

DEPARTMENT OF THE ARMY PERMIT STATE PROGRAMMATIC GENERAL PERMIT (SPGP V) STATE OF FLORIDA

Permittee: Recipient of a verification of a State of Florida Exemption, General permit, or issuance of an Individual State Permit from the Florida Department of Environmental Protection (FDEP), a water management district (Designee), or a local government with delegated authority under section 373.441, F.S. (Designee).

Effective Date: July __, 2016

Expiration Date: July __, 2021

Issuing Office: U.S. Army Corps of Engineers District, Jacksonville

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

NOTE: The term "Applicant", as used in this permit, means a person or authorized agent submitting an application for verification of a State of Florida Exemption, General Permit, or issuance of an Individual State Permit from the FDEP, a water management district (Designee), or a local government with delegated authority under section 373.441, F.S. (Designee).

After you receive written verification for your project under this State Programmatic General Permit (SPGP V), you are authorized to perform work in accordance with the terms and conditions specified below.

Coordination Agreements between the Corps and the FDEP and Designees outline the steps each agency will take during the processing of an application under the SPGP V. For the prior State Programmatic General Permit (SPGP IV-R1), agreements were in place with FDEP, the St. Johns River Water Management District, Hillsborough County,

Exhibit A

Draft Version #21

and the Southwest Florida Water Management District. These and possibly additional agencies will implement SPGP V upon execution of updated agreements.

Work Authorized: The following five categories of activities.

a. Shoreline Stabilization. This category includes riprap, seawalls, and other shoreline stabilization. Except where additional restrictions are noted, this category of activity is defined as set forth in the State of Florida Exemptions and General Permits cited below, or equivalent as adopted by reference in Chapter 62-330, Florida Administrative Code (F.A.C.).

Groins, jetties, breakwaters, and beach nourishments/re-nourishments are not authorized by this SPGP.

62-330.051(12)(a), F.A.C.; 403.813(1)(i), F.S.	Synopsis: Construction of seawalls or riprap, including only that backfilling needed to level the land behind seawalls or riprap, in artificially created waterways.
62-330.051(12)(b), F.A.C.; 403.813(1)(e), F.S.	Synopsis: Restoration of seawall or riprap at its previous location or upland of or within 18 inches waterward of its previous location.
62-330.051(12)(c), F.A.C.; 403.813(1)(o), F.S.	Synopsis: Construction of private vertical seawalls in wetlands or other surface waters, other than in an estuary or lagoon, and the construction of riprap revetments, and is no more than 150 feet in length. Additional restrictions: Not authorized by this SPGP V in an estuary or lagoon.
62-330.431, F.A.C.; 62-330.051(12)(d), F.A.C.	Synopsis: Installation of riprap; installation of batter or king piles used exclusively to stabilize and repair seawalls and that do not impede navigation.
62-330.051(12)(e), F.A.C.	<i>Synopsis. Living Shorelines.</i> Restoration of an eroding shoreline with native wetland vegetative enhancement plantings. Additional Restriction: Not authorized by this SPGP V if the work extends water ward past the adjacent shorelines (this provision is to preclude changes in down drift currents).

b. Boat Ramps and Boat Launch Areas and Structures Associated with Such Ramps or Launch Areas. This category of activity is defined as set forth in the State of Florida Exemptions and General Permits cited below, or equivalent as adopted by reference in Chapter 62-330, F.A.C.

62-330.051(5)(e), F.A.C.; 403.813(1)(c), F. S.	Synopsis: Installation and maintenance to design specifications of boat ramps on artificial bodies of water or public boat ramps on any waters.
--	---

c. Docks, Piers, Associated Facilities, and other Minor Piling-Supported Structures. This category of activity is defined as set forth in the State of Florida Exemptions and General Permits cited below, or equivalent as adopted by reference in Chapter 62-330, F.A.C.

Municipal or commercial fishing piers are not authorized by this SPGP V.

62-330.051(5)(a), F.A.C.; 403.813(1)(b), F. S.	Synopsis: Installation, replacement or repair of mooring pilings and dolphins associated with private docks.
62-330.051(5)(b), F.A.C.; 403.813(1)(b), F. S.	Synopsis: Installation of private docks of 500/1000 square feet or less of surface area over wetlands or other surface waters.
62-330.051(5)(c), F.A.C.; 403.813(1)(i), F. S.	Synopsis: Construction of private docks in artificially created waterways.
62-330.051(5)(d), F.A.C.; 403.813(1)(d), F.S.	Synopsis: Replacement or repair of existing docks and mooring piles.
62-330.051(8), F.A.C.; 403.813(1)(k), F.S.	Synopsis: Installation of aids to navigation and buoys associated with such aids.
62-330.427, F.A.C.	Synopsis: Construction, extension, and removal of certain piers and associated structures.
62-330.475(1)(a), F.A.C.	Synopsis: Piling supported structures, less than 1,000 square feet, not in Outstanding Florida Waters.
62-330.475(1)(b), F.A.C.	Synopsis: Piling supported structures, less than 500 square feet, in Outstanding Florida Waters.
62-330.051(5)(f), F.A.C.; 403.813(1)(s), F.S.	Synopsis: Construction, installation, operation or maintenance of floating vessel platforms and boat lifts.

d. Maintenance Dredging of Canals and Channels. This category includes return water. This category also includes removal of organic detrital material from freshwater lakes and rivers. Except where an additional restriction is noted, this category of activity is defined as set forth in the State of Florida Exemptions and General Permits cited below, or equivalent as adopted by reference in Chapter 62-330, F.A.C.

62-330.051(7)(a), F.A.C.; 403.813(1)(f), F.S.	Synopsis: Maintenance dredging of existing manmade canals, channels, basins, berths, and intake and discharge structures.
62-330.051(3)(b), F.A.C.; 403.813(1)(r), F.S.	Synopsis: Removal of aquatic plants, tussocks, and organic detrital material Additional Restriction: Authorization by this SPGP V limited to Freshwater lakes only.
62-330.051(3)(b), F.A.C.; 403.813(1)(u), F.S.	Synopsis: Removal of organic detrital material by individual residential property owners (Freshwater rivers and lakes only).
62-330.475(1)(d), F.A.C.	Synopsis: Maintenance dredging of 50 cubic yards or less, spoil in uplands.

e. Transient Activities. Except where additional restrictions are noted below, this category of activity is defined as set forth by the State of Florida Exemptions and General Permits cited below, or equivalent as adopted by reference in Chapter 62-330, F.A.C.

