

# Florida Department of Environmental Protection

Northeast District 8800 Baymeadows Way West, Suite 100 Jacksonville, Florida 32256 Rick Scott Governor

Carlos Lopez-Cantera Lt. Governor

> Ryan E. Matthews Interim Secretary

March 7, 2017

Andrew Sears
Jacksonville Electric Authority (JEA)
21 West Church Street
Jacksonville, FL 32202
searsar@jea.com

File No. 16-0351063-001-EG Duval County

Dear Mr. Sears:

On February 6, 2017, we received your notice of intent to use a General Permit (GP), pursuant to Rule 62-330.453, Florida Administrative Code (F.A.C.) to install approximately 16,200 feet of 16-inch water main. The proposed 16-inch water main will be installed on the east side of the ROW of Yellow Bluff Road. The 16,481-linear foot project corridor consists of 22.7 acres and is located in Sections 3, 4, 5, 10, 15 and 42, Township 01 South, Range 27 East in Duval County, Florida. The project begins at the intersection of Yellow Bluff Road and Marshland Drive and ends at the intersection of Yellow Bluff Road and Tisons Bluff Road. The map coordinates for the project begin at approximately Latitude 30° 30' 40" N/Longitude -81° 34' 59" W, and end at approximately Latitude 30° 32' 32" N /Longitude -81° 36' 52" W.

Your intent to use a general permit has been reviewed by Department staff for three types of authorizations: (1) regulatory authorization, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal authorization. The authority for review and the outcomes of the reviews are listed below. Please read each section carefully.

Your project did not qualify for the federal authorization, therefore, additional authorization must be obtained prior to commencement of the proposed activity. This letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity. Please refer to the specific section(s) dealing with that portion of the review below for advice on how to proceed.

If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

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If you have any questions regarding this matter, please contact Jim Orr at the letterhead address or at (904) 256-1623 and Jim.Orr@dep.state.fl.us.

#### 1. Regulatory Review – Approved

Based on the forms, drawings, and documents submitted with your notice, it appears that the project meets the requirements for the General Permit under Rule 62-330.453, F.A.C. Any activities performed under a general permit are subject to general conditions required in Rule 62-330.405, F.A.C. (attached), and the specific conditions of Rule 62-330.453, F.A.C. (attached). Any deviations from these conditions may subject the permittee to enforcement action and possible penalties.

Please be advised that the construction phase of the GP must be completed within five years from the date the notice to use the GP was received by the Department. If you wish to continue this GP beyond the expiration date, you must notify the Department at least 30 days before its expiration.

Authority for review- Part IV of Chapter 373, F.S., Title 62, F.A.C. and in accordance with the operating agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C.

# 2. Proprietary Review - Granted

The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereign submerged lands. The Department has the authority to review activities on sovereign submerged lands under Chapters 253 and 258 of the Florida Statutes, and Chapters 18-20 and 18-21 of the Florida Administrative Code.

The activity appears to be located on sovereign submerged lands owned by the Board of Trustees. As staff to the Board of Trustees, the Department has reviewed the activity described above, and has determined that the activity qualifies for an exception under Rule 18-21.005(1)(a)1 and Section 253.77 of the Florida Statutes to construct and use the activity on the specified sovereign submerged lands, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein.

# 3. Federal Review- SPGP Not Approved

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **Shall be required** from the Corps. A copy of your permit application has been forwarded to the Corps for their review. The Corps will issue their authorization directly to you or contact you if additional information is needed. If you have not heard from the Corps within 30 days from the date your application was received at the local FDEP Office,

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contact the Corps for status and further information. Failure to obtain Corps authorization prior to construction could subject you to federal enforcement action by that agency.

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection, or Duly Authorized Designee, State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

#### **Additional Information**

Please retain this general permit. The activities may be inspected by authorized state personnel in the future to ensure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapter 373, F.S., and Chapter 18-14, F.A.C.

#### NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

# Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing must contain the following information:

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

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- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

# Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

# Extension of Time

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

#### Mediation

Mediation is not available in this proceeding.

# FLAWAC Review

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The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when this order is filed with the Clerk of the Department.

# Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Executed in Duval County, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Thomas G. Kallemeyn

**Environmental Administrator** 

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TK/jo

**Enclosures:** 

Ch. 62-330.453, F.A.C.

General Conditions for All General Permits, Ch. 62-330.405, F.A.C.

Project drawings, 7 pages

c: Amy Daly, CPH, Inc. (<u>adaly@cphcorp.com</u>)

Wade Olszewski, CPH, Inc. (wolszewki@cphcorp.com)

U.S. Army Corps of Engineers (corpsjaxreg@usace.army.mil)

Alisha Simpson, NED FDEP (Alisha.Simpson@dep.state.fl.us)

Thomas Kallemeyn, NED FDEP (Thomas.Kallemeyn@dep.state.fl.us)

Jim Orr, E.I., NED FDEP (Jim.Orr@dep.state.fl.us)

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# **CERTIFICATE OF SERVICE**

The undersigned duly designated deputy clerk hereby certifies that this determination, including all copies, was mailed before the close of business on <u>March 7, 2017</u>, to the above listed persons.

# FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to 120.52(7), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Clerk Daux M. Lesta Date March 7, 2017

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# 62-330.453 General Permit for Installation, Maintenance, Repair, and Removal of Utility Lines.

- (1) A general permit is granted for the installation, maintenance, repair, and removal of underground utility lines, cable, conduit, or pipeline transmitting electricity, communication signals, potable water, raw water, reclaimed water, domestic wastewater, propane gas or natural gas.
  - (2) For the purposes of this general permit:
- (a) "Directional drilling" means the linear or curvilinear, excavation of a tunnel or conduit, in any direction, through the use of drilling equipment that can change direction during excavation; this also includes borehole reaming and pulling following primary drilling.
- (b) "Jack-and-bore" means the linear, primarily lateral excavation of a tunnel, typically between excavated subgrade pits, through use of drilling equipment and encasement which is advanced under mechanical force, and includes similar methods commonly termed as "microtunneling."
- (c) "Frac-out" means any release of drilling fluid or slurry which results in above-grade discharge of drilling fluid or slurry or significant loss of such fluid or slurry into the surrounding parent material.
  - (3) This general permit is limited as follows:
- (a) No work occurs within Outstanding Florida Waters, Aquatic Preserves, or Class I waters;
- (b) The installation of conduit or pipeline to drain wetlands or other surface waters is not authorized;
- (c) Prior to work, existing pipelines shall be evacuated of substances which, if released, could result in a violation of state water quality standards;
- (d) The maximum width of the disturbed corridor in wetlands shall not exceed 30 feet.
- (e) The total area of forested wetland disturbance shall not exceed 0.5 acre per ten miles of cable, conduit, or pipeline;
- (f) Minor above-grade improvements may be constructed in uplands under this general permit, but shall be limited to vents, valves, meter assemblies, relays, junction boxes, pads or similar structures that are directly connected to the utility line, do not create discharges, and which cumulatively comprise no more than 100 square feet of impervious surfaces per mile of utility line.
- (g) Installation, maintenance, repair, and removal activities performed via trenching or methods other than directional drilling or jack-and-bore, are subject to the following special conditions:
- 1. The maximum width of the excavated trench shall not exceed eight feet, with temporary spoil storage banks not to exceed ten feet in width;
  - 2. For a trench with a top width greater than three feet in herbaceous wetlands, the

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upper layer of the soil horizon shall initially be scraped and segregated into a spoil bank that is separated from the spoil bank resulting from the excavation of the trench for the utility line. The upper layer of the soil horizon shall be replaced as the last step of restored grades to facilitate natural revegetation;

