

CESAJ-RD-SF

**MEMORANDUM FOR RECORD**

**SUBJECT:** Department of the Army Environmental Assessment and Statement of Finding for Permit Application SAJ-2007-04904 (IP-WDD)

This document constitutes the Environmental Assessment, 404(b)(1) Guidelines Evaluation, Public Interest Review, and Statement of Findings.

1. Application as described in the public notice:

a. Applicant:

Collier County  
Mr. Jay Ahmad  
2885 Horseshoe Drive South  
Naples, FL 34104

b. Waterway and site location: The project would affect waters of the United States associated with unnamed wetlands and surface waters connected to the CR 951 Canal. The project site is located long Collier Boulevard (CR 951) from Golden Gate Boulevard to the Golden Gate Canal, in Sections 2 and 3, Township 51 South, Range 26 East, and Sections 10, 11, 13, 14, 15, 22, 23, 26, 27, 34, and 35, Township 49 South, Range 26 East, in Collier County, Florida.

c. Approximate central coordinates:

Latitude           26.199942° North  
Longitude         81.687167° West

d. Project purpose and need:

(1) Basic: Road Expansion

(2) Overall: To expand a portion of Collier Boulevard from four (4) lanes to six (6) lanes

e. Water dependency determination: No

f. Existing conditions: The wetland system consists of freshwater wetlands including 1.64 acres of forested wetlands and 5.47 acres of canal within the project boundaries (total 7.11 acres). The onsite wetland vegetation consists of native vegetation including cabbage palm, cypress, and pine, and exotic vegetation including Brazilian pepper. The surrounding area consists of low and medium density residential and commercial land uses.

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- g. Proposed work: The applicant proposes to permanently impact approximately 1.64 acres of wetlands to construct two additional travel lanes along a 4.0 +/- mile section of CR 951, with associated stormwater management facilities. Approximately 5.47 acres of existing canal will be replaced with 6.27 ac of canal to accommodate the new lanes.
- h. Avoidance and minimization information: The applicant states that the project design reflects all practicable measures for avoidance and minimization of impacts, including for the placement of the stormwater management system. The project site, utilizing the existing road alignment, was the most practicable location for the activity. The project was planned and designed with a view to minimizing impacts to wetland resources, including best management practices in areas of wetland construction. Where possible, the design includes widening into the median rather than into the wetlands on either side of the road.
- i. Compensatory mitigation: The applicant proposes to purchase 1.36 freshwater forested mitigation bank credits at Panther Island Mitigation Bank to offset the functional loss associated with the project.

2. Authority:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. §403)
- Section 404 of the Clean Water Act (33 U.S.C. §1344)
- Section 103 of the Marine Protection, Research & Sanctuaries Act of 1972 (33 U.S.C. 1413)
- 

3. Scope of analysis:

a. National Environmental Policy Act (NEPA):

(1) Factors:

(a) Whether or not the regulated activity comprises "merely a link" in a corridor type project: Project is not merely a link.

(b) Whether there are aspects of the upland facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity: The project is an expansion of an existing road, which incorporates portions of the existing upland median. Project location is limited to the proposed location.

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(c) The extent to which the entire project will be within the U.S. Army Corps of Engineers (Corps) jurisdiction: Entire project within jurisdiction.

(d) The extent of cumulative Federal control and responsibility: The 4.0 +/- mile project area. The Corps anticipates federal responsibilities to include the Endangered Species Act under the U.S. Fish and Wildlife Service purview and work in Waters of the United States under the Corps jurisdiction. No other cumulative construction activities are anticipated at this time.

(2) Determined scope:

Only within the footprint of the regulated activity within the delineated water

Over entire property – Project involves fill in 404 waters over the majority of the project site.

b. Endangered Species Act (ESA) "Action Area":

(1) Action area means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.

