

Thank you so much!

Kristen Scheler  
Biologist, Planning & Policy Division  
U.S. Army Corps of Engineers  
Jacksonville District (CESAJ-PD-PW)  
P.O. Box 4970  
Jacksonville, FL 32232-0019  
(904) 232-2918 <tel:%28904%29%20232-2918> (O)  
(904) 232-3442 <tel:%28904%29%20232-3442> (F)  
[Kristen.L.Scheler@usace.army.mil](mailto:Kristen.L.Scheler@usace.army.mil) <<mailto:Kristen.L.Scheler@usace.army.mil>>



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 San Marco Boulevard  
JACKSONVILLE, FLORIDA 32207-8175

REPLY TO  
ATTENTION OF

Planning and Policy Division  
Environmental Branch

AUG 10 2017

Virginia Fay  
Asst. Regional Administrator  
NMFS-SERO-HCD  
263 13<sup>th</sup> Ave South  
St. Petersburg, FL 33701

Dear Ms. Fay,

Pursuant to the National Environmental Policy Act (NEPA), this letter constitutes the Notice of Availability of the draft Supplemental Environmental Assessment (EA) for operations and maintenance (O&M) dredging and dredged material placement of Horseshoe Cove federal navigation channel located in Dixie County Florida. This letter also serves to convey the Essential Fish Habitat (EFH) Assessment incorporated in the project's Supplemental EA.

The District is initiating coordination with NMFS under the EFH provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). Per the May 3, 1999 EFH Finding between NMFS and the USACE-Jacksonville District, the EFH Assessment for the project is integrated within the draft EA. Per the 1999 Finding, the February 2004 "Preparing Essential Fish Habitat Assessments: A Guide for Federal Action Agencies" document and 50 CFR 600.920(e)(3), an EFH Assessment must include the specific items. Each item will be addressed in the table below with a reference to where the information is located in the draft EA.

<b>EFH Required Item</b>	<b>Draft Supplemental EA Location(s)</b>
Description of the Proposed Action	<p>What is the action?</p> <ul style="list-style-type: none"> <li>- <i>Section 1.1 Project Description</i></li> </ul> <p>What is the purpose of the action?</p> <ul style="list-style-type: none"> <li>- <i>Section 1.2 Project Need or Opportunity</i></li> </ul> <p>How, when and where will it be undertaken?</p> <ul style="list-style-type: none"> <li>- <i>Section 1.1. Project Description</i></li> </ul> <p>What will be the result of the action?</p> <ul style="list-style-type: none"> <li>- <i>Section 4 Environmental Effects</i></li> </ul>
Analysis of the potential adverse effects (individual and cumulative) of the action on EFH and the management species	<p>What EFH will be affected by the action?</p> <ul style="list-style-type: none"> <li>- <i>Section 3.3.3 Channel Benthos and Walls</i></li> <li>- <i>Section 3.5 Wildlife Refuges and State Parks</i></li> <li>- <i>Section 3.6 Essential Fish Habitat</i></li> </ul> <p>What are the adverse effects to EFH that could occur as a result of this action?/ How would they impact managed species?/ What would be the magnitude of effects?/What would the duration be?</p> <ul style="list-style-type: none"> <li>- <i>Section 4.3.3 Channel Benthos and Walls</i></li> <li>- <i>Section 4.5 Wildlife Refuges and State Parks</i></li> <li>- <i>Section 3.6 Essential Fish Habitat</i></li> <li>- <i>Section 4.14 Cumulative Impacts</i></li> <li>- <i>Section 4.15 Unavoidable Adverse Environmental Effects</i></li> </ul>
Proposed Compensatory Mitigation	- <i>None required</i>
Avoidance and Minimization	- <i>Section 5 Environmental Commitments</i>

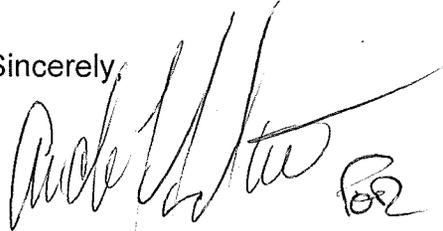
Additionally, the Guidance states that for projects that may have substantial impacts on EFH, additional information may be necessary. These additional items are addressed throughout the draft EA and the information provided in the table below.

<b>EFH Additional Information Item</b>	<b>Supplemental EA Location(s)</b>
Results of on-site inspections to evaluate the habitat and the site-specific effects of the project	- <i>Appendix A – Agency Coordination</i>
Review of pertinent literature and related information	- <i>Literature cited throughout draft EA</i>

The District has determined that the effects of the periodic, routine operations and maintenance dredging and dredged material placement at Horseshoe Cove federal navigation channel in Dixie County, Florida will not adversely affect essential fish habitats. The magnitude of the impacts are minor and insignificant.

The Corps respectfully requests all comments under NEPA and the MSFCMA to the draft EA within 21 days of the receipt of this letter. If you have any questions, or need additional information, please contact Kristen Scheler by email [Kristen.L.Scheler@usace.army.mil](mailto:Kristen.L.Scheler@usace.army.mil) or telephone 904-232-2918. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina Paduano Ralph", with a stylized flourish extending from the end of the signature.

Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch

Enclosure

**From:** [Mark Sramek - NOAA Federal](#)  
**To:** [DeMarco, Paul M CIV USARMY CESAJ \(US\)](#); [Karch, Paul J CIV USARMY CESAJ \(US\)](#); [Cummings, Andrew D CIV USARMY CESAJ \(US\)](#); [Burch, Brandon S CIV USARMY CESAJ \(US\)](#)  
**Subject:** [Non-DoD Source] Re: Horseshoe Cove Channel Dredging EFH/field observations  
**Date:** Friday, May 12, 2017 3:02:16 PM  
**Attachments:** [Approximate Entrance Channel NMFS HCD towboard transect \(from ATON 18 to ATON 10\).jpg](#)  
[Approximate location of proposed temporary floating dock \(polygon\).jpg](#)  
[Approximate Turning Basin transect \(from ATON 19 to ATON 18\).jpg](#)

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Gentlemen,

Below please find my brief field report summary/aerials of our observations noted during our recent interagency site meeting regarding the subject maintenance dredging project.

Date: May 10, 2017, 11:45 a.m. through 1:15 p.m.

Location: Horseshoe Cove Entrance Channel and Turning Basin, Horseshoe Beach, Dixie County, Florida

Weather: Clear skies, air temperature 93 degrees F, water temperature 78 degrees F (estimated), observed tides approximately +3.65 feet above MLLW and falling (Blocked<https://tidesandcurrents.noaa.gov/noaatidepredictions.html?id=8727648&units=standard&bdate=20170510&edate=20170513&timezone=LST/LDT&clock=12hour&datum=MLLW&interval=hilo&action=dailychart>)

USACE Jacksonville District Planning and Policy Division, NMFS Habitat Conservation Division (NMFS HCD), Florida Fish and Wildlife Conservation Commission (FWC), and Dixie County staffs met on site to discuss the proposed Horseshoe Cove Entrance Channel and Turning Basin Maintenance Dredging project. At approximately 11:45 a.m., USACE, NMFS HCD, and FWC staffs departed a public dock aboard a FWC staffed vessel to assess benthic conditions within the proposed maintenance dredging areas of the Entrance Channel and Turning Basin. Staff also conducted a benthic inspection of an area located immediately east of the public boat ramp which is located at the southern terminus of 6th Street within Horseshoe Beach. The purpose of the inspection in this area was to evaluate benthic conditions in the area proposed for the installation of a 12 foot wide, 40 foot long temporary floating dock near the public boat ramp (see attached graphic). The dock would be located outside of the proposed turning basin and be accessed from a cantilevered access walkway on adjacent seawalled uplands. Water clarity was approximately two feet and less, and turbidity increased from snorkeling activities over silt bottoms. Benthic conditions within the shallower (i.e., four feet and less) area of this site were comprised primarily of broken shell hash, sand, and accumulated organic debris (unattached SAV blades, marine algae, and twigs). Benthic conditions within deeper (i.e., up to six feet deep) were comprised of fine sand, silt, and sparse unattached accumulated organic debris. No attached/rooted SAV or seagrasses were observed in this area.

Staffs then conducted a benthic assessment of the Turning Basin proposed for maintenance dredging. Water visibility within the Turning Basin was approximately two feet; staff conducted a transect beginning at green ATON "19" southeasterly to red ATON "18" (see attached graphic). Water depths varied between five to six feet. Staff conducted a visual survey of the bottom within the turning basin; no attached or rooted SAV or seagrasses were observed. Occasional unconsolidated aggregations of Gracilaria (sp.) were observed; however, no attached/rooted SAV were observed within the areas proposed for maintenance dredging within the Turning Basin.

Following the benthic assessment of the Turning Basin, NMFS HCD staff conducted a benthic assessment of the Entrance Channel using a towboard which was towed behind the FWC vessel at approximately 2.0 knots; the assessment commenced in vicinity of red ATON "18," proceeded southwesterly outbound through the Entrance Channel, and concluded in vicinity of red ATON "10." Benthic conditions throughout this segment of the Entrance Channel to be maintenance dredged were entirely comprised of silt and fine sediments. Occasional unconsolidated mats of Gracilaria (sp.) algae were observed; however, no attached/or rooted SAV or seagrasses were observed within the area proposed for maintenance dredging. Towboard operations were completed at approximately 1:15 p.m. and the FWC vessel safely returned to the public dock with all staff aboard at approximately 1:30 p.m..

Please let me know if you need additional information or have questions regarding my observations. Paul (DeMarco) -- please feel free to add any additional information based upon your observations.

Thanks, and have a nice weekend,  
Mark

----- Forwarded message -----

From: DeMarco, Paul M CIV USARMY CESAJ (US) <Paul.M.DeMarco@usace.army.mil <<mailto:Paul.M.DeMarco@usace.army.mil>>>  
Date: Wed, Apr 5, 2017 at 12:54 PM  
Subject: Horseshoe Cove Channel Dredging EFH  
To: Mark Sramek - NOAA Federal <mark.sramek@noaa.gov <<mailto:mark.sramek@noaa.gov>>>

Hello Mark, I hope you have been doing well. I wanted to touch base with you on an upcoming project in Dixie County. Attached are the plans from the last maintenance dredging event as well as the completion report. We are writing a new NEPA document and will need to coordinate with HCD on EFH. Also attached is a seagrass map (dated). Please let me know if: 1) you are the correct NMFS HCD contact and 2) if you are available for a site visit possibly in May. We need to complete the EA by September 2017.