62-330.051(5)(g), F.A.C.	Synopsis: The removal of derelict vessels.
62-330.051(11)(b), F.A.C.	Synopsis: Construction, operation, maintenance, and removal of scientific sampling, measurement, and monitoring devices.
62-330.453, F.A.C.; 62-330. 457, F.A.C.	Synopsis: Installation, Maintenance, Repair, and Removal of Utility Lines and Subaqueous Utility Crossings. Additional restrictions: Authorization under SPGP V is limited to upland to upland directional drilling (HDD). Crossing a federal project is not authorized by this SPGP V (including federally authorized channels of the Intracoastal Waterways, inlets, ports and turning basins; and including levees, dikes, dams or other water retaining structures. HDD crossing of a flood control channel/canal in a Federal project (either federally or locally maintained) may be authorized if meets Special Condition 18.
62-330.407, F.A.C.	Synopsis: Geotechnical investigations. Additional Restrictions: Seismic exploratory activities and any activities on tribal lands or waters are not authorized by this SPGP V.

A. Special Conditions Related to Procedure and Identification as to Which Projects are or are not authorized by this SPGP.

1. Permit applications for proposed Projects will be submitted to the appropriate FDEP or Designee office. Instead of immediately forwarding a copy of the application to the Corps, the FDEP or Designee will review the Project. If the type of work is covered under the SPGP V, the following categories will be used as guidance on the actions to take:

a. Green: Projects identified as "Green" will be processed by the FDEP or Designee. A copy of the application will not be forwarded to the Corps for review. Verification of the State Exemption, General Permit, or issuance of an Individual State Permit will include language confirming Federal Authorization under the SPGP V.

b. Yellow: Projects identified as "Yellow" will be forwarded to the Corps. The Corps will reply whether to treat that Project as "Red", as "Green" or as "Green" with the addition of additional (specified) special conditions.

c. Red: FDEP or Designee and the Corps will review the Project separately. . FDEP or Designee will forward a copy of the Permit Application to the Corps and will notify the Applicant that the Project is not authorized under the SPGP V.

2. Special Conditions Identifying Projects that are "Red". The following projects are **not** authorized by this SPGP V.

a. A "Yellow" Project moved to the "Red" category by the Corps.

b. (For all projects except *Transient Activities*, which would be "Yellow", see Special Condition 3.g.). Projects anywhere between the shoreline and federally authorized channel, turning basin, etc. of a port or inlet. Projects within 150 feet of the near design edge of a federal channel (except the Intracoastal Waterway) including the design edge of a widener (where the width of the channel is widened, for example, when the channel changes direction). Projects on the Intracoastal Waterway (either the Atlantic or Gulf coasts) where the width of the shoreline would result in structures or other work being located within 100 feet of the near design edge of the channel. Projects within federal channels. Projects crossing levees, dikes, dams or other water retaining structures of a federally authorized project. Projects crossing a flood control channel/canal in a federally authorized project (either federally or locally maintained)

c. A Project authorized under FDEP or Designee enforcement actions.

d. A Project authorized under FDEP or Designee emergency permitting.

e. A Project located within the geographic boundaries of: Monroe County (but boat lifts may be authorized under SPGP V in Monroe County); the Timucuan

Ecological and Historical Preserve (Duval County); the St. Mary's River, from its headwaters to its confluence with the Bells River; the Wekiva River from its confluence with the St. Johns River to Wekiwa Springs, Rock Springs Run from its headwaters at Rock Springs to the confluence with the Wekiwa Springs Run, Black Water Creek from the outflow from Lake Norris to the confluence with the Wekiva River; projects that impact mangroves in canals at Garfield Point including Queens Cove (St. Lucie County); the Loxahatchee River from Riverbend Park downstream to Jonathan Dickinson State Park; the St. Lucie Impoundment (Martin County); all areas regulated under the Lake Okeechobee and Okeechobee Waterway Shoreline Management Plan, located between St. Lucie Lock (Martin County) and W.P. Franklin Lock (Lee County); the Biscayne Bay National Park Protection Zone (Miami-Dade County); Harbor Isles (Pinellas County); the Faka Union Canal (Collier County); the Tampa Bypass Canal (Hillsborough County); canals in the Kings Bay/Crystal River/Homosassa/Salt River system (Citrus County); Lake Miccosukee (Jefferson County).

f. (For all projects except *Docks, Piers, Associated Facilities, and Other Minor Piling-Supported Structures and Transient activities.*) A Project located in

(1) the main channels or tributaries of the Chipola River, Apalachicola River, Ochlockonee River, Econfinia Creek, Suwannee River, Santa Fe, New River (Bradford-Union County Line), Escambia River, Yellow River, or the Choctawhatchee River, or

(2) in designated critical habitat where the essential physical and biological features (or the terms essential features / primary constituent elements (PCEs) for older designations) are present for

(i) Smalltooth sawfish (Smalltooth sawfish critical habitat does not include areas containing existing (already constructed) federally authorized or permitted man-made structures such as channels or canals maintained at depths greater than 3 ft. at MLLW, boat ramps, docks, and marinas deeper than 3 ft. at MLLW)(note that PCEs are usually present at/near the shoreline), or

(ii) Acroporid corals (*Acropora* spp. critical habitat does not include areas containing existing (already constructed) federally authorized or permitted man-made structures such as aids-to-navigation, artificial reefs, boat ramps, docks, pilings, maintained channels, or marinas), or

(iii) Gulf sturgeon (Gulf sturgeon critical habitat does not include existing developed sites such as dams, piers, marinas, bridges, boat ramps, exposed oil and gas pipelines, oil rigs, and similar structures or designated public swimming areas)(note that PCEs are usually present at/near the shoreline), or