- 3. Trenching in surface waters shall be limited to wetlands, artificial waters, and residential canal systems;
- 4. Temporary spoil banks shall contain breaches that prevent impoundment or restriction of surface water flows;
- (h) Installation, maintenance, repair, and removal conducted using directional drilling or jack-and-bore methods are subject to the following special conditions:
- 1. The maximum outside diameter of the cable, conduit or pipeline, including encasement, shall not exceed 24 inches;
- 2. A minimum of depth of cover, equal to the greater of either five feet, or five times the maximum encased diameter of the utility line to be installed, shall be maintained between the top of the utility line and casing and the soil surface or submerged bottom of any wetland or waterbody being crossed.
- 3. All work areas associated with directional drilling or jack-and-bore activities, including entrance and exit pits, drill rigs, tanks, pumps, drilling fluid mixing and settling pits, dewatering systems and staging areas for pipe, cables, and drill string, shall be located within uplands.
- 4. The use of drilling fluids shall not cause or contribute to a violation of state ground water quality criteria or standards, as defined in Chapter 62-520, F.A.C.
- 5. The permittee shall, at least 48 hours prior to commencement of any directional drilling or jack-and-bore activities, submit to the agency the name, as registered with the Florida Department of State, and all-hours telephone contact information of all contractors responsible for drilling and for containment and cleanup in the event of a drilling fluid frac-out or spill;
- 6. Contractor shall, at all times during directional drilling activities, maintain appropriate equipment and materials in a readily-accessible location and condition, to effectively contain and clean up a drilling fluid frac-out or spill;
- 7. The permittee or the permittee's contractor shall, at all times during directional drilling activities, ensure that appropriately-trained personnel monitor downhole equipment position, drilling fluid circulation and pressures, and actively monitor the entire utility line route for surface frac-out of drilling fluids;
- 8. Drilling activities shall be discontinued and the drilling fluid or slurry shall be contained using appropriate methods as soon as possible, in the event of a drilling fluid frac-out or spill. Removal of drilling fluid or slurry from wetlands and other surface waters shall be initiated and completed in the most expeditious manner practicable. Removed drilling fluid shall be contained or disposed of in an appropriate upland location. Any frac-out or spill of drilling fluid into wetlands or other surface waters

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shall be reported to Agency staff within 24 hours following detection of the spill or fracout.

Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.4131, 373.414(9), 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5), 373.413, 373.4131, 373.414(9), 373.416, 373.418, 403.814(1) FS. History–New 10-3-95, Formerly 62-341.453, Amended 10-1-13.

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#### 62-330.405 General Conditions for All General Permits

The following general permit conditions are binding upon the permittee and are enforceable under Chapter 373, F.S. These conditions do not apply to the general permit in Section 403.814(12), F.S.

- (1) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit and may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
- (2) This general permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any construction, alteration, operation, maintenance, removal or abandonment authorized by this permit.
- (3) This general permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the general permit.
- (4) The general permit does not relieve the permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property. It does not allow the permittee to cause pollution that violates state water quality standards.
- (5) Section 253.77, F.S., provides that a person may not commence any excavation, construction, or other activity involving the use of state-owned or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required consent, lease, easement, or other form of authorization authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on state-owned lands.
- (6) The authorization to conduct activities under a general permit may be modified, suspended or revoked in accordance with Chapter 120, F.S., and Section 373.429, F.S.
- (7) This permit shall not be transferred to a third party except pursuant to Rule 62-330.340, F.A.C. The permittee transferring the general permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to sale, conveyance, or other transfer of ownership or control of the permitted project, activity, or the real property at which the permitted project or activity is located.
- (8) Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the permitted system to ensure conformity with the plans and specifications approved by the permit.
- (9) The permittee shall maintain any permitted project or activity in accordance with the plans submitted to the Agency and authorized in this general permit.
- (10) A permitee's right to conduct a specific activity under this general permit is authorized for a duration of five years.
- (11) Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be implemented and maintained immediately prior to, during, and after construction as needed to stabilize all disturbed areas, including other measures specified in the permit to prevent adverse impacts to the water resources and adjacent lands. Erosion and