Paul DeMarco  
Biologist  
Corps of Engineers - SAD  
Jacksonville District  
Planning and Policy Division  
701 San Marco Blvd - P.O. Box 4970

Jacksonville, FL 32232

904-232-1897 <tel:904-232-1897> (phone)

904-232-3442 <tel:904-232-3442> (fax)

Paul.M.DeMarco@usace.army.mil <<mailto:Paul.M.DeMarco@usace.army.mil>>



**UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration**

NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office  
9721 Executive Center Drive N.  
St. Petersburg, Florida 33702  
(727) 570-5317, FAX 570-5300

PD

May 3, 1999

Colonel Joe R. Miller  
District Engineer, Jacksonville District  
Department of the Army, Corps of Engineers  
Post Office Box 4970  
Jacksonville, Florida 32232-0019

Dear Colonel Miller:

Staff of the National Marine Fisheries Service (NMFS) and the Jacksonville District (District) have met to discuss Essential Fish Habitat (EFH) consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). This letter concerns the District's planning and operations activities subject to provisions of the National Environmental Policy Act (NEPA). The EFH regulations (50 CFR 600.920) specify that after discussion with a Federal action agency, the NMFS may make a finding that an agency's existing consultation/environmental review processes are adequate, or can be modified, to satisfy EFH consultation requirements.

Three criteria must be achieved to meet the consultation provisions of the regulations. These provisions are: 1) the existing process must provide NMFS with timely notification of actions that may adversely affect EFH; 2) notification must include an assessment of impacts of the proposed action as discussed in Section 600.920 (g); and, 3) NMFS must have made a finding pursuant to Section 600.920(e)(3) that the existing process satisfies the requirements of Section 305(b)(2) of the MSFCMA.

#### **Timely Notification**

The District's NEPA process, involving the planning for and preparation of environmental assessments and impact statements and your coordination associated with operational activities, provides the NMFS with timely notification of proposed actions. Your District's public review process generally provides 30 to 90 days before a final decision is rendered on a project.

#### **EFH Assessment**

Our staffs have agreed that draft NEPA documents prepared by the District could be modified to contain sufficient information to satisfy the requirements in Section 600.920(g). For purposes of an EFH assessment the documents must include: 1) a description of the proposed action; 2) an analysis of individual and cumulative effects on EFH, Federally managed fisheries, and associated species



such as major prey species, including affected life history stages; 3) the District's views regarding effects; and, 4) proposed mitigation, if applicable. The draft documents could incorporate such information by reference to a NEPA document prepared for a similar or related action, supplemented with any relevant new project specific information. Incorporation of information by reference meets EFH consultation requirements provided the proposed action involves similar adverse impacts to EFH in the same geographic area or similar ecological setting, and the referenced document has been provided to NMFS.

In some cases the District prepares notices to supplement NEPA actions or may coordinate on environmental issues prior to initiation of the NEPA review process. When supplemental notices are prepared, they could be modified to reference EFH assessments contained in a companion environmental document or EFH could be addressed separately. Similarly, the District could accomplish "pre-NEPA" consultations by providing NMFS a separate request for EFH consultation and an EFH assessment. In this latter case, a summary of the consultation should be included in any resulting NEPA document.

### **Finding**

#### Consultation Initiation

The NMFS finds that your agency's NEPA process for Federal works activities can be used to satisfy the consultation requirements of the MSFCMA. Specifically, notification of potential impacts on EFH will occur when the District sends NMFS a draft NEPA document, a project notification, or a separate request for consultation prior to initiating formal NEPA action. In cases involving maintenance activities (especially navigation channels) EFH consultation normally will not be conducted for each event. Rather, consultation will be incorporated into the District's NEPA compliance or public notification events which occur no more frequently than every 5 to 10 years, unless project design parameters change.

#### Assessment

The evaluation of project impacts on EFH will be addressed in the draft documents in a section or chapter titled "EFH Assessment" or by reference to companion documents. The EFH assessment may also be presented as a separate request for consultation. The information should include both an identification of affected EFH and an assessment of impacts. The EFH discussion may reference pertinent information on the affected environment and environmental consequences when they are provided in other sections, chapters, or companion documents.

#### Coordination

After receiving an EFH consultation request and assessment, and within the specified public comment period, NMFS will provide the District with a written project evaluation which will include EFH conservation recommendations, when appropriate. NMFS will provide such recommendations as a part of our overall project comments. When EFH issues are raised, they will be contained in a separate section titled "EFH Conservation Recommendations." Written concurrences with District determinations that a project would not adversely impact EFH are not required and will not be provided, although consistent with past practice, NMFS normally will provide a written response indicating that we have no recommendations to offer.

Under Section 305(b)(4)(B) of the MSFCMA, the Jacksonville District has a statutory requirement to respond in writing within 30 days to EFH recommendations made by the NMFS. If the District will not be able to complete a signed Finding of No Significant Impact (FONSI), Record of Decision (ROD), or other final action within 30 days of receiving NMFS EFH Conservation Recommendations, the District should provide NMFS with an interim written response within 30 days. District personnel should then provide a detailed response at least 10 days prior to taking final action (e.g., signing a FONSI or ROD).

#### Higher Level Review

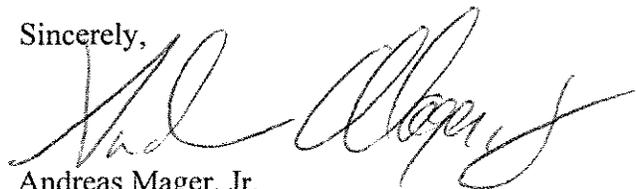
If a District decision is inconsistent with NMFS EFH conservation recommendations, NMFS will endeavor to resolve any such issues at the field level wherever possible. However, 50 CFR 600.920(j)(2) allows the NOAA Assistant Administrator for Fisheries to request a meeting with a Department of the Army headquarters official to discuss the proposed action and opportunities for resolving any disagreements.

The overall consultation process is briefly outlined in enclosure 1. Also, to assist you in document preparation, I have included, as enclosure 2, a summary of information necessary for an EFH assessment.

#### **Conclusion**

If you agree with the procedures described in this finding, a response letter to that effect is requested. Please contact Mr. Rickey Ruebsamen, the Southeast Region's EFH Coordinator, at 727/570-5317, if you have any questions or wish to discuss this finding.

Sincerely,



Andreas Mager, Jr.  
Assistant Regional Administrator  
Habitat Conservation Division

Enclosures

## **Outline of NMFS - Jacksonville District Process for EFH Consultation for Federal Project Planning and Operations**

- ▶ COE provides the NMFS with an environmental document, Federal project notice, or “pre-NEPA” notification
  - ▶ The COE document indicates that it is intended to initiate EFH consultation
  - ▶ Document includes the required components of an EFH assessment
  - ▶ NMFS is allowed sufficient time to review and comment
- ▶ NMFS provides EFH conservation recommendations, as appropriate, within specified time frames
- ▶ COE responds to NMFS EFH conservation recommendations
  - ▶ A final response is provided to the NMFS within 30 days, or an interim response may be transmitted if final action on the project can not be completed within that time
  - ▶ Final response is provided to the NMFS at least 10 days prior to final action/approval (e.g., signing of a FONSI or ROD)
  - ▶ If NMFS recommendations are not accepted, the COE response includes a detailed explanation of why NMFS recommendations are not being followed and a scientific justification for any disagreements over anticipated EFH impacts
- ▶ NMFS may seek headquarters-level review of those Jacksonville District decisions contrary to NMFS conservation recommendations

## Recommended Contents of an EFH Assessment as Part of a Draft NEPA Document or Consultation Request Letter

- I. The consultation request letter or NEPA document transmittal letter, introduction, summary, or abstract should state that the document and information contained therein represent the agency's initiation of EFH consultation.
- II. Description of the proposed action - use existing agency format and requirements.
- III. Analysis of effects - EFH assessments can be prepared in a letter or report format, provided the required information (see 50 CFR 600.920(g)) is included, or incorporated in a NEPA document in a manner similar to the following:

- A. The description of fish and wildlife resources and vegetative communities contained in the chapter describing the existing environment should be expanded to specifically identify Federally managed fisheries and EFH in the project area. For activities expected to minimally impact EFH, these can be brief inserts. For example, in the fisheries description, the text might read: *Juvenile and adult red drum and postlarval and juvenile brown and white shrimp are common in the project area and are managed under the Magnuson-Stevens Fishery Conservation and Management Act (PL 94-265).* As part of the description of vegetative communities, the text could be supplemented with statements similar to the following: *The generic amendment to Gulf of Mexico Fishery Management Plans (GMFMC 1999) identifies Essential Fish Habitat in the project area to be intertidal wetlands, submerged aquatic vegetation, unvegetated bottoms, shell reefs, and the estuarine water column. Habitat Areas of Particular Concern have not been identified for the project area.* Note that EFH may include open water and non-vegetated habitats; therefore, the Federal agency may find it more appropriate to describe EFH separately from vegetative communities.

More complex projects or those potentially having substantial EFH impacts should include a greater level of detail on life stages, seasonality of occurrence, environmental requirements, etc., of managed and associated fisheries. Similarly, the description of EFH should be discussed in more depth. The action agency may determine prior to initiation of consultation that expanded consultation should be requested pursuant to 50 CFR 600.920(i).

- B. The discussion of the environmental consequences portion of the document should include a separate section entitled "**EFH Assessment**" which includes an evaluation of project and cumulative effects, the action agency's evaluation of those effects, and any mitigation proposed. The scope of this section should be determined by the anticipated level of impact. For projects expected to have minimal impacts, this assessment could be a one paragraph section similar to the following: *The "Big Levee Realignment project" would affect xx acres of coastal habitat identified as EFH. Impacts to bay bottom,*

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*intertidal marsh, and submerged aquatic vegetation and Federally managed species are addressed in Section 5.2 of the environmental assessment. We consider these impacts to be minimal on an individual project and cumulative affects basis. Because those impacts are minor, mitigation is not being proposed.*

In instances where impacts would be more than minor, the “**EFH Assessment**” should be sufficiently detailed (by reference to other sections of the report or other environmental documents, where appropriate) to fully describe project impacts, effects on EFH and dependent resources, and mitigation to offset the unavoidable impacts to the managed resources. Consideration also should be given to supplementing the assessment with information from site inspections and evaluations, pertinent literature, expert opinion, and discussion of less damaging alternatives (or reference to such discussion presented elsewhere in the document).

