

Exhibits

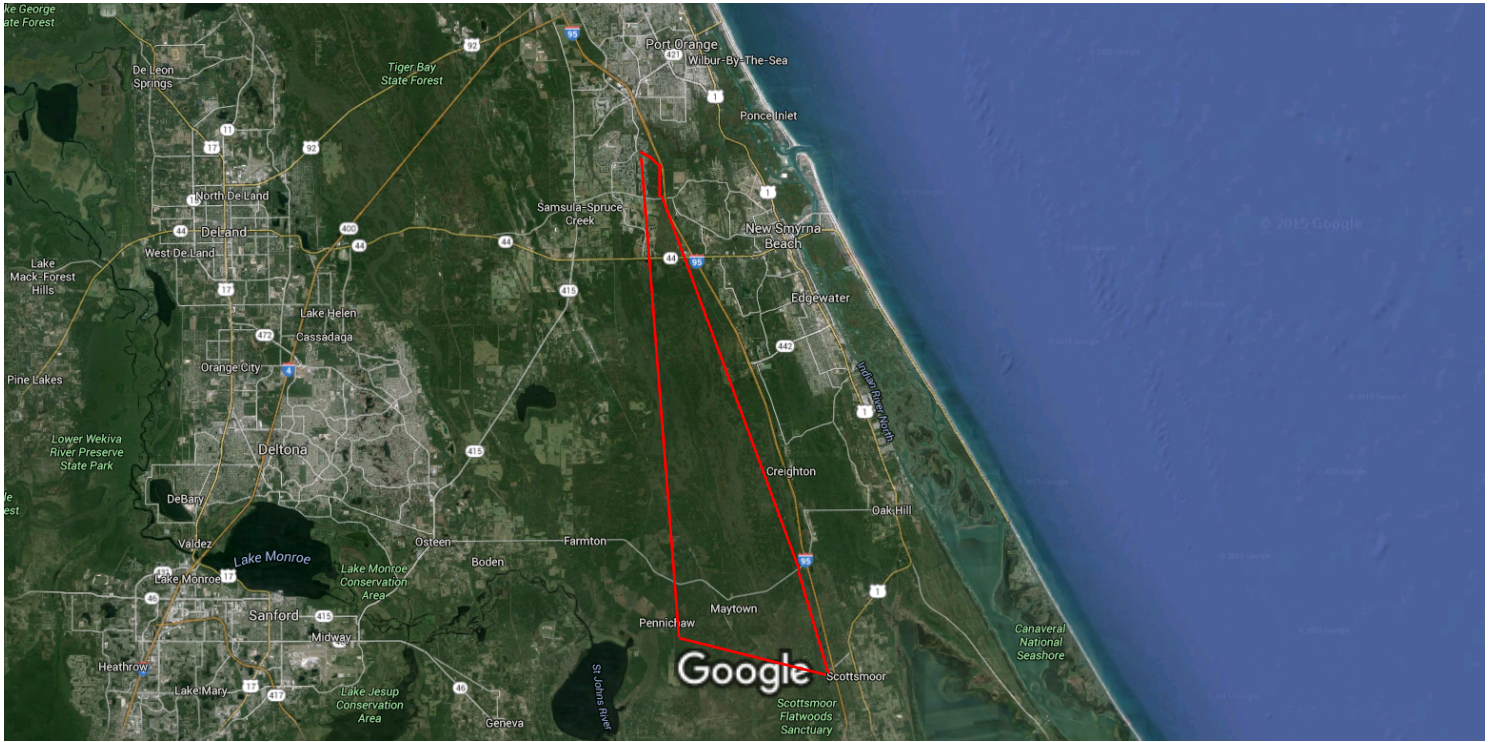
The following exhibits include cited materials that may be difficult to find online and are provided as a courtesy. The exhibits include only relevant portions of the various documents.

- Exhibit 1: Map of the site of the Williamson Boulevard Extension and the Volusia County Development Projects EX-1
- Exhibit 2: SJRWMD MemoEX-2
- Exhibit 3: Williamson Blvd. Extension Permit Application.EX-5
- Exhibit 4: Farmton Mitigation Bank Enabling Instrument.EX-7
- Exhibit 5: Volusia County Farmton Conservation Management Plan. EX-13
- Exhibit 6: U.S. Fish & Wildlife Service List of Species PresentEX-17
- Exhibit 7: EPA Letter Confirming Presence of ARNI.EX-24
- Exhibit 8: Maps of Route of Williamson Blvd. Extension and Development.EX-27
- Exhibit 9: Corps' Approval of Farmton Enabling Instrument Amendment. EX-29
- Exhibit 10: Corps' Notice of Intent to Seek Voluntary NEPA Remand. EX-38
- Exhibit 11: FDOT Documents Regarding I-95/Pioneer Trail Interchange.EX-43
- Exhibit 12: Volusia County Resolution 29A. EX-47
- Exhibit 13: Woodhaven Development MapEX-51
- Exhibit 14: Volusia County Budget Resolution.EX-52
- Exhibit 15: Ocean Gate Commerce Center.EX-56
- Exhibit 16: Deering Parkway Joint Application.EX-57
- Exhibit 17: Corps Motion for NEPA Remand in Farmton Litigation.EX-60



Volusia County

Action Area for Williamson Boulevard Extension



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St. Johns River Water Management District

Hans G. Tanzler III, Executive Director • David Dewey, Maitland Service Center Director

601 South Lake Destiny Road, Suite 200 • Maitland, FL 32751 • (407) 659-4800
On the Internet at floridaswater.com.

June 5, 2013

Pioneer CDD
Attn: Kelly McCarrick, Chair
2379 Beville Rd
Daytona Beach FL 32119

RE: S Williamson Boulevard Extension, Application No. 4-127-134174-1
(Please reference application number on all correspondence.)

Dear Kelly McCarrick:

The St. Johns River Water Management District is in receipt of your Individual Environmental Resource Permit application. Upon preliminary review of the proposed project, the following technical information is required to sufficiently review the possible impacts the project may have on the surrounding area. This information is being requested pursuant to the authority vested in the St. Johns River Water Management District under subsection 373.413(2), Florida Statutes, and sections 40C-4.101 and 40C-4.301, Florida Administrative Code.

In order to expedite the review of your application, please use the application number referenced above and respond electronically through e-Permitting at floridaswater.com/permitting or submit all requested information to the District.

1. The following information requested is with respect to the administrative portion of the application:
 - a. Please provide the signature of a member of the Board of Supervisors of the Pioneer Community Development District (CDD). According to the state's website, <https://www.flrules.org/gateway/ChapterHome.asp?Chapter=42BBB-1> the signatory of the application was not found. Please provide a revised application with the signature of a representative or an authorized representative of the board.
 - b. Please provide a boundary survey of the CDD. In addition, please provide any additional survey information for specific structures existing or proposed associated with the project with the vertical datum provided.
 - c. Clarify the vertical datum used for the project. Item #7 of Sheet 19 suggests that NGVD29 was employed from local benchmarks whereas the plans referenced NAVD88 (e.g., Sheet 88). The project benchmarks reference NGVD 29 and NAVD

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FERNANDINA BEACH
EX-2

4. The UES report did not document the specific methodology used to establish seasonal high water table elevations. We have not reviewed or approved any of those values in situ. Provide representative seasonal high water elevations for wetlands to be affected by the project. These elevations must be based on the same vertical datum used to describe the surface water management system. Establish these elevations in situ for District review and concurrence. It may help to establish a reference elevation (e.g., marked and labeled on a lathe affixed to a tree) for field comparisons. Use these data to demonstrate that the surface water management system will not result in adverse impacts to wetlands through water table depression or surface water diversion. [40C-4.301(1)(a) a, b, d and 40C-4.302(1)(a) 2.,7.; F.A.C.]
5. How did you determine the locations of the median breaks and turn lanes along the proposed extension? The road must be designed in a manner that will not require future impacts to adjacent wetlands when lateral roads or commercial entrances are constructed, for example. If these future phases have the potential to cause adverse secondary impacts, then the applicant must provide sufficient conceptual information to provide reasonable assurance that these impacts can be eliminated or offset.

Provide sufficient information to demonstrate that future development to be served by the road (as implied by these future intersections) can be accomplished with a minimum of adverse impacts. Plot the road between stations 100 and 210 and clearly identify the future intersections on three or four figures (infrared aerial photographs might be useful) relative to all offsite wetlands within 1000 feet of each future intersection. (It would be suitable to approximate the wetland limits from aerial photographs [the 1984 flights show particularly crisp wetland limits]. Provide any documents needed to support your remote delineations.) Demonstrate that likely future phases likely to arise beyond each intersection can be implemented without adverse impacts. [12.2.1.1 and 12.2.7 (d)., ERP A.H.; 40C-4.301(1)(d,f); 40C-4.302(1)(a) 2,7, F.A.C.]

6. We believe that you must account for a greater loss of habitat functions for these wetland fragments that will remain after the road is constructed:
 - Wetland 5 north of the road.
 - Wetland 11 between the road and surface water management pond.
 - Wetland 14 both east and west parts
 - Wetland 15 east of the road.

The proposed four-lane road will effectively reduce these fragments below a sustainable acreage or isolate these parts from contiguous natural areas. Much of the ecological value that on-site habitats now have can be attributed to their connection to expansive natural habitats beyond the project.

June 5, 2013

Application No. 4-127-134174-1

Page 6

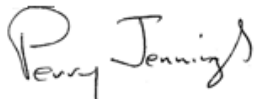
appurtenant work or works, including dredging or filling, and for the maintenance and operation of existing agricultural surface water management systems or the construction of new agricultural surface water management systems...”.

If you have any questions, please contact Lee Kissick at (407) 659-4850/ lkissick@sjrwmd.com , or Perry Jennings at (321) 409-2185/ pjjennings@sjrwmd.com .

Sincerely,



Lee Kissick, Sr. Regulatory Scientist
Division of Regulatory Services



Perry Jennings, P.E.
Division of Regulatory Services

cc: BRS – RAIL1, Marjorie Cook, Victoria Nations, David Dewey

Breedlove, Dennis & Associates, Inc.; Lynette M. Brown, PhD
330 W. Canton Avenue; Winter Park FL 32789

England-Thims and Miller; Attn: Michelle Borton, P.E.
14775 Old St Augustine Rd; Jacksonville FL 32258

**S WILLIAMSON BLVD EXTENSION
CITY OF PORT ORANGE
VOLUSIA COUNTY, FLORIDA**

**ENVIRONMENTAL RESOURCE PERMIT
APPLICATION**

Prepared For

PIONEER COMMUNITY DEVELOPMENT DISTRICT

Prepared By

**England-Thims & Miller, Inc.
14775 Old St. Augustine Road
Jacksonville, FL 32258
(904) 642-8990**

ETM Project No. 12-096

May 2013

BACKGROUND

The project is comprised of a proposed extension of South Williamson Boulevard approximately 2.3 miles as a four-lane urban roadway from Airport Road to Pioneer Trail (CR4118) to provide another connection between Port Orange and New Smyrna Beach. The project is being designed with a partnership between the Pioneer Community Development District and Volusia County. The project will be designed for fifty miles per hour and to accommodate four travel lanes with on-road bike lanes, closed drainage system, twenty-two foot wide curbed and grassed median and a minimum five-foot wide sidewalk on each side of the road. The new right of way will have a width of 130 feet. The existing two-lane roadway south of Airport Road will be widened to four-lanes.

SITE CHARACTERISTICS

A soil map was created for the project area using the Natural Resource Conservation Service's Web Soil Survey application. The report showed the underlying soil types are predominately composed of Myakka fine sand (B/D), Pomona fine sand (B/D), Pomona-St. Johns complex (D), Pompano fine sand (B/D), Pompano-Placid complex (D), Smyrna fine sand (B/D), and Tavares fine sand (A).

Groundwater levels were recorded as they were encountered along the proposed roadway alignment. The recorded groundwater levels varied from 0.1 feet above the ground to 5 feet below the ground.

The overall project area is relatively flat with slopes of 0.5%. There are some isolated upland areas where the slopes are between 1-3%. The western basins flow to the west and outfall to Spruce Creek through the Cypresshead development and the eastern basins flow to the east through existing culverts under I-95 to a tributary of Spruce Creek.

Land use within the project is primarily undeveloped wooded and wetland areas. The existing portion of Williamson Boulevard is surrounded by single family residential, multi family residential, and a golf course.

A review of FEMA Flood Insurance Rate Map Numbers 12127C0509G and 12127C0525G, dated April 15, 2002 indicates that there are flood zones within the limits of the proposed roadway. These areas are classified as Zone A with no base flood elevations determined.

There are wetlands along the project limits. The site is generally drier now than it has been in the past. There is a current SJRWMD permit for Woodhaven Phase 1. There are no significant species but there is potential for gopher tortoises and a survey will be done at the appropriate time. All wetland impacts will be offset using Port Orange Mitigation Bank.

MIAMI CORPORATION
FARMTON MITIGATION BANK

ENABLING INSTRUMENT

Revised 6/24/99

2nd Revision 12/29/99

3rd Revision 6/7/00

PURPOSE: To provide an instrument for the establishment and use of the
Farnton Mitigation Bank (FMB)

AN AGREEMENT GOVERNING THE USE OF
THE FARMTON MITIGATION BANK BETWEEN:

MIAMI CORPORATION

THE U.S. DEPARTMENT OF THE ARMY

THE U.S. ENVIRONMENTAL PROTECTION AGENCY

AND

THE U.S. FISH AND WILDLIFE SERVICE

EFFECTIVE DATE: 6/7/00

PART I - PREAMBLE

A. MITIGATION BANKING REVIEW TEAM (MBRT) AND PURPOSE OF BANK

The purpose of this document is to provide an instrument for the establishment and use of the Farnton Mitigation Bank (FMB). It provides background information and a project description for creating a wetland mitigation bank within the Farnton Tree Farm (Figure 1), owned by the Miami Corporation. The Farnton Tree Farm consists of 57,000 acres, and the proposed Mitigation Bank would include nearly half of the total property (24,323 acres). This would make the Farnton Tree Farm the largest mitigation bank in the United States.