- (iv) American crocodile, or
- (v) Piping plover, or
- (vi) freshwater mussels, or
- (vii) Johnsons seagrass, or
- (viii) North Atlantic Right whale, or

(3) in the Florida panther focus area.

g. (For *Maintenance Dredging of Canals and Channels*). Special Condition 2.e., also applies to the spoil disposal area.

h. (For *Docks, Piers, Associated Facilities, and Other Minor Piling-Supported Structures and Transient activities*.) Project located:

(1) in designated critical habitat where the essential physical and biological features (or the terms essential features / primary constituent elements (PCEs) for older designations) are present for:

(i) acroporid corals (*Acropora* spp. critical habitat does not include areas containing existing (already constructed) federally authorized or permitted man-made structures such as aids-to-navigation, artificial reefs, boat ramps, docks, pilings, maintained channels, or marinas.), or

- (ii) American crocodile, or
- (iii) Piping plover, or
- (iv) North Atlantic right whale, or

(2) in the Florida panther focus area.

i. Any Project located in the following exclusion locations:

(1) In areas identified as Smalltooth sawfish exclusion zones on the Caloosahatchee River (Lee County).

(2) At the mouths of Gulf sturgeon spawning rivers (Escambia River,

Blackwater/Yellow Rivers, Choctawhatchee River, Apalachicola River, and Suwannee River) and narrow inlets (Indian Pass and Government Cut in Apalachicola Bay and Destin Pass in Choctawhatchee Bay) where any portion of the project is within 1,400 feet of the opposite bank of the river or inlet.

(3) Physical structures (e.g., seawalls, docks, boat ramps) within the boundaries of nearshore reproductive habitat of loggerhead critical habitat (except for scientific survey devices).

(4) In the St. Mary's river between October 1 and December 31, to protect Atlantic sturgeon during spawning season.

j. When using the "*The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida*" April 2013 (Manatee Key), A Project that keys out to "may affect" or "may affect, no likely to adversely affect" but further consultation with the U.S. Fish and Wildlife Service is necessary.

k. A Project is proposed in Anastasia Island, Southeastern, Perdido Key, Choctawhatchee, or St. Andrews beach mouse habitat. For *Maintenance Dredging of Canals and Channels*, also applies to the spoil disposal area.

l. A Project is proposed on or contiguous to beaches on the Atlantic Ocean, Gulf of Mexico, or in the Florida Keys.

m. A Project is within 2,500 feet of an active wood stork nesting colony.

n. Project adversely impacts any other federally listed threatened or endangered species, or a species proposed for such designation, or its designated critical habitat unless covered under the Biological Opinion for SPGP IV-R1.

o. A Project which will adversely impact the following Essential Fish Habitats: Estuarine emergent vegetated wetlands (flooded saltmarshes, brackish marsh and tidal creeks), Estuarine scrub/shrub (mangrove fringe), Submerged rooted vascular plants (sea grasses), Oyster Reefs and Shell Banks, Tidal freshwater (palustrine) wetlands, Tidal palustrine forested, Tidal freshwater submerged aquatic vegetation, Coral and Live/Hard Bottom Habitats. Furthermore, Projects are excluded if located in a real estate parcel that is substantially submerged and largely covered by seagrass (unless owned by the U.S. Government or State of Florida).

p. (For *Maintenance Dredging of Canals and Channels*. A Project where excavated material is proposed to be used to create wildlife islands or is proposed for other types of in-water disposal.

q. (For *Maintenance Dredging of Canals and Channels*). A Project where dredging will be performed by hopper dredge.

3. Special Conditions Identifying Projects that are “Yellow”. These Projects are to be sent to the Corps for its reply as to whether the Project will be “Green” or “Red”.

a. A Project in Federal right-of-ways or easements.

b. A Project authorized by FDEP or Designee after-the-fact permits.

c. A Project currently under Federal enforcement action.

d. (For *Boat Launch Areas and Structures Associated with such Ramps or Launch Areas*.) A Project which includes dredging of access channels.

e. (For *Maintenance Dredging of Canals and Channels*). A Project The dredged and/or return water is subject to evaluation under criteria prescribed in the “Inland Testing Manual” (ITM).

f. (For *Maintenance Dredging of Canals and Channels*) and *Boat Ramps*.) A Project proposed by a governmental entity, including but not limited to, a County, City, Port Authority, or Navigation District.

g. (For *Transient Activities*). Projects anywhere between the shoreline and federally authorized channel, turning basin, etc. of a port or inlet. Projects within 150 feet of the near design edge of a federal channel (except the Intracoastal Waterway) including the design edge of a widener (where the width of the channel is widened, for example, when the channel changes direction). Projects on the Intracoastal Waterway (either the Atlantic or Gulf coasts) where the width of the shoreline would result in structures or other work being located within 100 feet of the near design edge of the channel. Projects within federal channels. Projects crossing levees, dikes, dams or other water retaining structures of a federally authorized project. Projects crossing a flood control channel/canal in a federally authorized project (either federally or locally maintained).

h. When using the “*The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida*” April 2013 (Manatee Key), for *Docks, Piers, Associated Facilities, and Other Minor Piling-Supported Structures* and for *Boat Ramps and Boat Launch Areas and Structures Associated with such Ramps or Launch Areas*, if other than a residential facility, and the Project provides “new” access for watercraft and keys out to a “may affect, not likely to

adversely affect.”

i. A Project on canals or channels where the structures extend to more than 25% of the canal/channel width, excluding dense areas of shoreline vegetation such as mangrove, as measured from the Project location to the opposite shoreline (in order to maintain no less than 50% of the open-water portion of the waterbody for public use).

j. (For boatlifts in Monroe County). A project located where the navigable channel is less than 40 feet wide at the end of the canal, or at the corner at the end of the canal, or where the boatlift will extend waterward of lifts or structures at adjacent properties or where there are no nearby neighboring boatlifts or structures and the boatlift extends more than 25% of the canal width (i.e., where this may affect navigation).

k. (For boatlifts in Monroe County). If construction of the lift involves new pilings.

l. All applications for *Subaqueous Utility Lines* of the *Transient Activities* category so that the Corps may review the *Frac-out Contingency Plan* (Special Condition 15) and/or contact the Applicant to obtain same.

