

Jeb Bush  
Governor

# Department of Environmental Protection

Northwest District  
160 Governmental Center  
Pensacola, Florida 32501-5794

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David B. Struhs  
Secretary

## CONSOLIDATED WETLAND RESOURCE PERMIT AND SOVEREIGN SUBMERGED LANDS AUTHORIZATION

PERMITTEE/AUTHORIZED ENTITY:  
Florida Department of Transportation  
St. George Island  
Attn: Regina Battles  
1024 Highway 90 East  
Chipley, Florida 32428

Permit/Authorization Number:  
19-0167204-001-DF  
Date of Issue:  
Expiration Date/  
Construction Phase:

County: Franklin  
Project: Bridge replacement

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This permit is issued under the authority of Part IV of Chapter 373, F.S., and Title 62, Florida Administrative Code (F.A.C.). The activity is not exempt from the requirement to obtain a Consolidated Wetland Resource Permit. The Department is responsible for reviewing and taking final agency action on this activity.

This permit also constitutes a finding of consistency with Florida's Coastal Zone Management Program, as required by Section 307 of the Coastal Management Act.

This activity also requires a proprietary authorization, as the activity is located on sovereign submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Article X, Section 11 of the Florida Constitution, and sections 253.002 and 253.77, F.S. The activity is not exempt from the need to obtain a proprietary authorization. The Department has the responsibility to review and take final action on this request for proprietary authorization in accordance with section 18-21.0051, F.A.C. In addition to the above, this proprietary authorization has been reviewed in accordance with Chapter 253, F.S., Chapter 18-21, F.A.C., section 62-312.065, F.A.C.

As staff to the Board of Trustees, the Department has reviewed the activity described below, and has determined that the activity requires a Public Easement for the use of those lands, pursuant to Chapter 253.77, Florida Statutes. The Department intends to issue the Public Easement, subject to the recommended fees and conditions in the attached Recommended Proprietary Action.

The final documents required to execute the Public Easement have been sent to the Division of State Lands. The Department intends to issue the Public Easement, upon satisfactory execution of those documents. You may not begin construction of this activity on state-owned, sovereign submerged lands until the Public Easement has been executed to the satisfaction of the Department.

*"More Protection, Less Process"*

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A copy of this authorization also has been sent to the U.S. Army Corps of Engineers (USACOE) for review. The USACOE may require a separate permit. Failure to obtain this authorization prior to construction could subject you to enforcement action by that agency. You are hereby advised that authorizations also may be required by other federal, state, and local entities. This authorization does not relieve you from the requirements to obtain all other required permits and authorizations.

The above named permittee is hereby authorized to construct the work shown on the application and approved drawing(s), plans, and other documents attached hereto or on file with the Department and made a part hereof. This permit and authorization to use sovereign submerged lands is subject to the limits, conditions, and locations of work shown in the attached drawings, and is also subject to the attached 15 General Conditions and 40 Specific Conditions, which are a binding part of this permit and authorization. You are advised to read and understand these drawings and conditions prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also should read and understand these drawings and conditions prior to commencing the authorized activities. Failure to comply with all drawings and conditions shall constitute grounds for revocation of the permit and appropriate enforcement action.

**ACTIVITY DESCRIPTION:**

The project is to construct a 4.55 mile long two-lane bridge across St. George Bay, replacing the Bryant Patton Bridge.

**ACTIVITY LOCATION:**

The project is located at Apalachicola on St. George Bay, Aquatic Preserve, Shellfish Approved Harvesting Waters, Sections 6, 18, 19, 20, 29, Township 09 South, Range 06 West; Sections 1, 2, 12, 13, Township 09 South, Range 07 West, Latitude/Longitude: 29 43'17"N/84 53'33"W, Franklin County.

**GENERAL CONDITIONS:**

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit, are "permit conditions" and are binding and enforceable pursuant to sections 403.141, 403.727, or 403.859 through 403.861, F.S. The permittee is placed on notice that the Department will review this permit periodically and may initiate enforcement action for any violation of these conditions.

2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications, or conditions of this permit may constitute grounds for revocation and enforcement action by the Department.

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3. As provided in subsections 403.087(6) and 403.722(5), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor any infringement of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit that may be required for other aspects of the total project which are not addressed in this permit.

4. This permit conveys no title to land or water, does not constitute State recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title.

5. This permit does not relieve the permittee from liability for harm or injury to human health or welfare, animal, or plant life, or property caused by the construction or operation of this permitted source, or from penalties therefore; nor does it allow the permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department.

6. The permittee shall properly operate and maintain the facility and systems of treatment and control (and related appurtenances) that are installed and used by the permittee to achieve compliance with the conditions of this permit, are required by Department rules. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit and when required by Department rules.

7. The permittee, by accepting this permit, specifically agrees to allow authorized Department personnel, upon presentation of credentials or other documents as may be required by law and at reasonable times, access to the premises where the permitted activity is located or conducted to:

- a. Have access to and copy any records that must be kept under conditions of the permit;
- b. Inspect the facility, equipment, practices, or operations regulated or required under this permit; and
- c. Sample or monitor any substances or parameters at any location reasonable necessary to assure compliance with this permit or Department rules.

Reasonable time may depend on the nature of the concern being investigated.

8. If, for any reason, the permittee does not comply with or will be unable to comply with any condition or limitation specified in this permit, the permittee shall immediately provide the Department with the following information:

- a. A description of and cause of noncompliance; and

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- b. The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. The permittee shall be responsible for any and all damages which may result and may be subject to enforcement action by the Department for penalties or for revocation of this permit.

9. In accepting this permit, the permittee understands and agrees that all records, notes, monitoring data and other information relating to the construction or operation of this permitted source which are submitted to the Department may be used by the Department as evidence in any enforcement case involving the permitted source arising under the Florida Statutes or Department rules, except where such use is prescribed by sections 403.111 and 403.73, F.S. Such evidence shall only be used to the extent it is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules.

10. The permittee agrees to comply with changes in Department rules and Florida Statutes after a reasonable time for compliance; provided, however, the permittee does not waive any other rights granted by Florida Statutes or Department rules. A reasonable time for compliance with a new or amended surface water quality standard, other than those standards addressed in rule 62-302.500, F.A.C., shall include a reasonable time to obtain or be denied a mixing zone for the new or amended standard.

11. This permit is transferable only upon Department approval in accordance with rules 62-4.120 and 62-730.300, F.A.C., as applicable. The permittee shall be liable for any non-compliance of the permitted activity until the transfer is approved by the Department.

12. This permit or a copy thereof shall be kept at the work site of the permitted activity.

13. This permit also constitutes Certification of Compliance with State Water Quality Standards (Section 401, PL 92-500).

14. The permittee shall comply with the following:

- a. Upon request, the permittee shall furnish all records and plans required under Department rules. During enforcement actions, the retention period for all records will be extended automatically unless otherwise stipulated by the Department.
- b. The permittee shall hold at the facility or other location designated by this permit records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by the permit, copies of all reports required by this permit, and records of all data used to complete the application for this permit. These materials shall be retained at least three years from the date of the sample,

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measurement, report, or application unless otherwise specified by Department rule.

c. Records of monitoring information shall include:

1. the date, exact place, and time of sampling or measurements;
2. the person responsible for performing the sampling or measurements;
3. the dates analyses were performed;
4. the person responsible for performing the analyses;
5. the analytical techniques or methods used; and
6. the results of such analyses.

15. When requested by the Department, the permittee shall within a reasonable time furnish any information required by law which is needed to determine compliance with the permit. If the permittee becomes aware the relevant facts were not submitted or were incorrect in the permit application or in any report to the Department, such facts or information shall be corrected promptly.

**SPECIFIC CONDITIONS:**

1. If historical or archaeological artifacts, such as Indian canoes, are discovered at any time within the project site the permittee shall immediately notify the district office and the Bureau of Historic Preservation, Division of Historical Resources, R. A. Gray Building, 500 S. Bronough St., Tallahassee, Florida 32399-0250.

2. At least 48 hours prior to commencement of work authorized by this permit, the permittee shall notify the Department of Environmental Protection, Submerged Lands & Environmental Resources Program, Compliance and Enforcement Section, Suite 202, Northwest District Office, 160 Governmental Center, Pensacola, Florida 32501-5794, in writing. The Department telephone number for reporting problems, malfunctions or exceedances under this permit is (850) 595-8300 during normal working hours. Also, notify the Tallahassee Branch Office at 850-488-3704 within 24 hours of the time the violation is first detected.

3. The terms, conditions, and provisions of the required Public Easement shall be met. Construction of this activity shall not commence on sovereign submerged lands, title to which is held by the Board of Trustees of the Internal Improvement Trust Fund, until all required Public Easement documents have been executed to the satisfaction of the Department.

4. If the approved permit drawings conflict with the specific conditions, then the specific conditions shall prevail.

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5. All storage or stockpiling of tools or materials (i.e. lumber, pilings, etc.) shall be limited to uplands or within the impact areas authorized by this project. All cleared vegetation, excess material, trash, garbage and any other type of debris shall be removed from wetlands/waters of the state within 14 days of completion of that section of work authorized in this permit.

6. Any damage to wetlands/littoral zone area as a result of bulkheading, the construction of upland retaining walls or other construction work, shall be restored to pre-construction elevations and then planting vegetation of the size, densities, and wetland or aquatic species that exist in the adjacent areas. The restoration shall be completed within 30 days of completion of the bulkheading/retaining walls.

7. Prior to the initiation of any work authorized by this permit, floating turbidity screens with weighted skirts that extend to within 1 ft. of the bottom shall be placed around areas of activity such as pile driving, demolition, and shallow water activities. The screens shall be maintained and shall remain in place for the duration of the project construction to ensure that turbidity levels outside the construction area do not degrade the ambient water quality of Outstanding Florida Waters. The permittee shall be responsible for ensuring that turbidity control devices are inspected daily and maintained in good working order so that there is no degradation of the ambient water quality of Outstanding Florida Waters outside of the turbidity screens. Turbidity shall be monitored as described in the monitoring portion of this permit.

The following measure shall be taken by the permittee whenever turbidity levels within waters of the State surrounding the project site, exceed the ambient water quality levels of the Outstanding Florida Waters:

- a. Immediately cease all work contributing to the water quality violation.
- b. Stabilize all exposed soils contributing to the turbidity violation, modify the work procedures that were responsible for the violation, and install more turbidity containment devices and repair any non-functioning turbidity containment devices.
- c. Notify the Tallahassee Branch Office at 850-488-3704 and the Northwest District Office at 850-595-8300 x1190 within 24 hours of the time the violation is first detected.