The Farnton Mitigation Bank will be segmented into three distinct, but hydrologically connected sites (Figure 2). The South Site (4,391 acres) is located along the southern sections of the Farnton property and is immediately north of the SJRWMD Buck Lake conservation lands. The West Site (3,595 acres) is adjacent to the St. Johns River, and contains Cow Creek and Deep Creek, which are tributaries of the St. Johns River. The North Site (16,493 acres) includes Crane Swamp and the headwaters of Spruce Creek, which combine to form the largest remaining hardwood swamp on the east coast of Florida.

Habitat restoration, enhancement and preservation provided by this Bank will be used as the basis for establishing credit units. As a result of these efforts, the project will be permanent and self-perpetuating. Upon signature and permit issuance by the appropriate agencies, this instrument will be used to offset project impacts within the geographic service area described herein (Figure 3).

Although implementation of the mitigation plan will commence upon permit issuance, credit withdrawal from each of the three bank sites will occur in phases due to the magnitude of the project. Conservation Easements covering lands within each phase will be recorded prior to the request for credit withdrawal from that phase. The first three phases for each bank site are identified in Figures 11A, 11B, & 11C.

The Federal Mitigation Banking Review Team (MBRT) is comprised of the Corps, the U.S. Environmental Protection Agency, and the U. S. Fish and Wildlife Service. The overall goal of the MBRT and Farnton Mitigation Bank (the Bank) as taken from the "Federal Guidance for the Establishment, Use and Operation of Mitigation Banks," 60 Fed. Reg. 58, 605-58, 614 (Nov. 28, 1995), is to provide economically efficient and flexible mitigation opportunities, while fully compensating for wetland and other aquatic resource losses in a manner that contributes to the long-term ecological functioning of the watershed within which the bank is located. The specific goal of the Bank is to provide compensatory mitigation in advance of unavoidable adverse impacts to similar aquatic resources, which may be authorized by the U. S. Army Corps of Engineers Regulatory Program. Such compensatory mitigation will be considered where, after accepted mitigation sequencing, standard mitigation practices have been determined to be impracticable or not ecologically beneficial.

The MBRT for the Bank consists of the following individuals:

Mr. Mark Evans	USACOE
Mr. Don Palmer	USFWS
Mr. Haynes Johnson	USEPA
Mr. Todd Gipe	SJRWMD

Technical consultants for FMB include:

Mr. Steve Nielsen, Ph.D., Ms. Sharon Collins, Mr. Stuart Bradow, Mr. Jim Bassett - Environmental Management Systems, Inc.

Landowner's Representatives:

Ms. Barbra Goering	Miami Corporation
Mr. Earl Underhill	Miami Corporation
Mr. Glenn Storch, esq.	Storch, Hansen & Morris, P.A.

Permittee's Representatives:

Ms. Barbra Goering	Miami Corporation
Mr. Earl Underhill	Miami Corporation
Mr. Glenn Storch, esq.	Storch, Hansen & Morris, P.A.

B. PROJECT DESCRIPTION

From the late 1800's to around 1960, the land which comprises the Farnton Tree Farm was cleared and used for cattle grazing. Since the early 1950's the majority of lands suitable for planting have been planted with slash pine. These pine plantations are currently harvested at 20 - 40 year rotation intervals. As a stand of timber is cut, or as new land is cleared, the land is replanted with slash pine. Other timber considered as merchantable has been harvested within some of the temperate hardwood areas and these areas were replanted with slash pines. The logging of cypress and removal of pine from within forested wetlands has also been a part of the harvesting program. Excessive hunting, hydrologic alterations, and cattle grazing have also contributed to environmental impacts on the land.

The attached Functional Analysis (Appendix I) describes the existing conditions in detail.

The goal of the mitigation plan is to provide restoration, enhancement, and preservation of wetlands and uplands within each of the three bank sites. Specific objectives include re-establishing surface water flows and wetland hydroperiods, allowing the regeneration of converted and previously harvested wetlands and uplands, improving the quality of habitat, greatly reducing the amount of hunting, phasing out cattle grazing, and preservation of ecosystems. A summary of the proposed mitigation is found in Part II - A of this document. A detailed mitigation plan is included in the Functional Analysis (Appendix I).

In addition to the self-contained ecological value of the Farnton Mitigation Bank, the bank is a valuable component of the natural corridor system that is being established along the St. Johns River. It is significant to the regional ecosystem not only because of its large size, but also because it is adjacent to other conservation lands, including the Buck Lake property owned by the St. Johns River Water Management District, and the Colbert-Cameron Mitigation Bank. The property also lies near the Lake Monroe Mitigation Bank and South Lake Harney Conservation Areas. It consists of a major network of wildlife corridors extending from the east side of the St. Johns River to Crane Swamp and Spruce Creek Swamp (the headwaters of Spruce Creek). Numerous Listed Species (endangered and threatened) have been identified within each of the Bank sites. Much of the value of the bank lies in this fact: without the bank, most of the land could be used in perpetuity for either forestry or development.

The Functional Analysis (Appendix I) provides a detailed description of the anticipated ecological changes associated with project activities.

C. LOCATION, SIZE, OWNERSHIP, TYPE OF BANK AND IDENTITY

The proposed 24,323 acre Farnton Mitigation Bank is wholly owned by the Miami Corporation, and is located in southeast Volusia County and northern Brevard County, between SR 44 to the north, SR 46 to the south, SR 415 to the west and I-95 to the east (Figure 1). The North Site is located in Sections 10 - 15, 22-28, 34-36, Township 18S, Range 33E, Sections 18-20, 29-32, Township 18S, Range 34E, Sections 1, 12, Township 19S, Range 33E and Sections 5-8, 17-21, & 29, Township 19S, Range 34E. The West Site is located in Sections 16-21, 28-33, Township 19S, Range 33E. The South Site is located in Sections 6-8, 11-13, 24-27, of the Bernardo Sequi Grant, Indian River Park, P.B. 2, p.33, Brevard County (located in Township 20S, Range 34E, AI) and in Section 37, Township 20S, Range 33E, AI, Volusia County.

This bank is intended to serve the mitigation requirements for various development projects in the geographic service area surrounding the bank sites.

D. BASELINE CONDITIONS

There are over 17,000 acres of wetlands on the three bank sites (Figures 4A-4C), with the North Bank site containing the highest percentage of wetlands. The remaining lands consist primarily of pine flatwoods, with lesser amounts of hardwood and live oak hammocks, sand pine/scrub, and other minor communities. Virtually all of the bank area has been mapped as forestry stands, and over 60% of the total bank area is considered to be readily harvestable (slash pines and cypress stands), with another 35% harvestable depending on seasonal or climatic conditions.

The overall topography at the Farnton Tree Farm is extremely flat, and it is difficult to divide the site into well-defined drainage basins. After 1950, a network of well-maintained forestry roads and the FPL powerline easement were constructed at elevations above the existing grade, and these have altered the historic drainage patterns and hydrology of the site. The existing placement of culverts under the roads is insufficient to support the historic movement of surface water. During times of heavy rainfall, there are prolonged periods where in some areas surface water levels are almost 2'

higher on one side of the road as compared to the other side. The roads are frequently over-topped, and large washouts occur - sometimes cutting new waterway channels.

All bank sites currently have some cattle, although the stocking rate is very low. Hunting activities may have contributed to the loss of animal species diversity, as well as some degradation of vegetative habitat due to vehicular access. Fencing will be installed to prevent cattle from entering each conservation area.

The Functional Analysis (Appendix I) for the Farnton Mitigation Bank provides a detailed description of the existing baseline conditions on the site.

E. ESTABLISHMENT AND USE OF CREDITS

Because the Farnton Mitigation Bank is such a large area, and future demand for mitigation credits within the service area is unknown, Conservation Easements will be used to define bank phases, and these will be placed in increments based on the implementation of that phase and anticipated need for credits. With the exception of removal of bedding and removal of cattle, all mitigation tasks and programs will be implemented before placement of Conservation Easements.

It should be noted that this is expected to be a very long-term bank. Credits may be sold or used over a 100 year period or more. Some of the mitigation categories include success criteria to be demonstrated through monitoring, and the credits will not be requested until the monitoring program has shown that 100% success has been achieved.

When a phase is to be implemented (based on anticipated credit need), a GIS map with the phase boundaries identified will be forwarded to SJRWMD and the ACOE. Acreages for each mitigation category within the phase will be obtained by GIS, and indicated on the map. A table of credits to be released upon placement of the Conservation Easement, and upon meeting success criteria, will be included. The proposed first three phases in each bank are shown in Figures 11A, 11B, & 11C. Subsequent phases in each bank site average approximately 500 acres, and will be contiguous to the original phase (or previous phase) so that the area under Conservation Easement will continually increase in an incremental fashion.

The fact that Farnton Mitigation Bank is such a large bank, and is expected to operate over a very long time, places a level of uncertainty that all credits will eventually be sold. If the market demand for credits is inadequate for any reason, the Miami Corporation reserves the right to remove unused portions of the bank (those areas without Conservation Easements in place) from the bank.

A GIS map of each bank site, and a running total of credits and debits, will be maintained by Miami Corporation and reported following every transaction. Each permit application proposing to use the Farnton Mitigation Bank sites will contain the latest balance sheet on credits available, credits used up to that time, and the number of credits proposed to offset the project impacts. Simultaneously with issuance of the permits authorizing wetland impacts and the use of Farnton Mitigation Bank as mitigation, the SJRWMD and the ACOE will verify all changes to the credit balance and process the credit debit from the Farnton Mitigation Bank permit.

According to "Closing the Gaps in Florida's Wildlife Habitat Conservation System" (FFWCC, 1994) Farmton is part of a black bear corridor extending along the St. Johns River and into forested areas in Volusia, Brevard, Flagler and St. Johns counties. This corridor is actually linked to the Ocala National Forest. In addition, portions of the property represent a Strategic Habitat Conservation Area for fox squirrels, American swallow-tailed kites, snowy egrets, great egrets, wood storks, little blue herons and southern bald eagles. Black bear tracks were observed by EMS within each of the three bank sites and bears have been frequently observed by Miami Corporation employees. Fox squirrels, wood storks, bald eagles, sandhill cranes, and indigo snakes are among the Listed Species observed. Other species recorded in the area include wild turkey, limpkin, mottled duck, scrub holly, fall-flowering ixia, Curtiss' sandgrass, nodding pinweed, large-flowered rosemary, and Rugel's pawpaw.

In addition to the Listed Species described above, many rare species have been observed in the mitigation bank sites. During the early spring, vast numbers of neotropical migratory birds stop to feed and rest in the wetland areas. A wide variety of wetland-dependent birds, such as egrets, limpkins, and herons, have been observed throughout the sites. Local knowledge indicates that an egret rookery has existed in the North Bank site, but it was never observed.

The Wildlife Management Plan (Appendix III) further describes existing conditions such as hunting estimates and deer populations.

E. CURRENT FORESTRY CONDITIONS

Pine plantations within the mitigation bank sites total approximately 8,400 acres. The ages of the individual stands vary from one year to approximately 35 years old. The timber stands are located mostly in historic pine flatwoods areas, but are also in habitats which were historically upland mixed hardwood forests, oak hammocks, and mixed forested wetlands.

Existing forestry techniques and conditions are further described in the Forestry Stewardship Plan (Appendix II).

F. DEVELOPMENT POTENTIAL

The Farmton Mitigation Bank sites have an excellent potential for future development, since they lie midway between the urban areas of Orlando, Daytona Beach, and Cocoa (Figure 1). It would be feasible for residents to commute to work in any of these three areas. Interstate-95 lies immediately east of Farmton, and would allow rapid access to Daytona Beach and Cocoa. The newly constructed Greenway (SR 417) connecting Sanford to Orlando would allow easy access to the Orlando area, and would avoid the heavy Interstate-4 traffic.

Numerous platted subdivisions and platted roads are present throughout the Farmton property and many of these areas are within the three bank sites (Figures 10A-10C). Within the three bank sites an estimated 8,000 acres of uplands could be readily converted to residential or uses other than forestry.

