



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

PANAMA CITY FIELD OFFICE, JACKSONVILLE DISTRICT CORPS OF ENGINEERS
475 HARRISON AVENUE, SUITE 202
PANAMA CITY, FLORIDA 32401

Regulatory Division
Enforcement Branch
200101661 (IP-ES)

March 11, 2004

Florida Department of Transportation
c/o Ken Obert Environmental Permit Coordinator
P.O. Box 607
Chipley, Florida 32428

Dear Mr. Obert:

Reference is made to your Department of the Army permit number 200101661 (IP-ES). This permit authorized 6.38 acres of fill associated with the DOT Weigh Station, on U. S. Highway 90, Escambia County.

Special Condition number 2 requires mitigation of between 78-156 acres. The mitigation will be within the Perdido pitcher plant prairie. You still have time to submit the documentation required by Special Condition number 2. I was under the impression that the funding mechanism was such that this would have been accomplished by now, and, in fact, the mitigation plan schedule outlined, "acquisition of targeted parcels in 2002." I noticed that that the mitigation required by DEP is disparate from that being required by the Corps. As information, the acquisition and preservation of additional wetlands in conjunction with a long-term management plan together with appropriate monitoring are listed in the success criteria of the mitigation plan, which is part of your permit. You need to demonstrate to the Corps through the appropriate submittals and documentation that the various components of your mitigation plan have/are being met, and therefore you are in compliance with Special Condition number 2.

Please let me know when the Jacksonville District can expect you're efforts to meet the success criteria outline in your mitigation plan to move forward. Your

cooperation in these matters is appreciated. Please submit your response to Mr. Richard Holden at the letterhead address. Should you have any questions, Mr. Holden can be reached by telephone at 850-763-0717 ext. 27.

Sincerely,

A handwritten signature in black ink that reads "Richard V. Holden". The signature is written in a cursive style with a large, prominent initial "R".

Richard V. Holden
Environmental Protection Specialist

Enclosures

cc: Duncan Cairns,
Chief of Environmental & Resource Planning Bureau

DEPARTMENT OF THE ARMY PERMIT

Permittee: Florida Department of Transportation
c/o Frank Roberts, Environmental Permit Coordinator
P.O. Box 607
Chipley, Florida 32428

Permit No: 200101661 (IP-ES)

U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: To discharge fill material over approximately 6.38 acres of forested wetlands to allow the construction of a weigh station facility and deceleration lane.

Project Location: The proposed project site is located in wetlands adjacent to Perdido River, south of U.S. Highway 90, at Mile Post 1.378 in Section 11, Township 01 South, Range 32 West, Escambia County, Florida.

Latitude & Longitude: Latitude... 30° 31' 49" North
Longitude..... 87° 25' 44" West

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on 17 DECEMBER 2006. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

Permittee: FDOT / Highway 90 Weigh Station

Permit No: 200101661 (IP-ES)

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3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. Within 60 days of completion of the work authorized and mitigation, the attached "**Self-Certification Statement of Compliance**" must be completed and submitted to the U.S. Army Corps of Engineers. Mail the completed form to the Regulatory Division, Enforcement Branch, Post Office Box 4970, Jacksonville, Florida 32232-0019.
2. The permittee shall ensure that the mitigation project, as described in the attached mitigation project description, provided by the Northwest Florida Water Management District, is implemented. The mitigation project, as reviewed and approved by the Corps, shall be fully implemented within five years after the initiation of the permitted work.
3. The wetlands within the parcel not to be impacted by the project as permitted, are to remain in their natural state. This natural preserve area will not be disturbed by any removal or destruction of trees, shrubs, or other vegetation, dredging, filling, agricultural activities, planting or other construction work whatsoever. The permittee agrees that the only future utilization of the preserved area in question will be as a purely natural area.
4. No heavy equipment or mechanical clearing is permitted in wetlands outside of the 6.38-acre fill footprint. Prior to the beginning of construction, the limit of the 6.38-acre fill area should be clearly marked to prevent encroachment by heavy equipment.

**ATTACHMENT FOR FM 2186481 (US 90 Weigh Station) MITIGATION PLAN
(Perdido Pitcher Plant Prairie)**

SCOPE

The US 90 (SR 10) weigh station project at the Alabama Line in Escambia County near the Perdido River (Financial Management Number 2186481) is anticipated to impact 7.8 acres of wetlands. The FDOT District-3 Environmental Impact Inventory provided to the Northwest Florida Water Management District (NFWFMD) classifies the impact wetlands as low quality, FLUCCS 411 – Pine Flatwoods. Measures taken to avoid and minimize wetland impacts are the responsibility of FDOT. Currently, private consultants are hired by FDOT to assess and quantify wetland impacts. The NFWFMD is designing and implementing the mitigation for these impacts under Section 373.4137, Florida Statutes. The mitigation is based on estimates of impacts (acreage and FLUCCS type) provided by FDOT.

PROJECT GOAL

The goal of this mitigation project is to adequately compensate for the loss of wetlands and wetland function associated with the FDOT project. To accomplish this, the NFWFMD intends to acquire, preserve in perpetuity, implement long-term natural resource management activities, and/or enhance and restore wetland ecosystems that are proximate to the project area in western Escambia County.

The area that has been identified as having wetlands that may be targeted for acquisition and possible restoration is proximate to what is generally known as the Perdido Pitcher Plant Prairie. Both the project area and potential mitigation lands are within the Perdido Bay watershed (location and informational maps attached).

