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GKa/asa



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
400 HIGH POINT DRIVE, SUITE 600
COCOA, FLORIDA 32926

October 8, 2013

REPLY TO
ATTENTION OF

Cocoa Permits Section
SAJ-2013-01012 (SP-AWP)

RECEIVED

OCT 14 2013

ENVIRONMENTAL MANAGEMENT
OFFICE

Florida Department of Transportation, District 3
Attn: Joy Giddens
P.O. Box 607
Chipley, Florida 32428

Dear Mrs. Giddens:

The U.S. Army Corps of Engineers (Corps) is pleased to enclose the Department of the Army permit, which should be available at the construction site. Work may begin immediately but the Corps must be notified of:

- a. The date of commencement of the work,
- b. The dates of work suspensions and resumptions of work, if suspended over a week, and
- c. The date of final completion.

This information should be mailed to the Special Projects and Enforcement Branch of the Regulatory Division of the Jacksonville District at USACE, Attn: Terry Wells, 41 North Jefferson St., Suite 301, Pensacola, Florida 32502. The Special Projects and Enforcement Branch is also responsible for inspections to determine whether Permittees have strictly adhered to permit conditions.

IT IS NOT LAWFUL TO DEVIATE FROM
THE APPROVED PLANS ENCLOSED.

Sincerely,

Donald W. Kinard
Chief, Regulatory Division

Enclosures

Copies Furnished (electronically):

FWS; Mary Mittiga

NMFS; David Rydene

NWFWMD; Duncan Cairns

CESAJ-RD-NP; Clif Payne

CESAJ-RD-PE

DEPARTMENT OF THE ARMY PERMIT

Permittee: FLORIDA DEPARTMENT OF TRANSPORTATION, DISTRICT 3
ATTN: JOY GIDDENS
1074 HIGHWAY 90
CHIPLEY, FLORIDA 32428

Permit No: SAJ-2013-01012(SP-AWP)

Issuing Office: U.S. Army Engineer District, Jacksonville

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

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

Project Description: Impacts to 1.2 acres of waters of the United States (wetlands and surface waters) for the widening of the existing two-lane highway to a four-lane divided highway. The drainage design is based on a future 6-lane condition by assuming one future lane with 2 ft shoulder will be widened in the median at both sides. The project also contains three new bridges. Twin bridges are located over an unnamed tributary (Wetland 2) which will replace the existing 10 ft x 6 ft box culvert. The new bridges over the unnamed tributary (Wetland 2) are a part of habitat restoration efforts for the Okaloosa Darter. The work described above is to be completed in accordance with the 9 pages of drawings and 3 attachments affixed at the end of this permit instrument.

Project Location: The project site is located within the right-of-way of State Road (SR) 123 from north of Toms Creek to north of Turkey Creek, in Sections 3 and 27, Township 01 South, Range 23 West and Sections 27 and 34, Township 01 North, Range 23 West, Niceville, Okaloosa County, Florida.

Directions to site: From the intersection of SR 123 and SR 85 process south on SR 123.

Approximate Central Coordinates: Latitude: 30.5455 North
Longitude: 86.5363 West

PERMIT NUMBER: SAJ-2013-01012

PERMITTEE: Florida Department of Transportation, District 3

PAGE 2 of 9

Permit Conditions

General Conditions:

1. The time limit for completing the work authorized ends on **September 27, 2018**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. **Reporting Address:** All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, Florida 32232. The Permittee shall reference this permit number, SAJ-2013-00986(SP-AWP), on all submittals.

PERMIT NUMBER: SAJ-2013-01012

PERMITTEE: Florida Department of Transportation, District 3

PAGE 3 of 9

2. Biological Opinion: This Corps permit does not authorize the Permittee to take an endangered species, in particular the Okaloosa Darter (*Etheostoma okaloosae*). In order to legally take a listed species, the Permittee must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a BO under ESA Section 7, with “incidental take” provisions with which the Permittee must comply). The enclosed US Fish and Wildlife Service (FWS) Biological Opinion (BO) (Attachment 1) contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with “incidental take” that is also specified in the BO. Authorization under this Corps permit is conditional upon compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with this Corps permit. The FWS is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

3. Commencement Notification: Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.

4. Cultural Resources/Historic Properties: No structure or work shall adversely affect impact or disturb properties listed in the National Register of Historic Places (NRHP) or those eligible for inclusion in the NRHP.

5. Cultural Resources/Historic Properties: If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

6. Cultural Resources/Historic Properties: Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition ; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall

PERMIT NUMBER: SAJ-2013-01012

PERMITTEE: Florida Department of Transportation, District 3

PAGE 4 of 9

not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

7. Cultural Resources/Historic Properties: In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

8. Erosion Control: Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material outside the work area. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas shall be stabilized using sod, degradable mats, barriers, or a combination of similar stabilizing materials to prevent erosion. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

9. Mitigation Credit Deduction: Within 30 days from the date of initiating the authorized work the Permittee shall provide verification to the Corps that 6.9 palustrine forested federal mitigation credits have been deducted from the Corps/NWFWMD Umbrella Plan. The required verification shall reference this project's permit number (SAJ-2013-01012).

10. As-Built: Within 60 days of completion of the authorized work or at the expiration of the construction authorization of this permit, whichever occurs first, the Permittee shall submit as-built drawings of the authorized work and a completed As-Built Certification Form (Attachment 4) to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:

a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations

PERMIT NUMBER: SAJ-2013-01012

PERMITTEE: Florida Department of Transportation, District 3

PAGE 5 of 9

that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

c. The Department of the Army Permit number.

d. Include pre- and post-construction aerial photographs of the project site, if available.

11. Fill Material: The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.

12. Regulatory Agency Changes: Should any other regulatory agency require changes to the work authorized or obligated by this permit, the Permittee is advised that a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the Cocoa Regulatory Office.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899
(33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal projects.

PERMIT NUMBER: SAJ-2013-01012

PERMITTEE: Florida Department of Transportation, District 3

PAGE 6 of 9

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

PERMIT NUMBER: SAJ-2013-01012

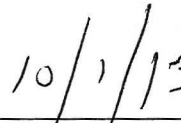
PERMITTEE: Florida Department of Transportation, District 3

PAGE 7 of 9

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

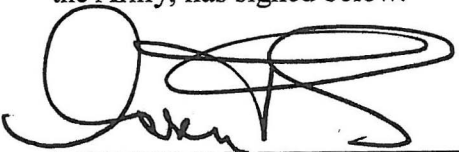

(PERMITTEE)

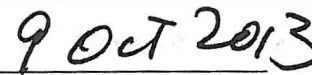

(DATE)

Joy Giddens
(PERMITTEE NAME-PRINTED)

District Permits Coordinator, FDOT

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


(DISTRICT ENGINEER)


(DATE)

fr
Alan M. Dodd,
Colonel, U.S. Army
District Commander

PERMIT NUMBER: SAJ-2013-01012

PERMITTEE: Florida Department of Transportation, District 3

PAGE 8 of 9

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.


(TRANSFEREE-SIGNATURE)

(DATE)

(NAME-PRINTED)

(ADDRESS)

(CITY, STATE, AND ZIP CODE)



PERMIT NUMBER: SAJ-2013-01012

PERMITTEE: Florida Department of Transportation, District 3

PAGE 9 of 9

***Attachments to Department of the Army
Permit Number SAJ-2013-01012***

1. PERMIT DRAWINGS: 9 pages, dated September 25, 2013
2. Biological Opinion: 27 pages, dated March 30, 2012
3. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 2 of this DA permit. 67 pages.
4. AS-BUILT CERTIFICATION FORM: 2 pages