(2) Determined scope: The 4.0 +/- mile project area.

c. National Historic Preservation Act (NHPA) "Permit Area":

(1) "Permit Area" Tests – Activities outside the waters of the United States are not/are included because all of the following tests are not/are satisfied: Such activity would/would not occur but for the authorization of the work or structures within the waters of the United States; such activity is not/is integrally related to the work or structures to be authorized within waters of the United States (or, conversely, the work or structures to be authorized must be essential to the completeness of the overall project or program); and, such activity is not/is directly associated (first order impact) with the work or structures to be authorized. The project is the widening of an existing road to include the relocation of the canal located on the east side of the road.

(2) Determined scope: The 4.0 +/- mile project area.

d. Public notice comments: The Corps circulated a public notice on 21 Dec 2012 for a 21-day comment period.

(1) The public also provided comments at  N/A  public hearing,  public meeting,

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and/or

(2) Commentors and issues raised:  No comments were received from State or Local agencies, organizations, individuals or any other interested party.  Comments received are summarized in the following table.

Name/Agency and Date	Issue
Gary Mitchell, Letter 8 Jan 2013 & Email 16 Jan 2013	By letter and email Mr. Mitchell requested a public hearing to address concerns with the project. Issues of concern discussed in his communications related to a new bridge were addressed and a drawing of the location of the new bridge was provided to Mr. Mitchell. Issues related to noise, safety, construction schedule, and the CR 951 levee are discussed in Section 6 Public Interest Review.
Alison E. Swing, MS, Seminole Tribe of Florida, Tribal Historic Preservation Office, 18 Jan 2013	By letter Ms. Swing requested that an archaeological survey be performed over the entire project area in order to assess effects, if any, to cultural resources potentially located within the proposed undertaking's Area of Potential Effect (APE). An archeological survey was performed and a letter of no objection was received on 6 June 2013 from Ms. Swing/Seminole Tribe of Florida.
NMFS, Habitat Conservation Division	By letter dated 28 December 2012, the NMFS recommended that the stormwater treatment systems be upgraded to prevent degraded water from reaching estuarine and marine habitats within the Naples Bay system and that best management practices be employed during road construction to prevent sedimentation of the aquatic habitats. Measures to retain stormwater is described in Section 6 Public Interest Review.
SHPO	By letter dated 10 January 2013, SHPO stated that no significant archaeological or historic resources are recorded within the project area and requested that a special condition be included in the permit, if issued, regarding unexpected discoveries during ground disturbing activities.

(3) Site  was/ was not visited by the Corps to obtain information in addition to delineating jurisdiction.

(4) Issues identified by the Corps:  N/A  Yes The Corps identified issues related to cultural and historic resources, avoidance, minimization, compensatory mitigation, public interest factors, and endangered species.

(5) Issues/comments forwarded to the applicant:  N/A  Yes The Corps' concerns and

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the STOP-THPO letter was forwarded to applicant on 24 January 2013. By letter dated 4 February 2013, the SHPO supported the STOF's request for a professional archaeological survey.

(6) Applicant replied/provided views:  N/A  Yes The applicant submitted a Cultural Resource Assessment to the Corps on 05 April 2013. The Corps forwarded the submittal to STOP-THPO by letter dated 30 April 2013.

(7) Comments not discussed further in this document as they are outside the Corps purview:  N/A  Yes

4. Alternatives analysis:

a. Basic and Overall Project Purpose and Need (as stated by applicant and independent definition by Corps):

Same as in Paragraph 1

Revised: The overall project purpose was revised to narrow the scope of the project. The overall purpose of this project is to improve traffic along Collier Boulevard (CR 951) from the Main Golden Gate Canal to Golden Gate Boulevard, in Collier County, Florida.

b. Water Dependency Determination:

Same as in Paragraph 1

Revised: Insert revised water dependency determination here if it has changed due to changing project purpose or new information

c. Applicant preferred alternative site and site configuration:

Same as project description in Paragraph 1

Revised: Explain any difference from Paragraph 1

Criteria: The applicant's intent of the project is to widen Collier Blvd. from 4-lane to 6-lane between Golden Gate Main Canal to Golden Gate Blvd. to provide adequate transportation capacity to meet future traffic development and planned growth as approved in the Collier County Growth Management Plan.