Other appropriate wetland areas within the Perdido River basin may also be considered as necessary. Any changes in targeted mitigation areas will be coordinated with the regulatory agencies in consultation with core group members.

THE PERDIDO PITCHER PLANT PRAIRIE

The Perdido Pitcher Plant Prairie is located in western Escambia County, extends toward the eastern portion of Perdido Bay, and contains a variety of natural biological communities including pine flatwoods, swamp and wet prairie. Florida Natural Areas Inventory (FNAI) lists 12 element occurrences including the Large-leafed jointweed, White-top pitcher plant, Sweet pitcher plant, Chapman's butterwort, and the Alligator snapping turtle. The Conservation and Recreation Lands (CARL) 2000 Annual Report (selected pages attached) notes that "The Wet Prairies in this area are some of the last examples of perhaps the most diverse community in the southeast. They support one of the largest stands of white-topped pitcher plants in Florida along with almost 100 other plant species." This report

lists the Perdido Pitcher Plant Prairie as the number four priority for acquisition in the entire state of Florida. However, there appears to be a current lack of funding for pursuing such acquisition (mitigation funds would not be used to supplant other acquisition funds). This, coupled with the current vulnerability to development of such isolated wetland areas, lends a sense of urgency to efforts that would preserve and protect these threatened wetlands. Mitigation through preservation in this area would help conserve “. . . some of the last remnants of a landscape unique to the northern Gulf coast . . . helping to protect the water quality of Perdido Bay and Big Lagoon . . .”

The FDEP Department of Recreation and Parks currently owns and manages several thousand acres in the Tarkiln Bayou/Perdido Pitcher Plant Prairie area. Several thousand additional acres have been targeted for acquisition by numerous resource agencies including the NFWMD and FDEP. Details on proposed acquisition in this area are given on page 3-5 in the *Florida Forever, Five Year Work Plan 2001*, NFWMD, Program Development Series 2001-1 (selected page attached). Although wetland delineations of specific tracts have not been done, preliminary analysis of National Wetland Inventory (NWI) maps and Digital Ortho-Quad (DOQ) photography indicate that approximately 80% of these lands are wetland. According to the NWI maps, the dominant wetland type of the proposed acquisition lands is PEM1Dd (Palustrine, Emergent, Persistent, Seasonally Flooded/Well Drained, Partially Drained/Ditched), which is generally equivalent to the FLUCCS 640 – Vegetated Non-Forested Wetlands classification. Project work will consist of acquiring land for preservation and assuring appropriate natural resource management.

LAND ACQUISITION PROTOCOL

The protocol for land acquisition is described generally in the “Northwest Florida Water Management District Acquisition Procedure Guidelines”.

NATURAL RESOURCE MANAGEMENT

Land acquired for mitigation of the US 90 Weigh Station project would likely be turned over to the FDEP for perpetual preservation and management in perpetuity under the *Tarkiln Bayou Unit Management Plan*, February 11, 1999, Department of Environmental Protection, Division of Recreation and Parks (selected pages attached).

Land acquired for the Perdido Pitcher Plant Prairie would be owned and managed either by FDEP or the NFWMD.

SUCCESS CRITERIA

Success criteria will consist of the acquisition and preservation of additional wetland areas within the Perdido Pitcher Plant Prairie in conjunction with a long-term management plan that ensures protection of wetland integrity and function. Appropriate monitoring and restoration activities will be conducted as necessary.

APPLIED MITIGATION RATIO

Acquiring 78 to 156 wetland acres with associated upland buffer would provide for a 10:1 to 20:1 ratio of preserved wetland to impacted wetland. More acreage could be acquired contingent upon willing sellers and price per acre of targeted parcels. Such acquisition within the Perdido Pitcher Plant Prairie would assist in protecting the water resources of the Perdido Bay watershed, and would serve to offset the wetland impacts from the US 90 Weigh Station project. Either the NFWMD, State of Florida, or other public entity would manage the acquired land in perpetuity. Because the mitigation is "out-of-kind," a slightly higher ratio might be justified; however the impact acres have been noted as low quality, which may indicate that the applied ratios would be more appropriate.

FUNDING

Funding for land acquisition would come from FDOT mitigation funds. At a maximum rate per acre of impacted wetland, 7.8 acres of wetland impact would be \$659,474.40 in funding. Approximately 88% of the funding would be used for land acquisition with the remaining amount used for administration and management. Fair-market land prices for the Perdido Pitcher Plant Prairie are not known at this time.

All reasonable attempts will be made to maximize cost savings throughout this project.

Preliminary Cost Estimates	
Pre-acquisition Costs	16,486.86
Acquisition	577,040.10
Long-term Management and Monitoring	\$65,947.44
Total	\$659,474.40

WORK SCHEDULE

- 2001 Prioritize land acquisition
 - Contact landowners
 - Preliminary design of wetland restoration plans (if needed)
- 2002 Acquisition of targeted parcels
 - Implementation of natural resources management

NFWMD PERSONNEL TO IMPLEMENT MITIGATION

Robert F. Lide – Environmental Scientist
Peter A. Krottje – Environmental Scientist
Judy K. Duvall – Associate Hydrologist
Ron R. Potts – Senior Hydrologist
Duncan J. Cairns – Chief of Environmental and Resource Planning Bureau
Dan L. Tonsmeire – Associate Water Resources Planner
V. Mark Herndon – Director of Field Operations, Land Management and Acquisition Div.
Ron Bartel – Director, Resource Management Division
William Cleckley – Director, Land Management and Acquisition Division
Lee Marchman – Chief of Surface Water Bureau
George Fisher – Senior Planner

NFWFMD personnel, including environmental scientists, engineers, foresters and planners may be called upon as needed.