- IV. Federal agency views - agency views regarding EFH impacts can be specified as a part of the “**EFH Assessment**” and/or included and highlighted in the section of the environmental document which presents the agency’s conclusions about the subject action.
- V. Proposed mitigation - if mitigation is appropriate and proposed, it should be identified in the “**EFH Assessment**” and described in detail in the section of the environmental document reserved for such discussion. The discussion of mitigation of EFH impacts should be presented separately from the discussion of other proposed mitigative measures.



## FLORIDA DEPARTMENT *of* STATE

**RICK SCOTT**  
Governor

**KEN DETZNER**  
Secretary of State

Meredith Moreno  
U.S. Army Corps of Engineers  
P.O. Box 4970  
Jacksonville, FL 32232

August 16, 2017

RE: DHR Project File No.: 2017-3474/ Received by DHR: July 18, 2017  
Project: *Horseshoe Cove Navigation Channel*  
County: Dixie

Dear Ms. Moreno:

Our office received and reviewed the referenced project in accordance with Section 106 of the National Historic Preservation Act of 1966, *as amended*, and implementing regulations 36 C.F.R. Part 800, for possible impact to historic properties listed, or eligible for listing, in the National Register of Historic Places (NRHP). The State Historic Preservation Officer is to advise and assist state and federal agencies when identifying historic properties, assessing effects upon them, and considering alternatives to avoid or minimize adverse effects.

Based on the survey for this project, it is the opinion of this office that the proposed undertaking will have *no effect* on historic properties [as per 36 C.F.R. Part 800, § 800.4(d)(1)]. If prehistoric or historic artifacts are encountered at any time within the project area, the permitted project should cease all activities involving disturbance in the immediate vicinity of such discoveries. The permittee should contact this office, as well as the appropriate permitting agency.

If you have any questions concerning our comments, please contact Daniel McClarnon, Archaeologist, Compliance Review Program, at 850.245.6372 or by email, [daniel.mcclarnon@dos.myflorida.com](mailto:daniel.mcclarnon@dos.myflorida.com).

Sincerely

A handwritten signature in blue ink that reads "Timothy A. Parsons" with "For" written below it.

Timothy A Parsons, Ph.D.,  
Director, Division of Historical Resources  
& State Historic Preservation Officer



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 San Marco Boulevard  
JACKSONVILLE, FLORIDA 32207-8175

JUL 17 2017

Tim Parsons, Ph.D.  
State Historic Preservation Officer  
Division of Historical Resources  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Re: *Submerged Cultural Resources Remote Sensing Survey for the Horseshoe Cove Navigation Channel, Dixie County, Florida*

Dear Dr. Parsons,

The U.S. Army Corps of Engineers, Jacksonville District (Corps), is studying the environmental effects associated with periodic maintenance dredging of the Horseshoe Cove federal navigation channel and turning basin in Dixie County, Florida. Dredging is expected to occur on an "as-needed" basis in order to maintain safe navigation in the channel. The Horseshoe Cove channel is approximately 1.75-miles long and 75 feet wide with a turning basin located at the northern end of the project area adjacent to the shoreline. The proposed work consists of routine operations and maintenance dredging of an estimated 120,000 cubic yards of silt and silty sand from the federal channel and turning basin to obtain a depth of 7 feet (6 feet required project depth plus 1 foot allowable overdepth). Dredged material will be hydraulically pumped and placed in the previously used upland site, which is provided by the project sponsor, Dixie County. The upland site is approximately 30 acres and is located approximately 4,000 feet northeast of the dredging area (Figure 1).

Construction of the Horseshoe Cove federal navigation channel and turning basin occurred circa 1959 based on aerial imagery of the area of potential effect (APE). The APE includes the federal navigation channel, turning basin, and upland disposal area. The upland disposal area was constructed between 1994 and 1995 and utilized during the last maintenance dredging of the channel and turning basin in 2008. The Suwanee River Water Management District hired a consultant to conduct a cultural resources survey of the disposal area subsequent to the 1994 clearing, grubbing, and construction of the containment dikes of the disposal area. No significant archeological resources were identified in the upland disposal area. A copy of the April 8, 1994 report which resulted from the investigation was coordinated with the Florida State Historic Preservation Officer (SHPO). The SHPO concurred with the Corps' determination of no effect in letter dated May 2, 1995.

The Horseshoe Cove federal navigation channel and turning basin has not been subject to a submerged cultural resources survey. Due to the location of the area of project effect (APE) near a number of offshore prehistoric archaeological sites (i.e., 8DI0051 and 8DI0052), the project area was determined to have a moderate potential for containing intact cultural resources. As such, the Corps contracted Panamerican Consultants, Inc. (Panamerican) to identify historic properties that may be located within the APE. This survey is documented in the enclosed draft report; *Submerged Cultural Resources Remote Sensing Survey for the Horseshoe Cove Navigation Channel, Dixie County, Florida*.

The Panamerican submerged cultural resources survey of the APE utilized a magnetometer, sidescan sonar, and a subbottom profiler. A total of 61 magnetic anomalies, two sidescan sonar targets, and no subbottom paleofeatures were recorded during the survey. Analysis of the magnetic data indicates that of the 61 magnetic anomalies, 27 anomalies are classified as single-point sources, 20 anomalies are associated with channel markers, 9 represent dock infrastructure, 3 are comprised of nonsignificant debris, and 2 represent unknown features. Both of the sidescan sonar contacts, one with associated anomalies and one without, are nonsignificant. All the anomalies and sonar contacts are considered nonsignificant with the exception of two anomalies that form a cluster close to the shore; however, these two anomalies are located over 100 feet outside and to the west of the APE. Based on the results of this survey, the Corps has determined that periodic maintenance dredging of the Horseshoe Cove federal navigation channel and turning basin and placement of the dredged material in the upland disposal area poses no effect to historic properties listed or eligible for listing in the National Register of Historic Places.

Pursuant to Section 106 of the National Historic Preservation Act (16 USC 470), as amended and its implementing regulations (36 CFR 800), the Corps kindly requests your comments on the determination of no effect and Panamerican's draft report entitled; *Submerged Cultural Resources Remote Sensing Survey for the Horseshoe Cove Navigation Channel, Dixie County, Florida*. If there are any questions or comments, please contact Ms. Meredith Moreno at (904) 232-1577 or by e-mail at [meredith.a.moreno@usace.army.mil](mailto:meredith.a.moreno@usace.army.mil).

Sincerely,



Gina Paduano Ralph, Ph.D.  
Chief, Environmental Branch  
Planning and Policy Division

Enclosures

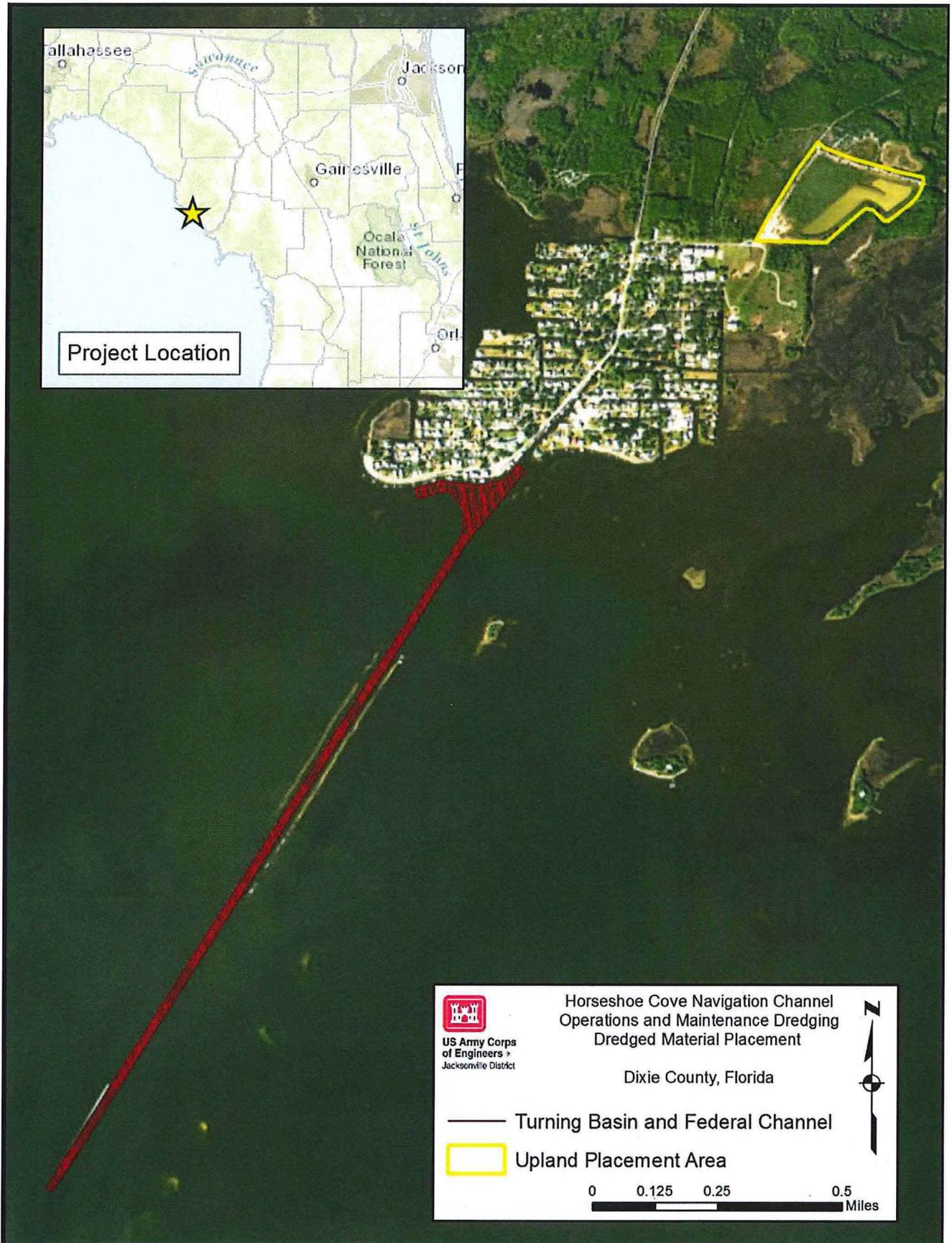


Figure 1. Horseshoe Cove Navigation Channel, Turning Basin, and Upland Placement Area.