4. Special Conditions Identifying Projects that are “Green”. These projects are authorized by this SPGP V with the following characteristics.

a. (A Project for *Shoreline Stabilization*.) To prevent erosion or to stabilize a shoreline where erosion has taken place. Construction and/or repairs to groins, jetties, breakwaters that are perpendicular to shore, and beach nourishment/renourishment are not authorized.

b. (A Project for *Shoreline Stabilization*.)

(1) New vertical seawalls or other stabilization measures will not be placed waterward of the Mean High Water Line (MHWL) or Ordinary High Water Line (OHWL), unless necessary to align with existing adjacent seawalls, and not to exceed 150’ in length.

(2) Seawall and/or riprap restoration may be permitted at its previous location, upland of, or within 18 inches waterward of its previous location.

(3) New riprap will not be placed more than 10 feet waterward of the Mean High Water Line (MHWL) or Ordinary High Water Line (OHWL).

(4) Shoreline stabilization structures other than vertical seawalls shall be no steeper than a 2H:1V slope.

c. (A Project for *Boat Ramps and Boat Launch Areas and Structures Associated with such Ramps or Launch Areas.*)

(1) Private, single-family boat ramp or structure requiring 50 cubic yards of fill material or less.

(2) Ramp width does not exceed 40 feet (note: F.S. 403.813 limits to 30 feet).

(3) Maximum of 2 boat lanes including construction of new boat ramps and the repair and/or expansion of existing boat ramps.

(3) No more than 70 vehicle parking spaces associated with the boat ramp.

(4) Repair and replacement of existing boat ramps in the same footprint.

(5) Excavation limited to that necessary for site preparation.

d. (A Project for *Maintenance Dredging of Canals and Channels.* Dredging will be limited to the previous project depth, or to -5.0 feet below Mean Low Water (MLW) or Ordinary Low Water (OLW).

e. (A Project for *Maintenance Dredging of Canals and Channels.*) Excavated spoil material shall be deposited in a suitable upland (i.e., non-wetland pursuant to current Federal criteria) disposal site which does not support, or is incapable of supporting, the Florida scrub-jay, eastern indigo snake, or beach mice.

f. When using the "*The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida*" April 2013 (Manatee Key),

(1) (A Project for *Docks, Piers, Associated Facilities, and Other Minor Piling-Supported Structures* and for *Boat Ramps and Boat Launch Areas and Structures Associated with such Ramps or Launch Areas.*) If a residential Project which keys out to "no effect" or if the Project is for other than a residential facility and provides "new" access for watercraft which keys out to a "no effect" or a "may affect not likely to adversely affect"

(2) (For all other projects) A project keys out to “no effect” or “may affect not likely to adversely affect.”

B. Special Conditions Related To All Reviews and Authorizations. In addition to the conditions specified above, the following Special Conditions apply to all projects reviewed and/or authorized under the SPGP V.

1. The District Engineer reserves the right to require that any request for authorization under this SPGP V be evaluated as an Individual Permit. Conformance with the terms and conditions of the SPGP V does not automatically guarantee Federal authorization.
2. On a case-by-case basis the Corps may impose additional Special Conditions which are deemed necessary to minimize adverse environmental impacts.
3. Failure to comply with all conditions of the Federal authorizations under the SPGP V would constitute a violation of the Federal authorization.
4. No structure or work shall adversely affect or disturb properties listed in the National Register of Historic Places or those eligible for inclusion in the National Register. Prior to the start of work, the Applicant/Permittee or other party on the Applicant's/Permittee's behalf, shall conduct a search of known historical properties by contracting a professional archaeologist, and contacting the Florida Master Site File at 850-245-6440 or SiteFile@dos.state.fl.us. The Applicant/Permittee can also research sites in the National Register Information System (NRIS). Information can be found at <http://www.cr.nps.gov/nr/research>.
 - a. If, during the initial ground disturbing activities and construction work, there are archaeological/cultural materials unearthed (which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, 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), the Permittee shall immediately stop all work in the vicinity and notify the Compliance and Review staff of the State Historic Preservation Office at 850-245-6333 and the Corps Regulatory Project Manager to assess the significance of the discovery and devise appropriate actions, including salvage operations. Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7.
 - b. In the unlikely event that human remains are identified, they will be treated in accordance with Section 872.05, Florida Statutes; all work in the vicinity shall immediately cease and the local law authority, the State Archaeologist (850-245-6444), and the Corps Regulatory Project Manager shall immediately be notified. Such activity

shall not resume unless specifically authorized by the State Archaeologist and the Corps.

5. No work shall be authorized under the SPGP V which proposes the use of prefabricated modules for habitat creation, restoration, or enhancement except as allowed in Special Condition 15 for *Living Shorelines* of the *Shoreline Stabilization* category.

6. The Design and construction of a Project must comply with the following.

a. Where aquatic vegetation is present, adverse impacts to aquatic vegetation from construction of piling-supported structures may be avoided/minimized by adherence to, or employing alternative construction techniques that provide a higher level of protection than, the protective criteria in the joint U.S. Army Corps of Engineers'/National Marine Fisheries Service's "*Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat*" U.S. Army Corps of Engineers/National Marine Fisheries Service August 2001 (updated June 2008). Unless otherwise specifically approved by the National Marine Fisheries Service, where aquatic vegetation is present, piling-supported structures authorized under the SPGP V must comply with, or provide a higher level of protection than, the criteria contained in the referenced construction guidelines. Mangrove impacts are limited to the removal of mangroves along 4 linear feet of shoreline to accommodate a 4-ft-wide access walkway associated with a dock that meets the above guidelines.

b. Additionally, because of concerns about adverse impacts to the endangered Johnson's seagrass (*Halophila johnsonii*) in the lagoon and canal systems on Florida's east coast from Sebastian Inlet (Brevard County) south to and including central Biscayne Bay (Miami-Dade County), the following requirements must be met:

(1) Piling-supported structures must comply with, or provide a higher level of protection than, the criteria contained in the construction guidelines titled "*Key for Construction Conditions for Docks or Other Minor Structures Constructed in or Over Johnson's seagrass (Halophila johnsonii)*" National Marine Fisheries Service/U.S. Army Corps of Engineers - February 2002 (updated October 2002)."

