

MEMORANDUM FOR RECORD

SUBJECT: Supplement to the Department of the Army Environmental Assessment and Statement of Findings for the Above-numbered Permit.

1. Applicants:

- a. Address: Florida Department of Transportation (FDOT) District 4
Attn: Binod Basnet
3400 W. Commercial Blvd.
Ft. Lauderdale, Florida 33309

Palm Beach County (County)
Attn: Morton Rose
2300 North Jog Road
West Palm Beach, Florida 33411

2. Background: On 19 June 2017, the Corps initially proffered an unsigned Department of the Army (DA) permit instrument to the applicants listed in Section 1 above to provide the applicants an opportunity to review the terms and conditions of the permit prior to final signature by the Department of the Army. The applicants reviewed the permit and on 11 July 2017, provided a request to modify portions of the permit .

3. Proposed Minor Modifications to Permit: The applicants requested the following modifications to portions of the initially proffered permit.

- a. Project Description: Increase the direct fill material over non-tidal wetlands from 58.52 acres to 59.97 acres. Reduce the secondary wetland impacts from 161.87 acres to 159.96 acres. Increase the number of pages of permit drawings from 14 to 19 based to accurately reflect adjusted impact acreage.

Given these changes, the updated project description would read as follows:

Project Description: The Permittees are authorized to discharge fill material over 59.97 acres of non-tidal wetlands along the existing 4.4-mile and proposed 4.1-mile roadway corridor. The secondary impacts of the project will impact 159.96 acres of additional wetlands. The project seeks to widen the existing two lanes to a four-lane divided roadway from Okeechobee Boulevard to 60th Street North (Segment 1). In addition, the project involves constructing a new section of roadway from 60th Street North to Northlake Boulevard, north of the current roadway alignment (Segment 2). The proposed project design includes the creation of stormwater management facilities within the existing right-of-way for

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water quality treatment and flow attenuation. The work described above is to be completed in accordance with the 19 pages of drawings and 5 other attachments affixed at the end of this permit instrument.

b. Special Condition 10. Mitigation Credit Debit: The number of Uniform Mitigation Assessment Method (UMAM) credits debited from the Dupuis Permittee Responsible Off-site Mitigation Area (PROMA) would change as follows:

- (1) Increase herbaceous UMAM credits from 34.71 to 39.96.
- (2) Increase forested UMAM credits from 50.45 to 50.53.
- (3) Increase total UMAM credits debited from Dupuis PROMA from 85.16 to 90.49.

Given these changes, Special Condition 10 would read as follows:

10. Mitigation Credit Debit: In advance of or concurrent with the date of initiating the authorized work the Permittees shall provide verification to the Corps that 39.96 herbaceous Uniform Mitigation Assessment Method (UMAM) credits and 50.53 forested UMAM credits, for a total of 90.49 UMAM credits have been debited from the Dupuis Permittee Responsible Off-site Mitigation Area (PROMA) (Department of the Army permit number SAJ-1992-00851). The required verification shall reference this project's permit number (SAJ-2015-01094).

c. Special Condition 12. On-Site Rangeline Mitigation: The on-site wetland restoration area acreage decreased from 54.8 acres to 52.4 acres. The easternmost 170 feet (typical) of the corridor ROW would change to read 160-170 feet (typical) of the corridor.

Given these changes, Special Condition 12 would now read as follows:

12. On-Site Rangeline Mitigation: In addition to required compensatory mitigation, the Permittees shall complete an on-site wetland restoration area, which totals an estimated 52.4 acres in the easternmost 160-170 feet (typical) of the corridor ROW between the M-Canal and Northlake Blvd. Within 6 months from the date of initiating the work authorized by this permit, the Permittees shall complete the mitigation objectives in accordance with the mitigation plan (Attachment 3) and shall protect the 52.4 acres through preservation under a legally sufficient conservation easement.

c. Special Condition 13. Off-Site Rangeline Preservation: The proposed impacts to mitigate would increase from 58.52 acres to 59.97 acres.

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Given these changes, Special Condition 13 would read as follows:

13. Off-Site Rangeline Preservation: The Permittees shall mitigate the proposed impacts to 59.97 acres of snail kite foraging, nesting, and perching/roosting habitat through preservation and conservation of over 216 acres of ideal forested upland, marsh, and forested wetland and upland habitats within three sections of SR 7 Rangeline located outside of the project corridor: 1) Okeechobee Blvd. to M-Canal; 2) Northlake Blvd. to SR 710; and 3) SR 710 to Jupiter Farms as depicted in Attachment 1.

d. Special Condition 14. On-Site Conservation Easement: The area the conservation easement encompasses decreases from 54.8 acres to 52.4 acres.

