

b. That all activities authorized herein shall, if they involve construction or operation in any navigable waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards and management practices established pursuant to the Federal Water Pollution Control Act of 1972 (P.L. 92-500, 86 Stat. 816), the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-552, 86 Stat. 1052), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementor on plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

f. That the permittee agrees that he will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

g. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

h. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

i. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall include: (1) the date of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee. The permittee shall take immediate steps to comply with the provisions of this notice. Within ten days following receipt of the notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee, if no hearing is requested, the permit will either be reinstated, modified or revoked.

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any condition of this permit that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same. Unless (1) within the 30-day period the permittee is able to satisfactorily demonstrate that no such alleged violation of the terms and conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation, the conduct of this hearing and the procedures for making a final decision as to whether to modify, suspend or revoke the permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

l. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its location.

That if the activity authorized herein is not started within the period of _____ day(s) from the date of issuance of this permit unless otherwise specified and is not completed on or before _____ day of _____ 19____, this permit shall expire _____ year(s) from the date of issuance of this permit, unless otherwise specified. If the permit is not previously revoked or specifically extended, then automatically expire.

p. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

q. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition 1 hereof, he must restore the area to a condition satisfactory to the District Engineer.

r. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

s. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

t. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferor's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

ii. Special Conditions: (Here list conditions relating specifically to the proposed structure or work authorized by this permit)

a. The 570 acres proposed as a conservation/preservation area (Outer, Inner, and Upper Clam Bays and adjacent wetlands); which acreages includes the 35-acre and 5-acre proposed recreation area sites; and which also includes the two miles of beachfront that must be surveyed and land title conveyed to Collier County and recorded in public records within six (6) months of permit issue date or the permit is null and void. The recorded deed will be approved by the District Engineer and will contain the condition that the property conveyed shall remain a conservation/preservation area for the use of the public in perpetuity.

b. Mitigation of wetland fill by: (1) Creation of 22 acres of wetlands adjacent or west of the existing water management berm by scraping down uplands to intertidal elevations; (2) connection of 5 acres of nontidal ponds on the west side of the mangrove area to Upper Clam Bay by tidal ditches; (3) creation of 5 acres of shallow ponds on the east side and connection to the waters of Upper Clam Bay; (4) preservation of the proposed hardwood hammocks; and (5) enhancing approximately a 20-acre parcel within the mixed-mangroves, salt-barren habitat in the 35-acre area known as Proposed County Park near Clam Pass. This would include creation of an intertidal lake and channel system. The final location and alignment will be established by District personnel and other Federal representatives in the field.

c. There is to be no dredging allowed (by permit or otherwise) in Outer, Inner, and Upper Clam Bays, its connecting waterways and/or adjacent wetlands, or Clam Pass (except to maintain the opening to waters of Gulf of Mexico).

d. There are to be no bulkheads, piers, stillhouses, walkways, or other structures allowed in the Clam Bays system or adjacent wetlands connecting to private uplands. The existing wooden walkway and a similar proposed wooden walkway would be an exception as would small piers and walkways at the two Collier County recreation areas for access and nature interpretation purposes. Another exception would be structures such as water level gages, etc., and those used for collection of scientific and engineering data upon approval from Collier County.

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The following Special Conditions will be applicable when appropriate

STRUCTURES IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

a. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

b. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

c. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

d. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

e. Structures for Small Boats: That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

MAINTENANCE DREDGING

a. That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for _____ years from the date of issuance of this permit (ten years unless otherwise indicated):

b. That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES.

a. That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the FWPCA and published in 40 CFR 230.

b. That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities;

c. That the silt created by the discharge will be properly maintained to prevent erosion and other non-point sources of pollution; and

d. That the discharge will not occur in a component of the National Wild and Scenic River System or in a component of a State wild and scenic river system.

DUMPING OF DREDGED MATERIAL INTO OCEAN WATERS:

a. That the dumping will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR 220-226.

b. That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or dumping of the dredged material as authorized herein.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

Ross R. [Signature]
ROSS R. PERMITTEE ONLY, PRESIDENT
CAROL RIDGE - COLLIER PROPERTIES, INC
BY AUTHORITY OF THE SECRETARY OF THE ARMY
DATE 29 October 1981

DISTRICT ENGINEER,
U.S. ARMY, CORPS OF ENGINEERS

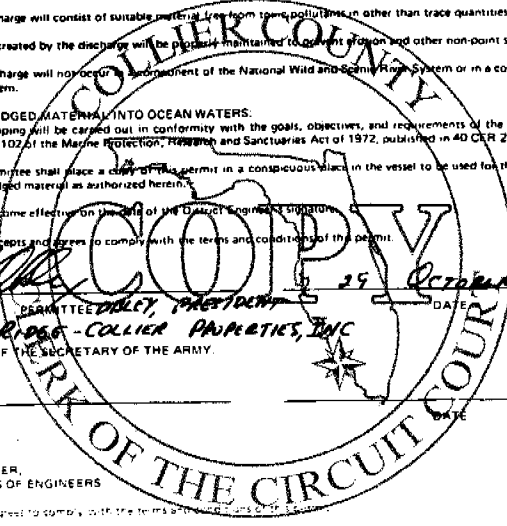
Transferee hereby agrees to comply with the terms and conditions of this permit.

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e. The drainage swale proposed between the western boundary of the fill and the beach dune ridge must remain in its natural vegetated condition and not be cleared of vegetation and/or filled.

f. No vegetative clearing of any wetlands is to be allowed without written approval of the appropriate State and Collier County departments responsible for such activities.

The undersigned permittee acknowledges that he has read the above special conditions, that they accurately reflect the present conditions of his project, that he is aware of each of the above special conditions, that he agrees to comply with each special condition, and he agrees that if, for any reason, any of these special conditions are not met as determined by the District Engineer, this permit automatically becomes suspended immediately, since any such violation of a special condition shall be deemed not in the general public interest. A suspension based upon a violation of one of the special conditions cannot be lifted until the violation has been completely resolved.

Ross P. Obley
PERMITTEE 29 October 1981 DATE
ROSS P. OBLEY, PRESIDENT
CORAL RIDGE - COLLIER PROPERTIES, INC.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Alfred G. Devereaux, Jr.
ALFRED G. DEVEREAUX, JR.
Colonel, Corps of Engineers
District Engineer
U.S. Army, Corps of Engineers