8. All wetland areas or water bodies which are outside the specific limits of construction authorized by this permit must be protected from erosion, siltation, scouring and/or dewatering. Turbidity barriers shall be installed prior to any excavation or placement of fill material and shall be maintained in effective condition at all locations until construction is completed and disturbed areas are stabilized. Thereafter, the permittee must remove the barriers. At no time shall there be any discharge in violation of the water quality standards in Chapter 62-302, Florida Administrative Code. Turbidity/erosion controls shall be installed prior to any clearing, excavation or placement of fill material and shall be maintained in an

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effective condition at all locations until construction is completed, disturbed areas are stabilized, and turbidity levels have fallen to less than ambient background. The permittee shall be responsible for ensuring that erosion control devices/procedures are inspected/maintained daily during all phases of construction authorized by this permit. Once these conditions are met, the turbidity and erosion control devices shall be removed within 14 days. Staked filter cloth shall be positioned at the edge of the permitted fill slopes where they are adjacent to wetlands in order to prevent turbid run-off and erosion.

9. Semiannual narrative reports shall be submitted by the Permittee or the designated responsible party to the DEP Northwest District Office at the address on the letterhead of this permit and the Tallahassee Branch Office at 2815 Remington Green Circle, Suite A, Tallahassee, FL. 32308. The reports shall indicate the status of the project and shall include the following information:

- a. Commencement date and completion date for permitted mitigation activities; if work has not begun or is not completed, please so indicate.
- b. Commencement date and completion date for stormwater treatment system construction, for compensatory stormwater treatment system construction, and for permitted road and bridge construction activities including clearing, grading, paving, and construction of pilings; if work has not begun or is not completed, please so indicate.
- c. Brief description and extent of work (dredging, filling, construction, planting, etc.) completed since the previous report or since permit was issued. Indicate on copies of the permit drawings those areas where work has been completed.
- d. Brief description and extent of work (dredging, filling, construction, planting, etc.) anticipated in the next six months. Indicate on copies of the permit drawings those areas where it is anticipated that work will be done.
- e. Brief description of problems encountered and how those problems were resolved.

The status reports may be incorporated into the semiannual narrative report of the mitigation monitoring. The first semiannual report is due six months from the date of permit issuance. The last status report shall be submitted within 30 days after the completion of the construction activities authorized by this permit.

10. Construction activities within wetlands, including clearing, equipment access and stockpiling, shall be limited to the authorized areas of impact that are shown on the permit drawings. These areas do not necessarily extend to the edge of the right-of-way. Before construction activities begin, the limits of these authorized areas of impact shall be marked with highly visible

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flagging. Signs shall be posted (prior to construction) to prohibit access into the wetlands that are outside the authorized work area. The signs shall be legible from 25 feet away and shall be posted at 50 ft. intervals. The flagging and signs shall be maintained in a visible and legible state for the duration of construction activities in the area.

11. The permittee and its contractors shall adhere to the standard specifications for prevention, control and abatement of erosion and water pollution, as stated in Section 104 of the Florida Department of Transportation - Standard Specifications for Road and Bridge Construction, and to any stricter standards as required in these Specific Conditions.

12. Best management practices for controlling erosion and turbidity, including but not limited to the use of staked hay bales, turbidity curtains, and staked filter cloth, shall be utilized and maintained at all times during project construction to prevent erosion, sedimentation and the discharge of turbid water into wetlands and other waters of the State outside of the authorized areas of impact. These erosion and turbidity control devices shall be installed prior to the commencement of construction in any given area and maintained until post-construction stabilization has been achieved in the area.

13. The permittee shall assign a qualified environmental scientist(s), who is independent of the construction contractors, to be responsible for daily inspections of the erosion and turbidity control devices discussed in Specific Condition No. 7, 8 and 12 above, for maintaining the flagging and signs described in Specific Condition No. 10 above, for overseeing turbidity monitoring, for keeping a daily inspection log, and for ensuring that the effectiveness of each erosion and turbidity control device is maintained at all times until post-construction turbidity levels in open water are at ambient levels and vegetative stabilization is achieved on land. The daily inspection log shall note the date that the control devices were installed, the type of devices, occurrence of precipitation, adequacy of devices, turbidity levels (measured in accordance with the MONITORING REQUIRED section of this permit), corrective or maintenance measures required, and the date that the devices were removed. Turbidity monitoring shall be conducted as specified in the MONITORING REQUIRED section of this permit. This monitoring shall continue until adequate ground cover is established to prevent erosion on land and post-construction turbidity levels in open water are at ambient background levels. The log shall be kept up to date, shall be made available upon the Department's request, and shall be submitted to the Northwest District Wetland Resources Program, Compliance-Enforcement Section with the final semiannual narrative report. The name, address, phone number, and qualifications of the environmental scientist(s) shall be indicated in the construction commencement notice and the semiannual narrative reports.

14. If, as a result of construction activities associated with this project, turbidity levels in waters or wetlands outside of the authorized areas of impact degrade the ambient water quality of the Outstanding Florida Water, the environmental scientist who is responsible for turbidity control (see Specific Condition No. 13) shall notify the Northwest District Submerged Lands Program at 850 -595-8300 of this situation within 24 hours and notify the Tallahassee



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Branch Office at 850-488-3704. Construction activities shall cease in that section of the project, and immediate corrective action shall be taken by the permittee and its contractors. Construction shall not begin again in that area until the turbidity/erosion control devices have been adequately enhanced and turbidity levels are reduced to ambient levels.

15. If dewatering is necessary for culvert installation, 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 NTUs above ambient levels.

16. No lead-based paint shall be used on the bridges associated with this project. No hazardous materials, used in association with this project shall be stored within or over the limits of the Department's jurisdiction. All refueling sites shall be located in uplands.

17. Disposal of construction debris from this project shall only take place in an approved solid waste disposal site. Construction debris shall not be discarded into open waters or wetlands. See Specific Condition No. 39 and No. 28 regarding use of demolition material as off-shore reef and rip rap.

18. In order to ensure that the wetland mitigation is correctly implemented, a qualified biological consultant shall oversee the earthmoving, mucking, grading, planting and monitoring required for the mitigation plan. Prior to the commencement of any activities authorized by this permit, the permittee shall submit to Northwest District, Compliance and Enforcement Section of the Submerged Lands & Environmental Resources Program, for review and approval the name of the biological consultant is qualified to oversee the work. The biological consultant must have documented experience in successful estuarine wetland restoration, with a record of positive permit compliance. Any proposed change in biological consultant during the life of the permit and the monitoring period shall be submitted to the Northwest District, Submerged Lands & Environmental Resources Program for review and approval.

19. There shall be no discharge of oil, greases, solid waste or construction debris in St. George Bay from any activity associated with this project.

20. The contractor(s) shall make available Pot-O-Lets at the bridge construction site and, if possible, on construction barges. The Pot-O-Lets are to be serviced on a regular basis and at no time shall the contents be released into St. George Bay or other waters of the State.

#### Manatee and Endangered Species Conditions

21. The standard manatee construction conditions shall be followed for all in-water construction activities.

a. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions

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- with manatees. All construction personnel are responsible for observing water-related activities for the presence of manatee(s).
- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.
  - c. Siltation barriers shall be made of material in which manatees cannot become entangled, are properly secured, and are regularly monitored to avoid manatee entrapment. Barriers must not block manatee entry to or exist from essential habitat.
  - d. All vessels associated with the construction project shall operate at "no wake/idle" speeds at all times while in the construction area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
  - e. If manatee(s) are seen within 100 yards of the active daily construction/dredging operation or vessel movement, all appropriate precautions shall be implemented to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) has departed the project area of its own volition.
  - f. Any collision with and/or injury to a manatee shall be reported immediately to the Florida Marine Patrol at 1-800-DIAL FMP (1-800-342-5367). Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-561-562-3909) in south Florida.
  - g. Temporary signs concerning manatees shall be posted prior to and during all construction/dredging activities. All signs are to be removed by the permittee upon completion of the project. A sign measuring at least 3 ft. by 4 ft. which reads *Caution: Manatee Area* will be posted in a location prominently visible to water related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. The second sign should be at least 8 1/2" by 11" which reads *Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of operation. Any collision with and/or injury to a manatee shall be reported immediately to the Florida Marine Patrol at 1-800-DIAL FMP (1-800-342-5367). The U.S. Fish and Wildlife Service should also be contacted in Jacksonville (1-904-232-2580) for north Florida or in Vero Beach (1-561-562-3909) for south Florida.*

TEMPORARY MANATEE SIGNS  
for standard manatee construction conditions

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Revised March 1999

The "Caution: Manatee Area" signs, (3 feet by 4 feet) are available through the companies listed below, and may also be available from other local suppliers throughout the state. Permit/lease holders, should contact sign companies directly to arrange for shipping and billing. These Caution signs are intended to remind work and boat crews of the presence of manatees while in-water work is being performed. They should be posted in a prominent location for maximum visibility by all water-related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. An example is enclosed, and this example can be copied and used during construction activities.

ASAP Signs & Designs  
624-B Pinellas Street  
Clearwater, Florida 33756  
(727) 443-4878  
fax (727) 442-7573  
4639

Municipal Supply & Sign Company  
1095 Fifth Avenue, North  
P.O. Box 1765  
Naples, Florida 33939-1765  
(800) 239-5366 or (941) 262-  
4639  
fax (941) 262-4645

Cape Coral Signs & Designs, Inc.  
1311 Del Prado Boulevard  
Cape Coral, Florida 33990  
(800) 813-9922 or (941) 772-9992  
fax (941) 772-9992  
0665

Universal Signs & Accessories  
2912 Orange Avenue  
Fort Pierce, Florida 34947  
(800) 432-0331 or (561) 461-  
0669  
fax (561) 461-0669

Dock Masters of Homosassa  
P.O.Box 717  
Homosassa, Florida 34487  
(352) 628-4314

Wilderness Graphics, Inc.  
P.O.Box 1635  
Tallahassee, Florida 32302  
(850) 224-6414

JADCO Signing, Inc.  
309 Angle Road  
Ft. Pierce, Florida 34947  
(561) 489-8772  
(800) 489-8758 (Florida only)  
fax (561) 489-8757

fax (850) 561-3943

22. Any blasting activities must follow the blasting conservation measures listed below:

a) A watch program (WP) shall be submitted to the Fish and Wildlife Conservation Commission's Bureau of Protected Species Management (BPSM, OES-BPSM, 620 Meridian Road, Tallahassee, 32399-1600 ) at least 30 days prior to the proposed date of the blast(s). This program must be approved by BPSM prior to any blasting activities. The Watch Program shall include:

- a list of the chief and primary observers and their qualifications,
- time tables for blasting,
- tide tables for the blasting event,

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- time tables for the WP (start times for aerial survey and other survey positions),
- observer positions,
- a copy of the WP log sheet,
- and the map that will be used to record manatee, turtle, dolphin or whale sightings and their qualifications.

b) A formal WP coordination meeting shall be held at least two days prior to the first blast event. Attendants shall include:

- the WP chief and primary observers,
- construction contractors,
- demolition subcontractors,
- and other interested parties, such as the USFWS, BPSM, or the U.S. Coast Guard.