Issue	Measurement and/or constraint
Wetlands	Least acres of wetland impacts

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Traffic	Improve north-south bound traffic along Collier Boulevard
Safety	Improves safety along Collier Boulevard

d. Off-site locations and configuration(s) for each: *(e.g. alternatives located on property not currently owned by the applicant are not practicable under the Section 404(b)(1) Guidelines as this project is the construction or expansion of a single family home and attendant features, such as a driveway, garage, storage shed, or septic field; or the construction or expansion of a barn or other farm building; or the expansion of a small business facility; and involves discharges of dredged or fill material less than 2 acres into jurisdictional wetlands.)* Offsite alternatives were not considered since the overall project purpose is to improve traffic flow along Collier Boulevard between Golden Gate Main Canal to Golden Gate Blvd. Expanding an existing road (Santa Barbara Blvd/Logan Blvd S) to the west or constructing a new road would require unacceptable economic costs associated with land acquisition and/or displacement of existing residents.

Off-site locations and configurations	
Description	Comparison to criteria

e. Off-site locations selected for further analysis and why:  N/A  <Describe>

f. On-site configurations:

Description	Comparison to criteria
Applicant's Preferred alternative: widen approximately 4.0 miles of Collier Boulevard (CR 951) from 4-lane to 6-lane from the Main Golden Gate Canal to Golden Gate Boulevard in Collier County, Florida	<ul style="list-style-type: none"> <li>• Minimal impacts to 1.64 acres of wetland</li> <li>• Improves north-south traffic along Collier Boulevard between Main Golden Gate Canal to Golden Gate Boulevard</li> <li>• Improves safety by constructing additional traffic lanes and sidewalks along Collier Boulevard</li> <li>• Replacement of the existing bridge at 25<sup>th</sup> Ave SW with a new bridge located approximately 400 feet to the north tying into Golden Gate Pkwy.</li> </ul>

g. Other alternatives not requiring a permit, including "No Action":

Description	Comparison to criteria
"No Action" alternative	Under the no action alternative the overall project purpose

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	will not be achieved.

h. Alternatives not practicable or reasonable: The No Action alternative would not allow for improved traffic along Collier Boulevard. The applicant owns, or has sufficient interest in this site and there are no other adjacent upland sites available that would serve the project purpose. The applicant was not asked to explore additional on-site avoidance alternatives given the quality of the existing resource, design constraints, and current alignment of the existing roadway. Creation of a new road would result in much greater impacts than the expansion of an existing road.

i. Least environmentally damaging practicable alternative: The applicant's preferred alternative is the least environmentally damaging practicable alternative.

5. Evaluation of the 404(b)(1) Guidelines: ( N/A)

a. Factual determinations:

Physical Substrate: <input checked="" type="checkbox"/> Reference existing conditions, Paragraph 1 <input type="checkbox"/>
Water circulation, fluctuation, and salinity: <input checked="" type="checkbox"/> Addressed in the Water Quality Certification <input type="checkbox"/>
Suspended particulate/turbidity: <input checked="" type="checkbox"/> Addressed by turbidity controls in Water Quality Certification <input type="checkbox"/>
Contaminant availability: <input checked="" type="checkbox"/> General Condition requires clean fill <input type="checkbox"/>
Aquatic ecosystem and organism: <input checked="" type="checkbox"/> Reference wetland/wildlife evaluations, Paragraphs 5, 6, 7, 8 <input type="checkbox"/>
Proposed disposal site: <input checked="" type="checkbox"/> Reference the public interest review, Paragraph 7 <input type="checkbox"/>
Cumulative effects on the aquatic ecosystem. <input checked="" type="checkbox"/> Reference Paragraph 7.e. <input type="checkbox"/>
Secondary effects on the aquatic ecosystem:

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Reference Paragraph 7.e.

b. Restrictions on discharges (230.10):

(1) It has/has not been demonstrated in paragraph 5 that there are no practicable or less damaging alternatives which could satisfy the project's basic purpose. The activity is/ is not located in a special aquatic site (wetlands, sanctuaries and refuges, mudflats, vegetated shallows, coral reefs, riffle and pool complexes). The activity does/does not need to be located in a special aquatic site to fulfill its basic purpose. The project is not water dependent.