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 San Marco Boulevard  
JACKSONVILLE, FLORIDA 32207-8175

JUL 17 2017

Mr. Fred Dayhoff, Tribal Representative  
NAGPRA, Section 106  
Miccosukee Tribe of Indians of Florida  
HC 61 SR 68  
Ochopee, Florida 34141

Re: *Submerged Cultural Resources Remote Sensing Survey for the Horseshoe Cove Navigation Channel, Dixie County, Florida*

Dear Mr. Dayhoff:

The U.S. Army Corps of Engineers, Jacksonville District (Corps), is studying the environmental effects associated with periodic maintenance dredging of the Horseshoe Cove federal navigation channel and turning basin in Dixie County, Florida. Dredging is expected to occur on an "as-needed" basis in order to maintain safe navigation in the channel. The Horseshoe Cove channel is approximately 1.75-miles long and 75 feet wide with a turning basin located at the northern end of the project area adjacent to the shoreline. The proposed work consists of routine operations and maintenance dredging of an estimated 120,000 cubic yards of silt and silty sand from the federal channel and turning basin to obtain a depth of 7 feet (6 feet required project depth plus 1 foot allowable overdepth). Dredged material will be hydraulically pumped and placed in the previously used upland site, which is provided by the project sponsor, Dixie County. The upland site is approximately 30 acres and is located approximately 4,000 feet northeast of the dredging area (Figure 1).

Construction of the Horseshoe Cove federal navigation channel and turning basin occurred circa 1959 based on aerial imagery of the area of potential effect (APE). The APE includes the federal navigation channel, turning basin, and upland disposal area. The upland disposal area was constructed between 1994 and 1995 and utilized during the last maintenance dredging of the channel and turning basin in 2008. The Suwanee River Water Management District hired a consultant to conduct a cultural resources survey of the disposal area subsequent to the 1994 clearing, grubbing, and construction of the containment dikes of the disposal area. No significant archeological resources were identified in the upland disposal area. A copy of the April 8, 1994 report which resulted from the investigation was coordinated with the Florida State Historic Preservation Officer (SHPO). The SHPO concurred with the Corps' determination of no effect in letter dated May 2, 1995.

The Horseshoe Cove federal navigation channel and turning basin has not been subject to a submerged cultural resources survey. Due to the location of the area of project effect (APE) near a number of offshore prehistoric archaeological sites (i.e., 8DI0051 and 8DI0052), the project area was determined to have a moderate potential for containing intact cultural resources. As such, the Corps contracted Panamerican Consultants, Inc. (Panamerican) to identify historic properties that may be located within the APE. This survey is documented in the enclosed draft report; *Submerged Cultural Resources Remote Sensing Survey for the Horseshoe Cove Navigation Channel, Dixie County, Florida*.

The Panamerican submerged cultural resources survey of the APE utilized a magnetometer, sidescan sonar, and a subbottom profiler. A total of 61 magnetic anomalies, two sidescan sonar targets, and no subbottom paleofeatures were recorded during the survey. Analysis of the magnetic data indicates that of the 61 magnetic anomalies, 27 anomalies are classified as single-point sources, 20 anomalies are associated with channel markers, 9 represent dock infrastructure, 3 are comprised of nonsignificant debris, and 2 represent unknown features. Both of the sidescan sonar contacts, one with associated anomalies and one without, are nonsignificant. All the anomalies and sonar contacts are considered nonsignificant with the exception of two anomalies that form a cluster close to the shore; however, these two anomalies are located over 100 feet outside and to the west of the APE. Based on the results of this survey, the Corps has determined that periodic maintenance dredging of the Horseshoe Cove federal navigation channel and turning basin and placement of the dredged material in the upland disposal area poses no effect to historic properties listed or eligible for listing in the National Register of Historic Places.

Pursuant to Section 106 of the National Historic Preservation Act (16 USC 470), as amended and its implementing regulations (36 CFR 800), and in consideration of the Corps' Trust Responsibilities to the Miccosukee Tribe of Indians of Florida, the Corps kindly requests your comments on the determination of no effect and Panamerican's draft report entitled; *Submerged Cultural Resources Remote Sensing Survey for the Horseshoe Cove Navigation Channel, Dixie County, Florida*. If there are any questions or comments, please contact Ms. Meredith Moreno at (904) 232-1577 or by e-mail at [meredith.a.moreno@usace.army.mil](mailto:meredith.a.moreno@usace.army.mil).

Sincerely,



Gina Paduano Ralph, Ph.D.  
Environmental Branch Chief, Planning Division  
Planning and Policy Division

Enclosures

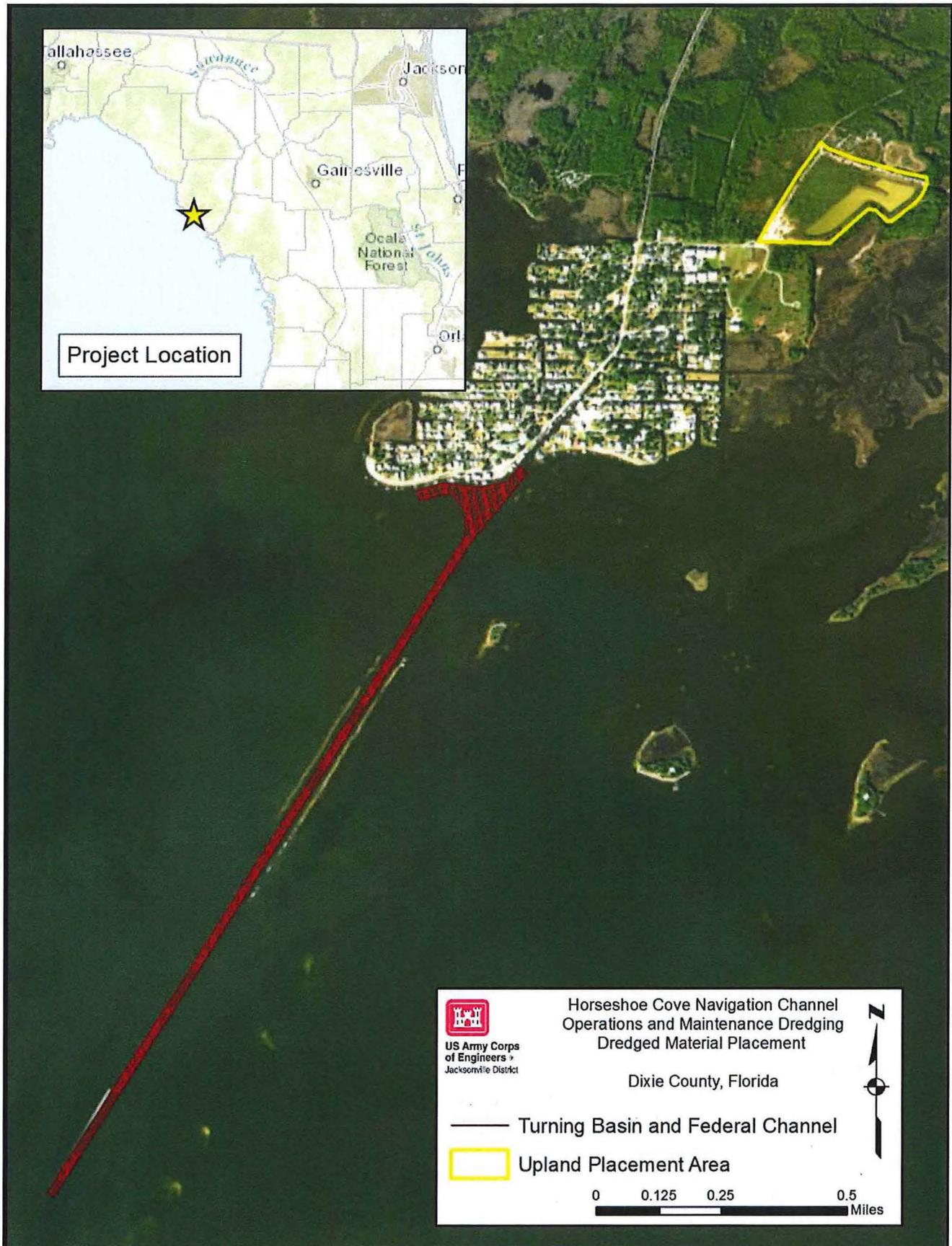


Figure 1. Horseshoe Cove Navigation Channel, Turning Basin, and Upland Placement Area.



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 San Marco Boulevard  
JACKSONVILLE, FLORIDA 32207-8175

JUL 17 2017

Mr. Theodore Isham  
Historic Preservation Officer  
Seminole Nation of Oklahoma  
PO Box 1498  
Wewoka, Ok 74884

Re: *Submerged Cultural Resources Remote Sensing Survey for the Horseshoe Cove Navigation Channel, Dixie County, Florida*

Dear Mr. Isham:

The U.S. Army Corps of Engineers, Jacksonville District (Corps), is studying the environmental effects associated with periodic maintenance dredging of the Horseshoe Cove federal navigation channel and turning basin in Dixie County, Florida. Dredging is expected to occur on an "as-needed" basis in order to maintain safe navigation in the channel. The Horseshoe Cove channel is approximately 1.75-miles long and 75 feet wide with a turning basin located at the northern end of the project area adjacent to the shoreline. The proposed work consists of routine operations and maintenance dredging of an estimated 120,000 cubic yards of silt and silty sand from the federal channel and turning basin to obtain a depth of 7 feet (6 feet required project depth plus 1 foot allowable overdepth). Dredged material will be hydraulically pumped and placed in the previously used upland site, which is provided by the project sponsor, Dixie County. The upland site is approximately 30 acres and is located approximately 4,000 feet northeast of the dredging area (Figure 1).

Construction of the Horseshoe Cove federal navigation channel and turning basin occurred circa 1959 based on aerial imagery of the area of potential effect (APE). The APE includes the federal navigation channel, turning basin, and upland disposal area. The upland disposal area was constructed between 1994 and 1995 and utilized during the last maintenance dredging of the channel and turning basin in 2008. The Suwanee River Water Management District hired a consultant to conduct a cultural resources survey of the disposal area subsequent to the 1994 clearing, grubbing, and construction of the containment dikes of the disposal area. No significant archeological resources were identified in the upland disposal area. A copy of the April 8, 1994 report which resulted from the investigation was coordinated with the Florida State Historic Preservation Officer (SHPO). The SHPO concurred with the Corps' determination of no effect in letter dated May 2, 1995.