c) All shall be informed about the possible presence of manatees, dolphins, marine turtles or whales in the area and that civil or criminal penalties can result from harassment, injury, and/or death of an endangered species.

d) The construction contractors, demolition subcontractors and primary observers shall present the protocol and logistics of the demolition project and shall include:

- time tables for blasting,
- time tables for the WP (start times for aerial survey and other survey positions),
- observer positions,
- a copy of the WP log sheet and
- the map to record animal sightings.

e) The watch shall consist of a minimum of four observers, including one chief observer and three additional observers. In addition to the observers, there shall be one WP coordinator on site to supervise the watch. Two of four observers shall have previous experience in observing/spotting manatees and marine turtles. The observer requirements are as follows:

- The chief observer shall have the most experience in observation.
- The aerial observer shall also have previous experience observing endangered species in aerial surveys.
- The two additional observers shall be trained and informed in the methods of surveying and locating manatees.

e) Observers shall follow the protocol established for the WP and shall conduct the watch in good faith and to the best of their ability.

f) Each observer shall be equipped with:



- a two-way radio or cellular phones that shall be dedicated exclusively to the watch
  - polarized sunglasses
  - binoculars
  - a red flag for backup visual communication system
  - a sighting log with a map to record sightings.
- e) All blasting events will be weather dependent. Climatic conditions must be suitable for optimal viewing conditions. Optimal viewing conditions include the period of slack tide and climatic conditions (wind speeds in excess of 10 knots, fog, and heavy rain), which would prohibit blasting. The chief observer will make the decision on the presence of optimum observing conditions to initiate the survey for each blast event.
- f) A continuous aerial survey shall be conducted by airplane, beginning one hour prior to the start of blasting in the vicinity of the blast site. The survey route shall be designed in conjunction with BSPM and USFWS. After detonation, the aerial survey crew shall make a complete survey of the blast area. The aerial survey crew shall either remain on ground standby or shall continue surveillance of the survey area until the end of the watch period in case the need for aerial tracking of an injured animal arises.
- g) The additional primary observers shall be located at agreed upon positions around the blast site. These positions shall be situated to provide maximum visibility of the danger zone and shall be approved by BSPM and USFWS. The primary observers shall begin surveying the area one hour prior to the blast event and continue observing for one half hour after the blast event.
- h) Using the formula for a blast of:  
$$r = 260 (\text{cube root of } w) (7.28)$$
  
Where  $r$  = radius,  $w$  = weight of the explosives (TNT equivalent in pounds). This radius shall be marked in a highly visible manner, preferably with colored buoys.
- i) All of the observers shall be in close communication with the blasting subcontractor in order to halt the blast event if the need arises. The event shall be halted if a marine animal(s) is spotted within 300 feet of the perimeter of the safety zone.
- j) The blasting event shall be halted immediately upon request of any of the observers. The blast event shall not take place until the animal(s) move out of the area under their own volition. Animals shall not be herded away or harassed into leaving. Specifically, the animals must not be intentionally approached by project watercraft. If the animal(s) is not sighted a second time, the event shall not resume until 30 minutes after the initial sighting.

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- k) The observers and contractors shall evaluate any problems encountered during the blasting events and present logistical solutions to the USFWS and BPSM. Corrections to the WP shall be made prior to the next blasting event.
- l) If an injured or dead marine animal is sighted after the blast event, the watch observers shall contact the Florida Marine Patrol Resource Protection Hotline, 1-800-DIAL-FMP (1-800-342-5367), and contact the Bureau of Protected Species Management (850/922-4330). The Watch shall act according to the situation and maintain contact with the injured or dead manatee.
- m) If any injured or dead marine species is rescued/recovered within the project area during the blasting period or if the death/injuries of any animal occurs in the surrounding vicinity, blasting shall be postponed until cause of injury or mortality can be determined by BPSM and USFWS. If blasting injuries are documented, all underwater demolition activities shall cease. A revised plan shall be submitted to BPSM and USFWS for approval.
- n) Within two weeks (14 days) after completion of all blasting events, the chief observer shall submit a report to the USFWS and BPSM (Bureau of Protected Species Management, OES-BPSM, 620 Meridian Road, Tallahassee, 32399-1600). The report will provide a description of the event, number of and location of animals seen and what actions were taken when animals were seen.
- o) If any one of the aforementioned conditions is not met prior to or during the blasting, the chief observer of the watch program shall have the authority to terminate the blasting event.

#### Stormwater

23. Within 30 days following completion of all stormwater treatment-related construction, the permittee shall cause to be filed with the Department an As Built certification, signed by a Florida registered professional engineer. The certification should be accompanied by As Built drawings identifying any changes to the permitted design, plus the necessary calculations as appropriate.

24. Within 90 days of the expiration of this permit, the permittee, or where appropriate, Franklin County, assisted as necessary by the permittee, shall apply for an operating permit for the stormwater treatment-related facilities constructed under this permit, using the forms, and accompanied by the fee, specified by regulations in existence at that time.

25. The permittee shall ensure that construction on the offsite stormwater treatment-related facilities identified in the permit has begun, BEFORE any construction begins on the bridge. Construction on these stormwater facilities should continue unabated, and be completed as soon as possible, weather permitting, but not later than six months after work on the bridge begins. Notify the Department when work on the offsite facilities begins and ends.

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26. The permittee shall ensure that NO work begins until the easement for construction and operation of the wet detention pond on Couch Construction property has been submitted to, and approved in writing by, the Department.

27. The permittee shall take whatever steps are necessary to ensure that erosion is controlled, and that no offsite discharge of turbidity occurs, at any of the stormwater treatment-related construction sites. This should include any actions necessary in addition to those included in the erosion control plan developed for this project.

#### The Causeway

28. Bridge rubble to be used as rip rap along the causeway shall not contain any exposed reinforcing rods or similar protrusions. The rip rap shall be free of sediment, debris and any toxic or otherwise deleterious substance.

29. The rip rap revetment/bulkhead shall be fully constructed prior to placement of any backfill.

30. A floating turbidity curtain/apron shall be installed around the site from which sand/shell material is to be dredged for use as nesting materials.

31. A floating turbidity curtain/apron shall be installed around the active work areas of the causeway when rip rap and sand/shell material is being placed on the causeway.

32. Monitoring of turbidity shall take place during the dredging of the sand/shell material and its placement on the causeway. A background sample and downstream sample shall be taken, outside of turbidity control devices. See the Specific Condition No. 34 for details on the requirements.

33. Filter fabric shall be used beneath backfill and as indicated in attached permit drawings.

#### MONITORING:

##### 34. Turbidity: NTUs

Frequency: Once daily, or based on activities such as pile driving and shallow water operations, at least one hour after the commencement of work; and once again during each rainy day, during the rain event or within 3 hours following the rain event.

Location: In open waters of the State adjacent to/down current of each bridge terminus, open waters adjacent to bridge construction activities and at any other site where turbidity problems are apparent.

Compliance: 5 ft. outside of turbidity control devices, within any visible turbidity plume, at mid-depth.

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Florida Department of Transportation  
St. George Island Bridge  
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Background: 150 ft. up current of the construction site, outside of any disturbance area or turbidity plume generated by this project, at mid-depth.

Turbidity monitoring shall be conducted as specified above and recorded in the daily monitoring log, along with the following information about the samples: time of day, location of sample, depth of water body, depth of sample, and approximate rate of flow. The daily log shall be kept up to date, shall be available for inspection at all times, and shall be submitted to the Northwest District Wetland Resources Program, and a copy sent the Tallahassee Branch Office following completion of the project, as specified in Specific Condition No. 13.

A summary report shall be submitted with the log, which contains the following information: (1) permit number; (2) dates of sampling and analysis; (3) a statement describing the methods used in collection, handling, storage and analysis of the samples; and (4) a statement by the individual(s) responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data.

35. Fecal Coliform: MPN

Fecal coliform sampling will be performed at various sampling stations when the bay is closed by FDACS due to potential high coliform levels. Stations will include some baseline stations away from construction activities (NW-SW-SE-NW of existing bridge) and at existing channel markers and at both working (barge operating) area and all designated mooring areas in use.

The sampling locations will be indicated on a map and a log book will be maintained which contains the following information for each sample: location, time of day, tide, depth of sample, method of sampling, weather conditions, salinity, temperature, bottom type and person doing the sampling and the method for analyzing the sample. The samples shall be analyzed by a qualified lab using an accepted standard method. This information shall be made part of the semi-annual reports.

36. Water Quality

At each sampling station indicated on the attached map, a Hydroprobe analyzer or an equivalent device will be used to measure the following parameters: dissolved oxygen (ppm), percent oxygen, pH, conductivity, oxidation-reduction potential (ORP), salinity, temperature, turbidity and water depth.

The measurements shall be made at one foot below the surface, one foot above the bottom and at mid depth. This information shall also be maintained in a log book and made part of semi-annual reports.



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#### Mitigation

37. The Oyster Mitigation plan and agreement that is attached as part of this permit shall be adhered to by both the FDOT and FDACS. Any changes made to either the plan or agreement shall be forwarded to the Department for inclusion as a permit modification.

Success criteria: The Division of Aquaculture will establish a monitoring plan to assess the success of restoration actions over the six-year mitigation project. The Division currently uses a statistically valid protocol for assessing the condition of oyster resources in the Apalachicola Bay system. Data have been collected since 1982. Oysters resource surveys are conducted at specific sampling stations on oyster reefs throughout the bay to calculate standing stocks of oysters, determine yield estimates, and predict production trends. Additional sampling stations will be established on mitigation sites and the same sampling protocols will be used.

Population size frequency distributions and estimated yields are used to determine the relative productivity of oyster reefs. Estimated yields calculated from survey results have been used for many years to predict harvest levels and manage the oyster fishery in the bay. Yield estimates, based on specific sampling protocol, are used to determine the relative condition of oyster resources on various reefs and to measure the success of oyster resource restoration projects. Estimated yield exceeding 400 bags of oysters per acre is used as an indicator of healthy oyster reefs capable of sustaining commercial harvesting. Accordingly, oyster populations are: 1) capable of supporting moderate levels of commercial harvesting when estimated yield exceeds 200 bags/acre; 2) below levels necessary to support commercial harvesting when estimated yield falls below 200 bags/acre, and 3) depleted when estimated yield of marketable stocks is below 100 bags/acre. Additionally, size frequency distributions are used to measure successful recruitment, growth rates, and mortality.

38. Mitigation to offset the impacts to wetlands and other surface waters authorized by this permit has been provided by the mitigation plan preliminarily approved by the Governing Board of NFWMD on September 28, 2000 and approved by the Deputy Secretary of the Department of Environmental Protection Kirby Green on Sept 29, 2000 pursuant to Section 373.4137, F.S. Specifically, this permit authorizes all or a part of DOT Work Program Item 312677, the impacts of which have been determined by the Deputy Secretary to be offset by Project Number NW 09 of the approved mitigation plan.. See condition #9 for reporting requirements.