(2) Removal of derelict vessels must comply with the practices of Special Condition 18.

(3) All other activities will have no effect on Johnson's seagrass, i.e., no seagrass is present.

c. The presence of seagrass will be determined utilizing the attached “*Submerged Aquatic Vegetation Survey Guidelines*”.

7. For projects in waters accessible to sea turtles, Smalltooth sawfish, Gulf sturgeon, or Shortnose sturgeon, the Permittee will utilize the “*Sea Turtle and Smalltooth Sawfish Construction Conditions*” and the following additions:

a. Any collision(s) with and/or injuries to any whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS’s Protected Resources Division (PRD) at (727-824-5312).

b. Reports to NMFS’s Protected Resources Division (PRD) may be made by email to takereport.nmfs@noaa.gov.

c. Sea turtle and marine mammal stranding/rescue organizations’ contact information is available by region at <http://www.nmfs.noaa.gov/pr/health/networks.htm>.

d. Smalltooth sawfish encounters shall be reported to <http://www.flmnh.ufl.edu/fish/sharks/sawfish/sawfishencounters.html>.

e. All work must occur during daylight hours.

8. The Permittee is responsible for obtaining any “take” permits required under the U.S. Fish and Wildlife Service’s regulations governing compliance with the Migratory Bird Treaty Act or the Bald and Golden Eagle Protection Act. The Permittee should contact the appropriate local office of the U.S. Fish and Wildlife Service to determine if such “take” permits are required for a particular activity.

9. The Permittee is responsible for compliance with 50 CFR 224.103(c) prohibiting approach within 500 yards of a right whale, with limited exceptions.

10. Turbidity control measures shall be used throughout construction to control erosion and siltation to ensure there are no violations of state or federal water quality standards. Turbidity control measures shall be: (1) for the smallest practicable area; (2) monitored daily to ensure listed species are not entangled or trapped in the project area; (3) shall be removed promptly upon project completion and the return of water quality conditions; (4) and shall not block entry to or exit from designated critical habitat. Siltation barriers shall be made of material in which listed species cannot become entangled (i.e., reinforced impermeable polycarbonate vinyl fabric [PVC]).

a. Turbidity curtains are not required where not practical in dynamic systems such as surf zones and could actually do more harm than good if the curtains become

detached (e.g., they could entrap pelagic organisms and become entangled around benthic organisms, such as coral).

b. Turbidity barriers are not required if installation of single piling in deep water since is unlikely to adversely affect water quality.

11. In-water rope or chain must meet the following requirements: Industrial grade metal chains or heavy cables that do not readily loop and tangle; All in-water lines (rope and cable) must be thick and taut and cannot have excess line in the water; Lines can be enclosed in a plastic or rubber sleeve/tube to add rigidity.

12. No work shall occur where hard bottom or any hard or coral including ESA-listed coral species are present within the footprint of the project.

13. No work shall occur that results in removal of mangroves (including prop roots), except:

a. as provided by Special Condition 6.a.; or,

b. for removal of mangroves growing at the foot or from an existing seawall whose removal needed to repair the seawall.

14. No work shall occur that results in impacts to seagrass except as provided by Special Condition 6.

15. *(For Docks, Piers, Associated Facilities, and Other Minor Piling-Supported Structures and Boat Ramps and Boat Launch Areas and Structures Associated with Such Ramps or Launch Areas.)*

a. Aids to Navigation and Private Aids to Navigation (e.g. attached to the structures authorized by the SPGP) must be approved by and installed in accordance with U.S. Coast Guard requirements.

b. Temporary structures associated with marine events will be removed and the site restored upon completion of the event.

c. *(For multi-family residential docks (e.g., condos, trailer parks, apartment complexes) designated for fishing or vessel storage, for temporary marine event pile-supported structures involving high speed vessel traffic or fishing, and for commercial or public boat ramps.)* Install educational signs as follows in a visible location to alert boaters of listed species in the area susceptible to vessel strikes or hook-and-line captures. NMFS website

(http://sero.nmfs.noaa.gov/protected_resources/section_7/protected_species_educational_signs/index.html) provides sign installation guidance and most current version of the signs.

(1) All commercial and public boat ramps shall install the Save Sea Turtle, Sawfish, and Dolphin sign.

(2) If the Project occurs within the range of Gulf, Atlantic, or Shortnose sturgeon, the Permittee will install and maintain the *Report Sturgeon* sign.

(3) If the Project occurs within 14 miles of North Atlantic Right Whale critical habitat, the Permittee will install and maintain the *Help Protect North Atlantic Right Whales* sign.

d. Project construction will take place from uplands or from floating equipment (e.g., barge); prop or wheel-washing is prohibited.

16. (For *Transient activities*.)

a. Temporary structures shall not block access of species to an area such as preventing movement in or out of a river or channel.

b. (For *scientific sampling, measurement, and monitoring devices*.) No later than 24 months from initial installation, or upon completion of data acquisition, whichever comes first, the measuring device and any other structure or fills associated with that device (e.g., anchors, buoys, lines) must be removed and the site must be restored to pre-construction elevations.

17. (For *Living Shorelines* of the *Shoreline Stabilization category*.)

a. Only native plant species will be planted.

b. Not more than 500 linear feet in length, not more than 35 ft waterward of the high tide line .(note that FAC 62-330 limits to 10 feet of the mean high water line) or result in more than 0.5 ac area between the natural shoreline and the structure.

c. No discharge of earthen fill material, other than earthen material associated with vegetative planting, is not authorized.

d. Construction, maintenance and removal of approved permanent, shore-parallel wave attenuation structures are authorized. Approved permanent wave attenuation materials include oyster breakwaters (described above), clean limestone

boulders, and prefabricated structures made of concrete and rebar that are designed in a manner that cannot trap sea turtles, Smalltooth sawfish, or sturgeon. Reef balls that are not open on the bottom, triangle structures with a top opening of at least 3 feet between structures, and reef discs stacked on a pile may be used.

e. (For oyster breakwaters).