The Horseshoe Cove federal navigation channel and turning basin has not been subject to a submerged cultural resources survey. Due to the location of the area of project effect (APE) near a number of offshore prehistoric archaeological sites (i.e., 8DI0051 and 8DI0052), the project area was determined to have a moderate potential for containing intact cultural resources. As such, the Corps contracted Panamerican Consultants, Inc. (Panamerican) to identify historic properties that may be located within the APE. This survey is documented in the enclosed draft report; *Submerged Cultural Resources Remote Sensing Survey for the Horseshoe Cove Navigation Channel, Dixie County, Florida*.

The Panamerican submerged cultural resources survey of the APE utilized a magnetometer, sidescan sonar, and a subbottom profiler. A total of 61 magnetic anomalies, two sidescan sonar targets, and no subbottom paleofeatures were recorded during the survey. Analysis of the magnetic data indicates that of the 61 magnetic anomalies, 27 anomalies are classified as single-point sources, 20 anomalies are associated with channel markers, 9 represent dock infrastructure, 3 are comprised of nonsignificant debris, and 2 represent unknown features. Both of the sidescan sonar contacts, one with associated anomalies and one without, are nonsignificant. All the anomalies and sonar contacts are considered nonsignificant with the exception of two anomalies that form a cluster close to the shore; however, these two anomalies are located over 100 feet outside and to the west of the APE. Based on the results of this survey, the Corps has determined that periodic maintenance dredging of the Horseshoe Cove federal navigation channel and turning basin and placement of the dredged material in the upland disposal area poses no effect to historic properties listed or eligible for listing in the National Register of Historic Places.

Pursuant to Section 106 of the National Historic Preservation Act (16 USC 470), as amended and its implementing regulations (36 CFR 800), and in consideration of the Corps' Trust Responsibilities to the Seminole Nation of Oklahoma, the Corps kindly requests your comments on the determination of no effect and Panamerican's draft report entitled; *Submerged Cultural Resources Remote Sensing Survey for the Horseshoe Cove Navigation Channel, Dixie County, Florida*. If there are any questions or comments, please contact Ms. Meredith Moreno at (904) 232-1577 or by e-mail at [meredith.a.moreno@usace.army.mil](mailto:meredith.a.moreno@usace.army.mil).

Sincerely,



Gina Paduano Ralph, Ph.D.  
Environmental Branch Chief, Planning Division  
Planning and Policy Division

Enclosures

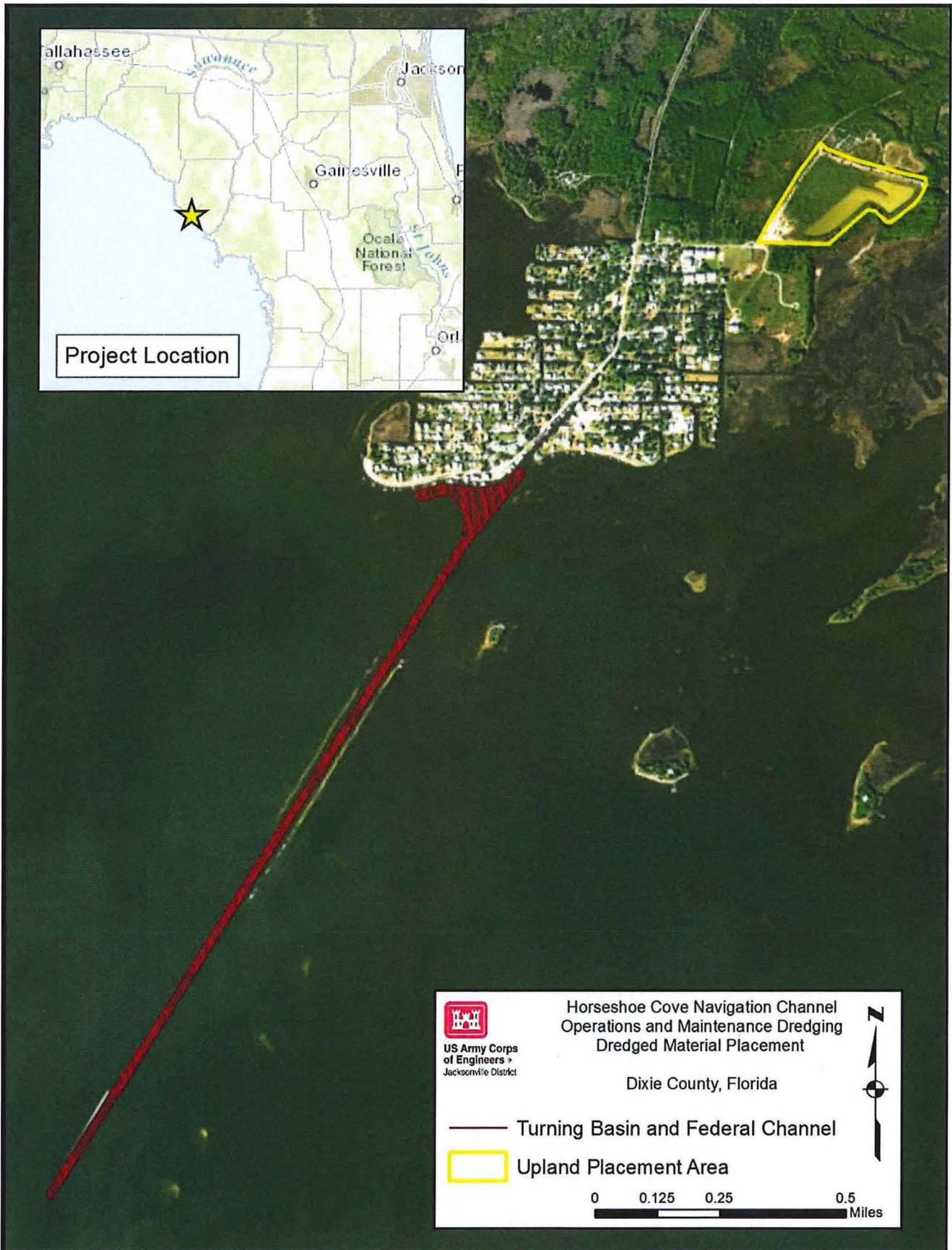


Figure 1. Horseshoe Cove Navigation Channel, Turning Basin, and Upland Placement Area.



DEPARTMENT OF THE ARMY  
JACKSONVILLE DISTRICT CORPS OF ENGINEERS  
701 San Marco Boulevard  
JACKSONVILLE, FLORIDA 32207-8175

JUL 17 2017

Dr. Paul Backhouse, THPO  
Seminole Tribe of Florida  
Tribe Historic Preservation Office  
30290 Josie Billie Highway  
PMP 1004  
Clewiston, FL 33440

*Re: Submerged Cultural Resources Remote Sensing Survey for the Horseshoe Cove Navigation Channel, Dixie County, Florida*

Dear Dr. Backhouse:

The U.S. Army Corps of Engineers, Jacksonville District (Corps), is studying the environmental effects associated with periodic maintenance dredging of the Horseshoe Cove federal navigation channel and turning basin in Dixie County, Florida. Dredging is expected to occur on an "as-needed" basis in order to maintain safe navigation in the channel. The Horseshoe Cove channel is approximately 1.75-miles long and 75 feet wide with a turning basin located at the northern end of the project area adjacent to the shoreline. The proposed work consists of routine operations and maintenance dredging of an estimated 120,000 cubic yards of silt and silty sand from the federal channel and turning basin to obtain a depth of 7 feet (6 feet required project depth plus 1 foot allowable overdepth). Dredged material will be hydraulically pumped and placed in the previously used upland site, which is provided by the project sponsor, Dixie County. The upland site is approximately 30 acres and is located approximately 4,000 feet northeast of the dredging area (Figure 1).

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Pursuant to Section 106 of the National Historic Preservation Act (16 USC 470), as amended and its implementing regulations (36 CFR 800), and in consideration of the Corps' Trust Responsibilities and the Burial Resources Agreement with the Seminole Tribe of Florida, the Corps kindly requests your comments on the determination of no effect and Panamerican's draft report entitled; *Submerged Cultural Resources Remote Sensing Survey for the Horseshoe Cove Navigation Channel, Dixie County, Florida*. If there are any questions or comments, please contact Ms. Meredith Moreno at (904) 232-1577 or by e-mail at [meredith.a.moreno@usace.army.mil](mailto:meredith.a.moreno@usace.army.mil).

Sincerely,



Gina Paduano Ralph, Ph.D.  
Environmental Branch Chief, Planning Division  
Planning and Policy Division