#### Success Criteria

The replanted and created jurisdictional wetland areas shall be considered successful when the entire area exhibits an 80% coverage of jurisdictional species continuously for a period of one year as defined by Chapter 62-340 Florida Administrative Code. Any portions of the restoration area determined to be unsuccessful by the Department in accordance with the above criteria, shall be subject to remedial action including re-contouring soil elevations, establishing proper hydrology and replanting wetland vegetation so the required success criteria is met.

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Off Shore Reefs

39. The disposal of 7,000 to 10,000 tons of superstructure from the demolished Bryant Patton bridge shall be disposed of in an approved solid waste disposal site (see Specific Condition 17). When the permits for use of this material in offshore reefs is obtained, then this permit shall be modified by the applicant or their agent. This permit does not authorize the use of this material for offshore reefs.

40. This permit may be extended beyond its 5 year limit if the applicant requests such extension 6 months prior to its expiration.

**RIGHTS OF AFFECTED PARTIES:**

This permit and intent to grant a public easement on sovereign submerged lands are hereby granted. This action is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under sections 120.569 and 120.57 of the Florida Statutes as provided below. If a sufficient petition for an administrative hearing is timely filed, this action automatically becomes only proposed agency action on the application, subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. The actual terms of the public easement will be formally executed at a later date and shall include provisions for rents and such other provisions as normally are included in such public easement. Because an administrative hearing may result in the reversal or substantial modification of this action, the applicant is advised not to commence construction or other activities until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time have expired and until the public easement has been executed and delivered.

Mediation is not available.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Under rule 62-110.106(4) of the Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. If a request is filed

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late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

In accordance with rules 28-106.111(2) and 62-110.106(3)(a)(4), petitions for an administrative hearing by the applicant must be filed within 14 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under section 120.60(3) of the Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within 14 days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; and

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(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301.

Under sections 120.569(2)(c) and (d) of the Florida Statutes, a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This permit constitutes an order of the Department. Subject to the provisions of paragraph 120.68(7)(a) of the Florida Statutes, which may require a remand for an administrative hearing, the applicant has the right to seek judicial review of the order under section 120.68 of the Florida Statutes, by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000; and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the order is filed with the Clerk of the Department. The applicant, or any party within the meaning of section 373.114(1)(a) or 373.4275 of the Florida Statutes, may also seek appellate review of the order before the Land and Water Adjudicatory Commission under section 373.114(1) or 373.4275 of the Florida Statutes. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the order is filed with the Clerk of the Department.

Executed in Pensacola, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

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Connie A. Krystof  
Program Administrator  
Submerged Lands & Environmental  
Resources Program

cc: USACOE-Panama City  
Michelle Brady, Records Administration  
Bonita Gorham, agent  
Mark Berrigan, DACS  
Barbara Garrison, Asst. Park Manager

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CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this permit and authorization to use sovereign submerged lands, including all copies were mailed before the close of business on \_\_\_\_\_ to the above listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to 120.52(9),  
Florida Statutes, with the designated Department Clerk,  
receipt of which is hereby acknowledged.

Clerk

Date

\_\_\_\_\_

Prepared By: P. Salvaggio  
152 pages attached

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

IN THE MATTER OF:  
PETITION FOR WAIVER  
OF RULE 62-312.080(7) F.A.C.,  
BY FLORIDA DEPARTMENT  
OF TRANSPORTATION.

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OGC Case No. 00-1019

FINAL ORDER

On May 8, 2000, the Florida Department of Transportation, (FDOT) filed a petition for waiver with the Department of Environmental Protection (Department) under section 120.542 of the Florida Statutes. See Exhibit 1. The petition requests a waiver of the provision of rule 62-312.080(7), F.A.C., which prohibits an applicant from obtaining a permit to dredge or fill in Class II waters approved for shellfish harvesting. The Department received no public comments in response to the notice of receipt of FDOT's petition for waiver that was published in the Florida Administrative Weekly on May 26, 2000.

1. Florida Department of Transportation's mailing address is P.O. Box 607, Chipley, Florida 32428.

2. FDOT has filed an application with the Department for a dredge and fill permit to construct a bridge across the St. George Bay at Apalachicola to replace the current bridge which is functionally obsolete and causes serious vehicular constraints due to inadequate lane widths, absence of safety shoulders (emergency lanes), and substandard barrier rails.

3. The St. George Bay is a Class II water body approved for shellfish harvesting.

4. Rule 62-312.080(7) prohibits an applicant from obtaining a permit to dredge or fill in Class II waters approved for shellfish harvesting. Specifically, this rule states that

(7) Permits for dredging or filling directly in Class II or Class III waters that are approved for shellfish harvesting by the Department of Environmental Protection shall not be issued.

Rule 62-312.080(7), F.A.C.

5. Section 120.542 of the Administrative Procedure Act authorizes an agency to grant a variance from or waiver of its administrative rules when "the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principles of fairness." Section 120.542(2), F.S. Section 120.542 defines "substantial hardship" as "a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver." Section 120.542 further states that "principles of fairness" will be violated "when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule." Section 120.542(2), F.S.

**PURPOSE OF THE UNDERLYING STATUTE  
WILL BE ACHIEVED BY OTHER MEANS**

6. Rule 62-312.080 implements section 403.061 of the Florida Statutes. Specifically, subsection 403.061(29) of the Florida Statutes authorizes the Department to adopt "special criteria to protect Class II shellfish harvesting waters."

7. The Department finds that the underlying purpose of section 403.061(29) is to protect shellfish harvesting waters from pollution sources that affect the public's health and safety as it relates to the consumption of harvested shellfish.

8. The Shellfish Environmental Assessment Section (SEAS) in the Department of Agriculture and Consumer Services, which classifies areas for shellfish harvesting in the State of Florida, has no objection to FDOT's proposed dredge and fill project in St. George Bay. The Shellfish Environmental Assessment Section is working with FDOT on appropriate avoidance and mitigation procedures designed to protect the shellfish beds.

9. In accordance with FDOT's dredge and fill permit application, it intends to construct a replacement bridge from Eastpoint, Florida to St. George Island, including the demolition of the existing bridge east of the new bridge alignment, and to construct a permanent landing facility on the causeway island for maintenance purposes and causeway stabilization improvements, and to allow temporary mooring of barges and tugboats at a deep water site in the vicinity of the bridge construction activities.

10. FDOT's permit application has proposed mechanisms to otherwise protect shellfish harvesting areas from pollutants associated with construction and operation of the proposed bridge. A financial commitment has been made by the FDOT to incorporate and implement water quality monitoring to determine pre- and post-construction water quality conditions, including heavy metal monitoring, as well as to incorporate a continuous monitoring and inspection program during construction to adequately demonstrate that this project will not contribute to the degradation of the surface waters, nor to the environment. The petitioner has also demonstrated that any impacts to shellfish resources will be substantially minimized through at-risk oyster relay programs, ongoing during construction and demolition activities, and conducted at Petitioner's expense, with area oystermen, the Florida Department of Agriculture and Consumer Services and the Franklin County Seafood Worker's Association.

11. FDOT has committed to funding oyster mitigation, in addition to the above minimization and avoidance measures to protect shellfish resources located in the vicinity of the project area, for up to one million five hundred thousand dollars (\$1,500,000) over a six year period, for restoring and creation of oyster habitat and resource enhancement projects, per prior agreement between the Petitioner and the Florida Department of Environmental Protection, the Florida Department of Agriculture and Consumer Services, and the Northwest Florida Water Management District.

**APPLICATION OF RULE 62-312.080(7), F.A.C.,  
WILL CREATE A SUBSTANTIAL HARDSHIP**

12. FDOT has demonstrated that application of rule 62-312.080(7), F.A.C., which prohibits construction within Class II waters approved for shellfish harvesting, would create a substantial hardship for FDOT and for the residents of St. George Island and the traveling public by denying them a safe, efficient, evacuation route in case of a hurricane or other natural disaster on the barrier island.

13. The mission of FDOT is “to provide a safe, interconnected statewide transportation system for Florida’s citizens and visitors that ensures the mobility of people and freight, while enhancing economic prosperity and sustaining the quality of the environment.” Sec. 334.046, Fla. Stat. (1999).

14. The existing bridge constitutes a public safety and welfare hardship, since it is now functionally obsolete and a public safety hazard due to inadequate land widths, the absence of safety shoulders (or emergency lanes), and substandard barrier rails. In order to satisfy its mission to provide a safe statewide transportation system for Florida’s citizens and visitors, FDOT must replace the existing bridge to St. George Island, since the existing bridge constitutes a public safety hazard.

15. The proposed bridge replacement project is in the interest of public health, safety and welfare, since the replacement bridge provides the only vehicular access connecting the mainland near Eastpoint, Florida with St. George Island, and is a designated evacuation route for residents on the barrier island.

16. Strict application of the Department’s prohibition of construction within areas approved for shellfish harvesting could result in the continued deterioration of the present bridge which is the only access road to and from St. George Island and the designated evacuation route for residents on the barrier island

17. For the foregoing reasons, FDOT has demonstrated that the granting of this waiver will otherwise achieve the underlying purpose of the statute, and that strict adherence to the requirements of rule 62-312.080(7) would create a substantial hardship for FDOT, and for the residents of St. George Island and the general public. Therefore, FDOT is entitled to a waiver from the provision in rule 62-312.080(7) that prohibits an applicant from getting a permit to dredge or fill in Class II waters approved for shellfish harvesting, provided the following conditions are met:

- a. FDOT will incorporate and implement water quality monitoring to determine pre- and post-construction water quality conditions, including heavy metal monitoring, as well as to incorporate a continuous monitoring and inspection program during construction to adequately demonstrate that this project will not contribute to the degradation of the surface waters, nor to the environment;
- b. Any impacts to shellfish resources will be substantially minimized through at-risk oyster relay programs, ongoing during construction and demolition activities, and conducted at Petitioner’s expense, with area oystermen, the Florida Department of Agriculture and Consumer Services and the Franklin County Seafood Worker’s Association; and
- c. FDOT will fund oyster mitigation, in addition to the above minimization and avoidance measures to protect shellfish resources located in the vicinity of the project area, for up to one million five hundred thousand dollars (\$1,500,000) over a six year period, for restoring and creation of oyster habitat and resource enhancement projects



THEREFORE,

IT IS ORDERED THAT the Petition for a Waiver of Rule 72-312.080(7), F.A.C., filed by Florida Department of Transportation, be granted subject to the above listed conditions.