(2) The proposed activity does not/does violate applicable State water quality standards or Section 307 prohibitions or effluent standards (based on information from the certifying agency that the Corps could proceed with a provisional determination). The proposed activity does not/does jeopardize the continued existence of federally listed threatened or endangered species or affects their critical habitat. The proposed activity does not/does violate the requirements of a federally designate marine sanctuary.

(3) The activity will not/will cause or contribute to significant degradation of waters of the United States, including adverse effects on human health; life stages of aquatic organisms' ecosystem diversity, productivity and stability; and recreation, esthetic, and economic values.

(4) Appropriate and practicable steps have/have not been taken to minimize potential adverse impacts of the discharge on the aquatic ecosystem (reference Paragraph 8 for a description of mitigative actions).

6. Public Interest Review: All public interest factors have been reviewed as summarized here. Both cumulative and secondary impacts on the public interest were considered. Public interest factors that have had additional information relevant to the decision are discussed in paragraph 7. Those boxes not checked were not relevant or not applicable.

				+ Beneficial effect
				0 Negligible effect
				- Adverse effect
				M Neutral as result of mitigative action
+	0	-	M	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	conservation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	economics
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	aesthetics
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	general environmental concerns
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	wetlands



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<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	historic properties
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	fish and wildlife values
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	flood hazards
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	floodplain values
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	land use
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	navigation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	shore erosion and accretion
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	recreation
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	water supply and conservation
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	water quality
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	energy needs
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	safety
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	food and fiber production
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	mineral needs
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	considerations of property ownership
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	needs and welfare of the people

7. Effects, policies, and other laws:

a. Public interest factors: ( N/A)

Factor	Discussion
Economics	The project would have a positive impact on the local economy; no adverse economic impacts are expected. Direct expenditures for construction-related materials would benefit local suppliers and secondary spending by workers would benefit businesses in the area such as gas stations and restaurants.
General Environmental Concerns	The project has no major environmental concerns. The increase in noise is not expected to trigger the threshold to construct a noise barrier. Relatively minor impacts to wetlands and wildlife habitat would occur. Wetland impacts would be offset through compensatory mitigation and the relocation of the canal.
Wetlands	The project would result in impacts to 1.64 acres of direct forested wetland impacts, 0.85 acres of secondary forested wetland impacts, and 5.47 acres of surface water impacts (relocation of the CR 951 Canal). The wetlands and canal are of relatively low quality and are adjacent to developed land. Compensatory mitigation would be provided for the forested wetland impacts through the purchase of 1.36 forested

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	wetland credits from the Panther Island Mitigation Bank. Compensatory mitigation is not required for the canal impacts; the canal would be replaced in kind.
Fish and wildlife values	The project will have minimal impacts to fish and wildlife. The impacted habitat is of low quality and adjacent to developed lands. A wood stork foraging habitat analysis has been completed for this project.
Flood hazards	The project has been designed so the post-development peak discharge rate would be less than the pre-development discharge rate during the 25-year, 3-day storm event. Big Cypress Basin staff evaluated the project and determined that it would not have an adverse impact on the existing CR 951 Canal. Collier County would provide periodic maintenance of the stormwater management system so its ability to prevent flooding does not diminish. The CR 951 levee will be relocated with the canal shift to the east of its existing location.
Land use	The project is surrounded by single family residences, commercial development, golf courses, and the CR 951 Canal. None of the existing land uses would be adversely impacted by this project.
Water Quality	The project would be conducted in accordance with all conditions specified in the ERP to prevent violations of State water quality standards. Dry detention ponds would be constructed and operated to provide storm water quality and attenuation prior to discharge to the CR 951 Canal.
Safety	The project has been designed to increase the safety of Collier Blvd. The design with a wider roadway with additional lanes would result in safer traffic, bicycle, and pedestrian movement. To address the question raised with the construction schedule, the project is expected to take approximately 4-5 years to complete so the construction work is temporary in nature.
Consideration of property ownership	The applicant designed the project to minimize encroachment onto adjacent residential, commercial and recreational (golf courses) properties. Where possible, the design includes widening into the median rather than areas adjacent to the road.
Needs and welfare of the people	The project would provide additional transportation capacity on Collier Blvd to meet future traffic development and planned growth as approved in the Collier County Growth