Farmton Conservation Management Plan

Volusia County

Pursuant to

Farmton Local Plan

Ordinances 2009-34, 2011-10, and 2013-05

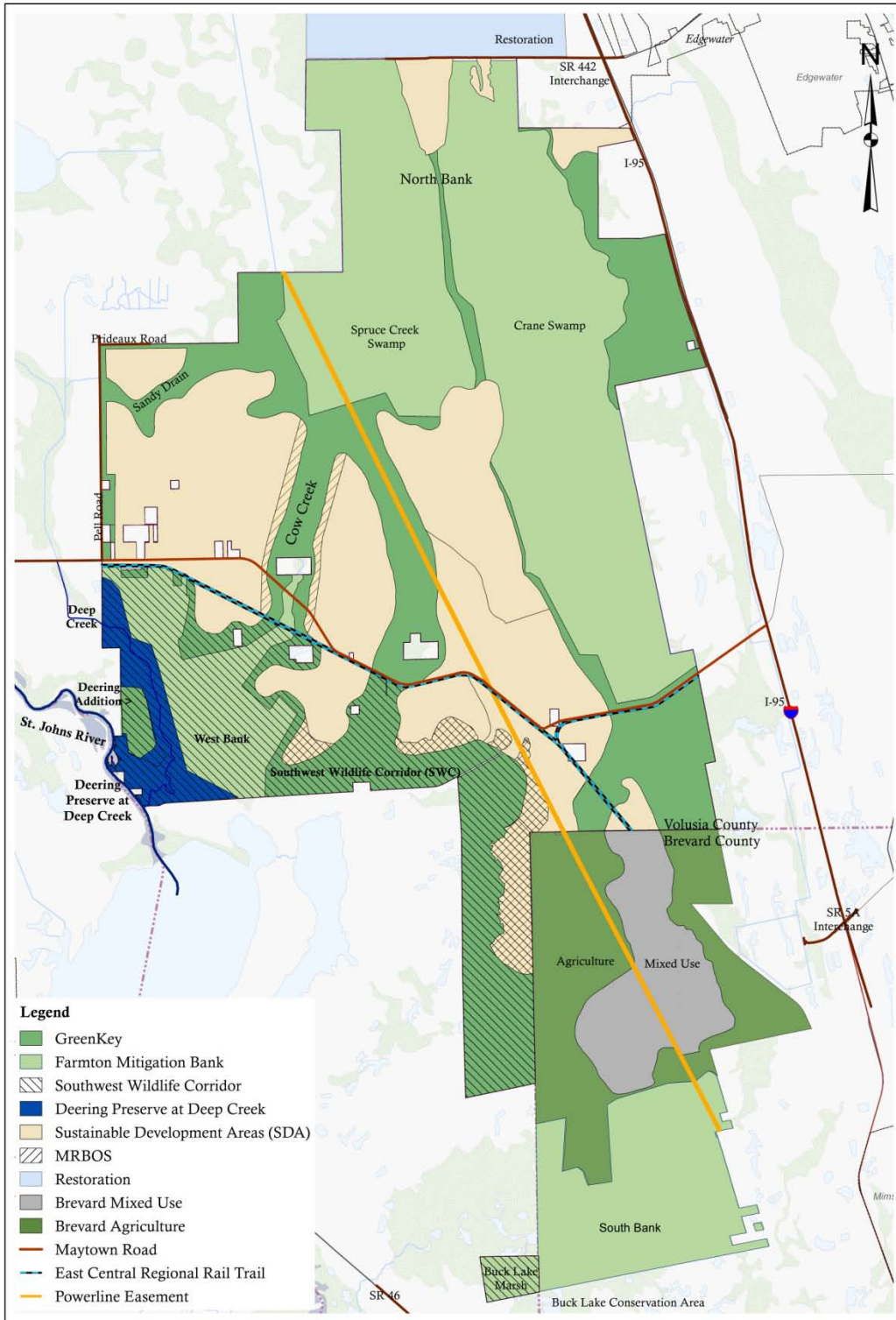


Miami Corporation

Farmton Conservation Management Plan Task Force

Effective upon final adoption by Volusia County Council

Ordinance 2013-07 Exhibit A



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Volusia Conservation Management Plan--Feb 5 2013
Place Names
Figure 2

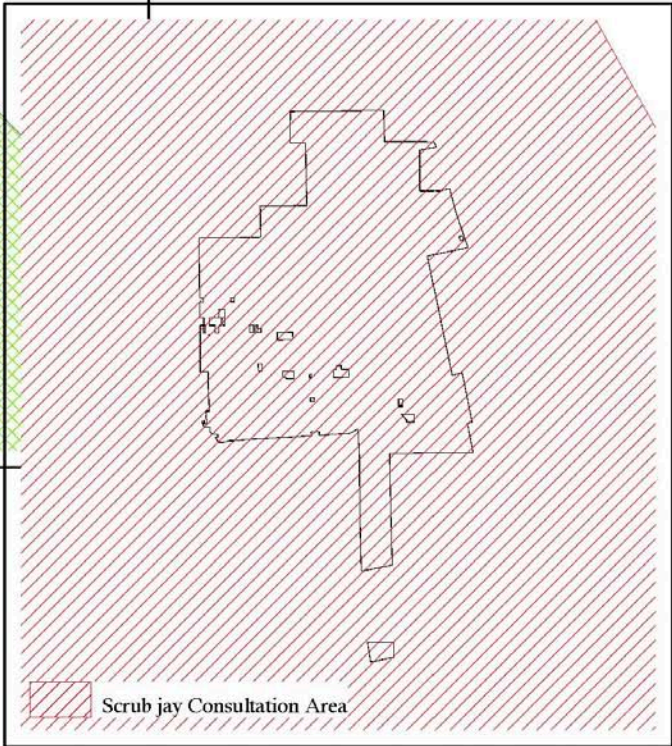
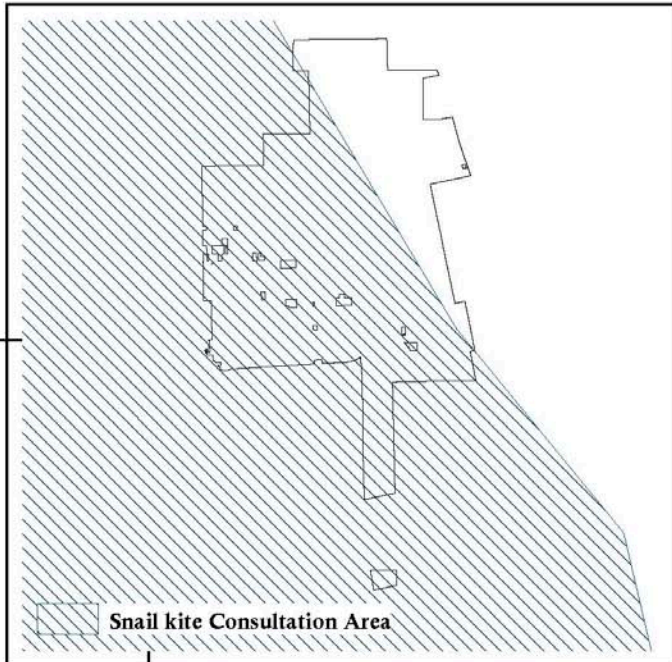
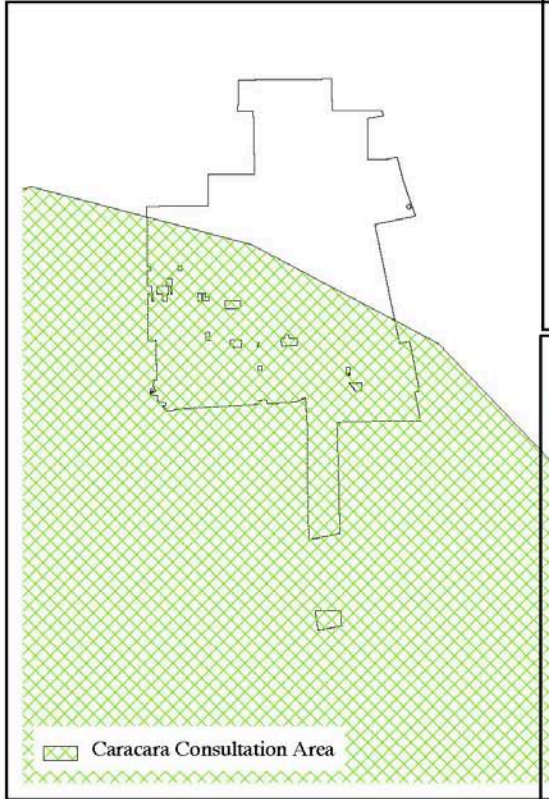
TerraBlue Environmental
P.O. Box 3606
Plant City, FL 33563
TEL: 386-878-3064
scollins@terrablueenvironmental.com

Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712). Swallow-tailed kites are known to nest on Farmton during the breeding months of March-August. Their nesting preferences appear to be mature slash pine in or near forested wetlands.

4.6 USFWS Consultation Areas

Section 7 of the Endangered Species Act requires consultation with the U.S. Fish and Wildlife Service (USFWS) when any action which requires a permit *may affect* a listed endangered or threatened species. USFWS identifies consultation areas for potential habitat of listed species and the FLP requires the CMP to identify consultation areas. USFWS has identified all of Farmton within Consultation Areas for the Florida scrub jay (*Aphelocoma coerulescens*). Further, a large portion of Farmton is included as consultation area for Crested caracara (*Caracara cheriway*), and Everglades snail kite (*Rostrhamus sociabilis plumbeus*). While Volusia County is in the historic range of each of these species, none have been observed onsite. Each of these species has specific habitat requirements which are not present or are far removed from known populations. The closest known population of Crested caracara is Viera and Everglades snail kites have been reported there. Scrub jay populations exist in Deltona, Edgewater, Merritt Island National Wildlife Refuge, and in the I-95/SR-5A interchange in Brevard County. Consultation Areas on Farmton for these species are depicted in Figure 10.





Legend

-  Snail kite Consultation Area
-  Caracara Consultation Area
-  Scrub jay Consultation Area
-  Farmton Volusia

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Volusia Conservation Management Plan--Feb 8 2013
USFWS Consultation Areas
Figure 10

TerraBlue Environmental
 P.O. Box 3606
 Plant City, FL 33563
 TEL: 386-878-3064
 scollins@terrablueenvironmental.com





United States Department of the Interior



FISH AND WILDLIFE SERVICE
North Florida Ecological Services Field Office
7915 BAYMEADOWS WAY, SUITE 200
JACKSONVILLE, FL 32256
PHONE: (904)731-3336 FAX: (904)731-3045

Consultation Code: 04EF1000-2016-SLI-0148

December 17, 2015

Event Code: 04EF1000-2016-E-00129

Project Name: Williamson Boulevard Suite of Projects

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having

similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment



United States Department of Interior
Fish and Wildlife Service

Project name: Williamson Boulevard Suite of Projects

Official Species List

Provided by:

North Florida Ecological Services Field Office
7915 BAYMEADOWS WAY, SUITE 200
JACKSONVILLE, FL 32256
(904) 731-3336

Consultation Code: 04EF1000-2016-SLI-0148

Event Code: 04EF1000-2016-E-00129

Project Type: DEVELOPMENT

Project Name: Williamson Boulevard Suite of Projects

Project Description: Extension of Williamson Boulevard from Airport Road south to Farmton, along with associated residential and commercial development and interchanges with Interstate 95

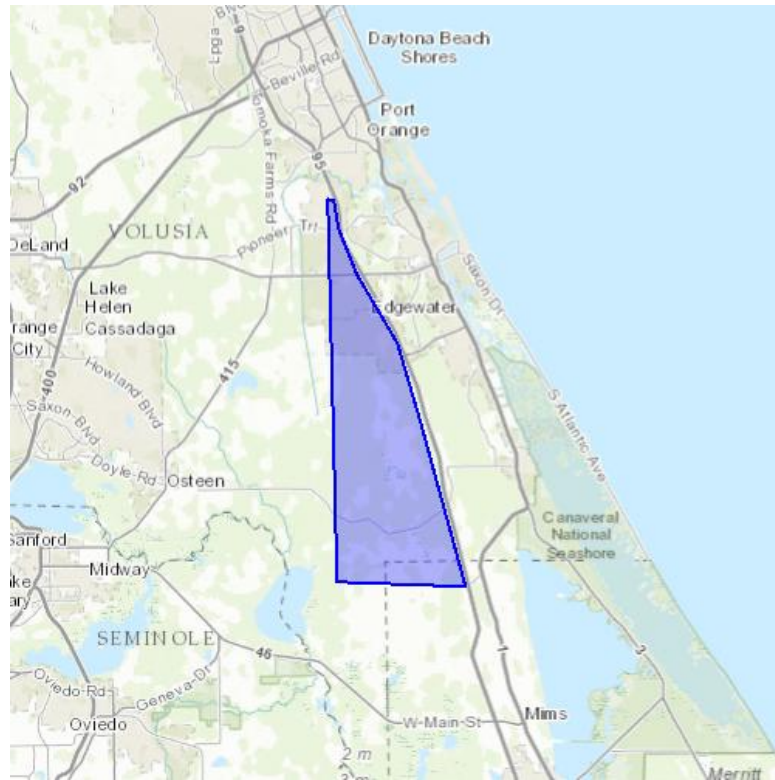
Please Note: The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.



United States Department of Interior
Fish and Wildlife Service

Project name: Williamson Boulevard Suite of Projects

Project Location Map:



Project Coordinates: MULTIPOLYGON (((-81.01824760437012 29.0707241815047, -81.01275444030762 29.069673927087877, -81.00863456726074 29.0478412161013, -80.99258422851562 29.01174333850371, -80.95722198486328 28.95858671352588, -80.936279296875 28.89818930395678, -80.89645385742188 28.77066855563607, -81.01078033447266 28.773677918788586, -81.01824760437012 29.0707241815047)))

Project Counties: Brevard, FL | Volusia, FL



United States Department of Interior
Fish and Wildlife Service

Project name: Williamson Boulevard Suite of Projects

Endangered Species Act Species List

There are a total of 18 threatened or endangered species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Birds	Status	Has Critical Habitat	Condition(s)
Audubon's crested caracara (<i>Polyborus plancus audubonii</i>) Population: FL pop.	Threatened		
Everglade Snail kite (<i>Rostrhamus sociabilis plumbeus</i>) Population: Entire	Endangered	Final designated	
Florida scrub-jay (<i>Aphelocoma coerulescens</i>) Population: Entire	Threatened		
Piping Plover (<i>Charadrius melodus</i>) Population: except Great Lakes watershed	Threatened	Final designated	
Red Knot (<i>Calidris canutus rufa</i>)	Threatened		
Red-Cockaded woodpecker (<i>Picoides borealis</i>) Population: Entire	Endangered		
Wood stork (<i>Mycteria americana</i>) Population: AL, FL, GA, MS, NC, SC	Threatened		
Flowering Plants			



United States Department of Interior
Fish and Wildlife Service

Project name: Williamson Boulevard Suite of Projects

Carter's mustard (<i>Warea carteri</i>)	Endangered		
Lewton's polygala (<i>Polygala lewtonii</i>)	Endangered		
Okeechobee gourd (<i>Cucurbita okeechobeensis</i> ssp. <i>okeechobeensis</i>)	Endangered		
Rugel's pawpaw (<i>Deeringothamnus rugelii</i>)	Endangered		
Mammals			
Southeastern Beach mouse (<i>Peromyscus polionotus niveiventris</i>) Population: wherever found	Threatened		
West Indian Manatee (<i>Trichechus manatus</i>) Population: Entire	Endangered	Final designated	
Reptiles			
Atlantic Salt Marsh snake (<i>Nerodia clarkii taeniata</i>) Population: Entire	Threatened		
Eastern Indigo snake (<i>Drymarchon corais couperi</i>) Population: Entire	Threatened		
Green sea turtle (<i>Chelonia mydas</i>) Population: FL, Mexico nesting pops.	Endangered		
Hawksbill sea turtle (<i>Eretmochelys imbricata</i>) Population: Entire	Endangered	Final designated	
Leatherback sea turtle (<i>Dermochelys coriacea</i>) Population: Entire	Endangered	Final designated	



United States Department of Interior
Fish and Wildlife Service

Project name: Williamson Boulevard Suite of Projects

Critical habitats that lie within your project area

There are no critical habitats within your project area.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC - 4 2012

Colonel Alan M. Dodd
District Engineer
Cocoa Regulatory Field Office
Jacksonville District Corps of Engineers
Attn: Mr. Andrew Phillips
400 High Point Drive, Suite 600
Cocoa, Florida 32926

Subject: Hammock Creek Green, LLC; Permit Application No. SAJ-2009-1219

Dear Colonel Dodd:

This letter is in response to the above referenced public notice (PN) for authorization to construct a commercial and residential development in wetlands immediately east of Spruce Creek swamp, near the town of Edgewater, Volusia County, Florida. The proposed development is on a 5,187-acre tract and the applicant is proposing to fill/excavate approximately 466 acres of jurisdictional wetlands for project construction. An additional 108 acres of impacts would occur to non-jurisdictional (isolated) wetlands at the proposed development site. The development site is located within the Spruce Creek watershed, a tributary to the Atlantic Intracoastal Waterway near the Ponce Inlet.