Given these changes, Special Condition 14 would now read as follows:

14. On-Site Conservation Easement: In advance of or concurrent with initiating the work authorized by this permit the Permittees shall have a legally sufficient conservation easement prepared and recorded to ensure to the Corps' satisfaction that the areas referenced in the On-site Rangeline Mitigation Special Condition will remain in their natural state in perpetuity. The conservation easement will encompass 52.4 acres of wetlands and uplands as depicted in Attachment 1. These natural preserve areas will not be disturbed by any dredging, filling, land clearing, agricultural activities, planting, or other construction work whatsoever except as required or authorized by this permit. The Permittees agree that the only future utilization of the preserved areas in question will be as a purely natural area. To show compliance with this condition the Permittees shall complete the following:

a. Within 30 days prior to initiating the authorized work submit to the Corps and U.S. Fish and Wildlife Service (USFWS) the draft conservation easement document with a legal description, survey, and scale drawings, of the area in question. The Corps and USFWS shall have all rights of the Grantee in the conservation easement. The following paragraph shall be incorporated in the On-site mitigation conservation easement document:

Rights of U.S. Army Corps of Engineers (Corps) and U.S. Fish and Wildlife Service (USFWS). The Corps and USFWS, as third-party beneficiaries, shall have the right to enforce the terms and conditions of this Conservation Easement, including:

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(1) The right to take action to preserve and protect the environmental value of the Property;

(2) The right to prevent any activity on or use of the Property that is inconsistent with the purpose of this Conservation Easement, and to require the restoration of areas or features of the Property that may be damaged by any inconsistent activity or use;

(3) The right to enter upon and inspect the Property in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement;

(4) The right to enforce this Conservation Easement by injunction or proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and the right to require Grantor, or its successors or assigns, to restore such areas or features of the Property that may be damaged by any inconsistent activity or use or unauthorized activities; and

The Grantor, including their successors or assigns, shall provide the Corps and USFWS at least 60 days advance notice in writing before any action is taken to amend, alter, release, or revoke this Conservation Easement. The Grantee shall provide reasonable notice and an opportunity to comment or object to the release or amendment to the Corps and USFWS. The Grantee shall consider any comments or objections from the Corps and/or USFWS when making the final decision to release or amend this Conservation Easement.

b. Within 30 days prior to the date of initiating the authorized work submit to the Corps and USFWS a title insurance commitment with the draft conservation easement document, IN FAVOR OF THE GRANTEE, for the property which is being offered for preservation to show that the Permittees have clear title to the real property and can legally place it under a conservation easement. Any existing liens or encumbrances on the property shall be subordinated to the conservation easement. At the time of recordation of the conservation easement, a title insurance policy shall be provided to the Corps and USFWS in an amount equal to the current market value of the unencumbered property.

c. Within 30 days of Corps' approval of the draft conservation easement, the Permittees will record the easement in the public records of Palm Beach County, Florida. A certified copy of the recorded document, plat, and verification of acceptance from the grantee shall be forwarded to the Corps and USFWS within 30 days of Corps' and USFWS's approval of the draft conservation easement.

d. In the event this permit is transferred, proof of delivery of a copy of the recorded conservation easement to the subsequent Permittee or Permittees shall be submitted to the Corps and USFWS together with the notification of permit transfer.

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The Corps and USFWS shall be notified in writing of any intention to reassign the conservation easement to a new grantee and shall approve the selection of the grantee. The new grantee shall accept the assignment in writing and a copy of this acceptance delivered to the Corps and USFWS. The conservation easement shall then be re-recorded and indexed in the same manner as any other instrument affecting title to real property and a copy of the recorded conservation easement furnished to the Corps and USFWS. If the Permittees do not receive Corps approval of the grantee, the Corps may determine that the mitigation site is no longer appropriate and may require alternative mitigation.

e. The attachments page would include a revised number of permit drawing pages from 15 to 19 and the date of the drawings would change from 7 July 2015 to 9 July 2015. The mitigation plan would change from 58 pages to 234 pages to include additional mitigation background information.

4. Proposed Corrections to the Environmental Assessment and Statement of Findings, dated 19 June 2017:

a. All references to the direct impacts of 58.52 acres of non-tidal wetlands would be changed to 59.97 acres.

b. All references to the secondary impact of 161.87 acres of non-tidal wetlands would be changed to 159.96 acres.

c. All references to the mitigation credit debits from the Dupuis Permittee Responsible Off-site Mitigation Area (PROMA) would be amended as follows:

- (1) Herbaceous UMAM credits changed from 34.71 to 39.96.
- (2) Forested UMAM credits changed from 50.45 to 50.53.
- (3) Total UMAM credits debited from Dupuis PROMA changed from 85.16 to 90.49.

d. All references to the on-site rangeline mitigation changed from 54.8 acres to 52.4 acres.

5. Determination: The Corps has reviewed all pertinent information in the proposed applicants' request to modify portions of the initial proffered permit and has concluded that these modifications are insignificant and the previous determinations for this permit evaluation remain valid. Therefore, the requested minor modifications noted in this Supplement shall be incorporated into the Environmental Assessment and Statement of Findings, dated 19 June 2017 and the proffered DA permit for this project.

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Prepared By:



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Date: 17 July 2017

Reviewed By:

ANDREW A. KIZLAUSKAS
Chief, Panama City Permits Section

Date: 17 July 2017

Approved By:



JASON A. KIRK, P.E.

For Colonel, EN
Commanding

Date: 17 July 2017