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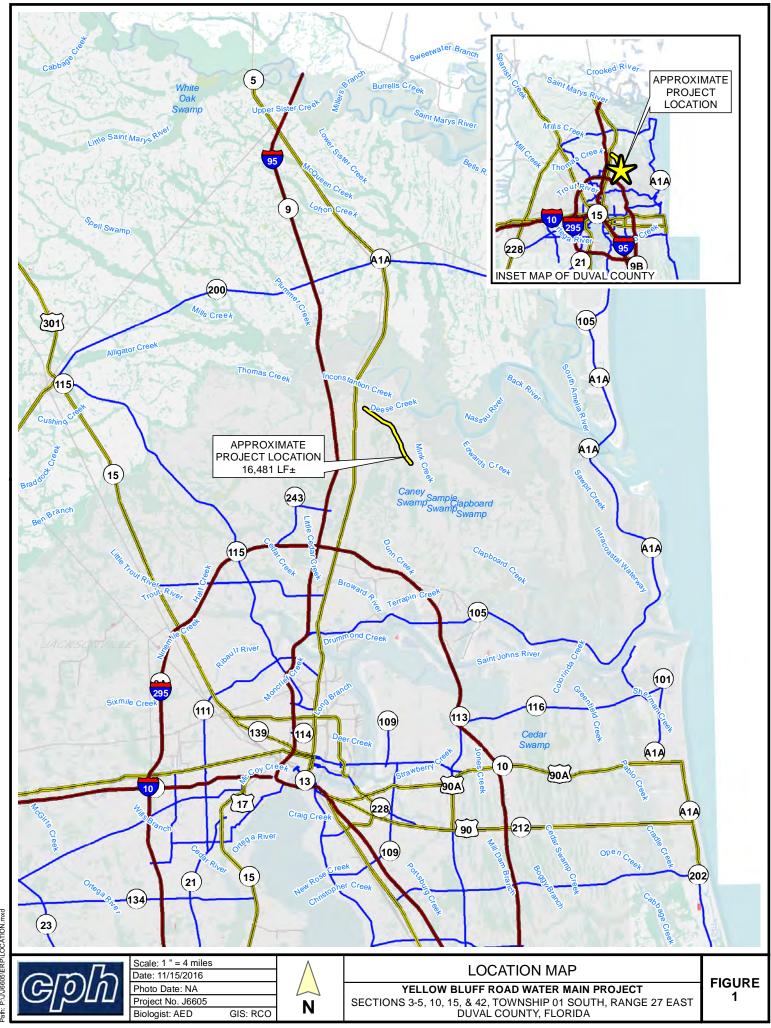
sediment control measures shall be installed and maintained in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, available at www.dep.state.fl.us/water/wetlands/docs/erp/FLErosionSedimentManual\_6\_07.pdf, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, available at www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf.

- (12) Unless otherwise specified in the general permit, temporary vehicular access within wetlands during construction shall be performed using vehicles generating minimum ground pressure to minimize rutting and other environmental impacts. Within forested wetlands, the permittee shall choose alignments that minimize the destruction of mature wetland trees to the greatest extent practicable. When needed to prevent rutting or soil compaction, access vehicles shall be operated on wooden, composite, metal, or other non-earthen construction mats. In all cases, access in wetlands shall comply with the following:
- (a) Access within forested wetlands shall not include the cutting or clearing of any native wetland tree having a diameter 4 inches or greater at breast height;
  - (b) The maximum width of the construction access area shall be limited to 15 feet;
  - (c) All mats shall be removed within 72 hours after the work commences; and
- (d) Areas disturbed for access shall be restored to natural grades immediately after the maintenance or repair is completed.
- (13) Barges or other work vessels used to conduct in-water activities shall be operated in a manner that prevents unauthorized dredging, water quality violations, and damage to submerged aquatic communities.
- (14) The construction, alteration, or use of the authorized project shall not adversely impede navigation or create a navigational hazard in the water body.
  - (15) Except where specifically authorized in a general permit, activities must not:
- (a) Impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving water and adjacent lands;
- (b) Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S., or a Works of the District established pursuant to Section 373.086, F.S.; or
- (16) If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.