The applicant is proposing to construct approximately 8,500 residential units, 3.2 million square feet of retail, office, commercial and civic facilities as well as associated roadway, parking and stormwater management facilities at the property. The applicant proposes to preserve and enhance approximately 3,735 acres of lands (72 percent of the site) on the western portion of the site, in a comprehensive mitigation/management plan, including hydrologically enhancing approximately 1,970 acres of wetlands within the preserve area to provide compensatory wetland mitigation.

A United States Environmental Protection Agency Region 4 staff biologist conducted a site inspection with your Regulatory Division project manager and the applicant's environmental consultants on October 3, 2012. The applicant has provided information indicating that approximately 60 percent of the site is jurisdictional wetlands. A considerable portion of the site has been intensively managed for timber for the past several decades. Although some of the proposed impacts would occur to wetlands degraded by silvicultural practices, the EPA's site inspection finds that over two-thirds of the proposed impact area appears to be comprised of functional and high quality wetlands.

Our inspection also confirmed that the proposed impact area at the eastern portion of the site is comprised of north to south wetland slough systems with upland pine areas separating the wetland sloughs. At the proposed 466-acre jurisdictional wetland fill/excavation area, there are several large mature cypress and cypress-slash pine wetland sloughs forested with a tree canopy of 60-70 feet in height. These cypress dominated freshwater forested wetlands appear to be fully functional and ecologically valuable. The applicant has provided information that indicates that approximately 176 acres of cypress forested jurisdictional wetlands and 153 acres of cypress-slash pine forested

jurisdictional wetlands are located in the proposed impact zone. The balance of the proposed wetland impacts would be to wet pine plantation wetlands and wetlands under a large on-site powerline right-of-way. Approximately 72 acres of the on-site jurisdictional wetlands would be excavated for the proposed stormwater management system and 394 acres of the on-site jurisdictional wetlands would be filled.

The wetlands at the project site perform many valuable ecological functions, including providing fish and wildlife habitat, food chain support, natural water quality improvement and flood storage. Freshwater forested wetlands: 1) provide valuable breeding, nesting and foraging areas for fish and wildlife; 2) improve water quality through biogeochemical cycling and sediment sequestration; 3) replenish groundwater and maintain dry season stream flows; 4) store and slowly release wet season flood waters; and 5) support maintenance of biodiversity in supporting numerous animal and plant species.

Proposed direct and indirect impacts will occur to mature cypress and cypress-pine forested wetlands at the proposed fill locations. The EPA considers these areas of cypress forested wetlands to be of sufficient quantity (329 acres) and sufficient quality to be considered Aquatic Resources of National Importance (ARNI) because they provide nesting, roosting and feeding sites for a wide variety of wildlife species, as well as filtering upland runoff and providing groundwater recharge of the aquifer when the adjacent water table drops during drought periods.

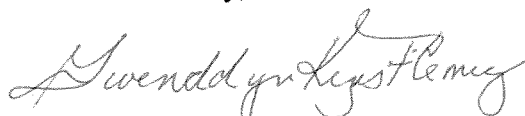
The EPA has completed its review of this project from information contained in the PN, additional information provided by the applicant and our recent site inspection. This letter summarizes the EPA's position on the Project, concentrating on the Clean Water Act (CWA) Section 404(b) (1) Guidelines (the Guidelines), which prohibit avoidable or significant adverse impacts to the aquatic environment. The EPA believes the proposed wetland impacts are significant due to the quality of the wetlands to be impacted and the size of the proposed wetland fill. Opportunities may exist to further avoid and minimize impacts through alternative development footprints.

Therefore, the EPA requests that the applicant provide additional information on alternative development approaches and the measures that can be taken to avoid and minimize on-site wetlands impacts, specifically to the on-site cypress forested wetland areas mentioned above. Section 230.10(a) of the Guidelines states that no discharge of dredge and/or fill material shall be permitted if there is a practicable alternative which would have less adverse impact on the aquatic environment, provided the alternative does not have other significant adverse environmental consequences. Practicable alternatives are those that are "available and capable of being done after taking into consideration cost, existing technology and logistics in light of the overall project purposes." According to the Guidelines and the February 6, 1990, Memorandum of Agreement between the U.S. Army Corps of Engineers (Corps) and the EPA, an applicant must demonstrate avoidance and minimization of wetland impacts before compensatory mitigation can be considered. And the 2008 Mitigation Rule states that mitigation should be considered utilizing a watershed approach. Given these considerations, the EPA is available to work with the Corps and the applicant on alternatives that maximize the use of on-site upland areas and avoid the cypress and cypress-slash pine wetlands while considering the watershed context of the site.

In summary, the EPA has determined that the project does not presently comply with all aspects of the Guidelines and will have substantial and unacceptable adverse impacts on ARNI. Therefore, we recommend denial of the project as currently proposed. This letter follows the field level procedures outlined in the August 1992 Memorandum of Agreement between the EPA and the Department of the Army, Part IV, paragraph 3(b) regarding Section 404(q) of the CWA.

Thank you for the opportunity to comment on this request for authorization. We look forward to receiving additional information and working with you in the future. If you have any questions, please contact Mr. Eric Hughes at (904) 232-2464.

Sincerely,

A handwritten signature in cursive script that reads "Gwendolyn Keyes Fleming".

Gwendolyn Keyes Fleming
Regional Administrator

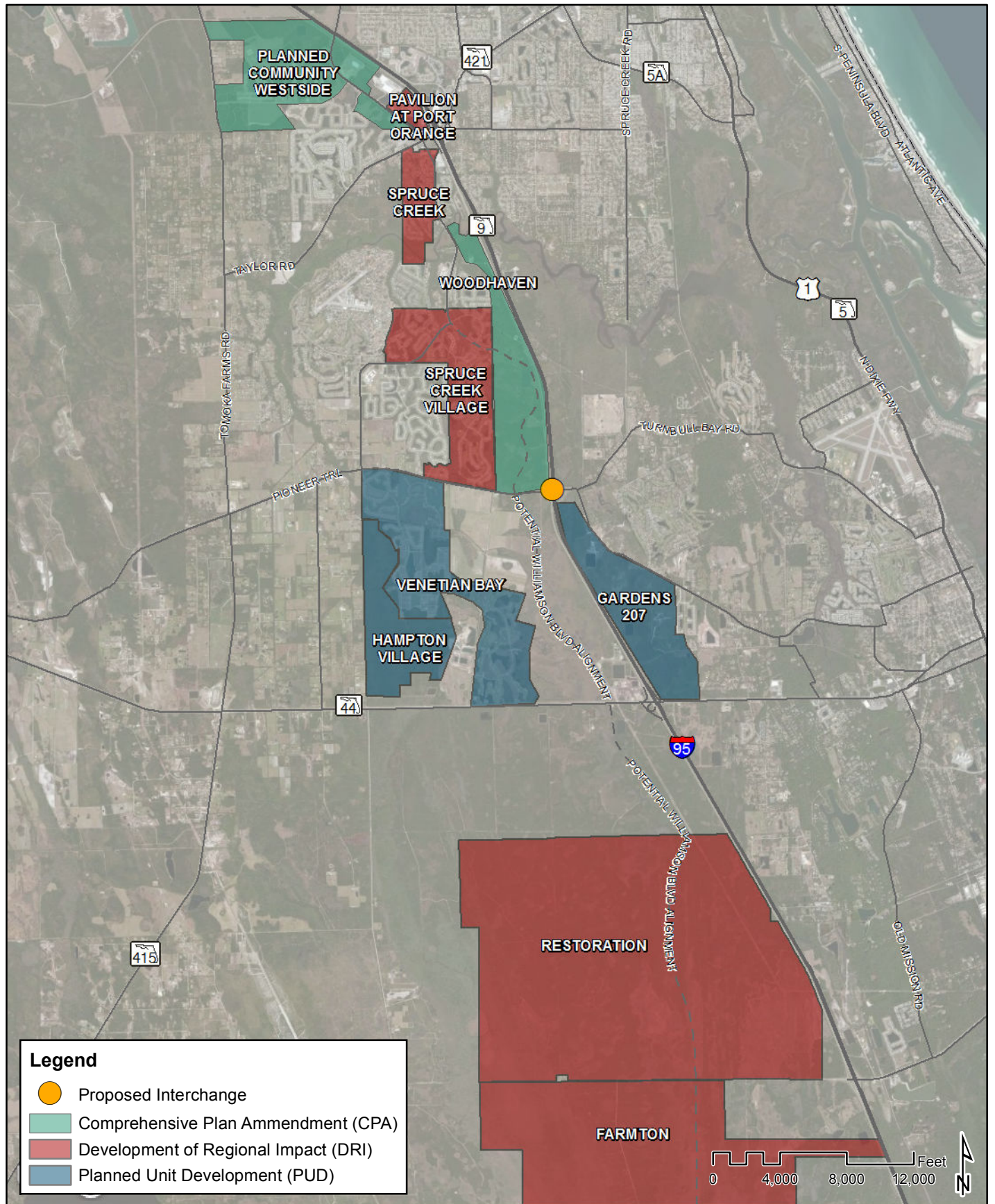
cc: Mr. Mike Register
Saint Johns River Water Management District

Ms. Vicki Nations
Saint Johns River Water Management District

Mr. Heath Rauschenberger
U.S. Fish and Wildlife Service

Mr. George Getsinger
National Oceanic and Atmospheric Administration

Mr. Dave Herbster
Florida Department of Environmental Protection



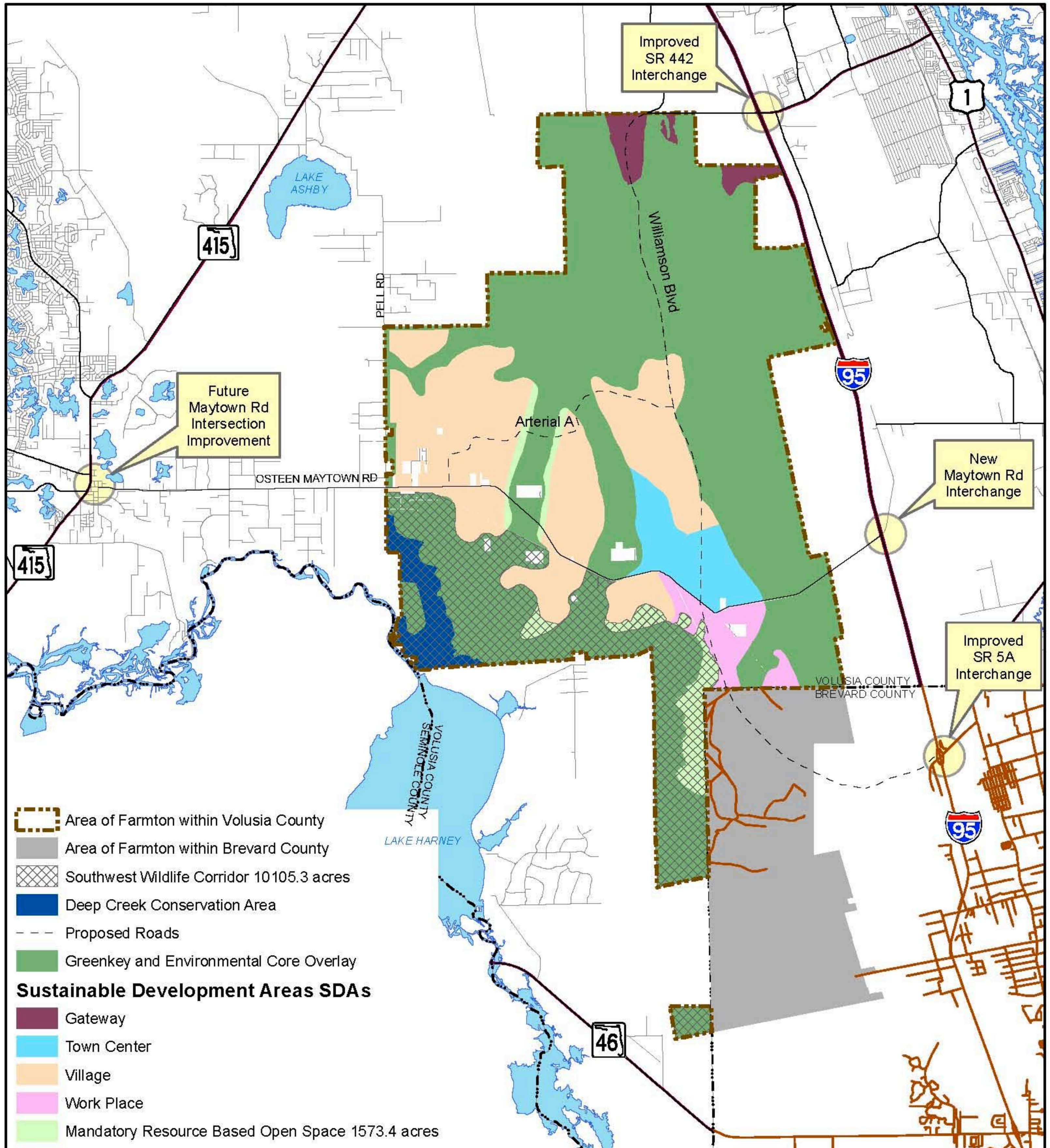
H:\profile\11730 - FDOT 05 Design Traffic and PDE Support\TWO 35_General Services\Pioneer Trail IJR Peer Review\GIS\Development Map.mxd - bbancore - 126 PM 4/16/2014