NOTICE OF RIGHTS

This final order will become final unless a petition for an administrative proceeding is filed pursuant to the provisions of sections 120.569 and 120.57 of the Florida Statutes. Any person whose substantial interests are affected by the Department's action may file such a petition. The petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000. Petitions filed by Florida Department of Transportation or any of the parties listed below must be filed within 21 days of receipt of this order. Petitions filed by any other person must be filed within 21 days of publication of the public notice or within 21 days of receipt of this order, whichever occurs first. A petitioner must mail a copy of the petition to Florida Department of Transportation's qualified representative, Mr. Frank Roberts, P.O. Box 607, Chipley, Florida 32428, at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding (initiated by a party) and participate as a party to it. Any subsequent intervention will only be at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

A petition must contain the following information:

- (a) The name, address, and telephone number of each petitioner; the Department case identification number and the county in which the subject matter or activity is located;
- (b) A statement of how and when each petitioner received notice of the Department action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department action;
- (d) A statement of the material facts disputed by the petitioner, if any;
- (e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;
- (f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this order. Persons whose substantial interests will be affected by any such final decision of the Department on the petition have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.


Mediation under section 120.573 of the Florida Statutes is not available for this proceeding.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above.

A party to this order has the right to seek judicial review of it under section 120.68 of the Florida Statutes, by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within thirty days after this order is filed with the clerk of the Department.

DONE and ORDERED this \_\_\_\_\_ day of October 2000, in Pensacola, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
CONNIE A. KRSTOF  
Program Administrator

160 Governmental Center  
Pensacola, Florida 32501-5794  
Telephone: (850) 595-8300

FILING AND ACKNOWLEDGMENT FILED on this date, under section 120.52 of the Florida Statutes, with the designated Department Clerk, who hereby acknowledges receipt of this order.

  
\_\_\_\_\_  
CLERK

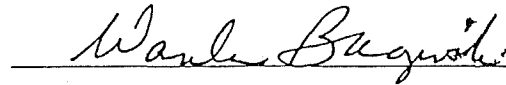
OCT 25 2000

\_\_\_\_\_  
DATE

CERTIFICATE OF SERVICE

\_\_\_\_\_ I CERTIFY that a true copy of the foregoing was mailed to Frank Roberts, P.O. Box 607, Chipley, Florida 32428; and Ms. Bonita Gorham, 1282 Timberland Road, Suite A, Tallahassee, Florida 32312, on this 25<sup>th</sup> day of October 2000.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_

# Oyster Mitigation Plan For St. George Island Bridge

Department of Agriculture and Consumer Services  
Division of Aquaculture

## Technical Plan for Mitigating Oyster Resources

### Mitigating Shellfish Resources in Apalachicola Bay

The Division of Aquaculture will be the entity responsible for implementing the mitigation plan, monitoring the success of the mitigation project, and maintaining the mitigation sites after the mitigation project is completed.

The mitigation plan contains two primary components for oyster resource restoration. Each component of the mitigation plan provides benefits to the local oyster industry by increasing potential oyster production and landings. Additionally, each component provides economic benefits to the different sectors of the local oyster industry. Processed oyster shell will be obtained from local oyster processing plants and live oysters will be harvested and re-planted by local oyster harvesters.

The mitigation plan is divided into three phases; resource assessments will be used to calculate the number of acres to be mitigated during Phase II and III. Phase I will begin in January 2001 and will continue until the bridge is completed. When the bridge is completed, a post-construction oyster resource assessment will be conducted by an independent consultant to determine impacts to affected oyster reefs and determine the number of acres that were damaged. If it is determined that impacts exceeded 15 acres, then Phase II will be implemented to restore additional acreage. Likewise, two oyster resource assessments will be conducted at 18 and 36 months after the project is completed to determine additional impacts. If it is determined that impacts exceeded the mitigation conducted during Phase I and II, then Phase III will be implemented to restore additional acreage.

Total shell and live oysters required during Phase I will be about 285,715 bushels (11,905 yd<sup>3</sup>). The two components provide for:

1. Depositing processed oysters shell on debilitated public oyster reefs to restore reef habitat and provide attachment sites for oyster larvae.
2. Relocating live oysters on restored reefs to accelerate the recovery process. Live oysters will be obtained from two sources, including:
  - A. Juvenile oysters will be transplanted from reefs located in waters where conditions are not favorable to restored reef locations where environmental conditions are more favorable for growth and survival;

B. Juvenile and adult oysters will be relayed from reefs located in waters where harvesting is restricted due to potential public health risks to restored reefs in waters where public health concerns are minimal.

### **Rationale for the Oyster Mitigation Plan**

Mitigation based on replacing substrate and transplanting juvenile oysters is the most effective technique in terms of habitat development and increasing productivity. These techniques are commonly practiced by shellfish resource managers. Substrate material, "cultch", placed in areas where natural reproduction occurs stimulates larval setting and the establishment of new oyster populations, and transplanting live oysters on to restored reefs accelerates the recovery process. Reefs that are restored using these techniques may become productive in 12 to 18 months under optimal conditions. However, since recruitment and survival can be highly variable, some reefs may not become productive for 2-5 years. Additional maintenance (dragging to re-expose shell material) and substrate enhancement may be necessary in some cases. It has been shown that restored reefs can remain productive for 10-20 years.

### **Processed Oyster Shell**

Processed oyster shell will be used for substrate material to restore reefs. Processed shell will be purchased from local processors

NOTE: Chapter 597, Florida Statutes, provides that half of the oyster shell processed in the state is the property of the state. Therefore, the Division would purchase half of the shell that it collects, and only this portion of the shell would be used in the mitigation project.

The Division will establish a shell-buying program to obtain processed oyster shell from local oyster processing plants. The program will enlist participants that wish to sell processed shell, as well as participate in the Department's on-going resource development projects. Payments will be based on 50 percent of the shell collected, such that the Department pays for only the shell that belongs to the processor. The Department and participants will establish a price per cubic yard for the processed shell collected. The Department will schedule shell collections, and will collect, transport, and stockpile shell for both the mitigation and resource development programs.

### **Shell Collection**

The Department expects to purchase processed oyster shell from local processors for \$12.00 -\$15.00/cubic yard. Depending upon availability, work crews can collect about 225,000 bushels of shell/year, of which 112,500 bushels will be used in the mitigation project. At this rate, the Division anticipates purchasing about 240,000 bushels of shell during Phase I.

The Department anticipates operating two work crews, each with a dump truck and front-end loader tractor, to meet scheduling needs. Processed shell will be collected from 2-5 days per week, depending upon the availability of shell and the time of year. During the spring, summer, and fall crews will have to split duties to allow for shell deposition. Work crews can collect about 4,500 bushels of shell/week for 50 weeks/year, accounting for about 225,000 bushels per year. Only 50% of the shell collected (112,500 bushels) would be applied to mitigation and 50% would be applied to normal resource development activities. Depending on availability, shell will be collected at a rate sufficient to meet projected demands for each phase of the mitigation plan.

Processed oyster shell will be collected and transported to the stockpile area where it will be stored while the shell is seasoned. Shell is stored for about a year before it is used as cultch. The storage period provides for a process called "seasoning" that removes bacterial film from the shell and provides a cleaner substrate for larval attachment. The Department will operate and maintain the stockpile area during the six-year period.

#### **Affected Acreage: Phase I**

It has been projected that fifteen (15) acres will be directly affected by the construction of the new bridge and destruction of the old bridge during Phase I. The amount of acreage to be mitigated was determined to be four (4) times the acreage that was affected, bringing the total area designated for mitigation during Phase I to 60 acres.

#### **Affected Acreage: Phase II and III**

Affected acreage in Phase II and III will be determined based on oyster resource surveys conducted by independent consultants. The number acres of oyster reefs impacted by the bridge project will be calculated from the results of surveys conducted when the project is completed, 18 and 36 months after completion of the project.

#### **Reef Restoration - Shell Planting**

Substrate, or cultch as it is commonly referred to, would be replaced at an approximate rate of 150-200 cubic yards (3,000-4,000 bushels) of shell per acre; similar restoration efforts required between 100-250 cubic yards/acres. Processed shell will be deposited at a rate of 112,500 bushels per year, requiring about 12-13 planting trips per year.

The Division currently operates all the equipment, including push boat and deck barge needed to complete this component of the mitigation project. It will be necessary to hire additional OPS staff and purchase additional equipment.

Seasoned shell will be removed from the stockpile, placed on deck barges, and transported to reefs sites, where they will be washed overboard using high-pressure water jets. Reef locations and specific deposition sites in St. George Sound and eastern Apalachicola Bay will be delineated and marked by staff prior to depositing shell and live oysters. Following shell deposition, live oysters may also be planted on restored reefs.

The Division currently deposits about 10,000 cubic yards of shell per year in its resource development program. About 25 trips are made each year to deposit shell. This schedule will be adjusted to accommodate planting trips for the mitigation project. The mitigation plan provides for about 13 trips/year (@ 9,000 bushels/trip), which will provide for the deposition of about 120,000 bu/year. It will require about 26 planting trips over two (2) years.

### **Reef Restoration - Transplanting and Relaying**

The oyster transplanting and relaying component of the mitigation project will plant 45,715 bushels of live oysters at a rate of \$1.75 per bushel at a cost of \$80,000 over during Phase I. The oyster transplanting and relaying components will be conducted by the Division of Aquaculture in cooperation with the Franklin County Seafood Worker's Association. The Department will enter into a contract with the association to re-locate about 45,715 bushels of live oysters during Phase I. The Department has conducted similar oyster resource development projects in cooperation with this association for many years.

### **Estimated Costs: Phase I**

The total cost of the mitigation project during Phase I is about \$300,000. The estimated cost of mitigation would be \$1.75 per bushel of live oysters and about \$0.50 per bushel of shell used to restore affected reefs. The Department has projected a cost of \$0.35 per bushel of shell and oysters planted.

### **Schedule For Mitigation: Phase I**

#### **Year 1**

Meet with oyster processors to establish shell collection program (January 2001)  
Begin shell collection for mitigation program (July 2001)  
Identify and mark reefs for shell and live oyster placement (July 2001).  
Begin planting operations (using previously collected and seasoned shell)(July 2001)  
Negotiate contract with Franklin County Seafood Worker's Association (June 2001)  
Begin transplanting and relaying operations (July 2001)

Year 2-3

Continue shell collection for mitigation program.  
Continue planting operations.  
Continue transplanting and relying operations.  
Continue monitoring restored reefs.

### **Monitoring Plan**

The Division of Aquaculture will establish a monitoring plan to assess the success of restoration project. The Division currently uses a statistically valid protocol for assess the condition of oyster resources in the Apalachicola Bay system. Data have been collected since 1982. Oysters resource surveys are conducted at specific sampling stations on oyster reefs throughout the bay to calculate standing stocks of oysters, determine yield estimates, and predict production trends. Additional sampling stations will be established on mitigation sites and the same sampling protocols will be used.