LEGALLY BINDING COMMITMENT

The Florida Statutes specify how NFWFMD-owned lands must be managed and used:

373.139(1)(a) – Lands titled to the governing boards of the districts shall be managed and maintained to the extent practicable, in such a way as to ensure a balance between public access, general public recreational purposes, and restoration and protection of their natural state and condition.

Lands acquired for mitigation may be turned over to other agencies for management. Acquisitions within the Perdido Pitcher Plant Prairie may be turned over to FDEP for perpetual management under the *Tarkiln Bayou Unit Management Plan*, February 11, 1999, Department of Environmental Protection, Division of Recreation and Parks. Assurances would be obtained that lands would be managed appropriately.

CONTINGENCY PLANS

If the NFWFMD is unable to acquire a targeted parcel, efforts would be made to acquire other parcels. The acquisition process would continue until enough wetlands were acquired to mitigate for the FDOT impact.

for road construction within waters of the State as so determined by the Department.

13. The applicant shall retain a professional engineer who shall inspect the stormwater treatment system during construction. These inspections shall be spaced so as to show the progress of the construction.

Within 30 days of project completion, record of drawings and an as-built certification the stormwater treatment system, which have been signed and sealed by a professional engineer, shall be sent to the Submerged Lands and Environmental Resources Program.

14. No substances shall be present in concentrations which could injure, are chronically toxic to, or produce adverse physiological or behavioral response in humans, animals, or plants.

15. Turbidity - shall not exceed 29 Nephelometric Turbidity Units (NTU's) above natural background.

16. If dewatering is necessary for any activity, it shall be accomplished by pumping the water into functional, upland detention ponds. The capacity of the ponds and the management of pumping rates and discharges shall be adequate to control turbidity such that the turbidity level of the effluent is less than 29 NTU's above background levels. An industrial waste permit may be required if the dewatering discharge is to the wetlands or waters of the state.

17. Within 30 days following completion of construction of the stormwater management system, the permittee shall submit an As-Built Certification, including any revised drawings as necessary, to the Department.

18. Not less than 90 days prior to expiration of the permit, the permittee shall apply to the Department for an operating permit for the stormwater management system, using the forms, and accompanied by the fee, specified by regulations in existence at that time.

19. The permittee shall fully implement the erosion control plan submitted by the consultant, and shall take whatever additional actions are necessary to further ensure that all eroded sediments are prevented from leaving the site during construction.

20. Construction activity shall be confined to the permitted areas only. Any damage to adjacent wetlands as a result of the construction shall be reported immediately to the DEP Northwest District, 160 Governmental Center, Suite 202, Pensacola, FL, 32501, Phone (850) 595-8300.

21. Mitigation for wetland impacts shall be accomplished as outlined by the Final Order OGC No. 01-1112. The mitigation shall consist of enhancement, restoration, preservation, and management of 200 to 400 acres of wetlands in Devil's Swamp, approximately 240 acres of wetlands in the Choctawhatchee River Floodplain, and several acres of wetlands within Camp Helen State Recreation Area.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
PANAMA CITY REGULATORY FIELD OFFICE
1002 WEST 23RD STREET, SUITE 350
PANAMA CITY, FLORIDA 32405

North Permits Branch
SAJ-2001-1661(IP-DEB)
Modification #1

Florida Department of Transportation
District III
c/o Joy Giddens
P.O. Box 607
Chipley, Florida 32428-0607

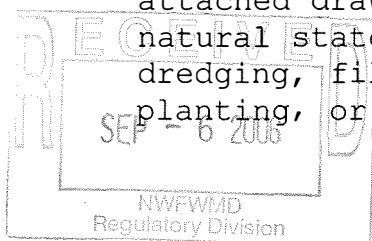
Dear Ms. Giddens:

The U.S. Army Corps of Engineers has completed the review and evaluation of your modification request received July 10, 2006 in which you asked to revise the plans authorized by Department of the Army (DA) permit number SAJ-2001-1661(IP-DEB), which authorized impacts to 6.38 acres of wetlands, dated December 17, 2001. The project is located on an 8.2-acre parcel, east of the Perdido River and just south of US90, at mile post 1.378, in Section 11, Township 1 south, and Range 32 west, Escambia County, Florida.

Special Condition #2 of the original DA Permit, required acquisition of between 78 and 156 acres of wetlands located within the Perdido Pitcher Plant Prairie in western Escambia County within five years from the date (December 17, 2001) of permit issuance. The proposed modification is to change the mitigation so that a 220-acre site, containing approximately 198 acres of wetlands, located just south of the impact site, is preserved in perpetuity.

The modification must be completed in accordance with the enclosed drawings and following special conditions (which replace Special Condition #2 of the original permit) which, are incorporated in, and made a part of the permit:

1. Within 120 days from the date of permit modification, the permittee shall preserve approximately 220.0 acres (including approximately 198 acres of wetlands) as shown on the attached drawings. The preserved area will remain in its natural state in perpetuity, not to be disturbed by any dredging, filling, land clearing, agricultural activities, planting, or other construction work whatsoever.



