



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P.O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

REPLY TO
ATTENTION OF

Regulatory Division

February 14, 2012

REGIONAL GENERAL PERMIT SAJ-106

WATER MANAGEMENT SERVICES ON RANGLANDS LOCATED WITHIN THE NORTHERN
EVERGLADES AND ESTUARIES REGION OF FLORIDA

Upon recommendation of the Chief of Engineers, pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344) general authority is given for discharge of dredged or fill material for implementation of water management practices (diversion; water management drainage system; pumping plant; spoil spreading; streambank and shoreline protection measures; and water control structures) that will provide water management services of water retention and nutrient removal under contract with the NE-PES Program in waters of the United States within the Northern Everglades and Estuaries Region of Florida, subject to the following Special Conditions:

Special Conditions:

1. This permit is for use by ranchers within the Northern Everglades and Estuaries Region of Florida (see attached table and map). This includes specified portions of the following watershed basins: the Kissimmee Chain of Lakes, Lake Kissimmee, Kissimmee River, Caloosahatchee River, Lake Okeechobee, and St. Lucie River.
2. There is no limit to the number of structures or activities per NE-PES applicant's proposal on this permit provided all discharge of fill material occurs in agricultural ditches. The discharge of fill material occurring within wetlands and/or non-ditch tributaries shall not exceed 1.0 acre of impact. No work is authorized in Section 10 Navigable Waters including any navigable tributaries and tidally influenced tributaries accessible by the public.
3. This permit authorizes activities whose purpose is to retain water onsite to improve downstream water quality within Lake Okeechobee; the benefits of the proposed projects are designed to outweigh the impacts authorized and therefore compensatory mitigation would not be required if the project meets the following criteria:
 - a. The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site.
 - b. Upon termination of the contract between the ranchers and NRCS/SFWMD the authorized activities will be removed including all fill and structures and the area will returned to the baseline conditions. Prior to the implementation of any construction, baseline conditions (physical characteristics such as size of waters of the U.S., depth, length, location, wetland type, etc.) of the site will be documented by NRCS/SFWMD This may be done through the

NRCS National Environmental Policy Act document or in any other way which these agencies deem appropriate. A copy of the baseline documentation will be submitted with all applications for authorization under this permit.

c. Any benefits provided by the authorized activities cannot be used as compensatory mitigation.

For those projects where the above criteria are followed and the project benefits still do not outweigh impacts, the DE will require compensatory mitigation to ensure the activity results in minimal adverse effects on the aquatic environment. In those instances impacts will be evaluated through use of the Unified Mitigation Assessment Method for all wetland losses that exceed 1/10 acre.

4. The following uses and/or activities will be prohibited under the RGP:

a. Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground that are not described as authorized practices under this permit. Elevated boardwalks, hiking trails and camping areas will be permitted as long as they do not involve any of the other prohibited uses listed below:

- i. Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive material.
- ii. Removal or destruction of trees, shrubs, or other native vegetation.
- iii. Excavation, dredging or removal of loam, peat, gravel, soil, rock, or other material substance in such a manner as to affect the surface.
- iv. Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.
- v. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.
- vi. Acts or uses detrimental to such retention of land or water areas.
- vii. Acts or uses detrimental to the preservation of the structural integrity or the physical appearance of sites or properties of historical, architectural, or cultural significance.

b. This RGP cannot be used to establish a mitigation bank.

5. Prior to the initiation of any construction, projects qualifying for this regional general permit must be authorized by the applicable permit required under Part IV of Chapter 373, F.S., by the Department of Environmental Protection, under Chapter 597, F.S., by the Department of Agriculture and Consumer Services, a water management district under s. 373.069, F.S., or a local government with delegated authority under s. 373.441, F.S., and receive Water Quality Certification (WQC), unless exempt under s. 373.406(9), F.S., and applicable Coastal Zone Consistency Concurrence (CZCC) or waiver thereto, as well as any authorizations required for the use of state-owned submerged lands under Chapter 253, F.S., and, as applicable, Chapter 258, F.S.

6. Fill material placed within waters of the United States shall be limited to suitable, clean fill material, which excludes material such as trash, debris, car bodies, asphalt, construction materials, concrete block and exposed reinforcement bars, and any soils contaminated with any toxic substance in toxic amounts (see Section 307 of the Clean Water Act).

7. Reduction and/or elimination of turbid water conditions and the erosion of disturbed or filled areas in adjacent water bodies and wetlands are to be achieved through the use of silt curtains or screens, between the construction area and wetlands or surface waters, during periods of fill placement. Such devices shall be properly maintained until such time as those disturbed areas become sufficiently stabilized by natural recruitment of vegetation or other measures.