Enclosures

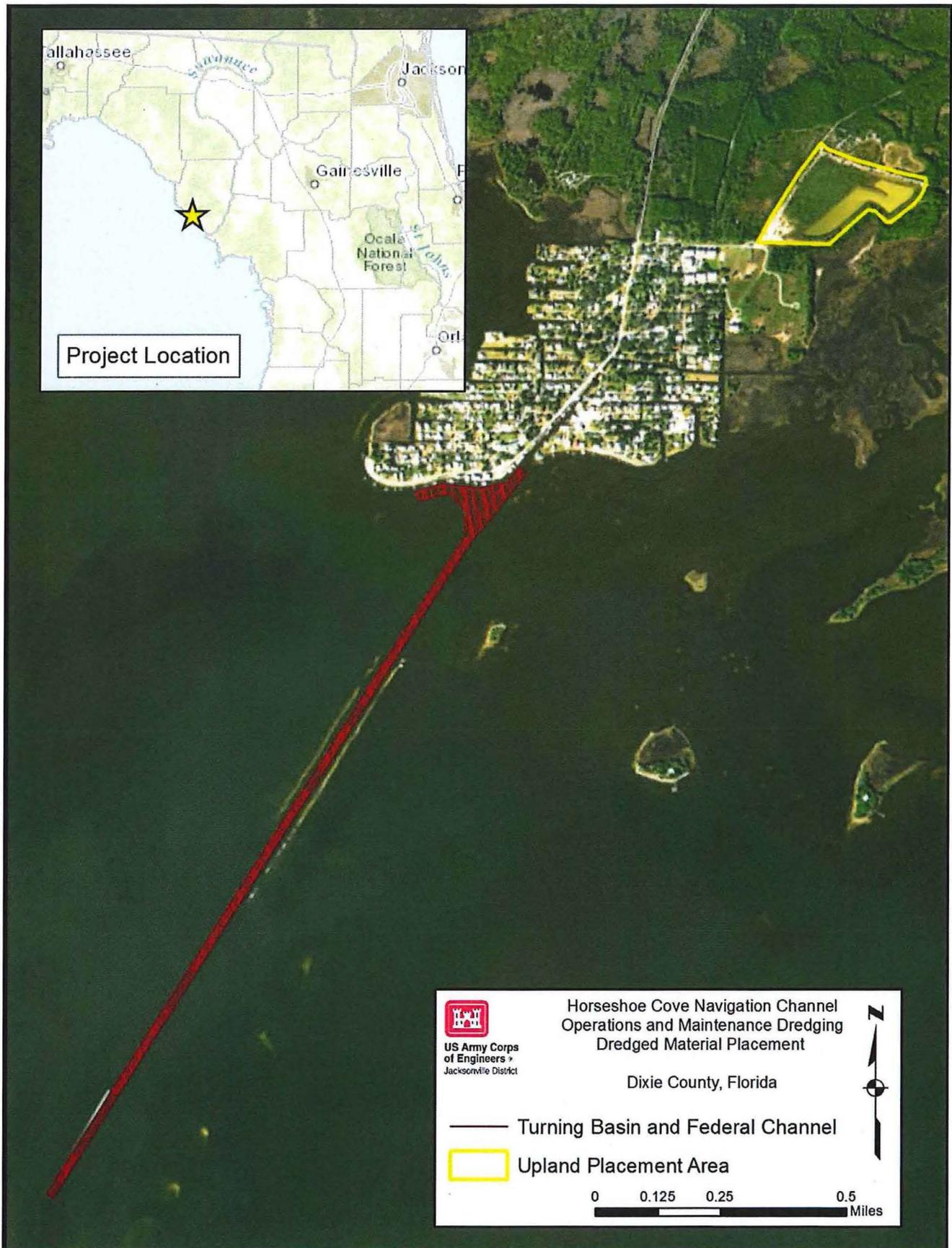


Figure 1. Horseshoe Cove Navigation Channel, Turning Basin, and Upland Placement Area.

**From:** [Sarchet, Aaron](#)  
**To:** [Hollingsworth, Michael J CIV USARMY CESAJ \(US\)](#)  
**Cc:** [Karch, Paul J CIV USARMY CESAJ \(US\)](#); [Scheler, Kristen L CIV USARMY CESAJ \(US\)](#); [SELLERS, Tracey Jordan \(Terri\) CIV USARMY CESAJ \(US\)](#)  
**Subject:** [EXTERNAL] RE: Horseshoe Cove Maintenance Dredging Draft Environmental Assessment Comments and Future ERP Exemption Notification  
**Date:** Thursday, September 14, 2017 11:36:25 AM  
**Attachments:** [image001.png](#)  
[image002.png](#)  
[image003.png](#)  
[NED RESPONSE - FL201708228126 PERIODIC MAINTENANCE DREDGING AND UPLAND DREDGED MATERIAL PLACEMENT OF THE HORSESHOE COVE FEDERAL NAVIGATION CHANNEL IN DIXIE COUNTY.PDF](#)

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Mike, Here is what we provided to the Clearinghouse on the draft EA. And yes, it appears as though the project still qualifies for the 403.813(1)(f) F.S. maintenance dredging exemption.

If you need anything else please let me know.

Thanks  
Aaron



### Aaron Sarchet

#### Environmental Specialist III

Florida Department of Environmental Protection  
Northeast District – Jacksonville  
8800 Baymeadows Way West, Suite 100  
Jacksonville, Florida 32256  
[aaron.sarchet@dep.state.fl.us](mailto:aaron.sarchet@dep.state.fl.us)  
Office: 904.256.1654  
Fax : 904.256.1587



**Permitting Consistency Initiative:** The Florida Department of Environmental Protection is committed to providing efficient, consistent and quality service to the citizens of Florida. In keeping with these objectives, we continue to identify ongoing improvements to our permitting process by standardizing and simplifying our documents. If you have recently received a permit, we'd love to hear from you! You're invited to take our 30 for 30 survey. It's quick, it's simple, and your comments will help us identify additional enhancements.



[Blockedhttps://www.surveymonkey.com/r/PermittingDEP](https://www.surveymonkey.com/r/PermittingDEP)

-----Original Message-----

From: Hollingsworth, Michael J CIV USARMY CESAJ (US)

[mailto:Michael.J.Hollingsworth@usace.army.mil]

Sent: Thursday, September 14, 2017 10:32 AM

To: Sarchet, Aaron <Aaron.Sarchet@dep.state.fl.us>

Cc: Karch, Paul J CIV USARMY CESAJ (US) <Paul.J.Karch@usace.army.mil>; Scheler, Kristen L CIV USARMY CESAJ (US) <Kristen.L.Scheler@usace.army.mil>; SELLERS, Tracey Jordan (Terri) CIV USARMY CESAJ (US) <Terri.Jordan-Sellers@usace.army.mil>

Subject: Horseshoe Cove Maintenance Dredging Draft Environmental Assessment Comments and Future ERP Exemption Notification

Aaron,

Good to hear you made it through the hurricane OK.

When you provide your comments to the Clearinghouse (Chris Stahl) on the draft EA for Horseshoe Cove Maintenance Dredging, if possible, please cc Kristen Scheler, Terri Jordan-Sellers and myself so that the comments can be incorporated into final document.

Regarding the exemption acknowledgement, we'll do a formal email notification in around 30 days and attach the plans and specs for the upcoming project; please provide the appropriate acknowledgement at that time. For reference, attached are the 2008 exemption verification with the 2008 project plans and the 403.813, F.S. language. Here is the project description for the upcoming project:

"Project work will be divided into a Base plus one option. The Base of work includes maintenance dredging of shoal material from Horseshoe Cove Entrance Channel and Turning Basin from station 100+00 to station 183+00. Option A includes the dredging of the Turning Basin from station 183+00 to station 190+73.6. The project depth is 6-foot with 1 foot of allowable overdepth. All excavated material will be placed in the designated upland disposal area located on average 1.9 statute miles from the project site. Work also includes turbidity monitoring, environmental species monitoring, bird monitoring, mobilization, and operation and maintenance of the disposal area at the direction of the Contracting Officer."

Let me know if you have any questions.

Thanks!

Mike H.

Mike Hollingsworth  
Biologist/Technical Lead  
Coastal Section  
Environmental Branch

USACE Jacksonville District  
(904) 232-1687  
[michael.j.hollingsworth@usace.army.mil](mailto:michael.j.hollingsworth@usace.army.mil)

-----Original Message-----

From: Hollingsworth, Michael J CIV USARMY CESAJ (US)  
Sent: Thursday, July 27, 2017 5:25 PM  
To: Aaron Sarchet ([Aaron.Sarchet@dep.state.fl.us](mailto:Aaron.Sarchet@dep.state.fl.us)) <[Aaron.Sarchet@dep.state.fl.us](mailto:Aaron.Sarchet@dep.state.fl.us)>  
Cc: Karch, Paul J CIV USARMY CESAJ (US) <[Paul.J.Karch@usace.army.mil](mailto:Paul.J.Karch@usace.army.mil)>  
Subject: RE: ERP Exemption Questions for Horseshoe Cove Maintenance Dredging and USMC Blount Island Dayson Island DMMA

Aaron,

I'm going to be out of the office tomorrow and Monday, so I'll check back in with you Tuesday. Paul may give you a call in the interim--mainly just to give you a "heads up" that we will be dredging the navigation channel at Horseshoe Cove again this winter and that we will be sending you an exemption notification sometime soon per 403.813, F.S.

Thanks.

Mike H.

-----Original Message-----

From: Hollingsworth, Michael J CIV USARMY CESAJ (US)  
Sent: Thursday, July 27, 2017 1:18 PM  
To: Aaron Sarchet ([Aaron.Sarchet@dep.state.fl.us](mailto:Aaron.Sarchet@dep.state.fl.us)) <[Aaron.Sarchet@dep.state.fl.us](mailto:Aaron.Sarchet@dep.state.fl.us)>  
Subject: ERP Exemption Questions for Horseshoe Cove Maintenance Dredging and USMC Blount Island Dayson Island DMMA

Aaron,

Would you happen to be around this afternoon for a brief phone call? Paul Karch and I have a couple of minor ERP questions regarding Horseshoe Cove Maintenance Dredging (DEP File No. 15-163891-002-EE) and dewatering during some internal dike repairs at DMMA Dayson Island (Blount Island Marine Corps Maintenance Dredging Exemption (DEP File No. 16-183955-08). Exemption info is attached...

Thanks.

Mike H.

Mike Hollingsworth  
Biologist/Technical Lead  
Coastal Section  
Environmental Branch  
USACE Jacksonville District  
(904) 232-1687  
[michael.j.hollingsworth@usace.army.mil](mailto:michael.j.hollingsworth@usace.army.mil)





# Florida Department of Environmental Protection

Northeast District Office  
7825 Baymeadows Way, Suite 200B  
Jacksonville, Florida 32256-7590

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

Voice: 904-807-3300 Fax: 904-448-4366

## SUBMERGED LANDS AND ENVIRONMENTAL RESOURCES PROGRAM

May 29, 2008

Horseshoe Cove Channel  
c/o James McAdams  
Department of the Army  
Post Office Box 4970  
Jacksonville, Florida 32232-0019

DEP File No.: 15-163891-002-EE

Dear Sir:

Thank you for your request to the Department for authorization to maintenance dredge the Horseshoe Cove navigational channel. The project was originally permitted in 1993 under Wetland Resource Management Permit No. 152332759. The permit expired in 1998. The applicant (USACOE) received a maintenance dredge exemption verification in 2000. The proposed maintenance dredge project is located in the Gulf of Mexico, south of the town of Horseshoe Beach, within the boundaries of the Big Bend Seagrass Aquatic Preserve, Outstanding Florida Waters, Class II Waters, conditionally approved and prohibited shellfish harvesting areas, Dixie County. This type of activity requires authorization for construction and operation of the project (regulatory authorization), authorization to use state-owned submerged lands (proprietary authorization), and federal authorization for works in waters of the United States through the State Programmatic General Permit (SPGP) program. Your request has been reviewed for all three authorizations. The authorizations you have been granted are listed below. Please read each section carefully. Your project **may not** have qualified for all three authorizations. If your project did not qualify for one or more of the authorizations that specific section will advise you how to obtain it. You may **NOT** commence your project without all three authorizations. If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

### REGULATORY AUTHORIZATION - EXEMPTION VERIFIED

**Your project is exempt from the need for an Environmental Resource Permit (ERP).** This determination is based solely on the information provided the Department and the statutes and rules in effect when the application was submitted and is effective only for the specified activity. This determination shall automatically expire if site conditions materially change or the governing statutes or rules are amended. In addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required. In any event, this determination shall expire after one year. You must comply with the attached criteria and limiting conditions in accordance with Section 403.813(2)(f), Florida Administrative Code.