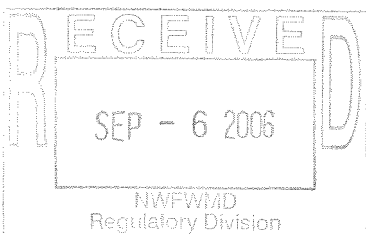
2. Within 120 days from the date of permit modification, the Permittee will have a legally sufficient conservation easement prepared to ensure that the wetland areas will remain in their natural state in perpetuity. The conservation easement will encompass approximately 220.0 acres of wetlands located adjacent to the project impact site, just south of US90, in Section 11, Township 1 south, and Range 32 west, Escambia County, Florida. These natural preserve areas will not be disturbed by any dredging, filling, land clearing, agricultural activities, planting, or other construction work whatsoever. The Permittee agrees that the only future utilization of the preserved areas in question will be as a purely natural area.

3. The Permittee will prepare the conservation easements, including a legal description, survey, and scale drawings, of the areas in question. The Permittee will furnish this information to the Regulatory Division, Enforcement Branch, Post Office Box 4970, Jacksonville, Florida 32232-0019, for legal review and approval.

4. Within 30 days of U.S. Army Corps of Engineers' approval of the proposed easement, the Permittee will record the easement in the public records of Escambia County, Florida. A certified copy of the recorded document, plat, and verification of acceptance from the grantee will be forwarded to the Jacksonville District Office.

5. The Permittee must show that it has clear title to the real property and can legally place it under a conservation easement. Along with the submittal of the draft conservation easement, the Permittee shall submit a title insurance commitment, in favor of the grantee, for the property, which is being offered for preservation. Any existing liens or encumbrances on the property must be subordinated to the conservation easement. At the time of recordation of the conservation easement, a title insurance policy must be provided to the Corps in an amount equal to the current market value of the property.

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



7. Grantee shall not assign its rights or obligations under this conservation easement except to another organization qualified to hold such interests under the applicable state and federal laws, including §704.06 Florida Statutes, and committed to holding this conservation easement exclusively for conservation purposes. The Corps shall be notified in writing of any intention to reassign the conservation easement to a new grantee and must approve selection of the grantee. The new grantee must accept the assignment in writing and a copy of this acceptance delivered to the Corps. The conservation easement must 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.

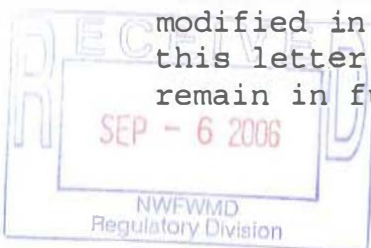
This letter contains an approved proffered permit for your subject project. If you object to this decision, you may request an administrative appeal under Corps' regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process fact sheet and Request for Appeal (RFA) form. If you request to appeal this determination/decision, you must submit a completed RFA form to the South Atlantic Division Office at the following address:

Mr. Michael F. Bell
South Atlantic Division
U.S. Army Corps of Engineers
CESAD-CM-CO-R, Room 9M15
60 Forsyth St., SW.
Atlanta, Georgia 30303-8801.

Mr. Bell can be reached by telephone number at 404-562-5137, or by facsimile at 404-562-5138.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the above address within 60 days from the date of this letter. It is not necessary to submit an RFA form to the Division office, if you do not object to the determination/decision in this letter.

The impact of your proposal on the environment has been reviewed and found to be insignificant. The permit is hereby modified in accordance with your request. You should attach this letter to the permit. All other conditions of the permit remain in full force and effect.




If you have any questions concerning permit modification, please contact the project manager Mr. Dale Beter at 850-763-0717, #57 or by electronic mail at dale.e.beter@saj02.usace.army.mil.

Thank you for your cooperation with our permit program. The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit the following link and complete our automated Customer Service Survey:

http://www.saj.usace.army.mil/permit/forms/customer_service.htm.
Your input is appreciated - favorable or otherwise.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

for 
Paul L. Grosskruger
Colonel, U.S. Army
District Engineer

Enclosure

Copy/ies Furnished:

Robert Lide, NFWMD, Havana

Mary Mittiga, USFWS, Panama City

FDEP, Pensacola

CESAJ-RD-PE, Jacksonville

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: FDOT District III		File Number: SAJ-2001-1661(IP-DEB)	Date: August 31, 2006
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
X	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- *ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.*
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- *ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.*
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- *ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.*
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

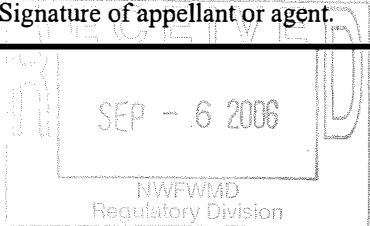
Project Manager as noted in letter

If you only have questions regarding the appeal process you may also contact:

**Michael F. Bell
404-562-5137**

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number:
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US Army Corps
of Engineers

SAJ-2001-1661 (IP-DEB)

FL DOT US90 Weigh Station/Escambia Coun

REVISED MITIGATION PLAN

Sheet # 1 of 6 August 31, 2006

US 90 Weigh Station, Escambia Co.