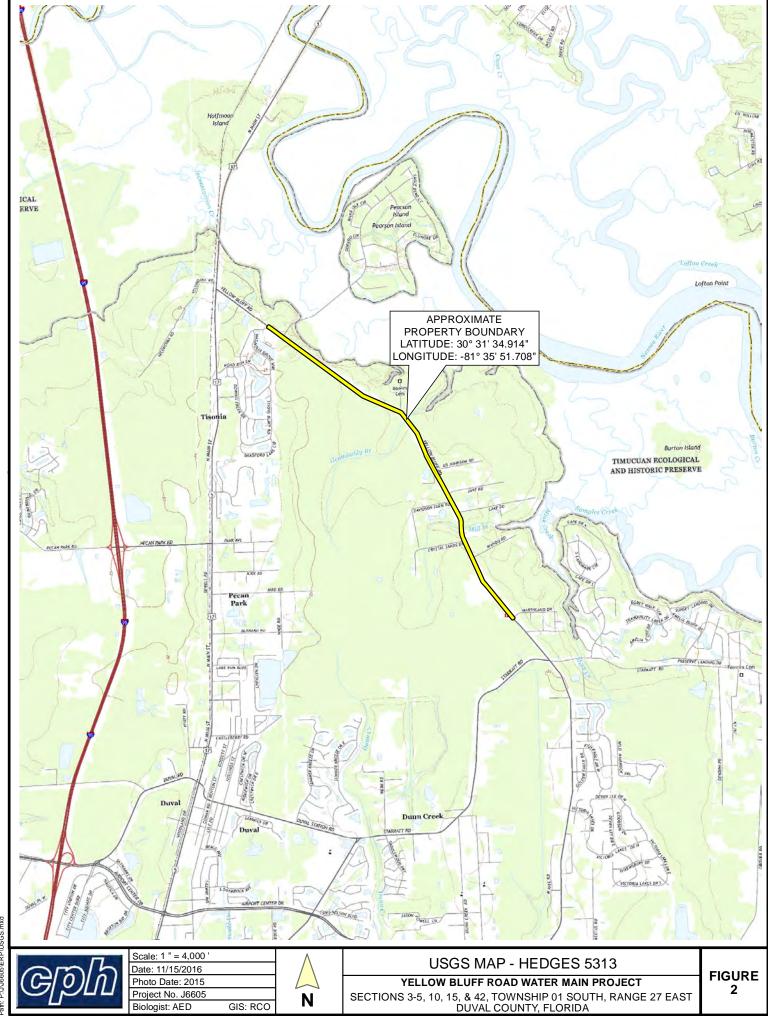
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- (17) The activity must be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed, and must comply with any applicable District special basin and geographic area criteria.
- (18) The permittee shall comply with the following when performing work within waters accessible to federally- or state-listed aquatic species, such as manatees, marine turtles, smalltooth sawfish, and Gulf sturgeon:
- (a) All vessels associated with the project shall operate at "Idle Speed/No Wake" at all times while in the work area and where the draft of the vessels provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- (b) All deployed siltation or turbidity barriers shall be properly secured, monitored, and maintained to prevent entanglement or entrapment of listed species.
- (c) All in-water activities, including vessel operation, must be shutdown if a listed species comes within 50 feet of the work area. Activities shall not resume until the animal(s) has moved beyond a 50-foot radius of the in-water work, or until 30 minutes elapses since the last sighting within 50 feet. Animals must not be herded away or harassed into leaving. All on-site project personnel are responsible for observing water-related activities for the presence of listed species.
- (d) Any listed species that is killed or injured by work associated with activities performed shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1(888)404-3922 and ImperiledSpecies@myFWC.com.
- (e) Whenever there is a spill or frac-out of drilling fluid into waters accessible to the above species during a directional drilling operation, the FWC shall be notified at imperiledspecies@myfwc.com with details of the event within 24 hours following detection of the spill or frac-out.
- (19) The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any activity authorized by the general permit.
- (20) The permittee shall immediately notify the Agency in writing of any submitted information that is discovered to be inaccurate.

Rulemaking Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.4131, 373.414(9), 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.044, 373.118(1), 373.129, 373.136, 373.406(5), 373.413, 373.4131, 373.414(9), 373.4145, 373.416, 373.422, 373.423, 373.429, 403.814(1) FS. History—New 10-3-95, Amended 10-1-07, Formerly 62-341.215, Amended 10-1-13.