PLANNED DEVELOPMENT IN VICINITY OF PROPOSED PIONEER TRAIL INTERCHANGE VOLUSIA COUNTY, FL

Figure 2-10

Farnton Local Plan Spine Transportation Network



1" = 2.5 Mile
4/14/2011

MEMORANDUM FOR RECORD

SUBJECT: Evaluation for Farmton Mitigation Bank and Modification of the Mitigation Banking Instrument

1. SPONSOR: Miami Corporation
Mr. Mike Brown
1625 Maytown Road
Osteen, Florida 32764

2. LOCATION, WATERWAY AND PROJECT DESCRIPTION:

a) LOCATION: Farmton Mitigation Bank (FMB) is located in southeast Volusia County and northern Brevard County, between SR 44 to the north, SR 46 to the south, SR 415 to the west and I-95 to the east. It is comprised of three sites identified in the FMB Mitigation Banking Instrument (MBI) as the North Site, West Site and South Site.

b) WATERWAY: Each site within the FMB contains wetlands and waters that are hydrologically connected to the St. Johns River, a Section 10 Waters of the United States. The North Site is dominated by Crane Swamp which flows into Spruce Creek Swamp to Spruce Creek and Cow Creek into the St. Johns River. The West Site drains into Cow Creek and Deep Creek into the St. Johns River. The South Site drains into Buck Lake then to Six Mile Creek to the St. Johns River.

c) PROJECT DESCRIPTION: The FMB is wholly owned by the Miami Corporation. The three sites which make up the FMB's total 24,323 +/- acres of which over 17,000 acres are wetlands. The FMB MBI includes provisions allowing for regulated hunting and ongoing silviculture operations in Designated Forestry Areas. However, as stated in the FMB Forestry Stewardship Plan "The Designated Forestry Areas" are outside of the bank boundaries for purposes of the federal MBI, but inside the bank boundaries of the state permit.

The FMB was authorized by the U.S. Army Corps of Engineers (Corps) on 7 June 2000 and has completed all stated objectives with the exception of pine plantation conversion. Preservation of all three sites within FMB through the recording of conservation easements has been phased with the release of compensatory mitigation credits. Currently, nine parcels totaling approximately 6,352 acres within the North Bank site have been preserved through the recording of conservation easements. In addition, an area in the northeast corner of the North Site currently has reserved mineral rights owned by another party. The FMB sponsor has been in negotiations since 2000

to acquire the mineral rights and understands that the Corps will not release credits for this area until the mineral rights are extinguished.

The compensatory mitigation objectives for FMB include reestablishing natural surface water flows and hydroperiod of the watershed, conservation, enhancement and preservation of habitat. Additionally, forestry stewardship management is a component of the objective and includes selective conversion of pine plantations to native habitat, implementing hunting restrictions, phasing out of cattle grazing and the preservation of rare ecosystems and archaeological sites.

The potential compensatory mitigation credits for FMB were determined using the Wetland Rapid Assessment Procedures (WRAP) developed by the South Florida Water Management District. FMB, as approved, has the potential to provide a total of 5,656.64 compensatory mitigation credits upon achieving all success criteria and complying with the requirements of the FMB MBI.

3. PROPOSED MODIFICATION: On 5 February 2010 TerraBlue Environmental requested, on behalf of Miami Corporation, a modification to the existing FMB MBI and permit documents. The modification was requested to address the land use provisions of the Farnton Local Plan (FLP). The FLP was approved by Brevard County on 21 December 2010 and by Volusia County on 17 March 2011. It establishes two land use designations within the 47,000 acre Farnton site called GreenKey and Sustainable Development Areas. The GreenKey land use designation identifies conservation areas and other green infrastructure to be protected in perpetuity. These areas will include wildlife corridors, landscape linkages, conservation areas and restoration sites that add approximately 17,000 acres to the conservation landscape adjacent to the 24,000-acre FMB sites. Sustainable Development Areas are designated for future development.

While the initial modification request included changes to all three FMB sites, this was revised on 27 April 2010 to include only the North Site. As described in the originating documents, the overall North Site contains 16,492.46 acres. This figure includes 1,475.14 acres which are excluded from the federal FMB consisting of: a) road alignment (155.31 acres); b) powerline easement (48.08 acres); and c) Designated Forestry Areas (1271.75 acres), therefore, for the federal FMB, the North Site consists of a total of 15,017.32 acres.

With this modification the North Site would contain 14,531.87 acres of the following habitat types:

North Site	Existing Acres	Proposed Acres	Reduction
411 Pine Flatwoods			
• Buffer Area (U11)	1784.87	1674.83	110.04
• Bedded Buffer Area (W3)	875.98	784.51	91.47
421 Xeric Oak	26.82	26.82	0.00
425 Temperate Hardwoods	9.56	8.92	0.64
427 Live Oak	26.79	26.79	0.00
434 Hardwood/Conifer Mixed	9.76	9.76	0.00
610 Wetland Hardwood Forest	155.65	150.13	5.52
613 Gum Swamp	49.46	29.83	19.63
617 Mixed Wetland Hardwood	38.54	37.64	0.90
620 Wetland Coniferous Forest	361.98	355.75	6.23
621 Cypress	8557.29	8371.06	186.23
624 Cypress/Pine/Cabbage Palm	761.19	730.03	31.16
630 Wetland Forested Mixed	856.53	839.50	17.03
641 Freshwater Marsh	1266.73	1256.74	9.99
646 Wetland Scrub	236.17	229.56	6.61
Total North Site acres	15017.32	14531.87	485.45
Total North Site Upland acres	1857.80	1747.12	110.68
Total North Site Wetland acres	13159.52	12784.75	374.77

This modification includes the removal of 374.77 wetland acres (as shown on the table above). With this modification, the North Site wetland acreage will be adjusted as follows:

North Site Mitigation Category	Original North Site Acres	Modified North Site Acres	Reduction
W1 – Harvested Wetland Hydrologic Enhancement	505.69	502.61	3.08
W2 – Wetland Hydrologic Enhancement	11,465.35	11,294.30	171.05
W3 – Wetland Restoration	875.98	784.51	91.47
W4 – Harvested Cypress Wetland Enhancement	48.18	40.67	7.51
W5 – Cypress Wetland Enhancement	210.10	132.98	77.12
W6 – Harvested Hardwood Wetland Enhancement	10.18	3.97	6.21
W7 – Hardwood Wetland Enhancement	44.04	25.71	18.33
ACOE Total	13,159.52	12,784.75	374.77

4. DATE OF PUBLIC NOTICE: A public notice for the proposed modification of FMB pertaining to the removal of 374.77 wetland acres from the North Site was issued on 5 May 2010. All interested parties were provided a 30-day comment period which ended on 4 June 2010.

5. COMMENTS TO THE PUBLIC NOTICE: The following written comments were received in response to the Public Notice: Alice Jaeger on behalf of Volusia-Flagler Sierra Club and Leslie Blackner, attorney representing Volusia-Flagler Sierra Club requested a 60 day extension to the public notice comment period via email on 12 May 2010 citing the enormous size of the project and the far reaching, long term effect it will have. By email dated 26 May 2010, Ms. Michele Moen with the Edgewater Citizens' Alliance for Responsible Growth requested all information provided to the Corps by Farmton in support of the proposed modification. Ms. Moen also expressed concerns that if the proposed modification were approved, she believed that anticipated residential development would begin immediately. The Public Notice comment period was not extended beyond 4 June 2010. Comments received after 4 June 2010 are documented in the administrative record.

6. FURTHER COORDINATION:

a) The Corps requested additional information from TerraBlue Environmental via email on 2 November 2010. The request addressed the need for clarification of the legal instrument (access easement); a summary map with exclusions from the 2000 MBI along with modification to the ACOE-only footprint; additional information regarding county approval of the Farmton Local Plan, which includes lands that are part of the modification request; and calculations for credit reduction in the proposed modification area.

TerraBlue Environmental's response to the Corps' request included an executive summary narrative associated with the proposed modification; revised tables depicting the acres proposed to be removed and the loss of credits associated with the removal; the legal mechanism that would allow for perpetual hydrologic structures access and maintenance; an explanation regarding the existing 200-foot-wide exclusion corridor; a summary of the FLP; a figure showing the existing FMB service area; and a figure depicting the areas (and acreages) proposed to be removed from the North Site. The following table provides a summary of the information that was included in the response:

North Site Mitigation Category	Original Acres	Acres Removed	Modified Acres	Delta Value (*)	Original Credit Potential	Credit Loss	Modified Credit Potential
W1 – Harvested Wetland Hydrologic Enhancement	505.69	3.08	502.61	0.47	237.67	1.44	236.23
W2 – Wetland Hydrologic Enhancement	11,465.35	171.05	11,294.30	0.30	3439.61	51.32	3388.29
W3 – Wetland Restoration	875.98	91.47	784.51	0.44	385.43	40.25	345.18
W4 – Harvested Cypress Wetland Enhancement	48.18	7.51	40.67	0.61	29.39	4.58	24.81
W5 – Cypress Wetland Enhancement	210.10	77.12	132.98	0.53	111.35	40.87	70.48
W6 – Harvested Hardwood Wetland Enhancement	10.18	6.21	3.97	0.61	6.21	3.78	2.43
W7 – Hardwood Wetland Enhancement	44.04	18.33	25.71	0.53	23.34	9.72	13.62
Totals	13,159.52	374.77	12,784.75		4233.00	151.96	4081.04

* Multiplicative value applied to acre value to determine credit generation potential.

b) The Florida Fish and Wildlife Conservation Commission (FFWCC) provided a written response to the Corps on 14 March 2011 stating concerns with the proposed modification due to the potential for subsequent actions to affect Florida black bear habitat and natural communities that may support a diverse array of wildlife species. FFWCC later retracted their objection on 8 June 2011 after meeting with Farmton representatives to discuss the proposed mitigation bank removal area as it relates to the FLP. In addition, Farmton and FFWCC discussed the development of landscaping techniques, fencing, speed limits, wildlife underpasses or overpasses, bridging, and elevating roadways to maintain wildlife habitat connectivity.

c) TerraBlue Environmental responded to a follow up request for additional information from the Corps on 9 June 2011 by providing details on the following items: the original WRAP scoring for FMB; potentially affected resources per discussions with FFWCC; hydrologic connectivity maps and information on the long-term protection of the hydrologic structures; justification for removal of acres to implement the FLP; a description of how Sustainable Development Areas (SDA) will be developed and how buffers and water resources within the SDA will be preserved and protected; what activities would be allowed within the buffers (i.e. stormwater management systems and recreational activities); proposed wells and their potential effects to the functionality of the bank itself; effects of increased land use activities adjacent to the bank; and activities allowed on off-site conservation areas. Attachments to the correspondence include the following: WRAP data sheets, FFWCC correspondence, and figures and maps.

d) TerraBlue Environmental submitted a revised modification request letter to the Corps on 14 November 2011. This letter provided additional details regarding the overall plans regarding the reduction of lands within the North Site to include clarification that while 375 wetland acres were to be removed from the project, an additional 110 acres of planted pine upland restoration (mitigation category U11 in the MBI) were also to be removed for a total of 485 acres to be removed from the North site. All maps and drawings of the proposed removal area remain the same as in the public notice posted on 5 May 2010.

e) Leslie Blackner, an attorney representing Volusia-Flagler Sierra Club and Edgewater Citizens Alliance for Responsible Development, Inc. (ECARD), submitted multiple comments to the Corps and the IRT stating development activities that Miami Corporation is undertaking are incompatible with the Farmton Mitigation Bank. The Corps met with Leslie Blackner, Volusia-Flagler Sierra Club and ECARD representatives on 24 October 2011 and 13 September 2013 to listen to their concerns.

f) On 14 November 2012, after discussions with the Corps on the format of the modification request, TerraBlue Environmental submitted an updated MBI modification package. The package included an updated table of contents cross-referenced with the permitted MBI; an easement to access, operate, and maintain the hydrologic structures within the removal area in perpetuity; a statement that no wells are planned within the bank area and wells shall remain prohibited within the mitigation bank; information on wildlife crossings which shall be placed (subject to applicable agency approval(s)) along the proposed "Spine Road" according to the criteria described in the adopted FLP; and adaptive management provisions. In addition, the approved FMB MBI Functional

Analysis and Forestry Stewardship attachments have been updated to identify all changes that will occur as a result of the modification.

g) The Corps met with IRT participants on 24 January 2013 to review and discuss the FMB modification and modified MBI document. At the meeting, the members of the IRT were asked to provide written comments on the proposed modification. The Corps and IRT conducted a site visit on 13 March 2013 at the North site to review the proposed bank removal areas and discuss any remaining information needed to complete the MBI modification. IRT participants/agency included: Ron Miedema/USEPA, Erin Gawera/USFWS, George Getsinger/NOAA, Ben Shepherd/FFWCC, Teresa Frame/ACOE and Seth Johnson/OC-ACOE. Other individuals affiliated with the project included (participants/affiliation): Glenn Storch/Miami Corp Attorney, Sharon Collins/Miami Corp Consultant, Mike Brown/Miami Corp Property Manager. Mr. Getsinger (NOAA) was not able to participate in the onsite IRT discussion pertaining to the proposed bank removal areas since he had to leave shortly after arriving onsite. The remaining participants walked through the proposed removal areas located in the central portion and the proposed removal area in the northeast corner of the North Site. Both areas consisted largely of pine plantation interspersed with pockets of mixed forested wetlands. After reviewing the majority of the removal areas, the IRT and Farmton representatives discussed updating the WRAP credit calculations for the bank wetland areas adjacent to the proposed removal areas. When the FMB was initially developed, all wetlands within FMB were given a WRAP score of 3 for adjacent upland/wetland buffer and 3 for water quality.¹ However, due to the fact that the wetland areas adjacent (within 300 feet) to the removal area would no longer meet the requirements to justify those scores, the Corps requested and Mr. Storch agreed to recalculate the WRAP credits for the wetland areas within 300 feet of the proposed removal areas. Ms. Collins was asked to provide the IRT with an updated map identifying the wetlands within 300 feet of the removal areas and a revised WRAP credit calculation for the North Site area.