Population size frequency distributions and estimated yields are used to determine the relative productivity of oyster reefs. Estimated yields calculated from survey results have been used for many years to predict harvest levels and manage the oyster fishery in the bay. Yield estimates, based on specific sampling protocol, are used to determine the relative condition of oyster resources on various reefs and to measure the success of oyster resource restoration projects. Estimated yield exceeding 400 bags of oysters per acre is used as an indicator of healthy oyster reefs capable of sustaining commercial harvesting. Accordingly, oyster populations are: 1) capable of supporting moderate levels of commercial harvesting when estimated yield exceeds 200 bags/acre; 2) below levels necessary to support commercial harvesting when estimated yield falls below 200 bags/acre, and 3) depleted when estimated yield of marketable stocks is below 100 bags/acre. Additionally, size frequency distributions are used to measure successful recruitment, growth rates, and mortality.

JOINT PROJECT AGREEMENT  
between the  
DEPARTMENT OF TRANSPORTATION,

the  
DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES  
and the  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Mitigation Impact to Oysters and Oyster Habitat in Apalachicola Bay

This AGREEMENT is entered into this 26 day of October, 2009, by and between the Florida Department of Transportation, hereinafter called the FDOT, the Florida Department of Agriculture and Consumer Services, hereinafter called the DOACS, and the Department of Environmental Protection, hereinafter called the DEP.

WITNESSED

WHEREAS, the FDOT, the DOACS and the DEP are entering into an AGREEMENT mitigating potential impacts to the oyster production in Apalachicola Bay, which may result from the construction of a replacement bridge on SR 309 from East Point to St. George Island, and the demolition of the Bryant Patton Bridges, or portions therefore, located in Franklin County. This Agreement shall be in lieu of placing the project on the mitigation inventory in accordance with Chapter 2600-261, Laws of Florida.

WHEREAS, successful accomplishment of the activities in this AGREEMENT is in the interest of the FDOT, the DOACS, the DEP and other cooperating parties and the economic well being of Franklin County.

WHEREAS, the aforementioned parties foresee a need to conduct pre-construction and post-construction surveys for the purpose of determining the actual acreage of impact that construction may have upon the oyster populations. The mitigation AGREEMENT for conducting appropriate oyster resource restoration projects and the pre and post construction surveys shall henceforth be referred to as the PROJECT, and applies only to oyster mitigation requirements and does not cover mitigation for any other affected resource.



Joint Project Agreement for Oyster Mitigation

Page two

NOW THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the PROJECT, the parties agree to the following:

The recitals set forth above are true and correct and are deemed incorporated herein.

The Florida Department of Transportation's total PROJECT contribution for work performed under the AGREEMENT for surveys, oyster resource restoration, oyster habitat and enhancement projects impacted by construction and demolition activities associated with the replacement of Bryant Patton Bridges over Apalachicola Bay, shall not exceed *One million seven hundred thousand dollars (\$1,700,000)*. Within the scope of the PROJECT, FDOT agrees to:

- mitigation of actual acreage of oyster impacts will be accomplished using a 4:1 ratio and be based on a cost of \$20,000/acre of oyster impact, which represents the typical cost to create 4 acres of oyster habitat.
- fund four oyster surveys for a maximum amount of *two hundred thousand dollars (\$200,000)*. A summary of the results of each survey shall be provided to each of the parties to this agreement and the Northwest Florida Water Management District within sixty (60) days following the completion of each survey;
- provide over the life of the PROJECT, *one hundred thousand dollars (\$100,000)* for oyster relay expenses; and
- pay the DOACS the sum of *three hundred thousand dollars (\$300,000)* to mitigate potential impacts to *fifteen\** (15) acres of oysters and oyster habitat. FDOT shall transfer said funds within 30 days of the execution of this joint PROJECT agreement to the DOACS.
- the parties to this PROJECT agree that upon completion of the bridge, demolition of the current bridges and the second survey (post construction) is performed, if DEP determines that the impact to oysters and oyster habitat are greater than *fifteen\** (15) acres, the FDOT will mitigate the additional acreage based on *twenty thousand dollars (\$20,000)* per impacted acre. Following each post construction survey, consultation between the parties shall take place in order to monitor the actual impact acreage.

\*Initial acres as agreed by parties to the Joint Project Agreement.

**Joint Project Agreement for Oyster Mitigation**

Page three

The final determination of the total acreage impacted will be made by the DEP based on the results of the fourth survey.

The *first* of said surveys shall be accomplished prior to the beginning of construction of the new bridge.

The *second* survey shall immediately follow completion of the construction of the new bridge and the demolition of the Bryant Patton Bridges (except for .6 mile at each end of the bridges to be used as fishing piers.)

The *third* survey shall begin approximately eighteen months after initiation of the second survey.

The *fourth* survey shall begin eighteen months after the initiation of the third survey (which will be thirty six months following completion of the new bridge and the demolition of the current bridges.)

Records of costs incurred under the terms of this AGREEMENT shall be maintained by the DOACS and made available upon request to the FDOT at all times during the period of this AGREEMENT and for three years after final payment is made. Copies of these documents and records shall be furnished to the FDOT upon request. Records of costs incurred include the agency's general accounting records and project records, together with supporting documents and records of the agency, and subcontractors performing work on the PROJECT, and all other records of the agency, and subcontractors considered necessary by the FDOT for the proper audit of costs.

The FDOT may cancel this AGREEMENT with respect to a party herein for refusing to allow public access to all documents, papers, letters, or other material subject to the provision of Chapter 119 of the Florida Statutes, made or reviewed by the DEP in conjunction with this AGREEMENT and shall have provisions in its AGREEMENTS with its consultants/contractors and sub-consultants/sub-contractors to terminate for failure to comply with this provision.

This AGREEMENT shall not be more strictly construed against any party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provision hereof.

Joint Project Agreement for Oyster Mitigation

Page four

To the extent allowed by the Laws of Florida and pursuant to Florida Statute 768.28, each party hereby agrees to indemnify, defend, save, and hold harmless the parties from all claims, demands, liabilities, and suits of any nature arising out of, because of, or due to any negligent act or occurrence or omission or commission of the party, its agents, or employees.

This AGREEMENT is to be governed by and construed in accordance with the Laws of the State of Florida.

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this AGREEMENT that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreement whether oral or written. It is further agreed that no modification, amendment, or alteration in the terms and conditions herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

The contractor is informed that an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not award or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity.

The contractor is informed that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

**Joint Project Agreement on Oyster Mitigation**

Page five

The FDOT's obligation to pay under this agreement is contingent upon an annual appropriation of the Florida Legislature. If FDOT does not receive an appropriation by the Florida Legislature, then the oyster mitigation project contemplated under this agreement shall be terminated immediately, shall become null and void and the DOACS will not be held responsible for any further requirement to mitigate.

The FDOT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditures during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The FDOT shall require a statement from the comptroller of the FDOT that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the FDOT which are in an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year.

In the event sufficient funding to meet the requirements of this AGREEMENT is not available to the FDOT, matters herein will be governed by Chapter 2000-361, Laws of Florida.

Joint Project Agreement for Oyster Mitigation

Page Six

IN WITNESS WHEREOF, the DOACS has executed this Joint Project Agreement this 18 day of October, 2000, through its Commissioner; the DEP has executed this Joint Project Agreement this 21 day of October, 2000, through its Secretary; and the FDOT has executed this Joint Project Agreement through its Secretary, this 26 day of October, 2000.

STATE OF FLORIDA  
DEPARTMENT OF AGRICULTURE  
AND CONSUMER SERVICES

ATTEST:

BY: Bob Crawford  
BOB CRAWFORD  
COMMISSIONER

APPROVED AS TO FORM:

BY: [Signature]  
ATTORNEY FOR DOACS

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL  
PROTECTION

ATTEST:

BY: David Struths  
DAVID STRUTHS  
SECRETARY

[Signature]

APPROVED AS TO FORM:

BY: [Signature]  
ATTORNEY FOR DEP

STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION

ATTEST:

BY: Thomas F. Barry, Jr.  
THOMAS F. BARRY, JR., P.E.  
SECRETARY

Paula Casseau

APPROVED AS TO FORM:

BY: [Signature]  
ATTORNEY FOR FDOT

10/20/2000 13:45

850-638-6154

FDOT/DIST CONST

PAGE 01



# Florida Department of Transportation

1074 Highway 90  
Chipley, Florida 32428

JEB BUSH  
GOVERNOR

THOMAS K BARRY, JR.  
SECRETARY

District Three Construction  
Post Office Box 607  
Chipley, FL 32428

October 20, 2000

Ms. Mary Tanner  
Executive Office of the Governor  
Environmental Policy  
The Capitol  
Tallahassee, FL 32399-0001

Subject: Project No.: 2187721-52-01; FAP No.: 8888 563-A; Contract No.: 20574;  
Description: SR 300 - St. George Island Design/Build Bridge Replacement Project;  
Oyster Mitigation Survey

Dear Ms. Tanner:

As indicated in the scope of service for oyster survey/monitoring for St. George Island Design Build Project, the Department's second oyster survey will be conducted after the construction of the new bridge and the demolition of the old bridges. This will be after completion of all new construction items, completion of the new demolition of the existing structures and removal of all construction equipment, barges, etc., that might have a negative impact on the adjacent oyster beds. The anticipated date for this survey is August 2003.

If any additional information is required, please call me at (850) 638-0250.

Sincerely,

Johnnie B Kirkland  
Asst. District CEI Engineer

/lkw

## REGIONAL MITIGATION PLAN

BACKGROUND INFORMATION					
Water Management District:		Northwest Florida Water Management District			
Mitigation Project Name:		Apalachicola Bay Salt Marsh Creation		Project Number: (to be provided by DEP)	
Project Manager:		Duncan Cairns		Phone Number: 850-539-5999	
County(s):		Franklin			
Location (central lat/long):		Approximately 29° 40' N, 84° 50' W			
IMPACT INFORMATION					
DOT Work Program Item (WPI):		(FM 2187721) WPI 3112677	ERP #:	COE #:	
Drainage Basin(s):		Apalachicola Bay			
Water Body(s):		Apalachicola Bay		SWIM Water Body?	Yes
Acres and Types of impact to be offset:		0.3	Acres	911 – Sea Grass	(Fluccs code)
(Provide the above information for each WPI project, as needed.)					

MITIGATION ENVIRONMENTAL INFORMATION										
Mitigation Type:	<input checked="" type="checkbox"/>	Creation	<input checked="" type="checkbox"/>	Restoration	<input checked="" type="checkbox"/>	Enhancement	<input checked="" type="checkbox"/>	Preservation	Mitigation Area (acres):	0.9
SWIM Project?	Yes	Aquatic Plant Control Project?		No	Exotic Plant Control Project?		No			
Mitigation Bank?	No	If yes, give FDEP/WMD Mitigation Bank Permit #:					COE #:			
Drainage Basin(s):		Apalachicola Bay								
Water Body(s):		Apalachicola Bay				SWIM Water Body?		Yes		
Project Description										
A. Overall project goal:										
Creation, restoration, enhancement and expansion of salt marsh (FLUCCS 642) in Apalachicola Bay via plantings and the installation of breakwaters, with associated shoreline stabilization and protection.										
B. Brief description of current condition:										
Salt marsh is a critical component of the Apalachicola Bay ecosystem. Salt marsh has become increasingly threatened by erosion, dredging and development. Loss of salt marsh increases shoreline erosion. The areas proposed for salt marsh creation are in Apalachicola Bay.										