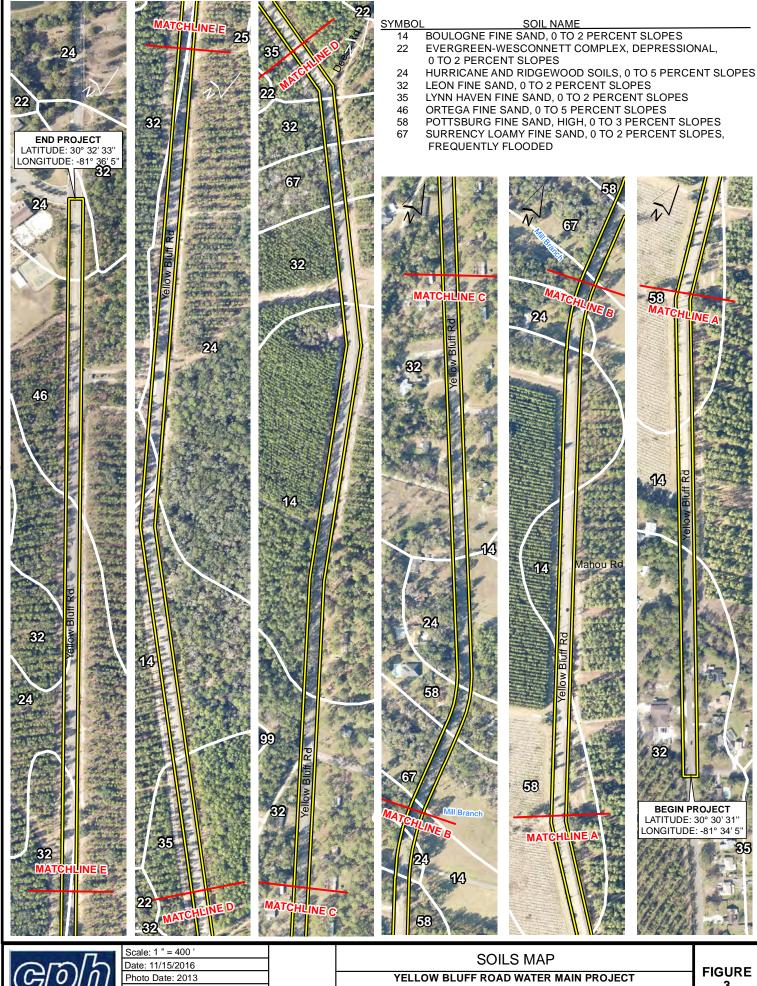


Path: P:\J\J6605\ERP\LOCAT



GIS: RCO

Biologist: AED



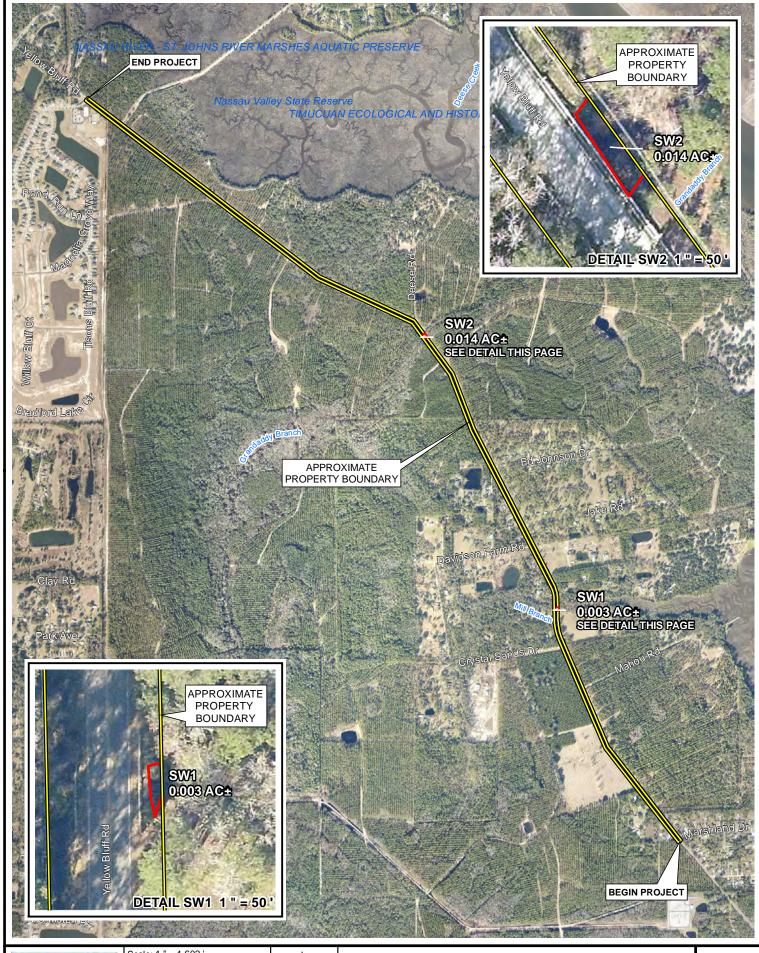




Date: 11/15/2016 Photo Date: 2013 Project No. J6605 Biologist: AED GIS: RCO PRELIMINARY VEGETATION AND LAND USE MAP