FM 2186481 / NW12

Impact: **Loss of 7.80 Acres of Hydric Pine Flatwoods within Perdido River Watershed from Construction of New Weigh Station**

Mitigation: **Acquisition, Preservation, Enhancement, Restoration and Perpetual Ecological Management of 220 Acres of Hydric Pine Flatwoods and Similar Wetlands and Upland Buffers Adjacent to Impact (International Paper Co. Lands within Perdido River Watershed)**

Revision: **July 5, 2006**

SCOPE

Per the FDOT District-3 Environmental Impact Inventory, 7.80 acres of low-quality, hydric pine flatwoods were impacted when a new weigh station on US 90 was constructed in Escambia Co. near the Alabama state line. Under Florida Statutes 373.4137, the NFWFMD designs and implements wetlands mitigation required by state and federal permitting for FDOT impacts, although any measures taken to avoid and minimize impacts are decided by FDOT. Mitigation planning is based on estimates of impacts provided by FDOT or its consultants.

Originally, the NFWFMD proposed acquisition of 78 to 156 acres in the Perdido Pitcher Plant Prairie area, located approximately 15 miles south-southeast of the FDOT road project, as compensation for the wetland impacts. Subsequent to permitting, however, the NFWFMD was unable to acquire parcels within this area. The most promising parcel within the Perdido Pitcher Plant Prairie area, the 120-acre Curtis Tract, was ultimately acquired by FDEP with Florida Forever funds despite previous assurances that no funds were available for this purchase.

In October, 2005 the NFWFMD was made aware that the International Paper Company (IP) was interested in divesting themselves of large acreages along the Perdido River corridor. At that time we (NFWFMD Resource Management Division—responsible for mitigation planning) coordinated with our Lands Division to express our interest in acquiring approximately 220 acres immediately adjacent to the US 90 weigh station wetland impacts for the express purpose of compensating for those impacts. It was premature at that juncture to submit a permit modification because acquisition negotiations were just being initiated. The NFWFMD Governing Board approved pursuing this acquisition in the anticipation that the property would be purchased utilizing a combination of Florida Forever funds and FDOT mitigation funds. This coordination was especially critical because of the large acreage and the limited funds available during this period from Florida Forever. The need for wetland compensation in this immediate vicinity created a win-win situation for both programs in that the NFWFMD could proceed with acquiring the large acreage without depleting Florida Forever funds while also satisfying

substantial mitigation needs. This coordination with mitigation funds was not a supplanting of Florida Forever funds, yet instead was a means to facilitate a substantial conservation acquisition along the Perdido River.

Recently, the NFWFMD concluded these negotiations with the International Paper Company (IP) to purchase 5,456 acres of wetlands and forested upland buffers in the Perdido watershed. Although we realize that this request for a permit modification may appear to be delayed, it was felt that proffering such a proposal prior to final acquisition might jeopardize the negotiations with IP following their request for a low profile process. The NFWFMD is confident that this proposed modification provides a feasible alternative to the original mitigation plan in that the NFWFMD will use FDOT mitigation funds to acquire, preserve, enhance, restore and perpetually manage for ecological integrity 220 acres of IP lands that are immediately adjacent to the US 90 Escambia Weigh Station impacts.

This modified mitigation plan has substantially greater environmental benefit than the original plan. Up to 2.8 times more land will be acquired than was originally proposed (i.e., 220 acres instead of a minimum of 78 acres). The new mitigation site borders the impact and is essentially “on-site,” as opposed to being located approximately 15 miles away. “In-kind” wetlands (i.e., hydric pine flatwoods and similar wetland types) will be acquired, preserved, enhanced and restored—the previous plan would have protected “out of kind” wet prairie wetlands. Lastly, the NFWFMD has concluded negotiations with IP to purchase these lands. Continued acquisition efforts at the Perdido Pitcher Plant Prairie would entail additional delay.

In the absence of the mitigation requirements associated with the US 90 Weigh Station, the NFWFMD would have found it difficult to pursue acquisition of the entire 5,456 acres within the Perdido watershed that IP made available for purchase. At the very least, if the entire property had been purchased with Florida Forever funds, then the NFWFMD Florida Forever funds would have been so depleted that other critical acquisitions would have had to been put on hold for an indefinite time. The need for mitigation lands and the infusion of mitigation funds greatly enabled the NFWFMD to enter into negotiations to purchase such substantial acreage, above and beyond that required for mitigation, within the Perdido basin.

Mitigation funding (\$510,000), in conjunction with Florida Forever Trust Funds, has been used to acquire the IP lands. Acquired wetlands and upland buffers will be preserved in perpetuity. Long-term natural resource management activities including, as appropriate, prescribed fire, exotics control, road closures, erosion stabilization, hydrologic improvements and other BMPs, will be implemented.

Florida Statutes 373.4137 requires each water management district to consider mitigation banks and SWIM plans when designing mitigation. The impacts do not occur within the mitigation service area (MSA) of any permitted mitigation bank, and there is not an existing SWIM project appropriate to offset this FDOT impact.



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FL DOT US90 Weigh Station/Escambia County

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FUNCTIONAL ASSESSMENT

Functional assessments were not used in the permitting of this impact. Acquisition of 220 acres will result in a mitigation ratio of approximately 28:1. Per NWI maps, ~90% of the targeted parcel consists of wetlands (mostly forested / hydric pine flatwood wetlands). The remaining 10% of the parcel consists of pine forested upland buffers.

FUNDING

Approximately \$510,000 of FDOT funding is available to implement this mitigation plan.

Cost Estimates	
Acquisition of 220 Acres (95%)	480,000
Restoration / Enhancement / Management (5%)	30,000
Total	\$510,000

WORK SCHEDULE

2006—Acquisition and implementation of perpetual ecological management.