8. The activities authorized under this general permit will be evaluated using the NRCS and USFWS joint Consultation Key that establishes a programmatic concurrence from the USFWS with a “may affect, not likely to adversely affect” determination for currently listed species. No activity is authorized under this general permit which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. In a case where the project is not provided a programmatic concurrence, no activity is authorized which “may affect” a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

9. The Permittee shall comply with U.S. Fish and Wildlife Service's “Standard Protection Measures for the Eastern Indigo Snake” dated February 12, 2004 (Attached to this permit and can also be accessed at: <http://www.saj.usace.army.mil/Divisions/Regulatory/index.htm>).

10. If the proposed project occurs within the “nest protection zone” of any of the federally listed avian species listed below, work must be performed outside of nesting season and all specific zone measurements must be followed. This applies to the caracara, Everglades snail kite, Florida grasshopper sparrow, Florida scrub jay, red-cockaded woodpecker nests and wood stork colonies.

11. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

12. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

13. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be returned to baseline conditions upon termination of contract.

14. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.

15. For any activity proposed in a designated critical resource water, including wetlands adjacent to those waters, the district engineer may authorize the activity under this general permit only after it is determined that the impacts to the critical resource waters will be no more than minimal.

16. This general permit is valid for 5 years unless suspended or revoked by issuance of a public notice by the District Engineer. Reviews will be conducted to determine if continuation of this general permit is in the interest of the public.

17. If the permittee sells the property associated with a general permit verification, the permittee may transfer the general permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the general permit verification must be attached to the letter, and the letter must contain the following statement and signature:

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

18. The District Engineer reserves the right to require that any request for authorization under this general permit be processed as an individual permit.

19. Within 60 days of completion of the authorized work, the attached Self-Certification Statement of Compliance must be completed and submitted to the Corps. Mail the completed form to the Jacksonville District, Regulatory Division, Special Project and Enforcement Branch, Post Office Box 4970 Jacksonville, FL 32232-0019.

20. If, during any ground disturbing activities and construction work, there are archaeological/cultural materials unearthed (which shall include, but not be limited to: pottery, modified shell, flora, fauna, dugout canoes, human remains, iron nails, and other historical artifacts) which may be associated with Native American Cultural, early colonial or American settlement, the client shall immediately stop all work in the immediate vicinity and notify the State Archaeologist, the Corps Regulatory Project Manager and Corps Regulatory Archaeologist to assess the significance of the discovery and devise appropriate actions. 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.

21. In the unlikely event that unmarked human remains are identified, they will be treated in accordance with Florida State Regulations 872.02 and 872.05(5); all work in the immediate vicinity shall immediately cease, the State Archaeologist; Corps Regulatory Project Manager; Corps Regulatory Native American Coordinator; Corps Regulatory Archaeologist; and local authorities shall immediately be notified. Such activity shall not resume unless specifically authorized by the State Archaeologist for finds under his or her jurisdiction. If the project is on

lands not owned by the federal government, and in accordance with Corps Regulation ER 1105-2-100 Appendix C-4.e.(2), The Native American Graves Protection and Repatriation Act does not apply.


22. The District Engineer reserves the right to require that any request for authorization under this general permit be reviewed for the presence of cultural resources when the proposed activities may impact cultural resources (for example in the case the proposed activity creates an impoundment of water beyond the limitations of existing water management practices).

23. At the end of the NE-PES program contract the project area may be returned to baseline water management conditions. If the rancher elects to return to baseline conditions, NRCS and or the SFWMD will be responsible for determining and documenting that conditions have returned to and not exceeded baseline conditions.

24. Any proposed modification to an existing Corps projects (either federally or locally maintained) that go beyond those modifications required for normal Operations and Maintenance (O&M) require approval under 33 USC 408. There shall be no temporary or permanent alteration, occupation or use of these public works including but not limited to levees, sea walls, bulkheads, jetties and dikes for any purpose without the permission of the Secretary of the Army or his authorized representative for those cases where the proposed modification is determined to be minor. Under the terms of 33 USC 408, any proposed modification requires a determination by the Secretary that such proposed alteration or permanent occupation or use of a Federal project is not injurious to the public interest and will not impair the usefulness of such work.

25. The permittee shall perform all work in accordance with the general conditions for permits. The general conditions attached hereto are made a part of this permit.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:


ALFRED A. PANTANO, JR.
Colonel, Corps of Engineers
Commanding