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	Management Plan. This additional capacity and the project design would benefit local residents and other users of the road by decreasing traffic, increasing safety, and providing bicycle lanes.
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b. Endangered Species Act (ESA) – Section 7: ( N/A)

(1) Species considered:

(a) The following species might utilize the project site: Wood Stork (*Mycteria americana*)/ Eastern Indigo Snake (*Drymarchon corais couperi*) / Florida panther (*Puma concolor coryi*).

(b) The Corps reviewed geospatial data and other available information. The Corps has not received or discovered any information that the project site is utilized by, or contains habitat critical to, any other federally listed threatened or endangered species.

(2) Effect determination(s):

(a) The project will not affect  any species noted above /  these species: The project will have a “no effect” on the Florida panther as the project is not in the panther focus area.

(b) The project may affect, but is not likely to adversely affect, these species: Wood Stork (*Mycteria americana*)/ Eastern Indigo Snake (*Drymarchon corais couperi*).

(c) The project  will not /  will adversely modify designated critical habitat for  any species noted above / the <list species and explain>>

(d) The project  is not /  is likely to jeopardize the continued existence of  any species /  the <list species and explain>

(3) Basis for the determination(s):

(a) The Corps used the wood stork effect determination key (KEY) dated on January 25, 2010. The sequential determination for the wood stork was: A > B > C > E “not likely to adversely affect.” No further consultation is required.

(b) Use of the Eastern Indigo Snake Key Determination resulted in the following sequential determination: A > B > C: Not Likely to Adversely Affect.

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(4) Consultation:  N/A

(5) Consultation resolution:  N/A

(a) The U.S. Fish and Wildlife Service  concurred/ provided a Biological Opinion(s) on 25 January 2010 for both species.

(b) The National Marine Fisheries Service  concurred/ provided a Biological Opinion(s) on <day month year>. <Describe if necessary>

(6) Additional information:

c. National Historic Preservation Act (NHPA) – Section 106: The proposed project  will not /  will affect sites listed, or eligible for listing, in the *National Register of Historic Places* or otherwise of national, state, or local significance based on  correspondence from State Historic Preservation Office (and)  the *Jacksonville District Regulatory Division Section 106 Key, March 2013*. Completion of the March 2013 Section 106 Key is as follows: 1>2>3>4 “No Potential to Cause Effect”, no further coordination is required with SHPO/THPO. The permit area is unlikely to yield properties eligible for inclusion in the National Register of Historic Places.

- By letter dated 10 Jan 2013 SHPO stated “...that no significant archaeological or historic resources are recorded within the project area.”
- By letter dated 18 Jan 2013 THPO requested an archaeological survey. By letter dated 24 Jan 2013 the Corps forwarded the THPO requests on to the applicant.
- By letter dated 4 Feb 2013 SHPO concurred with THPO’s request for an archaeological survey.
- By letter dated 30 Apr 2013 the Corps provided THPO a Cultural Resource Assessment for the proposed project dated February 2013.
- By SHPO letter dated 13 May 2013 and THPO letter 06 Jun 2013 both agencies stated no objection to the proposed project.

d. Magnuson-Stevens Act – Essential Fish Habitat (EFH): Adverse impacts to EFH  will not /  will result from the proposed project. By letter dated 28 Dec 2012 from NMFS HCD stated “it does not appear that the project will directly impact any NMFS trust resources”.