MONITORING

Periodic inspection by NFWFMD personnel. More intensive monitoring only if required by permitting authorities.

NFWFMD PERSONNEL TO IMPLEMENT MITIGATION

Robert F. Lide – Environmental Scientist
 David Clayton – Environmental Scientist
 Duncan J. Cairns – Chief, Environmental and Resource Planning Bureau

Other NFWFMD personnel or environmental consultants may be called upon as needed.



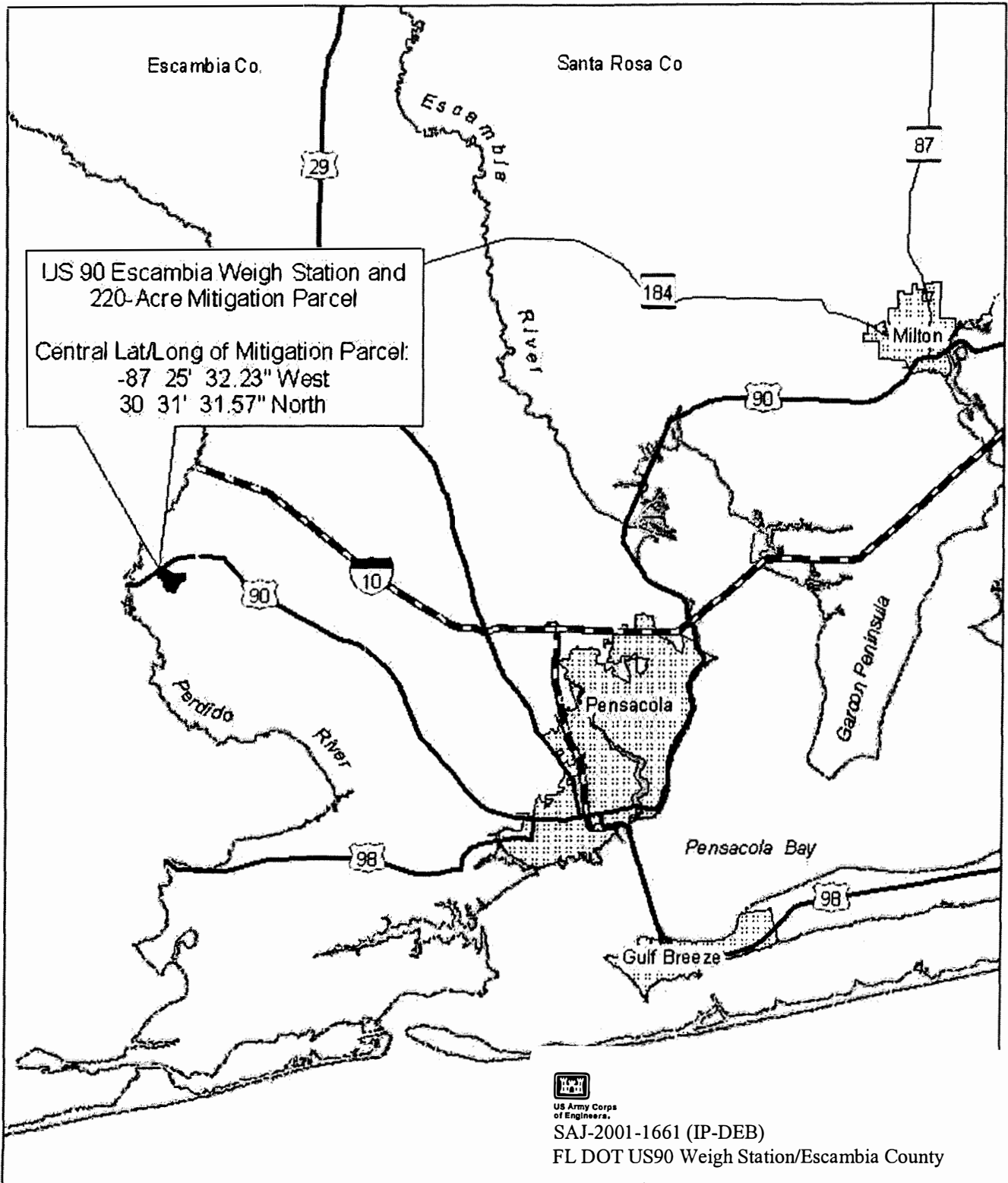
US Army Corps
of Engineers

SAJ-2001-1661 (IP-DEB)

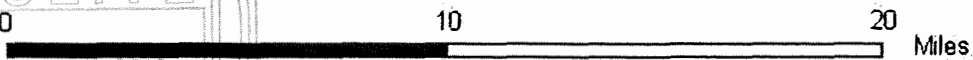
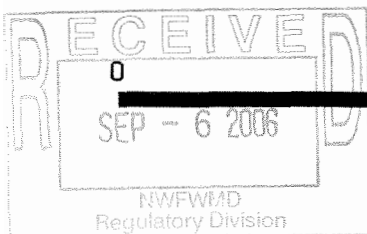
FL DOT US90 Weigh Station/Escambia County

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US 90 Escambia Weigh Station and 220-Acre Mitigation Site



Sheet # 4 of 6 August 31, 2006



US 90 Weigh Station Impact (7.80 Acres) and Mitigation Acquisition (220 Acres)



US Army Corps
of Engineers

SAJ-2001-1661 (IP-DEB)