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SEP 25 2000

NORTHWEST FLORIDA  
DEP

C. Brief description of proposed work: Creation of salt marsh at appropriate sites within Apalachicola Bay. Marsh species planted may include <i>Spartina alterniflora</i> , <i>Distichlis spicata</i> , <i>Scirpus robustus</i> , <i>Juncus roemerianus</i> , <i>Paspalum vaginatum</i> , <i>Spartina bakeri</i> , <i>Sagittaria lancifolia</i> , <i>Spartina patens</i> , <i>Scirpus americanus</i> , and <i>Sporobolus virginicus</i> among others. Breakwaters will be installed to protect planted areas and promote expansion of vegetated areas. It is anticipated that up to several thousand feet of shoreline may be stabilized from further erosion by the marsh creation within a buffer zone of up to 20 feet.
D. Brief explanation of how this work serves to offset the impacts of the specified DOT project(s): The DOT project will impact 0.3 acres of sea grass in Apalachicola Bay. This mitigation will create 0.9 acre of salt marsh and will facilitate further expansion of marsh in Apalachicola Bay. Salt marsh and associated breakwater will compensate by providing for erosion control, habitat expansion, water quality improvement and shoreline stabilization.
E. Brief explanation of why a mitigation bank was/was not chosen, including a discussion of cost:  No permitted mitigation banks currently exist in northwestern Florida.
F. Brief explanation of why a SWIM project was/was not chosen as mitigation, in whole or in part, including a discussion of cost, if the anticipated impacts are located within a SWIM water body: An approved SWIM project within the Apalachicola River and Bay Management Plan will be used to coordinate and augment the funding allocated by DOT for compensatory mitigation. The SWIM project, LM3 - Creation of Buffer Zones for Protection of Water Quality and Aquatic Habitat, has funds available to apply toward this effort. The focus of the SWIM project is to demonstrate shoreline stabilization efforts and designs for possible future mitigation activities and for potential use by homeowners for shoreline protection. This work is in keeping with the strategies and goals of the approved Apalachicola SWIM Plan and Program.

MITIGATION PROJECT IMPLEMENTATION				
Entity responsible for construction:		Northwest Florida Water Management District		
Contact Name:	Duncan Cairns	Phone Number:	850-539-5999	
Entity responsible for monitoring and maintenance:		Northwest Florida Water Management District		
Proposed timeframe for implementation		Commence Date:	ASAP	Complete Date: ASAP
Total Project Cost (\$): (attach itemized cost estimate)		\$ 67,000 (see discussion of funding and cost estimates in attachment)		

Attachment includes the following:	
X	1. Detailed description of existing site and proposed work. Table 3 or Section F of the ERP application may be used as guidelines.
X	2. Recent aerial photograph with date and scale.
X	3. Location map and design drawings of existing and proposed conditions.
X	4. Detailed schedule for work implementation, including any and all phases.
X	5. Proposed success criteria and associated monitoring plan.
X	6. Long-term maintenance.
X	7. Detailed explanation of how this work serves to offset the impacts of the specified DOT project(s).



## ATTACHMENT FOR FM 2187721 MITIGATION PLAN (St. George Island Bridge – NW18)

### SCOPE OF THE PROBLEM

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The replacement and realignment of the St. George Island Bridge (SR 300 Bryant Patton Bridge - Financial Management Number 2206441) in Franklin County is anticipated to impact 0.3 acres of sea grass in Apalachicola Bay (Figure 1). The FDOT District-3 Environmental Impact Inventory (revised 8/31/00) provided to the NFWFMD classifies the impacts as FLUCCS 911 – Sea Grass. Measures taken to avoid and minimize impacts are the responsibility of FDOT. Environmental consultants hired by FDOT assess and quantify impacts caused by FDOT. The NFWFMD is responsible for designing and implementing mitigation for this project based on estimates of impacts (acreage and FLUCCS type) provided by FDOT.

### PROJECT GOAL

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The goal of this mitigation plan is to adequately compensate for the loss of 0.3 acres of sea grass in Apalachicola Bay. Creation of sea grass beds through planting of submerged aquatic vegetation is not generally considered feasible. Therefore, to accomplish the necessary mitigation, the NFWFMD intends to create approximately 0.9 acres of salt marsh on St. George Island, Cape St. George Island, or other appropriate candidate sites within Apalachicola Bay. Breakwaters will be installed to protect the planted areas and to encourage salt marsh expansion. This project will also stabilize and protect from further erosion up to several thousand feet of shoreline.

### IMPORTANCE OF SALTMARSH

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Salt marshes help stabilize sediments and buffer inland areas against storms. They are extremely productive biologically, providing valuable nursery, spawning, and feeding areas for most of the ocean's fishes, shrimp, crabs, and oysters. Salt marsh communities also provide nesting and feeding grounds for many birds, including various herons and egrets.

### SALT MARSH CREATION CONCEPTUAL DESIGN

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The total 0.90 acre area includes the breakwater footprint, gaps, and planted areas. The linear extent of the project may extend up to several thousand feet. It is anticipated that the non-planted gaps would fill in over time and that the breakwater will provide habitat for benthic epifauna and other organisms. The gaps in the breakwater will provide for flushing and allow for ingress/egress of aquatic organisms utilizing the marsh area as refugia. The breakwater itself will provide valuable hard substrate for various forms of epifauna and infauna.

## MITIGATION VALUE

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Creation of 0.9 acre of salt marsh habitat would yield a mitigation ratio of 3:1. This ratio of mitigation acreage to impact acreage has been selected to compensate for the relatively small impact area (i.e., 0.3 acre).

## SUCCESS CRITERIA

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Success criteria will be based on the long-term survival and expansion of salt marsh plants at the selected areas. Appropriate monitoring will be conducted to ensure mitigation success.

## MONITORING AND LONG-TERM MAINTENANCE

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Appropriate monitoring will be conducted to ascertain the status and likelihood of restoration success. Permanent quadrats or transects may be established to monitor the survival of plantings, increases in plant density, and expansion of marsh habitat. Photography will also be used to document changes in planted areas.

## FUNDING AND COST ESTIMATES

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Funding for this project will include FDOT mitigation funds and NFWFMD SWIM funds. The cost of planting salt marsh grasses and installation of breakwaters is anticipated to exceed the \$81,727 per acre of impact that is typically placed in escrow. Overall costs will be augmented by the SWIM project (LM3 – Creation of Buffer Zones for Protection of Water Quality and Aquatic Habitat). All reasonable attempts will be made to maximize cost savings throughout this project. To the extent possible, SWIM funds expended through this project will be used as credit according to FS 373.4137(4)(c).

Costs for creating salt marsh and associated breakwaters may be highly variable. An initial estimate for creating 0.9 acre of salt marsh with associated breakwaters is \$67,000. This estimate includes the cost of breakwater construction and will depend on site specific conditions and the cost of planting. Nursery grown plants will be specified for planting. It is currently anticipated that quart-size plant will be established on 18" centers.

## NFWFMD PERSONNEL TO IMPLEMENT MITIGATION AND MONITORING

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Robert F. Lide – Environmental Scientist  
Peter A. Krottje – Environmental Scientist  
Judy K. Duvall – Associate Hydrologist  
Ron R. Potts – Surface Water Hydrologist  
Duncan J. Cairns – Bureau Chief of Environmental and Resource Planning

Ron Bartel – Director of Water Resource Management  
Dan L. Tonsmeire – Associate Planner

Other NFWMD personnel may be called upon as needed.

#### WORK SCHEDULE

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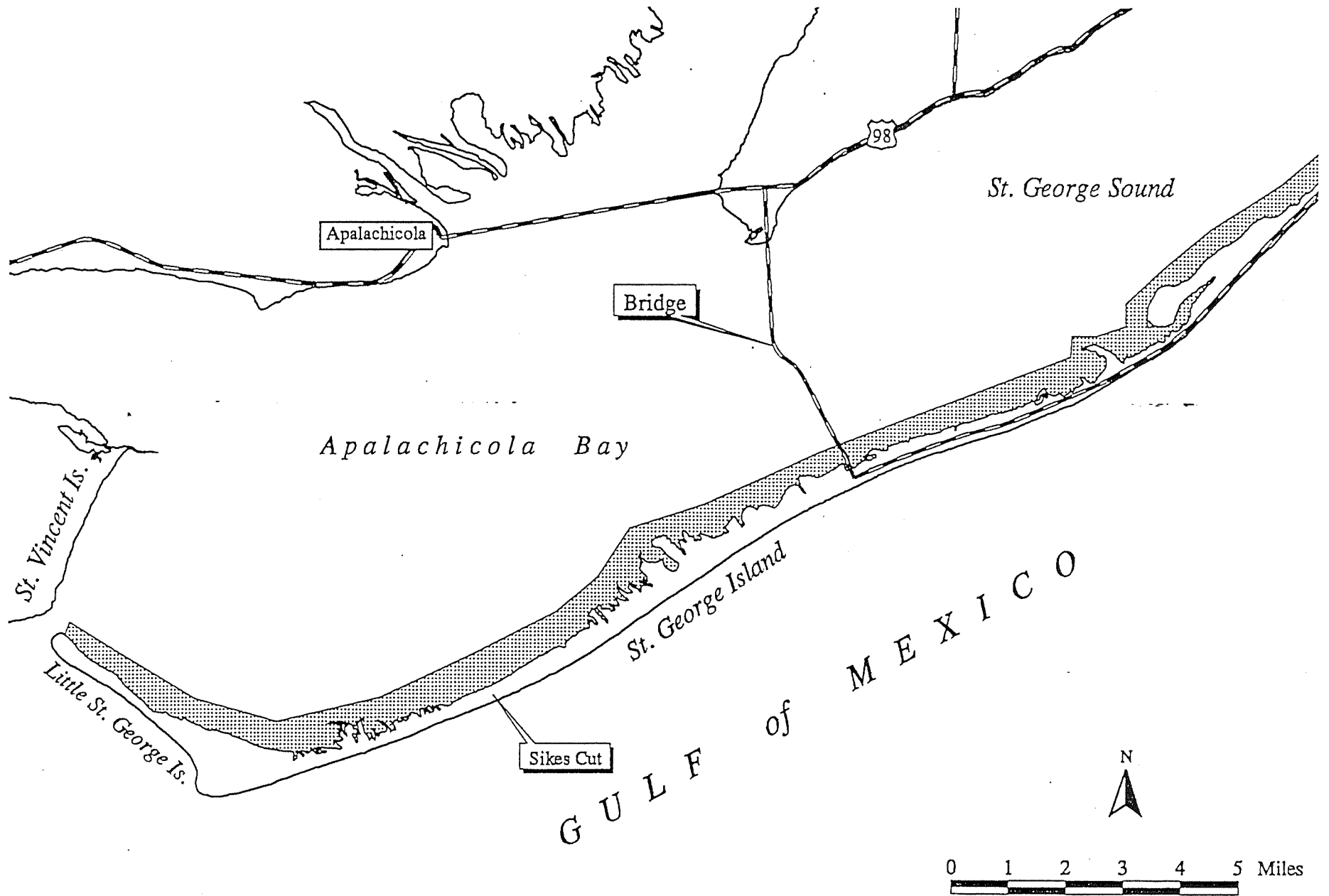
9/00 – 10/00: Conceptual development of mitigation project.  
10/00 – 12/00: Finalization of planting area(s)  
12/00 – 2/01: Engineering designs  
3/01 – 4/01: Bid process for planting and breakwater construction  
5/01 – 6/01: Breakwater construction  
>6/01: Salt marsh plantings