e. Cumulative and secondary impacts (*Cumulative impacts result from the incremental environmental impact of an action when added to all other past, present, and reasonably foreseeable future actions. They can result from individually minor but collectively significant actions taking place over a period of time. A cumulative effects assessment should consider both direct and indirect, or secondary, impacts. Indirect impacts result from actions that occur later*

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*in time or are farther removed in distance from the original action, but still reasonably foreseeable.):*

(1) Geographic area: The geographic area for this assessment is the Big Cypress watershed.

(2) Baseline: Approximately 65 percent of the watershed area is wetland. There are also approximately N/A stream miles contained within the watershed that are comprised of N/A percent perennial, N/A percent intermittent, and N/A percent ephemeral tributaries. Corps permits for the period 2006-2010 have authorized the discharge of fill over 1,643 acres and within N/A linear feet of stream. The projection is that authorizations would continue at the current rate/ increase/ because of the current state of the economy. Natural resource issues of particular concern (from Corps and non-Corps activities) are wetland loss, species habitat loss, and reduced water quality.

(3) Context: The proposed project is typical of /a precedent /very large compared to / other activities in the watershed. Development similar to the proposal has occurred since 1960's. Future conditions are expected to be similar. In addition to Corps authorized projects, other activities include commercial and residential construction. Resulting natural resource changes and stresses include wetland reduction. These resources are also being affected by pollution. Key issues of concern in this watershed include decrease water quality, which result from the loss of wetlands or other aquatic resources.

(4) Mitigation and monitoring: Key issues affected by the project include wetland impacts. The magnitude of the proposed effect is minimal within the watershed. Avoidance and minimization methods include purchase of 1.36 forested freshwater credits from Panther Island Mitigation Bank, which would result in offsetting the proposed impacts. Compensatory mitigation, specifically the purchase of 1.36 forested freshwater credits described in herein would result in offsetting the proposed impacts.

f. Corps Wetland Policy: (N/A) The proposed wetland alteration is necessary to realize the project purpose and the project, including any compensatory mitigation proposed, should result in minimal adverse environmental impacts. Based on the public interest review herein, the benefits of the project would outweigh the minimal detrimental impacts. Therefore the project is in accordance with the Corps wetland policy.

g. Water Quality Certification (WQC) under Section 401 of the Clean Water Act: (N/A)

(1) Individual certification required:  yes  no

(2) Issued Waived Denied Pending



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(3) Additional information: (N/A) SFWMD issued an ERP (#11-03184-P) on 19 November 2012.

h. Coastal Zone Management (CZM) consistency/permit: (NA) Issuance of a State/Commonwealth permit certifies that the project is consistent with the CZM plan.

(1) Individual certification required:  yes  no

(2)  Issued  Waived  Denied  Pending-There is no evidence or indication from the  State /  Commonwealth that the project is inconsistent with their CZM plan.

(3) Additional information: (N/A) SFWMD issued an ERP (#11-03184-P) on 19 November 2012.

i. Other authorizations: (N/A)

j. Significant Issues of Overriding National Importance: (N/A)

k. Internal Coordination: (N/A)

8. Compensation and other mitigation actions:

a. Compensatory Mitigation:

(1) Is compensatory mitigation required?  yes  no [If "no," do not complete the rest of section "a"]

(2) Is the impact in the service area of an approved mitigation bank?  yes  no

(i) Does the mitigation bank have appropriate number and resource type of credits available?  N/A  yes  no

(3) Is the impact in the service area of an approved in-lieu fee program?  yes  no

(i) Does the in-lieu fee program have appropriate number and resource type of credits available?  N/A  yes  no

(4) Check the selected compensatory mitigation option(s):

mitigation bank credits

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- in-lieu fee program credits
- permittee-responsible mitigation under a watershed approach
- permittee-responsible mitigation, on-site and in-kind
- permittee-responsible mitigation, off-site and out-of-kind