FL DOT US90 Weigh Station/Escambia County

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Perdido

90

Impact - 7.80 Acres

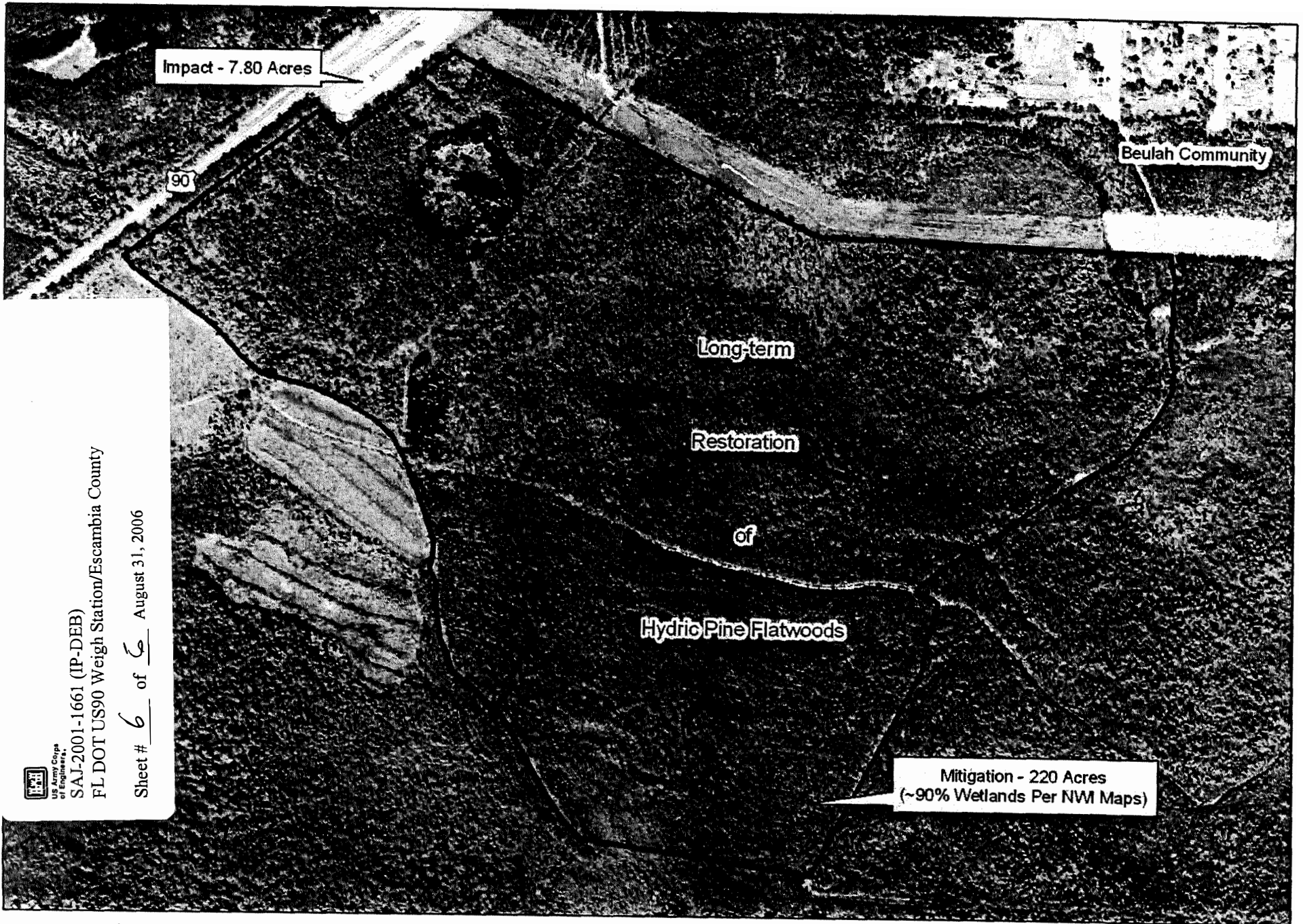
Mitigation - 220 Acres
(~90% Wetlands Per NWM Maps)

Beulah Community

0 0.5 Miles



US 90 Weigh Station Impact (7.80 Acres) and Mitigation Acquisition (220 Acres)



USE AND COPY
OF ENGINEERING

SAI-2001-1661 (IP-DEB)

FL DOT US90 Weigh Station/Escambia County

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0

0.3

0.6

Miles





REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
Panama City Regulatory Field Office
1002 West 23rd Street, Suite 350
Panama City, Florida 32405

September 13, 2006

North Permits Branch
SAJ-2001-1661(IP-DEB)
Modification #2

Florida Department of Transportation
District III
c/o Joy Giddens, Permits Coordinator
P.O. Box 607
Chipley, Florida 32428-0607

Dear Ms. Giddens:

The U.S. Army Corps of Engineers has completed the review and evaluation of your modification request received September 7, 2006 in which you asked to revise the plans authorized by Department of the Army permit number SAJ-2001-1661(IP-DEB), which authorized fill in 6.38 acres of wetlands to construct a weigh station, issued on December 17, 2001. The project is located on an 8.2-acre parcel, east of the Perdido River and just south of US90, at mile post 1.378, in Section 11, Township 1 south, and Range 32 west, Escambia County, Florida.