Authority for review - Part IV of Chapter 373, F.S., Title 62, F.A.C. and in accordance to Operating Agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C.

Horseshoe Cove Channel  
DEP File No.: 15-163891-002-EE  
May 29, 2008

**PROPRIETARY REVIEW - AUTHORIZATION GRANTED**

Your project occurs on state-owned, submerged land and will require authorization from the Department to use these lands for private purposes. The Department has reviewed your project as described above and on the attached documents and/or drawings, and as long as the work performed is located within the boundaries as described and is consistent with the terms and conditions therein, we find your project qualifies for a consent to use state-owned submerged lands. **As such, consider this letter to also constitute authorization to perform the activity. This consent is conditioned upon acceptance of and compliance with the attached General Consent Conditions.**

Authority for review - Chapter 253 and Chapter 258, F.S., and Chapter 18-21, F.A.C., and Chapter 18-20, F.A.C. if located in an aquatic preserve, and Section 62-343.075 as required.

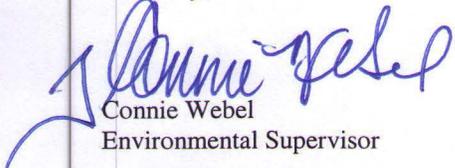
**SPGP - REVIEW - AUTHORIZATION NOT GRANTED**

Your project has been reviewed for compliance with a State Programmatic General Permit (SPGP). Your proposed activity as outlined on the attached drawings does **NOT meet the criteria for compliance with the U.S. Army Corps of Engineers (Corps) State Programmatic General Permit (SPGP)**. A copy of your notice has been sent to the U. S. Army Corps of Engineers (USACOE) for review. The USACOE may require a separate permit **Failure to obtain this authorization prior to construction could subject you to enforcement action by that agency**. For further information, you should contact the USACOE at 904-232-1661.

Authority for review - an agreement with the U.S. Army Corps of Engineers entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) 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".

If you have any questions, please contact me at 904-807-3376 or via my Internet E-mail address at [Connie.webel@dep.state.fl.us](mailto:Connie.webel@dep.state.fl.us). When referring to your project please use the DEP File number listed above.

Sincerely,



Connie Webel  
Environmental Supervisor

CW/lb

- Enclosures      Exemption Criteria and Limiting Conditions 403.813(2)(f)  
                         Lease/Easement Information Package as Applicable  
                         USACOE Specific Condition as Applicable  
                         General Consent of Use Conditions as Applicable
- COPY              USACOE, Jacksonville  
                         Big Bend Seagrasses Aquatic Preserve

CF: 02W F ✓



# Department of Environmental Protection

Jeb Bush  
Governor

Marjory Stoneman Douglas Building  
3900 Commonwealth Boulevard  
Tallahassee, Florida 32399-3000

David B. Struhs  
Secretary

December 6, 2000

Mr. Richard E. Bonner, P.E.  
Deputy District Engineer  
Project Management Division  
U.S. Army Corps of Engineers  
Post Office Box 4970  
Jacksonville, Florida 32232-0019

Re: Exemption from permit requirements  
Project : Horseshoe Cove Maintenance Dredging

Dear Mr. Bonner:

This is to acknowledge receipt of your application to Maintenance Dredge the Horseshoe Cove navigation channel. The proposed maintenance dredging project is located in the Gulf of Mexico, south of the town of Horseshoe Beach, within the boundaries of the Big Bend Seagrass Aquatic Preserve, Outstanding Florida Waters, Class II Waters, conditionally approved and prohibited shellfish harvesting areas, Dixie County.

The project was originally permitted in 1993 under Wetland Resource Management Permit No. 152332769. The permit expired in 1998. The applicant (USACOE) applied for a new Environmental Resource Permit (ERP) in 1999 (File No. 0163891-001-EI).

Based upon the application information (File No. 0163891-001-EI), forms, drawings, construction plans and specifications and other documents submitted to date, the proposed project appears to qualify as an activity which is exempt from the need for a Department coastal construction permit under Chapter 161.041 Florida Statutes, and the need for an environmental resource permit under Chapter 373.406, Florida Statutes and Chapter 403.813, Florida Statutes.

Per s. 403.813(2)(f), F.A.C., the Department has determined that the project as proposed is exempt from the permit requirements specified in Chapter 373, Florida Statutes. This decision in part was made because the project was conducted previously without incident; the project has become routine in nature; and per s. 373.406(6), F.A.C., the proposed project is expected to have only minimal or insignificant individual or cumulative adverse impacts on the water resources of the state. Also, the applicant has demonstrated that the project currently proposed meets the exemption criteria specified under s. 403.813(2)(f), F.A.C., in that the spoil material is to be

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Mr. Richard E. Bonner  
December 6, 2000  
Page 2

removed and deposited in a self-contained, upland spoil site which will prevent the escape of the spoil material into the waters of the state. Also, per the construction plans and specifications provided for the proposed project, it is apparent that the work will be conducted in compliance with s. 370.12(2)(d), F.A.C., and that best management practices for sediment control will be utilized to prevent turbidity violations during the maintenance dredging operation.

This determination is based solely on the information provided to the Department and the statutes and rules in effect when the application was submitted. This determination may not be valid if changes occur to the statutes and rules. In addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required.

This determination (that your activity qualifies for an exemption) does not relieve you from the need to comply with all applicable water quality standards during the construction. Activities conducted under this exemption must be executed using appropriate best management practices and in a manner which does not cause water quality violations, pursuant to rule 62-302, F.A.C. All construction related activities will be conducted in a manner which strictly adheres to the construction plans and specification developed for this project.

This letter does not relieve you of the responsibility to obtaining other permits (Federal, State, or local) which may be required for the project.

The determination that your project qualifies as an exempt activity pursuant to s. 373.406(6), F.A.C., and s. 403.813(2)(f), F.A.C., may be revoked if the project is substantially modified, or if the basis for the exemption is determined to be materially incorrect, or if the project results in water quality violations. Any changes made in the construction plans or location of the project may necessitate a permit or certification from the Department. Therefore, you are advised to contact the Department before beginning the project and before beginning any work in waters or wetlands that are not specifically described in your submittal.

This letter acknowledges that the proposed activity is exempt from permitting requirements and is a final determination unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57, Florida Statutes, before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth in the attached notice.

Be advised that your neighbors and other parties who may be substantially affected by the proposed activity allowed under this determination of exemption have a right to request an administrative hearing on the Department's decision that the proposed activity qualifies for this exemption.

Because the administrative hearing process is designed to redetermine final agency action on the application, the filing of a petition for an administrative hearing may result in a final determination that the proposed activity is not authorized under the exemption established above. If a timely

and sufficient petition for an administrative hearing or request for an extension of time to file a petition is timely filed, this determination automatically becomes only proposed agency action subject to the result of the administrative review process. Accordingly, the applicant is advised not to commence construction or other activities under this determination until the deadlines noted in the attached notice for filing a petition for an administrative hearing or request for an extension of time has expired.

Under rule 62-110.106(4), 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.

The Department will not publish notice of this determination. *Publication of this notice by you is optional and not required for you to proceed.* However, in the event that an administrative hearing is held and the Department's determination is reversed, proceeding with the proposed activity before the time period for requesting an administrative hearing has expired would mean that the activity was conducted without the required permits.

If you wish to limit the time within which *all* substantially affected persons may request an administrative hearing, you may elect to publish, at your own expense, the attached notice in the legal advertisement section of a newspaper of general circulation in the county where the activity is to take place. A single publication will suffice.

If you wish to limit the time within which any *specific* person(s) may request an administrative hearing, you may provide such person(s), by certified mail, a copy of this determination, including the attached notice.

For the purposes of publication, a newspaper of general circulation means a newspaper meeting the requirements of sections 50.011 and 50.031, F.S. In the event you do publish this notice, within seven days of publication, you must provide to the following address a certification or affidavit of publication issued by the newspaper. If you provide direct written notice to any person as noted above, you must provide to the following address a copy of the direct written notice.

Mr. Richard E. Bonner  
December 6, 2000  
Page 4

Please see attached a copy of the exemption and note that all specific conditions in the rule must be met in order to qualify for this exemption. If you have any questions, please contact Mr. Michael C. Corrigan at 850/487-4471 ext.122.

Sincerely,



Alfred B. Devereaux, Jr., Director  
Office of Beaches and Coastal Systems

mcc/ABD

cc:

Jeremy Tyler, Program Administrator-DEP/Northeast District Office  
Matt Miller, USACE, Jacksonville  
Don Fore, USACE, Jacksonville  
Seth Blich, DEP, Crystal River  
David Heuberger, DACS, Cedar Key  
OBCS File

# **Attachment A**

## **Exemption Citations**

### 373.406 Exemptions. ---

The following exemptions shall apply:

- (1) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any natural person to capture, discharge, and use water for purposes permitted by law.
- (2) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to affect the right of any person engaged in the occupation of agriculture, silviculture, floriculture, or horticulture to alter the topography of any tract of land for purposes consistent with the practice of such occupation. However, such alteration may not be for the sole or predominant purpose of impounding or obstructing surface waters.
- (3) Nothing herein, or in any rule, regulation, or order adopted pursuant hereto, shall be construed to be applicable to construction, operation, or maintenance of any agricultural closed system. However, part II of this chapter shall be applicable as to the taking and discharging of water for filling, replenishing, and maintaining the water level in any such agricultural closed system. This subsection shall not be construed to eliminate the necessity to meet generally accepted engineering practices for construction, operation, and maintenance of dams, dikes, or levees.
- (4) All rights and restrictions set forth in this section shall be enforced by the governing board or the Department of Environmental Protection or its successor agency, and nothing contained herein shall be construed to establish a basis for a cause of action for private litigants.
- (5) The department or the governing board may by rule establish general permits for stormwater management systems which have, either singularly or cumulatively, minimal environmental impact. The department or the governing board also may establish by rule exemptions or general permits that implement interagency agreements entered into pursuant to s. 373.046, s. 378.202, s. 378.205, or s. 378.402.
- (6) Any district or the department may exempt from regulation under this part those activities that the district or department determines will have only minimal or insignificant individual or cumulative adverse impacts on the water resources of the district. The district and the department are authorized to determine, on a case-by-case basis, whether a specific activity comes within this exemption. Requests to qualify for this exemption shall be submitted in writing to the district or department, and such activities shall not be commenced without a written determination from the district or department confirming that the activity qualifies for the exemption.
- (7) Nothing in this part, or in any rule or order adopted under this part, may be construed to require a permit for mining activities for which an operator receives a life-of-the-mine permit under s. 378.901.