After review of the WRAP calculations for the buffer area and discussions with the IRT the resulting reduction in mitigation credits for the North Bank buffer areas would be as follows:

¹ A WRAP Adjacent Upland/Wetland Buffer Rating Index of 3 equates to: Greater than 300 feet wide average width; Contains predominantly desirable plant species (less than 10% nuisance, and no exotic species) for cover, food, and roosting areas for wildlife; Connected to wildlife corridor or contiguous with offsite wetland system or areas that are large enough to support habitat for large mammals or reptiles. A WRAP Water Quality Input and Treatment Rating Index of 3 should have natural undeveloped areas for the surrounding land use.

North Site Mitigation Category	Buffer Area Acres	Original Delta *	Adjusted Delta *	Credit Reduction	Modified Credit Potential by Category
W1 – Harvested Wetland Hydrologic Enhancement	4.44	0.47	0.28	0.86	235.37
W2 – Wetland Hydrologic Enhancement	210.47	0.30	0.18	25.26	3363.03
W3 – Wetland Restoration	62.63	0.44	0.27	10.65	334.53
W4 – Harvested Cypress Wetland Enhancement	0.80	0.61	0.36	0.14	24.67
W5 – Cypress Wetland Enhancement	4.03	0.53	0.34	0.77	69.71
W6 – Harvested Hardwood Wetland Enhancement	---	---	---	---	2.43
W7 – Hardwood Wetland Enhancement	6.75	0.53	0.34	1.29	12.33
Totals	289.12			38.97	4042.07

* Multiplicative value applied to acre value to determine credit generation potential.

This would bring the total potential mitigation credits for the North Bank area to: 4042.07 credits ([4,233.00 North Bank credits -151.96 credits for the removal area – 38.97 credits for the buffer area).

7. FINAL MBI MODIFICATION SUBMITTAL: After a few minor corrections/edits were made, TerraBlue Environmental submitted the final MBI modification package to the Corps on 23 July 2013. The Corps provided the final MBI modification package to all of the IRT participants (EPA, FWS, NOAA and FFWCC) on 24 July 2013. The package included notification of the Corps intention to approve the final draft MBI modification since it was determined that the Sponsor, Miami Corporation, has adequately addressed and incorporated all the recommendations provided by the IRT members during the mitigation bank modification review process. The members of the IRT were provided with information on their rights to object to the determination and notification that any objections had to be received no later than 8 August 2013 and must include an explanation of the basis of the objection and any recommendations which might be implemented to resolve the objection. The Corps did not receive any objections to the approval of the final MBI modification package.

8. FINAL DETERMINATION: The Corps has determined that the proposed modification to the North Site of FMB will not impact the ability of the site to continue to provide appropriate compensatory mitigation for future impacts to waters of the United

CESAJ-RD-P (1145) SAJ-1998-2009-01836-TMF

SUBJECT: Evaluation for Farmton Mitigation Bank and Modification of the Mitigation Banking Instrument

States within the approved service area. The modification removes only a small portion of the existing wetlands (374.77 out of 13,159.527) and 110 acres of uplands from an area that has not provided compensation for impacts to waters of the United States and has not been preserved by a conservation easement. The Sponsor has provided a perpetual access easement agreement for the continued access, operation and maintenance of the hydrologic structures crossing the removal area to maintain the hydrologic connectivity of the North Site. The Sponsor has also agreed to the construction of wildlife crossings, when development occurs, to maintain the wildlife utilization and connectivity of the North Site. The vegetative structure of the North Site should not be affected by the removal area due to the ongoing and perpetual maintenance of the habitats. The credit generation potential of those wetlands whose buffers were affected by the modification (i.e., reduced to less than the optimal 300-foot range) was reduced to compensate for the loss of buffer and any potential effect from activities that might occur on those lands in the future. Concerns have been expressed with the construction of potable water supply wells near or adjacent to the FMB. Any future impacts to FMB associated with the construction and utilization of water wells or other adjacent land use activities would be addressed through adaptive management procedures. If adaptive management procedures were unsuccessful in mitigating for loss of function to the mitigation bank area, the available mitigation credits would be adjusted accordingly. Any activities associated with the development of lands within the FLP that propose impact to waters to the United States would be evaluated by the Corps through the application review process in accordance with 33 CFR Part 325.

The Corps has determined that the Sponsor has adequately addressed and incorporated the recommendations provided by the IRT members during the mitigation banking review process and that the final MBI modification complies with all applicable provisions as stated in the Federal Mitigation Rule (33 CFR 332).

PREPARED BY:



Teresa Frame
Project Manager

REVIEWED BY:



Deborah Wegmann
Chief, Special Projects and Enforcement
Branch

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

SIERRA CLUB, INC., Plaintiff,

vs.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, GOVERNING BOARD OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, John Miklos, Maryam Ghyabi, Fred Roberts, Jr., George Robbins, Douglas Bournique, Charles Drake, Lad Daniels, Douglas Burnett and Carla Yetter, in their official capacities as members of the Governing Board; UNITED STATES ARMY CORPS OF ENGINEERS, COLONEL ALAN M. DODD, Jacksonville District Engineer, Defendants,

and

MIAMI CORPORATION, Intervenor.

CASE NO.: 6:14-CV-01877-ORL-40DAB

**JOINT MOTION TO MODIFY
SCHEDULING ORDER**

Federal Defendants United States Army Corps of Engineers and Colonel Jason A. Kirk, Jacksonville District Engineer, Plaintiff Sierra Club, Inc., and Intervenor Miami Corp. hereby move for an order modifying the Case Management and Scheduling order (“CMSO”) currently entered in this case (ECF No. 65).

The CMSO provides for summary judgment briefing to begin 30 days after the administrative record is lodged. In order to comply with the CMSO, Federal Defendants answered the complaint and lodged the administrative record on November 16, 2015.

However, Federal Defendants intend to move for remand of the federal decision challenged in this case – a decision to approve a modification to the Mitigation Banking Instrument governing

the (federal) Farmton Mitigation Bank – in order to analyze its decision under the National Environmental Policy Act (NEPA). Two of the counts in Plaintiffs’ Second Amended Complaint (ECF No. 73) allege violations of NEPA by Federal Defendants. If the additional procedures satisfy some or all of Plaintiffs’ concerns, issues raised in Plaintiffs’ Complaint could become moot. Therefore, Federal Defendants submit that it is a potentially academic exercise to brief summary judgment before the remand motion is resolved, and the parties jointly propose that the current deadlines be deferred. The parties propose the following deadlines:

Federal Defendants’ Motion for Remand: January 22, 2016

Responses to Motion to Remand (if any): February 22, 2016

Reply in Support of Motion for Remand: March 7, 2016

In addition, Plaintiffs request leave to file a sur-reply. Federal Defendants object to any presumptive right to file a sur-reply.

If the remand motion is opposed and denied, Plaintiffs’ summary judgment brief would be due 30 days from the date of the order ruling on the motion. A proposed order is attached. The District Defendants do not oppose this motion.

Respectfully submitted this 3rd day of December, 2015,

JOHN C. CRUDEN
Assistant Attorney General
Environment & Natural
Resources Division

/s/ Stacey M. Bosshardt
STACEY M. BOSSHARDT
Senior Trial Attorney
United States Department of Justice
Environment & Natural Resources
Division
Natural Resources Section
P.O. Box 7611
Washington, D.C. 20044-7611

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Attorneys for Federal Defendants

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340 Royal Poinciana Way Suite 317-377
Palm Beach, FL 33480
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Fax: 561-655-5842
lblackner@aol.com

Attorney for Plaintiff, Sierra Club

/s/ Brian A. Bolves
Brian A. Bolves, FBN 0367079
William S. Bilenky FBN 0154709
MANSON BOLVES DONALDSON, P.A.
1101 W. Swann Ave.
Tampa, Florida 33606
813.514.4700 / 813.514.4701 (facsimile)
bbolves@mansonbolves.com
Counsel for Miami Corporation and
dcantwell@mansonbolves.com

CERTIFICATE OF SERVICE

I hereby state and certify that on December 3, 2015, I have filed the foregoing document using the ECF system, and that such document will be served electronically on all parties of record.

Stacey M. Bosshardt
STACEY M. BOSSHARDT

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

SIERRA CLUB, INC., Plaintiff,

vs.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, GOVERNING BOARD OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, John Miklos, Maryam Ghyabi, Fred Roberts, Jr., George Robbins, Douglas Bournique, Charles Drake, Lad Daniels, Douglas Burnett and Carla Yetter, in their official capacities as members of the Governing Board; UNITED STATES ARMY CORPS OF ENGINEERS, COLONEL ALAN M. DODD, Jacksonville District Engineer, Defendants,

and

MIAMI CORPORATION, Intervenor.

CASE NO.: 6:14-CV-01877-ORL-40DAB

**ORDER ON JOINT MOTION TO
MODIFY SCHEDULING ORDER**

Upon consideration of the joint motion and for good cause shown, it is hereby ordered that the Case Management and Scheduling Order is amended to defer the current deadlines and adopt the following ones:

Federal Defendants' Motion for Remand: January 22, 2016

Responses to Motion to Remand (if any): February 22, 2016

Reply in Support of Motion for Remand: March 7, 2016

It is SO ORDERED.

Hon. District Judge Paul G. Byron

Nick Lawton

From: martha.hodgson@dot.state.fl.us
Sent: Monday, January 11, 2016 2:34 PM
To: Nick Lawton
Subject: Pioneer Trail IJR and FHWA Comments

You have received 2 secure files from Martha.Hodgson@dot.state.fl.us.

Use the secure links below to download.

Mr. Lawton,

Please find attached the Interchange Justification Report for the Pioneer Trail at I-95 proposed interchange. This IJR has not received final approval from FHWA, the attached file is the most recent document submitted. The comments received from FHWA are also attached here.

Please feel free to contact me if you have any questions or need further clarification.

Thank You,

Martha Hodgson
Systems Planning Office
605 Suwanee Street
Tallahassee, FL 32399
martha.hodgson@dot.state.fl.us
(850) 414-4804

Secure File Downloads:

Available until: **26 January 2016**

Click links to download:

[FHWA Comments Pioneer Trail.pdf](#)


122.62 KB

[I-95 at Pioneer Trail - Interchange Justification Report.pdf](#)

55.11 MB

Thank you for sharing files securely.

Secured by Accellion



SEPT 2015

INTERCHANGE JUSTIFICATION REPORT (IJR)

Interstate-95 and Pioneer Trail

Volusia County, Florida



1.0 Introduction

Interstate 95 is part of the Strategic Intermodal System (SIS), a system of major roadways that are intended to provide high speed travel connections between major population centers throughout the state. It serves as a national and inter-regional thoroughfare for long distance travelers and also provides regional access for local and commuter traffic.

An interchange at Interstate 95 (I-95) and Pioneer Trail (CR 4118) has been under consideration by Volusia County since the 1970's through a series of LRTP Needs Plan assessment. In 2005, the Florida Department of Transportation (FDOT) completed a Feasibility Study which showed the benefits to the two adjacent interchanges with a proposed interchange at Pioneer Trail. The interchange was not pursued further during that time. Recently, Volusia County and City of Port Orange expressed interest in preparing an Interchange Justification Report (IJR) for a new interchange at I-95 with Pioneer Trail. This IJR documents the potential benefits and impacts of the proposed new interchange. The IJR also documents the traffic operational conditions in the project study area for existing and future conditions under the Build and No Build scenarios. Currently, Pioneer Trail exists as an overpass at I-95 with no access to the interstate system.

This IJR is developed in accordance with the Florida Department of Transportation (FDOT) Policy No. 000-525-015 Approval of New or Modified Access to Limited Access Highways on the SHS; New or Modified Interchanges, FDOT Procedure No. 525-030-160-K; and the FDOT Project Traffic Forecasting Procedure (Procedure No. 525-030-120). The project location and the Area of Influence (AOI) are depicted in **Figure 1-1**.

1.1 Purpose and Need for the project

The purpose of the proposed interchange on I-95 at Pioneer Trail in Volusia County, Florida is to provide additional access to I-95, improve the regional connectivity in the study area, reduce traffic congestion at the adjacent I-95 interchanges, enhance regional mobility, provide a viable alternative for emergency evacuations, and enhance economic development opportunities.