The proposed modification is to remove the requirement to place the 220.0-acre mitigation area under protective covenant as outlined under Special Conditions #2-7 of the Permit Modification Letter #1, issued on August 31, 2006. The modification must be completed in accordance with the following special conditions, which are incorporated in, and made a part of the permit:

1. The approximately 220.0-acre offsite mitigation area, which includes approximately 198.0 acres of freshwater wetlands, will remain in its preserved/enhanced state in perpetuity. These natural preserve areas will not be disturbed by any dredging, filling, land clearing, agricultural activities, planting, or other construction work whatsoever, excepting those restoration and management actions required to accomplish the activities associated with this permit and its special conditions, or those restoration and management actions that may be approved by the Corps as part of future mitigation projects on this parcel. The permittee agrees that the only future

utilization of the preserved areas in question will be as a purely natural area.

2. The permittee will ensure that if the State of Florida, acting through the Northwest Florida Water Management District, no longer desires to manage the offsite mitigation area, as per the conditions of this permit, or acts to relinquish title to the mitigation property, title to mitigation property can only be transferred to an entity that is qualified and legally required to manage the land in perpetuity as per the conditions of this permit. The Corps of Engineers will be notified in writing of any change in ownership. This provision shall be included on the deed to the mitigation property. Notification shall be made to the above letterhead address and our Enforcement Section at: U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, Florida 32332-0019.

This letter contains a proffered permit for your project. If you object to this decision, you may request an administrative appeal under Corps' regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process fact sheet and Request for Appeal (RFA) form. If you request to appeal this decision, you must submit a completed RFA form to the South Atlantic Division Office at the following address:

Mr. Michael F. Bell
South Atlantic Division
U.S. Army Corps of Engineers
CESAD-CM-CO-R, Room 9M15
60 Forsyth St., SW.
Atlanta, Georgia 30303-8801.

Mr. Bell can be reached by telephone number at 404-562-5137, or by facsimile at 404-562-5138.

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division office within 60 days of the date of the RFA. Should you decide to submit an RFA form, it must be received at the above address within 60 days from the date of

this permit. It is not necessary to submit an RFA form to the Division office, if you do not object to the determination/decision in this letter.


The impact of your proposal on the environment has been reviewed and found to be insignificant. The permit is hereby modified in accordance with your request. You should attach this letter to the permit. All other conditions of the permit remain in full force and effect.

If you have any questions concerning permit modification, please contact the project manager Dale Beter at 850-763-0717, #57 or by electronic mail at dale.e.beter@saj02.usace.army.mil.

Thank you for your cooperation with our permit program. The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit the following link and complete our automated Customer Service Survey:

http://www.saj.usace.army.mil/permit/forms/customer_service.htm.
Your input is appreciated - favorable or otherwise.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

for 
Paul L. Grosskruger
Colonel, U.S. Army
District Commander

Copy Furnished:
Duncan Cairns, NFWMD, Havana
Mary Mittiga, USFWS, Panama City
FDEP, Pensacola
CESAJ-RD-PE, Jacksonville

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: FDOT District III		File Number: SAJ-2001-1661(IP-DEB)	Date: September 13, 2006
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
X	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/ceewo/reg> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- ACCEPT:* If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- ACCEPT:* If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT:* You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Project Manager as noted in letter

If you only have questions regarding the appeal process you may also contact:

**Michael F. Bell
404-562-5137**

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

Beter, Dale E SAJ

From: Duncan Cairns [Duncan.Cairns@nfwmd.state.fl.us]
Sent: Thursday, September 07, 2006 8:14 AM
To: OKane, Kevin D SAJ; Holden, Richard V SAJ; Beter, Dale E SAJ
Cc: joy.giddens@dot.state.fl.us; Robert Lide; David Clayton
Subject: SAJ 2001-1661 (IP-DEB) Modification #1

Greetings All – Thank you for the processing and receipt of the above referenced modification changing mitigation from the Perdido Pitcher Plant Prairie to lands more proximate to the FDOT wetland impacts associated with the US 90 weigh station at the Alabama line. We are fully on board with the modification with the notable exceptions of the new Special Conditions #2 through #7 which require a conservation easement to be submitted to the Corps for approval and then recorded as well as other restrictions regarding the conservation easement.

The NFWFMD, on behalf of the FDOT, has always proceeded under the understanding that mitigation lands under the ownership of the NFWFMD or State of Florida did not require a conservation easement for Corps permitting. We fully understand and agree that private mitigation lands need such real property restrictions, but there are ample statutory and NFWFMD Governing Board policy provisions for protection in perpetuity. These coupled with the permitting mandates to preserve the mitigation property in perpetuity have been acceptable to the Corps for previous permits involving NFWFMD and State of Florida lands. Of note, the original permit that involved purchase and mitigation within the Perdido Pitcher Plant Prairie (state-owned lands) had no conditions that required a conservation easement. Additionally, our Governing Board has never accepted the placement of a conservation easement on NFWFMD lands with the exception of the Sand Hill Lakes Mitigation Bank and even that was a most difficult approval process.

We would greatly appreciate consideration of removing these conditions that require a conservation easement and the associated conditions. The NFWFMD is already in possession of the mitigation land and has clear title which we would be happy to provide. We also have no problem with additional conditions that mandate preservation of the mitigation in perpetuity or similar language.

Thank you for your time and patience in this regard – Duncan Jay Cairns

NOTICE: E-mail communications to or from Northwest Florida Water Management District employees regarding state business are considered to be public records. Florida's public records law requires these communications be made available to the public and media upon request.