#### BREAKWATER CONSTRUCTION

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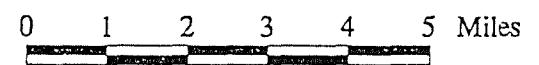
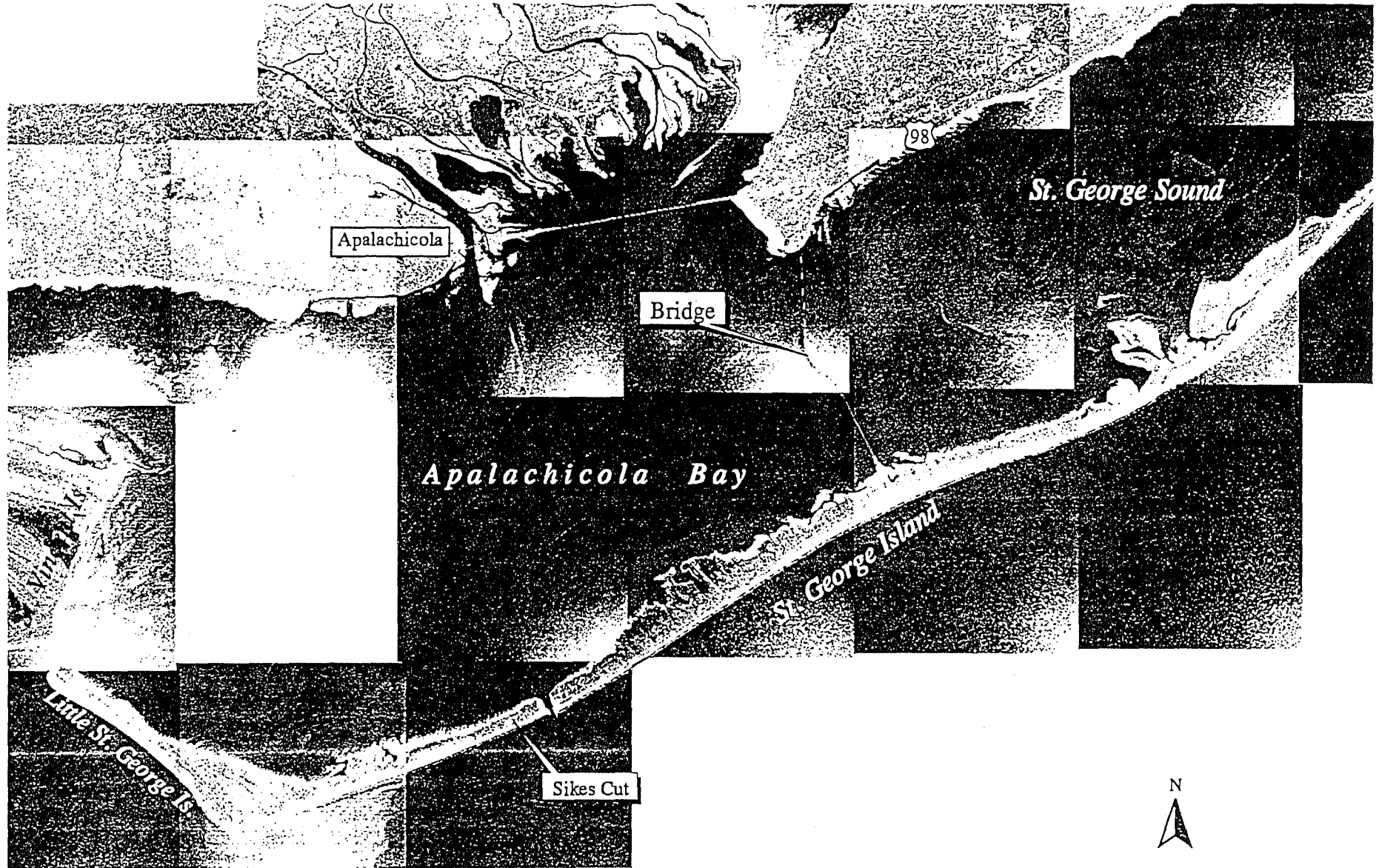
- Breakwater would be parallel to the shoreline.
- A six foot gap would be placed every 75 feet to allow water exchange.
- A slope of not greater than 2:1 would be used (e.g., six foot base and three foot height).
- Limerock may be used as the construction material, or a vinyl coated wire cage (“reef tube”) filled with oyster shell and large rip-rap may be used.
- Distance from the breakwater to shore will be up to or about 20 feet.

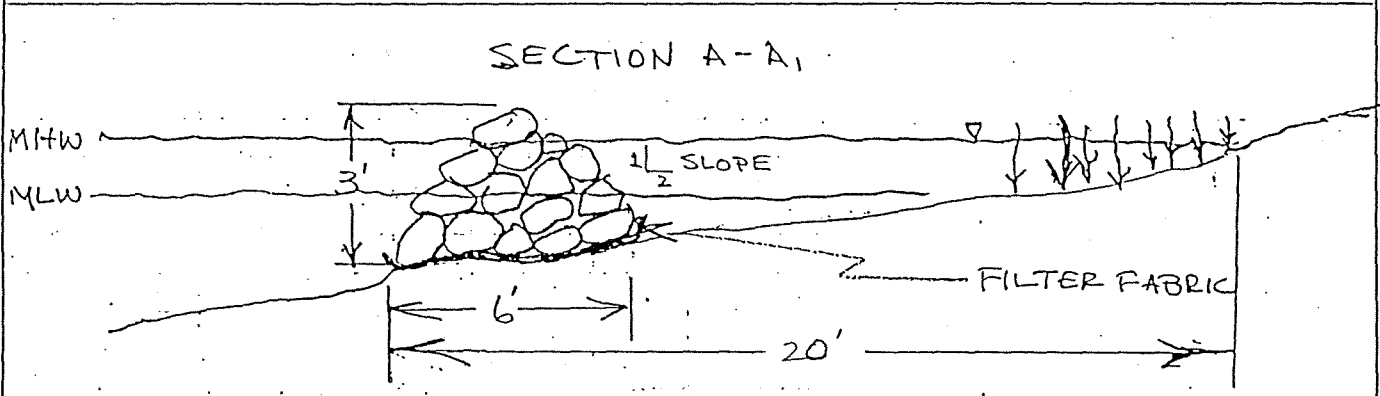
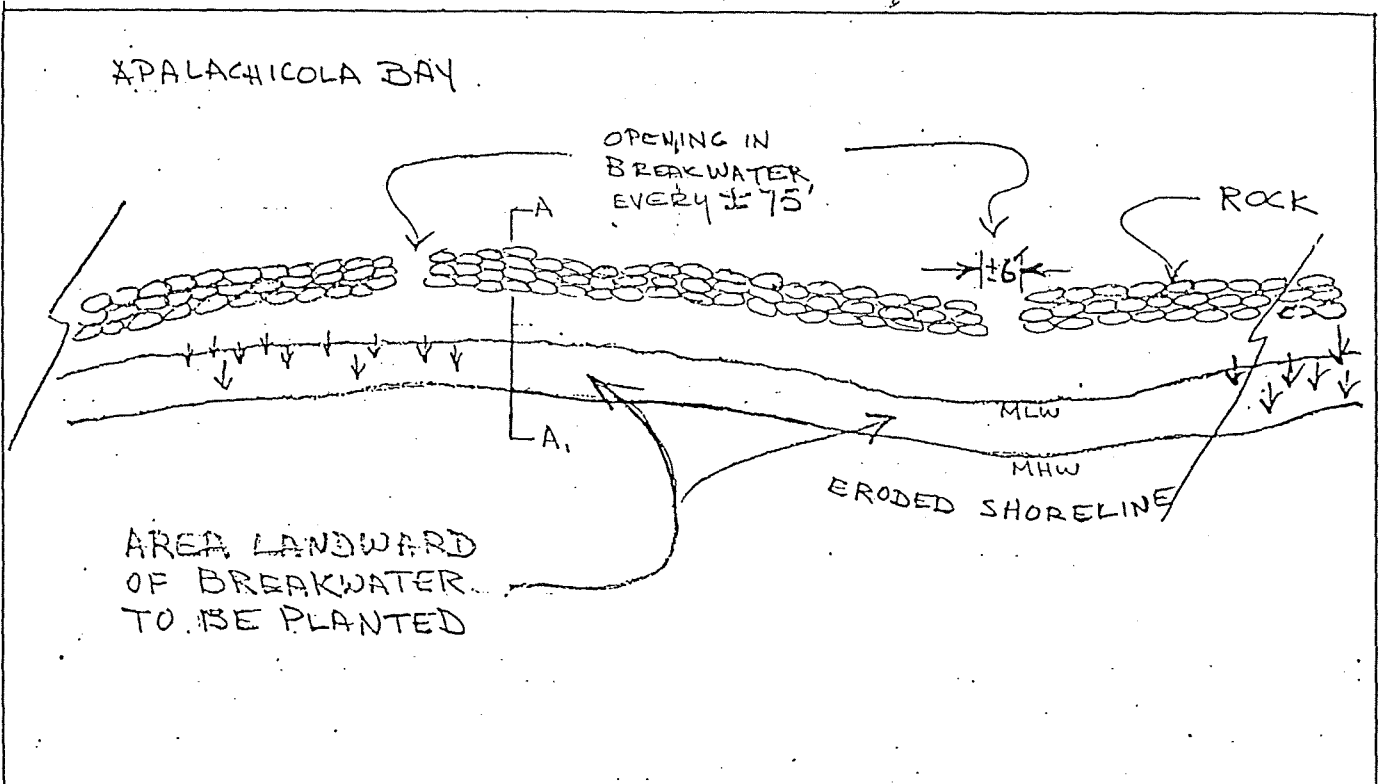
Figure 1 - FM 2187721 Potential Project Location  
(SR 300 - St. George Island / Bryant Patton Bridge; 0.3 acres of impact)



Potential areas are shaded. Other areas may also be considered.

DOQ of Apalachicola Bay





SCALE 3/16" = 1'

Generalized Conceptual Typical  
Shoreline Stabilization / Marsh Creation