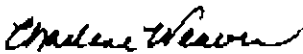

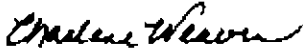
There are a significant amount of development plans identified within Volusia County and the cities of Port Orange and New Smyrna Beach that will place a major burden on the regional roadway system including the adjacent interchanges of SR 421 and SR 44. SR 421 to the north is currently operating

at or near capacity with extended queues during the peak hours and is constrained in terms of possible improvements due to limited right-of-way and bookended by closely spaced signalized intersections to the west (at Williamson Boulevard) and east (at Taylor Road). The SR 44 interchange to the south is identified as one of the highest crash locations in Volusia County. The SR 44 corridor experiences heavy seasonal traffic arriving from the west, as it provides direct access to the City of New Smyrna Beach beaches. The proposed interchange at Pioneer Trail is an ideal location to relieve the existing operational deficiencies at the SR 421 interchange and serve as an alternative route to the SR 44 interchange in the future. The capacity needs along I-95 are being addressed in an ongoing interstate widening design build project to provide 6-lanes of capacity. Other local capacity improvement projects are planned and programmed, including widening Airport Boulevard and extending Williamson Boulevard to the south.

The I-95/Pioneer Trail interchange is included in the Cost Feasible Roadway Projects identified in the 2025 River to Sea Long Range Transportation Plan (LRTP) and the 2035 LRTP Needs Plan. Several studies were conducted previously demonstrating the importance and need for the Pioneer Trail interchange. The "Pioneer Trail Feasibility Study" conducted in 2005 by the Department concluded that the proposed interchange at Pioneer Trail would serve the growing regional trip projections and will not have any adverse impacts on mainline operations and the new interchange would alleviate traffic on the adjacent interchanges. The need for the Pioneer Trail interchange was also studied as part of an alternate corridor evaluation in the "SR 421/I-95 Interchange Analysis" study conducted by the City of Port Orange which concluded that the Pioneer Trail interchange would relieve the critical SR 421 interchange.

Pioneer Trail contributes to the regional network and provides direct and in-direct connections to all the major arterials in the surrounding area: SR 421 to the north; US 1 to the east; SR 44 to the south; Tomoka Farms Road to the west; and I-4 via SR 44 to the west. The proposed I-95 interchange at Pioneer Trail would relieve traffic congestion at adjacent interchanges and would improve evacuation mobility, a critical issue for coastal residents.

The County's long term planning and commitment for development on the west side of the City of Port Orange is evident with the development projects identified in the Year 2035 LRTP which support the future land use plans of the City of Port Orange and New Smyrna Beach. Economic development potential will be enhanced in the vicinity of the Pioneer Trail corridor by making the

Date: 03/21/2013		AGENDA ITEM		Item: 29A
<input type="checkbox"/> Ordinance	<input checked="" type="checkbox"/> Resolution	<input type="checkbox"/> Budget Resolution	<input type="checkbox"/> Other	
Department: Leadership				
Division: Leadership				
Subject: Pioneer Trail interchange resolution.				
Charlene Weaver, CPA, CFO 		Legal Daniel D. Eckert County Attorney Director Legal Department 	County Manager's Office Charlene Weaver, CPA, CFO Deputy County Manager 	
		Approved as to Form and Legality		
Council Action:				
Modification:				
Account Number(s): NA				
Total Item Budget: NA				
Staff Contact(s): John Angiulli		Phone: 386 736 5965	Ext. 12712	
<p>Summary/Highlights: On May 18, 2006, the county council gave its approval to execute an agreement with Intervest Construction, Inc. (ICI) for the extension of South Williamson Boulevard in Port Orange. The proposed road through the Woodhaven development would begin just south of Airport Road and proceed south 2.6 miles to an intersection with Pioneer Trail.</p> <p>This extension of South Williamson Boulevard, in conjunction with the recently completed project that 4 laned South Williamson north of Airport Road to Taylor Road, will provide a continuous 4-lane arterial through an area of intense and continuing development. As a continuation of South Williamson Boulevard, an alternate route to I-95 for north - south traffic is established which will also support efforts for a future I-95 interchange at Pioneer Trail. FDOT's Pioneer Trail Interchange Feasibility Study concluded that the proposed interchange will reduce delays at area intersections and reduce traffic volumes on parallel roadways without negatively impacting the interstate system. The County of Volusia has an interest in reducing traffic volumes on its roadways. A Pioneer Trail Interchange would provide a viable alternative to the already congested Dunlawton Avenue and Interstate 95 interchange. In order for the proposed interchange to be considered for future funding, it must be included in the Volusia Transportation Planning Organization (TPO) 2035 Long Range Transportation Plan (LRTP). The attached resolution requests the inclusion of the Interstate 95 interchange at Pioneer Trail as an unfunded project on the Volusia TPO's 2035 Long Range Transportation Plan.</p>				

Recommended Motion: Approval.

RESOLUTION 2013-

A RESOLUTION OF THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, REQUESTING THE INCLUSION OF THE INTERSTATE 95 INTERCHANGE AT PIONEER TRAIL AS AN UNFUNDED PROJECT ON THE VOLUSIA TPO'S 2035 LONG RANGE TRANSPORTATION PLAN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, an interchange at Pioneer Trail and Interstate 95 was previously listed on the Adopted Cost Feasible Volusia County MPO 2025 Long Range Transportation Plan; and

WHEREAS, the Florida Department of Transportation has completed a Pioneer Trail Interchange Feasibility Study concluding that the proposed interchange at Pioneer Trail and Interstate 95 will not have an adverse impact on the mainline operations and will reduce traffic on some of the adjacent interchange ramps; and

WHEREAS, the study also concludes that the proposed interchange will reduce delays at area intersections and reduce traffic volumes on parallel roadways; and

WHEREAS, the County of Volusia has an interest in reducing traffic volumes on its roadways; and

WHEREAS, a Pioneer Trail Interchange would provide a viable alternative to the already congested Dunlawton Avenue and Interstate 95 interchange.

BE IT RESOLVED BY THE COUNTY COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE THOMAS C. KELLY ADMINISTRATION CENTER, DELAND, FLORIDA THIS _____ DAY OF _____, 2013, AS FOLLOWS:

Section I. The Volusia County Council requests the inclusion of the Interstate 95 interchange at Pioneer Trail as an unfunded project on the Volusia TPO's 2035 Long Range Transportation Plan.

Section II. The Volusia County Council requests the Volusia TPO take all action necessary to process the request.

Section III. This Resolution shall take effect immediately upon adoption.

DONE AND ORDERED IN OPEN MEETING.

COUNTY COUNCIL
VOLUSIA COUNTY, FLORIDA







Jason P. Davis, County Chair

ATTEST:

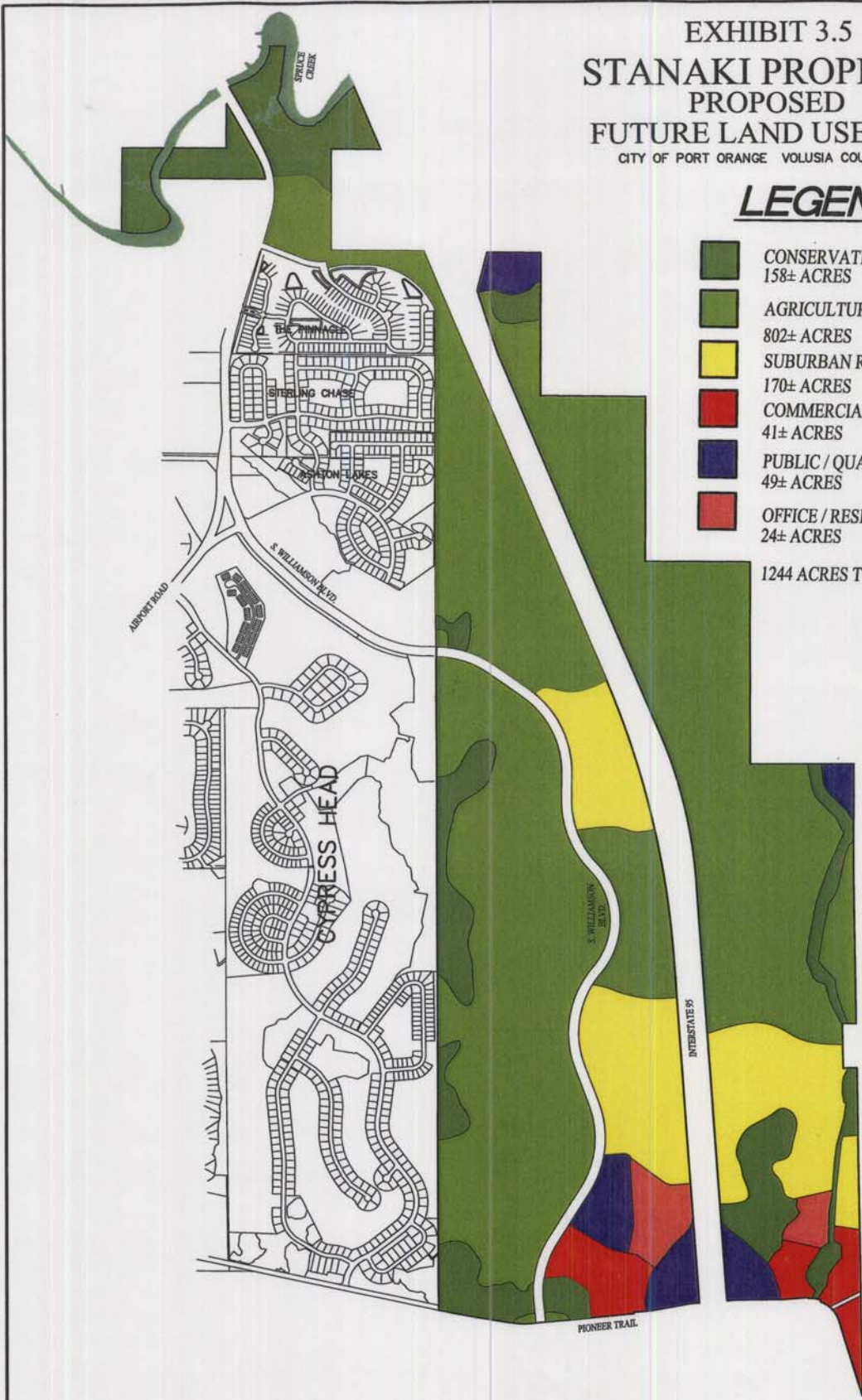
James T. Dinneen, County Manager

EXHIBIT 3.5
STANKI PROPERTY
PROPOSED
FUTURE LAND USE MAP
 CITY OF PORT ORANGE VOLUSIA COUNTY, FL

LEGEND

-  CONSERVATION
158± ACRES
-  AGRICULTURE/RESIDENTIAL
802± ACRES
-  SUBURBAN RESIDENTIAL
170± ACRES
-  COMMERCIAL
41± ACRES
-  PUBLIC / QUASI-PUBLIC
49± ACRES
-  OFFICE / RESIDENTIAL TRANSITION
24± ACRES

1244 ACRES TOTAL







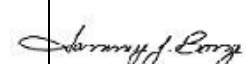
RV.	DATE	DESCRIPTION	BY
REVISIONS			

PROJECT NO: 03168	FILE NO: 03168FLU
DRAFTED BY: TB	DATE: 7/27/04
DESIGNED BY: MDD	CHECKED BY: MDD
SCALE: 1in. = 1/4 mile	SHEET: 2 OF 2



ZEV COHEN
& ASSOCIATES, INC
 55 Seton Trail, Ormond Beach, Florida, 32176
 (386) 677-2482 FAX 677-2505

ENGINEERS PLANNERS LANDSCAPE ARCHITECTS
 (EB 4518) © COPYRIGHT BY ZEV COHEN & ASSOCIATES INC. 2004 (LC 62)

February 9, 2012		AGENDA ITEM		Item 03
<input type="checkbox"/> Ordinance		<input type="checkbox"/> Resolution		<input checked="" type="checkbox"/> Budget Resolution
				<input checked="" type="checkbox"/> Other
Department: Public Works		File Number: VC-1328036581865-A		
Division: Engineering				
Subject: Amended and restated agreement for the extension of South Williamson Boulevard in Port Orange and appropriation of project costs.				
Account Number(s): Loan Repayment - Local Option Gas Tax (\$8,562,000 loan proceeds & \$738,000 FY12 budget) 103-790-8124 for \$9,300,000.00				
Total Item Budget: \$9,300,000.00				
Staff Contact(s): John Angiulli Phone: 736-5965 ext. 12712 Gerald N. Brinton, P.E. Phone: 737-5967 ext. 12294 Michael Dyer Phone: 736-5950 ext. 12946				
Summary/Highlights: On May 18, 2006, the county council approved an agreement between Volusia County and Intervest Construction, Inc. (ICI) for the widening and extension of South Williamson Boulevard in Port Orange. The proposed road begins just south of the Airport Road intersection and extends south through the planned Woodhaven development to an intersection with Pioneer Trail, a total distance of 2.6 miles. The extension is to be constructed as a 4-lane arterial with a grassed median plus curbs and gutters, bike lanes, sidewalks and other improvements. The existing 2-lane segment is to be reconstructed and widened with the same features. The 2006 agreement provided that ICI would provide all right of way and				
Recommended Motion: Approval.				
John Angiulli, Interim Director Public Works  Gerald Brinton Director Engineering 	OMB  Approved as to Budget Requirements	Legal  Approved as to Form and Legality	Tammy Bong County Manager's Office  Approved Agenda Item For: February 9, 2012	
Council Action:		Modification:		
<input type="checkbox"/> Approved as Recommended <input type="checkbox"/> Approved With Modifications <input type="checkbox"/> Disapproved <input type="checkbox"/> Continued Date:				

Summary/Highlights Continued:

fund the design, permitting, mitigation and construction through transportation revenue bonds to be repaid by the county over a 10-year period. The cost to the county was set at an amount not to exceed \$9.3 million excluding financing costs.