YELLOW BLUFF ROAD WATER MAIN PROJECT

SECTIONS 3-5, 10, 15, & 42, TOWNSHIP 01 SOUTH, RANGE 27 EAST DUVAL COUNTY, FLORIDA





Scale: 1 " = 1,602 '

Date: 11/30/2016

Photo Date: 2013

Project No. J6605

Biologist: AED GIS: RCO



# SURFACE WATER LOCATION MAP

SECTIONS 3-5, 10, 15, & 42, TOWNSHIP 01 SOUTH, RANGE 27 EAST DUVAL COUNTY, FLORIDA

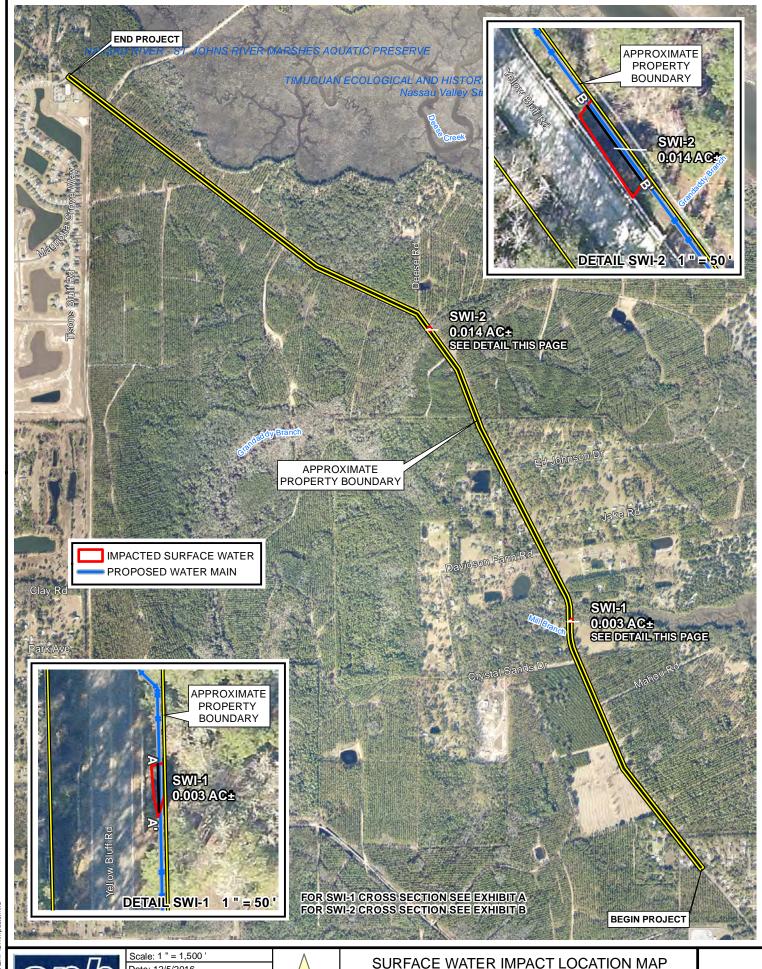


Scale: 1 " = 400 ' Date: 11/15/2016 Photo Date: 2013 Project No. J6605 GIS: RCO Biologist: AED

# PROPOSED DEVELOPMENT PLAN

**FIGURE** 

6





Date: 12/5/2016 Photo Date: 2015 Project No. J6605 Biologist: AED GIS: RCO



SECTIONS 3-5, 10, 15, & 42, TOWNSHIP 01 SOUTH, RANGE 27 EAST DUVAL COUNTY, FLORIDA