**403.813 Permits issued at district centers; exceptions.**

(1) The secretary shall adopt procedural rules providing for a short-form application for, and issuance at the district centers of, permits for:

(a) Projects which affect less than 10 acres of jurisdictional area and are within the landward extent of waters of the state that are directly impacted by dredging or filling, including other areas severed from or connected to waters of the state as a result of dredge and fill activities.

(b) Docking facilities of less than 10 wet slips, which facilities do not provide commercial or marine supplies or services.

(c) New seawalls or similar structures which do not exceed 500 linear feet of shoreline.

(d) The installation of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters of the state carrying water, electricity, communication cables, oil, and gas, except as exempted by paragraph (2)(m) or paragraph (2)(n).

(e) Other similar projects that are limited in scope as specified by rule.

(2) No permit under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, 1949, Laws of Florida, shall be required for activities associated with the following types of projects; however, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(a) The installation of overhead transmission lines, with support structures which are not constructed in waters of the state and which do not create a navigational hazard.

(b) The installation and repair of mooring pilings and dolphins associated with private docking facilities or piers and the installation of private docks, piers and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity's activities will not take place in any manatee habitat, any of which docks:

1. Has 500 square feet or less of over-water surface area for a dock which is located in an area designated as Outstanding Florida Waters or 1,000 square feet or less of over-water surface area for a dock which is located in an area which is not designated as Outstanding Florida Waters;

2. Is constructed on or held in place by pilings or is a floating dock which is constructed so as not to involve filling or dredging other than that necessary to install the pilings;

3. Shall not substantially impede the flow of water or create a navigational hazard;

4. Is used for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia; and

5. Is the sole dock constructed pursuant to this exemption as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot.

Nothing in this paragraph shall prohibit the department from taking appropriate enforcement action pursuant to this chapter to abate or prohibit any activity otherwise exempt from permitting

pursuant to this paragraph if the department can demonstrate that the exempted activity has caused water pollution in violation of this chapter.

(c) The installation and maintenance to design specifications of boat ramps on artificial bodies of water where navigational access to the proposed ramp exists or the installation of boat ramps open to the public in any waters of the state where navigational access to the proposed ramp exists and where the construction of the proposed ramp will be less than 30 feet wide and will involve the removal of less than 25 cubic yards of material from the waters of the state, and the maintenance to design specifications of such ramps; however, the material to be removed shall be placed upon a self-contained upland site so as to prevent the escape of the spoil material into the waters of the state.

(d) The replacement or repair of existing docks and piers, except that no fill material is to be used and provided that the replacement or repaired dock or pier is in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired.

(e) The restoration of seawalls at their previous locations or upland of, or within 1 foot waterward of, their previous locations. However, this shall not affect the permitting requirements of chapter 161, and department rules shall clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.

**(f) The performance of maintenance dredging of existing manmade canals, channels, intake and discharge structures, and previously dredged portions of natural water bodies within drainage rights-of-way or drainage easements which have been recorded in the public records of the county, where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into the waters of the state, provided that no more dredging is to be performed than is necessary to restore the canals, channels, and intake and discharge structures, and previously dredged portions of natural water bodies, to original design specifications or configurations, provided that the work is conducted in compliance with s. 370.12(2)(d), provided that no significant impacts occur to previously undisturbed natural areas, and provided that control devices and best management practices for erosion and sediment control are utilized to prevent bank erosion and scouring and to prevent turbidity, dredged material, and toxic or deleterious substances from discharging into adjacent waters during maintenance dredging.** Further, for maintenance dredging of previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements, an entity that seeks an exemption must notify the department or water management district, as applicable, at least 30 days prior to dredging and provide documentation of original design specifications or configurations where such exist. This exemption applies to all canals and previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements constructed prior to April 3, 1970, and to those canals and previously dredged portions of natural water bodies constructed on or after April 3, 1970, pursuant to all necessary state permits. This exemption does not apply to the removal of a natural or manmade barrier separating a canal or canal system from adjacent waters. When no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund or the United States Army Corps of Engineers for construction or maintenance dredging of the existing manmade canal or intake or discharge structure, such maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water. The Board of Trustees of the Internal Improvement Trust Fund may fix and recover from the permittee an amount equal to the difference between the fair market value and the actual cost of the maintenance dredging for material removed during such maintenance dredging. However, no charge shall be exacted by the state for material removed during such

maintenance dredging by a public port authority. The removing party may subsequently sell such material; however, proceeds from such sale that exceed the costs of maintenance dredging shall be remitted to the state and deposited in the Internal Improvement Trust Fund.

(g) The maintenance of existing insect control structures, dikes, and irrigation and drainage ditches, provided that spoil material is deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into waters of the state. In the case of insect control structures, if the cost of using a self-contained upland spoil site is so excessive, as determined by the Department of Health, pursuant to s. 403.088(1), that it will inhibit proposed insect control, then-existing spoil sites or dikes may be used, upon notification to the department. In the case of insect control where upland spoil sites are not used pursuant to this exemption, turbidity control devices shall be used to confine the spoil material discharge to that area previously disturbed when the receiving body of water is used as a potable water supply, is designated as shellfish harvesting waters, or functions as a habitat for commercially or recreationally important shellfish or finfish. In all cases, no more dredging is to be performed than is necessary to restore the dike or irrigation or drainage ditch to its original design specifications.

(h) The repair or replacement of existing functional pipes or culverts the purpose of which is the discharge or conveyance of stormwater. In all cases, the invert elevation, the diameter, and the length of the culvert shall not be changed. However, the material used for the culvert may be different from the original.

(i) The construction of private docks and seawalls in artificially created waterways where such construction will not violate existing water quality standards, impede navigation, or affect flood control. This exemption does not apply to the construction of vertical seawalls in estuaries or lagoons unless the proposed construction is within an existing manmade canal where the shoreline is currently occupied in whole or part by vertical seawalls.

(j) The construction and maintenance of swales.

(k) The installation of aids to navigation and buoys associated with such aids, provided the devices are marked pursuant to s. 327.40.

(l) The replacement or repair of existing open-trestle foot bridges and vehicular bridges that are 100 feet or less in length and two lanes or less in width, provided that no more dredging or filling of submerged lands is performed other than that which is necessary to replace or repair pilings and that the structure to be replaced or repaired is the same length, the same configuration, and in the same location as the original bridge. No debris from the original bridge shall be allowed to remain in the waters of the state.

(m) The installation of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters in the state, except in Class I and Class II waters and aquatic preserves, provided no dredging or filling is necessary.

(n) The replacement or repair of subaqueous transmission and distribution lines laid on, or embedded in, the bottoms of waters of the state.

(o) The construction of private seawalls in wetlands or other surface waters where such construction is between and adjoins at both ends existing seawalls; follows a continuous and uniform seawall construction line with the existing seawalls; is no more than 150 feet in length; and does not violate existing water quality standards, impede navigation, or affect flood control. However, in estuaries and lagoons the construction of vertical seawalls is limited to the circumstances and purposes stated in s. 373.414(5)(b)1.-4. This paragraph does not affect the permitting requirements of chapter 161, and department rules must clearly indicate that this exception does not constitute an exception from the permitting requirements of chapter 161.

(p) The restoration of existing insect control impoundment dikes which are less than 100 feet in length. Such impoundments shall be connected to tidally influenced waters for 6 months each year beginning September 1 and ending February 28 if feasible or operated in accordance with an impoundment management plan approved by the department. A dike restoration may involve no more dredging than is necessary to restore the dike to its original design specifications. For the purposes of this paragraph, restoration does not include maintenance of impoundment dikes of operating insect control impoundments.

(q) The construction, operation, or maintenance of stormwater management facilities which are designed to serve single-family residential projects, including duplexes, triplexes, and quadruplexes, if they are less than 10 acres total land and have less than 2 acres of impervious surface and if the facilities:

1. Comply with all regulations or ordinances applicable to stormwater management and adopted by a city or county;
2. Are not part of a larger common plan of development or sale; and
3. Discharge into a stormwater discharge facility exempted or permitted by the department under this chapter which has sufficient capacity and treatment capability as specified in this chapter and is owned, maintained, or operated by a city, county, special district with drainage responsibility, or water management district; however, this exemption does not authorize discharge to a facility without the facility owners prior written consent.

(r) The removal of aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, or the associated removal from lakes of organic material when such planting or removal is performed and authorized by permit or exemption granted under s. 369.20 or s. 369.25, if:

1. Organic material that exists on the surface of natural mineral soil shall be allowed to be removed to a depth of 3 feet or to the natural mineral soils, whichever is less.
2. All organic material removal pursuant to this subsection shall be deposited in an upland site in a manner that will prevent the reintroduction of the material into waters in the state except when spoil material is permitted to be used to create wildlife islands in freshwater bodies of the state when a governmental entity is permitted pursuant to this section to create such islands as a part of a restoration or enhancement project.
3. All activities are performed in a manner consistent with state water quality standards.

The department may not adopt implementing rules for this paragraph, notwithstanding any other provision of law.

(3) The provisions of subsection (2) are superseded by general permits established pursuant to ss. 373.118 and 403.814 which include the same activities. Until such time as general permits are established, or should general permits be suspended or repealed, the exemptions under subsection (2) shall remain or shall be reestablished in full force and effect.

History: s. 7, ch. 75-22; s. 143, ch. 77-104; s. 4, ch. 78-98; s. 1, ch. 78-146; s. 86, ch. 79-65; s. 1, ch. 80-44; s. 8, ch. 80-66; s. 3, ch. 82-80; s. 6, ch. 82-185; s. 65, ch. 83-218; s. 69, ch. 83-310; s. 43, ch. 84-338; s. 39, ch. 85-55; s. 12, ch. 86-138; s. 44, ch. 86-186; ss. 1, 3, ch. 89-324; s. 4, ch. 96-238; s. 3, ch. 97-22; s. 3, ch. 98-131; s. 163, ch. 99-8; s. 1, ch. 2000-145.