An agreement is proposed which entirely replaces the previous agreement and provides that the Pioneer Community Development District (PCDD), an independent special district, assumes sole responsibility for the design, permitting and construction of the project. The county's maximum amount remains at \$9.3 million and will be made in installments to the PCDD based on completion of specific tasks for the design, permitting and construction activities. A budget resolution is attached to appropriate the county's project costs \$8,562,000 with \$738,000 allocated in the current year budget. Loan documents will be presented to council once funding has been secured. The annual debt service payment (currently estimated at \$1.1 million) will be appropriated within the corresponding fiscal year budget from local option gas tax revenues.

The PCDD shall comply with all competitive solicitation and negotiation requirements established by law for all work associated with the project, including but not limited to, sections 287.055 (Consultants' Competitive Negotiation Act) and 255.20, Florida Statutes.

The agreement is between the county, the PCDD and the developer identified as the following three Florida corporations: Intervest Construction, Inc.; MHK of Volusia County, Inc. and Pioneer Investments of Port Orange, Inc.

Staff recommends approval of the attached amended and restated agreement and adoption of the budget resolution.

**AMENDED AND RESTATED
AGREEMENT BY AND BETWEEN
THE COUNTY OF VOLUSIA, FLORIDA,
INTERVEST CONSTRUCTION, INC.,
AND THE PIONEER COMMUNITY DEVELOPMENT DISTRICT
REGARDING THE ACQUISITION OF WORK PRODUCT,
WILLIAMSON BOULEVARD EXTENSION AND REAL PROPERTY**

This Amended and Restated Agreement is made and entered into this ____ day of _____, 2012, by and between the County of Volusia, a political subdivision of the State of Florida ("County"), the Pioneer Community Development District ("PCDD"), an independent special district, Intervest Construction, Inc., a Florida corporation; MHK of Volusia County, Inc., a Florida corporation; and Pioneer Investments of Port Orange, Inc., a Florida corporation, collectively referred to as ("Developer"), which entirely replaces the Agreement between the County and the Developer approved by the County Council on May 18, 2006, which shall be of no force and effect.

R E C I T A L S

WHEREAS, the Developer owns real property depicted and described in Exhibits A-1 and A-2, respectfully, which includes the proposed right of way extension of Williamson Boulevard south of its existing terminus to Pioneer Trail (the "Property") in east Volusia County, and property abutting said extension. The Developer warrants that said depiction and description of the Property is accurate and may be relied on by all parties to this Amended and Restated Agreement;

WHEREAS, the Developer desires to proceed with development of the Property which will necessitate the reconstruction and extension of Williamson Boulevard in Port Orange from just south of Airport Road proceeding south for approximately 2.6 miles to an intersection with

All references in this Amended and Restated Agreement to the Developer and all requirements and entitlements herein shall also mean, refer to, include and apply to the Developer's respective successors and assigns.

10. Indemnification.

A. For all actions, activities, performance or nonperformance by the Developer, in whole or in part, occurring prior to final inspection and acceptance of the Project by the County, of the relevant real property, improvement or Work Product hereunder, the Developer agrees to indemnify and hold harmless the County and the PCDD and its officers, attorneys, staff, agents and employees from any and all liability, claims, actions, suits or demands by any person, corporation or other entity for injuries, death, property damage or claims of any nature arising out of, or in connection with, this Amended and Restated Agreement, including litigation or any appellate proceedings with respect thereto, irrespective of the date of the initiation or notice of the claim, suit, etc.; provided, however, that the Developer shall not indemnify the County or the PCDD for a default by the County or the PCDD under this Amended and Restated Agreement. Indemnification provided by this paragraph shall include any violation of local, state or federal law, including, but not limited to, Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) liability, known or unknown by the Developer at the time of conveyance, arising in connection with any land conveyed to the PCDD or the County under the terms of this Amended and Restated Agreement.

B. For all actions, activities, performance or nonperformance by the PCDD, in whole or in part, occurring prior to final inspection and acceptance of the Project by the County, of the relevant real property, improvement or Work Product hereunder, the PCDD agrees to indemnify

Amended and Restated Agreement for Williamson Blvd. Extension

JOINT APPLICATION FOR INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT/ AUTHORIZATION TO USE STATE-OWNED SUBMERGED LANDS/ FEDERAL DREDGE AND FILL PERMIT

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION/
WATER MANAGEMENT DISTRICTS/
U.S. ARMY CORPS OF ENGINEERS

Effective October 1, 2013



**US Army Corps
of Engineers®**

**PART I – Qualitative Description
(See Section 62-345.400, F.A.C.)**

Site/Project Name Deering Parkway Phase I		Application Number		Assessment Area Name or Number W1-617	
FLUCCs code 617		Further classification (optional)		Impact or Mitigation Site? IMPACT	
Assessment Area Size 0.11					
Basin/Watershed Name/Number		Affected Waterbody (Class)		Special Classification (i.e.OFW, AP, other local/state/federal designation of importance)	
Geographic relationship to and hydrologic connection with wetlands, other surface water, uplands This wetland is adjacent to a 641, 631, 438 and 814. It hydrologically connected to a large forested wetland system to the south.					
Assessment area description This forested wetland contains a mix of hardwoods and wetland shrubs. Wetland has mucky mineral soils. Anthropogenic disturbance is evident throughout this assessment area. Significant amount trash is present throughout.					
Significant nearby features			Uniqueness (considering the relative rarity in relation to the regional landscape.)		
Functions <small>BIOLOGICAL: Vertical heterogeneity (3-4 strata); wading bird feeding, roosting, nesting; macroinvertebrate habitat; small-medium-large mammal habitat (cover, food, dens); amphibian/reptile cover, breeding, and feeding. PHYSICAL/CHEMICAL: Water quality treatment; sediment/erosion control; recharge/discharge; detrital export; flood retention/detention.</small>			Mitigation for previous permit/other historic use		
Anticipated Wildlife Utilization Based on Literature Review (List of species that are representative of the assessment area and reasonably expected to be found) <small>MAMMALS: opossum, raccoon, gray & flying squirrels, otter, gray fox, white-tailed deer, bobcat, black bear; BIRDS: downy, hairy & pileated woodpeckers, wood duck, turkey, chickadee, titmouse, Carolina wren, cardinal, ruby-throated hummingbird, yellow-throated & prothonotary warblers, hermit thrush, yellow-billed cuckoo, barred owl, limpkin, yellow-crowned night heron, wood stork, swallow-tailed and Mississippi kites, red-shouldered hawk; REPTILES: green anole, chicken & box turtles, five-lined skink, ring-neck snake, gray rat snake, eastern king snake, water moccasin, alligator; AMPHIBIANS: cricket frog, marbled, mole, three-lined, slimy and southern dusky salamanders.</small>			Anticipated Utilization by Listed Species (List species, their legal classification (E, T, SSC), type of use, and intensity of use of the assessment area) Florida panther (FE, hunting, incidental), American alligator (SSC, habitat, long-term), limpkin (SSC, foraging, frequent), wood stork (FE, foraging, roosting, seasonal), tricolored heron (SSC, foraging, roosting, nesting, seasonal), snowy egret (SSC, roosting, nesting, seasonal), little blue heron (SSC, roosting, nesting, seasonal).		
Observed Evidence of Wildlife Utilization (List species directly observed, or other signs such as tracks, droppings, casings, nests, etc.): Passerines					
Additional relevant factors:					
Assessment conducted by: J. Smith - ECT			Assessment date(s): 11/3/2015		

PART II – Quantification of Assessment Area (impact or mitigation)
(See Sections 62-345.500 and .600, F.A.C.)

Site/Project Name Deering Parkway Phase I	Application Number	Assessment Area Name or Number W1-617
Impact or Mitigation IMPACT	Assessment conducted by: J. Smith - ECT	Assessment date: 11/3/2015

Scoring Guidance The scoring of each indicator is based on what would be suitable for the type of wetland or surface water assessed	Optimal (10)	Moderate(7)	Minimal (4)	Not Present (0)
	Condition is optimal and fully supports wetland/surface water functions	Condition is less than optimal, but sufficient to maintain most wetland/surface waterfunctions	Minimal level of support of wetland/surface water functions	Condition is insufficient to provide wetland/surface water functions

.500(6)(a) Location and Landscape Support	The assessment area is the disturbed fringe of a higher quality wetland. The surrounding habitats to the south offer preferable habitat for most wildlife species. Significant anthropogenic disturbance throughout the assessment area as it is immediately adjacent to an area utilized as an ORV destination. Wildlife access is limited from the east with interstate 95 less than 1000 feet to the east and from the north due to significant ORV activity. Assessment area does not provide beneficial ecological or hydrologic functions to adjacent/downstream habitats.	
	w/o pres or current 4	with 3
.500(6)(b)Water Environment (n/a for uplands)	Water was present in some parts of the in the assessment area. Saturated soil conditions throughout most of the area. Some evidence of soil oxidation, however, soil moisture is sufficient to maintain mucky soils. Erosional deposition, ORV/pedestrian impacts, and dumping of foreign debris adversely impact water quality in the assessment area.	
	w/o pres or current 4	with 4
.500(6)(c)Community structure 1. Vegetation and/or 2. Benthic Community	A 2011 wildfire affected the subcanopy and southern fringe of this assessment area however did not impact the overstory. Significant anthropogenic disturbance in the understory. Appropriate mixed wetland hardwoods in the overstory. Several exotics were observed, however, were not dominant within the assessment area. Structural habitat is slightly lower than normal for a 617 primarily due to the impacted understory. Preferable habitats are adjacent to this assessment area to the south.	
	w/o pres or current 4	with 3

Score = sum of above scores/30 (if uplands, divide by 20)	
current or w/o pres 0.4	with 0.33

If preservation as mitigation,
Preservation adjustment factor =
Adjusted mitigation delta =

For impact assessment areas
FL = delta x acres = 0.0077

Delta = [with-current]
0.07

If mitigation
Time lag (t-factor) =
Risk factor =

For mitigation assessment areas
RFG = delta/(t-factor x risk) =

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

SIERRA CLUB, INC., Plaintiff,

vs.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, GOVERNING BOARD OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, John Miklos, Maryam Ghyabi, Fred Roberts, Jr., George Robbins, Douglas Bournique, Charles Drake, Lad Daniels, Douglas Burnett and Carla Yetter, in their official capacities as members of the Governing Board; UNITED STATES ARMY CORPS OF ENGINEERS, COLONEL ALAN M. DODD, Jacksonville District Engineer, Defendants,

and

MIAMI CORPORATION, Intervenor.

CASE NO.: 6:14-CV-01877-ORL-40DAB

**JOINT MOTION TO MODIFY
SCHEDULING ORDER**

Federal Defendants United States Army Corps of Engineers and Colonel Jason A. Kirk, Jacksonville District Engineer, Plaintiff Sierra Club, Inc., and Intervenor Miami Corp. hereby move for an order modifying the Case Management and Scheduling order (“CMSO”) currently entered in this case (ECF No. 65).

The CMSO provides for summary judgment briefing to begin 30 days after the administrative record is lodged. In order to comply with the CMSO, Federal Defendants answered the complaint and lodged the administrative record on November 16, 2015.

However, Federal Defendants intend to move for remand of the federal decision challenged in this case – a decision to approve a modification to the Mitigation Banking Instrument governing

the (federal) Farmton Mitigation Bank – in order to analyze its decision under the National Environmental Policy Act (NEPA). Two of the counts in Plaintiffs’ Second Amended Complaint (ECF No. 73) allege violations of NEPA by Federal Defendants. If the additional procedures satisfy some or all of Plaintiffs’ concerns, issues raised in Plaintiffs’ Complaint could become moot. Therefore, Federal Defendants submit that it is a potentially academic exercise to brief summary judgment before the remand motion is resolved, and the parties jointly propose that the current deadlines be deferred. The parties propose the following deadlines:

Federal Defendants’ Motion for Remand: January 22, 2016

Responses to Motion to Remand (if any): February 22, 2016

Reply in Support of Motion for Remand: March 7, 2016

In addition, Plaintiffs request leave to file a sur-reply. Federal Defendants object to any presumptive right to file a sur-reply.

If the remand motion is opposed and denied, Plaintiffs’ summary judgment brief would be due 30 days from the date of the order ruling on the motion. A proposed order is attached. The District Defendants do not oppose this motion.

Respectfully submitted this 3rd day of December, 2015,

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CERTIFICATE OF SERVICE

I hereby state and certify that on December 3, 2015, I have filed the foregoing document using the ECF system, and that such document will be served electronically on all parties of record.

Stacey M. Bosshardt
STACEY M. BOSSHARDT

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

SIERRA CLUB, INC., Plaintiff,

vs.

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, GOVERNING BOARD OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, John Miklos, Maryam Ghyabi, Fred Roberts, Jr., George Robbins, Douglas Bournique, Charles Drake, Lad Daniels, Douglas Burnett and Carla Yetter, in their official capacities as members of the Governing Board; UNITED STATES ARMY CORPS OF ENGINEERS, COLONEL ALAN M. DODD, Jacksonville District Engineer, Defendants,

and

MIAMI CORPORATION, Intervenor.

CASE NO.: 6:14-CV-01877-ORL-40DAB

**ORDER ON JOINT MOTION TO
MODIFY SCHEDULING ORDER**

Upon consideration of the joint motion and for good cause shown, it is hereby ordered that the Case Management and Scheduling Order is amended to defer the current deadlines and adopt the following ones:

Federal Defendants' Motion for Remand: January 22, 2016

Responses to Motion to Remand (if any): February 22, 2016

Reply in Support of Motion for Remand: March 7, 2016

It is SO ORDERED.

Hon. District Judge Paul G. Byron