(1) Reef materials shall be placed in a manner to ensure that materials (e.g., bagged oyster shell, oyster mats, loose cultch surrounded and contained by a stabilizing feature, reef balls, and reef cradles) will remain stable and prevent movement of materials to surrounding areas.

(2) Materials must be placed in designated locations (i.e., shall not be indiscriminately/randomly dumped) and shall not be placed outside of the total project limits.

18. (For *Subaqueous Utility Lines* of the *Transient Activities* category.)

a. A Frac-out Contingency Plan similar to the attached plan will be developed, submitted with the application and then followed.

b. All subaqueous transmission lines crossing over, under, or in flood control channels/canals in Federal projects (either federally or locally maintained) which are installed with horizontal direction drilling (HDD) shall ensure the top of the HDD boring is a minimum of 10 feet beneath the bottom of the channel plus a minimum 25 feet outside the channel edges and the estimated total drilling fluid pressure is less than 10 psi. Projects not in compliance with these criteria shall not be eligible for authorization under SPGP V.

c. The Permittee shall, upon completion of work, provide an as-built survey showing the horizontal and vertical location (X-Y-Z coordinates in NAD 83 and NAVD 88) of the object below the channel as it enters and exits the design edges of the authorized width of the channel, plus a minimum of 25 feet outside the channel edges.

19. (For *Removal of Derelict Vessels* of the *Transient Activities* category.)

a. Removal of marine debris shall require visual confirmation (e.g., divers, swimmers, camera) that the item can be removed without causing further damage to aquatic resources.

b. If an item cannot be removed without causing harm to surrounding coral, the item will be disassembled as much as practicable so that it no longer can accidentally harm or trap species.

c. Monofilament debris will be carefully cut loose from coral so as not to cause further harm. Under no circumstance will line be pulled through coral since this could cause breakage of coral.

d. Marine debris shall be lifted straight up and not be dragged through seagrass beds, coral, or hard bottom habitats. Debris shall be properly disposed of in appropriate facilities in accordance with applicable federal and state requirements.

20. For concrete piles installed by impact hammer:

a. The piles will be less than or equal to than 24 inches in diameter; and

b. Not more than 10 piles will be installed per day if in open water; or,

c. Not more than 5 piles will be installed per day in a *confined space*. A *confined space* is defined as any area that has a solid object (e.g., shoreline, seawall, jetty) or structure within 150 feet of the pile installation site that would effectively serve as a barrier or otherwise prevent animals from moving past it to exit the area. This does not include objects such as docks or other pile-supported structures that would not stop animal movement or significantly reflect noise.

21. Metal piles will NOT be installed by impact hammer.

22. Projects within the boundary of the NOAA Florida Keys National Marine Sanctuary require prior approval from the Sanctuary.

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

24. No blasting is authorized.

25. For Projects authorized under this SPGP V in navigable waters of the U.S., the Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused

thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

26. The SPGP V will be valid for five (5) years from the date of issuance unless suspended or revoked by issuance of a public notice by the District Engineer. The Corps, in conjunction with the Federal resource agencies, will conduct periodic reviews to ensure that continuation of the permit during the five-year authorization period is not contrary to the public interest. If revocation occurs, all future applications for activities covered by the SPGP V will be evaluated by the Corps.

27. If the SPGP V expires or is revoked prior to completion of the authorized work, authorization of activities which have commenced or are under contract to commence in reliance upon the SPGP V will remain in effect provided the activity is completed within twelve (12) months of the date the SPGP V expired or was revoked.

28. The General Conditions attached hereto are made a part of this SPGP V and must be attached to all authorizations processed under this SPGP V.

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

(DISTRICT ENGINEER)
Jason A. Kirk, P.E.
Colonel, U.S. Army
District Commander

(DATE)

**Attachments to
Department of the Army State Programmatic General Permit (SPGP V)**

1. General Conditions for Federal Authorization for SPGP V.
2. Department of the Army Permit Transfer for SPGP V.
3. *The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida.*
4. *Standard Manatee Conditions for In-Water Work (Manatee Construction Conditions)*
5. *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation (SAV), Marsh or Mangrove Habitat.*
6. *Key for Construction Conditions for Docks or Other Minor Structures Constructed in or Over Johnson's seagrass (Halophila johnsonii).*
7. *Sea Turtle and Smalltooth Sawfish Construction Conditions* and additions for this SPGP V.
8. *Submerged Aquatic Vegetation Survey Guidelines*
9. Florida Panther Focus Area.
10. Critical Habitat Essential Features/PCEs
11. Acropora spp. Critical Habitat Maps.
12. American Crocodile Critical Habitat Map.
13. Smalltooth Sawfish Critical Habitat Maps.
14. Piping Plover Critical Habitat Maps.
15. Freshwater Mussels Critical Habitat Maps.
16. Gulf Sturgeon Critical Habitat Maps.
17. Johnson's Seagrass Critical Habitat Maps.
18. Johnson's Seagrass Range Map.

19. Wood Stork Active Nesting Colony Map.
20. Beach Mice Habitat.
21. Scrub Jay Habitat.
22. Indigo Snake Habitat.
23. Federal Navigation Channels.
24. Smalltooth Sawfish Exclusion Zones.
25. Loggerhead Turtle Nearshore Reproductive Critical Habitat.
26. North Atlantic Right Whale Critical Habitat.
27. Frac-Out Sample Plan.

General Conditions for Federal Authorization for SPGP V

1. The time limit for completing the work authorized ends on _____,2021.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner on the enclosed form and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Further Information:

1. Limits of this authorization.
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal projects.

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

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

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

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

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 3 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

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

the cost.

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

7. The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal, relocation or alteration.

Department of the Army Permit Transfer for SPGP V

PERMITEE: _____

PERMIT NUMBER: _____ DATE: _____

ADDRESS/LOCATION OF PROJECT:

(Subdivision)

(Lot)

(Block)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.