(5) If a selected compensatory mitigation option deviates from the order of the options presented in §332.3(b)(2)-(6), explain why the selected compensatory mitigation option is environmentally preferable. Address the criteria provided in §332.3(a)(1) (i.e., the likelihood for ecological success and sustainability, the location of the compensation site relative to the impact site and their significance within the watershed, and the costs of the compensatory mitigation project):

(a) Description of the compensatory mitigation: ( N/A)

(b) Selection of the mitigation type and location, §332.3(b)(2)-(6), considered the following: ( N/A)

Consideration	<input type="checkbox"/> N/A – Permittee Responsible	<input type="checkbox"/> N/A – <name of MB/ILF#1>	<input type="checkbox"/> N/A – <name of MB/ILF#2>
uncertainty	<discuss/compare>	<discuss/compare>	<discuss/compare>
temporal loss	<discuss/compare>	<discuss/compare>	<discuss/compare>
risk	<discuss/compare>	<discuss/compare>	<discuss/compare>
size and ecological value of parcel	<discuss/compare>	<discuss/compare>	<discuss/compare>
consolidation of resources	<discuss/compare>	<discuss/compare>	<discuss/compare>
scientific/technical analysis, planning and implementation	<discuss/compare>	<discuss/compare>	<discuss/compare>
timing of site identification, project specific planning and financial assurances in advance of impact or otherwise	<discuss/compare>	<discuss/compare>	<discuss/compare>
identified high priority resource need on watershed scale	<discuss/compare>	<discuss/compare>	<discuss/compare>
achieve success soonest	<discuss/compare>	<discuss/compare>	<discuss/compare>
practicable and	<discuss/compare>	<discuss/compare>	<discuss/compare>

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compatible with project			
likelihood to offset impact	<discuss/compare>	<discuss/compare>	<discuss/compare>
environmentally preferable	<discuss/compare>	<discuss/compare>	<discuss/compare>

(c) Selection relied upon the following aspects of the Mitigation Plan, §332.4(c)(2)-(14):  
(N/A if Mitigation Bank or In-Lieu Fee)

- (i) Objectives: ( N/A) <Explain>
- (ii) Site Selection: ( N/A) <Explain>
- (iii) Site Protection Instrument: ( N/A) <Explain>
- (iv) Baseline Information: ( N/A) <Explain>
- (v) Determination of Credits: ( N/A) <Explain>
- (vi) Mitigation Work Plan: ( N/A) <Explain>
- (vii) Maintenance Plan: ( N/A) <Explain>
- (viii) Performance Standards: ( N/A) <Explain>
- (ix) Monitoring Requirements: ( N/A) <Explain>
- (x) Long-term management plan: ( N/A) <Explain>
- (xi) Adaptive management plan: ( N/A) <Explain>
- (xii) Financial Assurances: ( N/A) <Explain>
- (xiii) Other Information: ( N/A) <Explain>

(d) Selection is environmentally preferable, §332.3(a)(1), based on the following:  
<Explain>

(6) Other Mitigative Actions: <Explain>

b. Special conditions:

- (1) Mitigative actions/measures required by special conditions of the permit: ( N/A)
- The Permittee will be required to use erosion control measures during all construction procedures.
  - The Permittee will be required to use only clean fill material for this project.
  - The Permittee will be required to follow the *Standard Protection Measures for the Eastern Indigo Snake* (February 12, 2004).

- (2) Compensatory mitigation required by special conditions of the permit: ( N/A)
- The Permittee will be required to purchase 1.36 freshwater forested credits from Panther Island Mitigation Bank.



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(3) Functional assessment associated with the compensatory mitigation: ( N/A) The functional assessment tool used to determine the functional loss associated with the impacts and functional gain was determined using WRAP. WRAP was the methodology used for total amount of credits achieved at Panther Island Mitigation Bank. The Corps concurs with the analysis and required credits.