To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Enforcement Branch, Post Office Box 4970, Jacksonville, FL 32232-0019.

(Transferee Signature)

(Date)

(Name Printed)

(Street address)

(Mailing address)

(City, State, Zip Code)

COORDINATION AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS
(JACKSONVILLE DISTRICT)
AND THE
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT
STATE PROGRAMMATIC GENERAL PERMIT

I. PREAMBLE:

Under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403), the Jacksonville District, U.S. Army Corps of Engineers (Corps) has regulatory jurisdiction over all obstructions or alterations of any navigable water of the United States, the construction of any structures in or over any navigable water of the United States, and any work affecting the course, location, condition, or capacity of navigable waters of the United States. Additionally, under Section 404 of the Clean Water Act (33 USC 1344), the Corps has regulatory jurisdiction over the discharge of dredged or fill material into waters of the United States. Under both authorizations, the Corps has authority to issue general permits on a statewide basis for certain types of work (Federal Authorization).

The Southwest Florida Water Management District (SWFWMD) has regulatory authority over activities regulated under Part IV of Chapter 373 Florida Statutes (F.S.) within its jurisdictional boundaries, which includes dredging and filling in wetlands and other surface waters (State Authorization).

II. PURPOSE:

The Corps and the Florida Department of Environmental Protection (FDEP), in conjunction with the U.S. Fish and Wildlife Service (FWS), the National Marine Fisheries Service (NMFS), the U.S. Environmental Protection Agency (EPA), and the Florida Fish and Wildlife Conservation Commission (FWC), have developed a State Programmatic General Permit (SPGP) for use in the State of Florida to provide a Federal Authorization for certain types of work. The SPGP has undergone several iterations that we have designated SPGP I, SPGP II, SPGP III, SPGP III-R1, SPGP IV, and SPGP IV-R1. This Coordination Agreement, with referenced materials, prescribes the implementation of the SPGP V by the SWFWMD, and is applicable in all counties within the SWFWMD jurisdictional boundaries except those areas specifically excluded by conditions of the SPGP V. This Coordination Agreement is required to implement the processing of requests for Federal Authorization under the SPGP V. A copy of the SPGP V is attached hereto as Exhibit "A".

III. PROCEDURES:

Coordination Agreement Between Corps and SWFWMD (SPGP V)

Page 1 of 6

Exhibit B

A. SWFWMD Procedures:

1. Upon receipt of a joint application or a request to verify the use of an Exemption or General Permit under Part IV of Chapter 373, F.S. and Sections 403.813 and 403.814, F.S. (Project), the SWFWMD will review the Project to determine whether it is also a candidate for review under the SPGP V. If the Project is a candidate for review under the SPGP V, SWFWMD will also determine whether the Project will be reviewed as a "Green," "Yellow," or "Red" Project, described as follows and as described in the SPGP V.

a. "Green" Projects will be processed by the SWFWMD and will not be forwarded to the Corps for review. The State Authorization will include language confirming Federal Authorization under the SPGP V, as described in Section III.5.a herein.

b. "Yellow" Projects. SWFWMD will forward to the Corps Projects described by Special Condition A.3. The Corps will review the Project and determine whether to treat that Project as "Red", as "Green" or as "Green" with additional (specified) special conditions and will notify SWFWMD of its determination. SWFWMD may also forward for determination by the Corps any other Projects that SWFWMD believes may not be covered by the SPGP V.

c. "Red" Projects will be reviewed by the SWFWMD and the Corps separately. SWFWMD will forward a copy of the Permit Application to the Corps and will notify the Applicant that the Project is not authorized under the SPGP V.

2. The determination of whether a Project is considered "Green", "Yellow" or "Red" will be based upon the following: (1) a Project's potential effects to Federally listed threatened or endangered species or designated critical habitat; (2) whether the Project meets the Special Conditions in the SPGP V (Special Conditions); (3) the Corps response to a "Yellow" Project; and (4) the application of requirements in the applicable NMFS Biological Opinion, including the dichotomous keys, maps and Geographic Information System data. Any Project not satisfying the Special Conditions or the NMFS Biological Opinion will automatically be placed in the "Red" category. If the additional information in the SPGP V indicates that an evaluation was made in error, the NMFS or FWS retain the right to request the Corps to initiate consultation under the Endangered Species Act on the Project.

3. The SWFWMD will e-mail a copy of the Project Design Criteria (PDC) checklist to NMFS at the following address: nmfs.ser.statewideprogrammatic@noaa.gov for all "Green Projects" within ten (10) calendar days of receipt of the application or request. A copy of the PDC checklist will also be sent to nmfs.ser.statewideprogrammatic@usace.army.mil. The PDC checklist must demonstrate the Project complies with the NMFS Biological Opinion's PDCs to minimize impacts to listed species. In addition, the following will apply:

- a. The email to NMFS will be sent prior to issuing the Federal authorization.
- b. This paragraph also applies to Projects that were previously marked “Yellow,” but which based on the procedures set forth in paragraph III.B.2, below, are to be processed by the SWFWMD as “Green”.

- c. The SWFWMD’s staff shall allow ten (10) calendar days for NMFS to review the information. If no response is received from NMFS after ten (10) calendar days have elapsed, the SWFWMD may proceed with issuing the Federal Authorization.

4. Applicants for “Green” Projects that qualify for the SPGP V will receive the following:

- a. The SWFWMD will notify the applicant that the Project also qualifies for Federal Authorization under the SPGP V. The notice will include the following provision:

“The proposed activity described in your application and attached drawings qualifies for Federal Authorization pursuant to the State Programmatic General Permit V (SPGP V), and a SEPARATE permit or authorization will not be required from the U.S. Army Corps of Engineers. Please note that the Federal Authorization expires on (insert date 5 years from date of SPGP V). You, as Permittee, are required to adhere to all General Conditions and Special Conditions that may apply to your project. Special conditions required for your project are attached. A copy of the SPGP V with all terms and conditions and the General Conditions may be found at <http://www.saj.usace.army.mil/Divisions/Regulatory/sourcebook.htm>.”

- b. Where applicable, the SWFWMD shall attach the applicable construction or species guidelines to the Notice.

5. Applicants for “Red” Projects (Projects that do not meet the criteria of “Green” or projects that were “Yellow” that the Corps reply makes “Red”) will receive notification from the SWFWMD, as part of the authorization or verification, that the Project is not authorized under the SPGP V. The Notice will include the following provision:

“The proposed activity described in your application and attached drawings does not qualify for Federal Authorization pursuant to the State Programmatic General Permit V and a SEPARATE permit or authorization is required from the U.S. Army Corps of Engineers. 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 thirty (30) days from the date your application was received at the SWFWMD, contact the local Corps office for status and further information. Failure to obtain Corps authorization

prior to construction could subject you to federal enforcement action by that agency."

6. "Yellow Projects" will be transmitted as soon as possible, but no later than five (5) calendar days from receipt of the Application, preferably by email, to the Corps' field office that has the responsibility for reviewing projects in the county in which the Project is proposed. Yellow Projects will be processed by the Corps accordance with paragraph III.B.2, below. The transmittal will also be copied to SPGP@usace.army.mil.

7. If the SWFWMD denies the State Authorization for a Project, then a copy of the denial and the Corps' copy of the application will be forwarded to the Corps, within five (5) calendar days of the denial, for final Federal action.

8. If the Corps advises the SWFWMD that a Project is not covered by the SPGP V and that a permit for the activities is not required by the Corps, the notification shall include the following language:

"The proposed activity as outlined on your application and attached drawings has been reviewed for compliance with the State Programmatic General Permit V and it has been determined to not be within the jurisdiction of the Corps. No permit for these activities is required by the Corps."

9. If the SWFWMD discovers or is advised by the Corps that a Federal Authorization pursuant to SPGP V was issued inappropriately or for a Project that requires Corps review, the SWFWMD shall so notify the applicant as follows:

"The SWFWMD's prior notification included a paragraph stating that the proposed activity qualified for Federal authorization pursuant to the State Programmatic General Permit V. SWFWMD hereby rescinds that paragraph because it was [state that it was either the result of an administrative error or based upon receipt of new information from the Corps, whichever applies to the particular case]. A SEPARATE permit or authorization is required by the Corps. A copy of your permit application has been forwarded to the Corps for its review. The Corps will issue its permit or 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 SWFWMD Office, contact the local Corps office for status and further information. Failure to obtain a Corps permit or authorization prior to construction could subject you to federal enforcement action by that agency."

B. Corps Procedures:

1. Projects that are determined to be "Red" will be evaluated by the Corps through the Federal permitting process.

2. Projects that are determined to be "Yellow" will be processed as follows:

a. The Corps will reply within five (5) calendar days from the receipt of the project in the Corps field office. The reply will also be copied to SPGP@usace.army.mil. If no reply is received by the SWFWMD within five (5) calendar days from the receipt of the Project in the Corps field office, the SWFWMD will automatically designate the project as "Red".

b. If the reply is that the Project should be designated "Red," the Corps field office will process the application.

c. If the reply includes Special Conditions, the Corps will include those Special Conditions in the transmittal of the reply. If inclusion of these Special Conditions in the Federal Authorization would result in the Project being designated "Green," SWFWMD may process the Project and include these Special Conditions as part of the Federal Authorization.

d. If the reply states that there are no objections, the Project will be designated "Green," and SWFWMD should process the application.

e. If the reply states that the particular Project is not covered by the SPGP V and that permitting for the activities is not required by the Corps, the SWFWMD should so advise the requestor.

IV. MONITORING:

1. The SWFWMD will provide to the Corps a report of the projects authorized under the SPGP V on a quarterly basis in a mutually agreed upon format. Copies of the authorizations will either be made available for the Corps for download or will be transmitted to the Corps at the time of the authorization.

2. The SWFWMD will inspect at least 10% of all projects authorized under the SPGP V within one (1) year after authorization. The SWFWMD will furnish to the Corps a report, that includes inspection data and summaries of findings, on a quarterly basis in a mutually agreed upon format. If an inspected project does not appear to fully comply with the terms of the SPGP V, the full inspection report for that project will be sent by e-mail to SAJ-RD-Enforcement@usace.army.mil.

V. COORDINATION WITH OTHER FEDERAL AGENCIES:

1. Prior to implementation of this Coordination Agreement, the Corps may meet with the SWFWMD to discuss: the Endangered Species Act, the threatened and endangered species issues within the SWFWMD jurisdictional boundaries, the protocols utilized in contacting the appropriate personnel concerning threatened and endangered species issues, and issues surrounding essential fish habitat.

2. Following implementation of this Coordinating Agreement, the Corps may meet with the SWFWMD at regular intervals to evaluate whether the authorizations issued under the SPGP V are in compliance with the respective Federal regulations. Meetings will be scheduled as needed, and the interval will be adjusted accordingly as the implementation proceeds. The meetings may be conducted telephonically upon mutual agreement of all the participants.

3. All parties acknowledge that under Condition 4 in the Further Information Section of the General Conditions of the SPGP V, threatened and endangered species and essential fish habitat issues are included as part of the information considered in the public interest review. Should any threatened and/or endangered species or essential fish habitat issues arise, it may be necessary to suspend the SPGP V, or specific sections of it, in all or portions of the authorized geographic areas, until they can be resolved.

VI. MODIFICATIONS AND TERMINATION:

1. This Coordination Agreement may be modified in writing by mutual consent of the Corps and the SWFWMD. Modifications may be made in whole, by part, or by section; and upon approval shall supersede previous versions of this Coordination Agreement. Approvals of modifications to the language of this Coordination Agreement shall be approved and signed by the District Engineer for the Corps and the Executive Director of the SWFWMD, or their designees.

2. Either party may terminate this Coordination Agreement upon ninety (90) days written notice.

Brian Armstrong
Executive Director
Southwest Florida Water
Management District

Jason A. Kirk
Colonel, U.S. Army
District Engineer

Date

Date