9. General evaluation criteria considered under the public interest review:

a. The relative extent of the public and private need for the proposed structure or work: (e.g. *Public benefits include employment opportunities and a potential increase in the local tax base. Private benefits include land use and economic return on the property; for transportation projects benefits include safety, capacity and congestion issues.*) Public benefits include employment opportunities and a potential increase in the local tax base, as well as traffic safety, increased traffic capacity, and reduction in traffic congestion. Since this is a public project, there are no private benefits.

b. Unresolved conflicts:

There are no unresolved conflicts as to resource use.

There are unresolved conflicts as to resource use. One or more of the alternative locations and methods described above are reasonable or practicable to accomplish the objectives of the proposed structure or work but are not being accepted by the applicant. <Explain>

There are unresolved conflicts as to resource use however there are no practicable reasonable alternative locations and methods to accomplish the objective of the proposed work. <Explain>

c. The extent and permanence of the beneficial and/or detrimental effects, which the proposed work is likely to have on the public, and private uses to which the area is suited: Detrimental impacts are expected to be minimal although they would be permanent in the construction area. The beneficial effects associated with utilization of the property would be permanent.

10. Determinations:

a. Public Hearing Request: ( N/A) I have reviewed and evaluated the requests for a public hearing. There is sufficient information available to evaluate the proposed project; therefore, the requests for a public hearing are denied.

b. Section 176(c) of the Clean Air Act General Conformity Rule Review: The proposed

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permit action has been analyzed for conformity applicability pursuant to regulations implementing Section 176(c) of the Clean Air Act. It has been determined that the activities proposed under this permit would not exceed de minimis levels of direct or indirect emissions of a criteria pollutant or its precursors and are exempted by 40 CFR Part 93.153. Any later indirect emissions are generally not within the Corps' continuing program responsibility and generally cannot be practicably controlled by the Corps. For these reasons a conformity determination is not required for this permit action.

c. Relevant Presidential Executive Orders (EO):

(1) EO 13175, Consultation with Indian Tribes, Alaska Natives, and Native Hawaiians: This action has no substantial direct effect on one or more Indian tribes. Explain, if appropriate..

(2) EO 11988, Floodplain Management:

The project site is not in a floodplain.

Alternatives to a location within the floodplain, minimization, and compensation of the effects were considered above.

(3) EO 12898, Environmental Justice: In accordance with Title III of the Civil Right Act of 1964 and Executive Order 12898, it has been determined that the project would not directly or through contractual or other arrangements, use criteria, methods, or practices that discriminate on the basis of race, color, or national origin nor would it have a disproportionate effect on minority or low-income communities.

(4) EO 13112, Invasive Species:

There were no invasive species issues involved.

The evaluation above included invasive species concerns in the analysis of impacts at the project site and associated compensatory mitigation projects.

Through special conditions, the permittee would be required to control the introduction and spread of exotic species.

(5) EO 13212 and 13302, Energy Supply and Availability:

The project was not one that would increase the production, transmission, or conservation of energy, or strengthen pipeline safety.

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The review was expedited and/or other actions were taken to the extent permitted by law and regulation to accelerate completion of this energy-related (including pipeline safety) project while maintaining safety, public health, and environmental protections.

d. Finding of No Significant Impact (FONSI): (NA) Having reviewed the information provided by the applicant and all interested parties and an assessment of the environmental impacts, I find that this permit action would not have a significant impact on the quality of the human environment. Therefore, an Environmental Impact Statement will not be required.

e. Compliance with 404(b)(1) Guidelines: (NA) Having completed the evaluation in paragraph 5, I have determined that the proposed discharge complies / does not comply with the 404(b)(1) Guidelines.

f. Public Interest Determination: I find that issuance of a Department of the Army permit  is not / is contrary to the public interest.

PREPARED BY:

*William DeFrance*

William DeFrance  
Project Manager

26 July 2013

Date

APPROVED BY:

*Alisa Zarbo*

ALAN M. DODD  
Colonel, Corps of Engineers  
Commanding

26 July 2013  
Date