DEPARTMENT OF THE ARMY PERMIT
REGIONAL GENERAL PERMIT
SAJ-2004-01861
SAJ-86

Residential, Commercial, Recreational, and Institutional Fill and Restoration Activities in the Choctawhatchee Bay, Lake Powell, and West Bay Basins Bay and Walton Counties, Florida

I. Permittee: Recipient of a verification of a Regional General Permit (RGP) SAJ-86 from the Regulatory Division of the U.S. Army Corps of Engineers (Corps), South Atlantic Division, Jacksonville District (SAJ).

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

II. Effective Date: November 6, 2025

III. Expiration Date: November 6, 2030

This RGP will be valid for a period of five years from the effective date specified above unless suspended or revoked by the District Engineer prior to that date. If SAJ-86 expires or is revoked prior to completion of the authorized work, authorization of activities that have commenced or are under contract to commence in reliance on SAJ-86 will remain in effect provided the activity is completed within 12 months of the date SAJ-86 expired or was revoked.

IV. Issuing Office: Regulatory Division, Jacksonville District.

V. Authorized Activities: The following activities are authorized by SAJ-86, in accordance with the terms and conditions of this permit:

This permit applies to discharges of dredged or fill material into non-Section 10 waters of the United States for the construction of residential, commercial, recreational, and institutional projects and restoration activities, and their components, which comprise and are necessary for the construction, use and maintenance of such projects. Project components may include, but are not limited to roads, parking lots, garages, yards, utility lines, temporary construction facilities and stormwater management facilities.

Residential developments include multiple and single unit developments. Examples of commercial developments include retail stores, light industrial facilities, research facilities, warehouses, distribution facilities, hotels, restaurants, business parks, and shopping centers. Examples of recreational facilities include playgrounds, playing fields, golf courses, hiking trails, bike paths, horse paths, stables, nature centers, and campgrounds. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship. Restoration activities include those designed to manipulate the physical, chemical, or biological characteristics of a site with the goal of returning or enhancing natural/historic ecological functions to a former or degraded aquatic resource. This permit applies only to the portions of Bay and Walton Counties, Florida as depicted by Exhibit 1, as being within the "SAJ-86 Boundary."

This RGP authorizes impacts to wetlands that are defined as altered and high quality. Altered wetlands are hydric pine plantations (silviculture lands), as estimated on the map of high quality and altered wetlands onsite (Exhibit 2). To the extent that silvicultural activities in any area of altered wetlands, as shown by Exhibit 2, have ceased for more than 5 years after the final cut, such wetlands shall be identified as high quality wetlands. The class of altered wetlands may also include ditches and borrow pits. High quality wetlands are all other jurisdictional wetlands, and include cypress domes/strands, bay/gallberry swamps, cypress swamps, titi swamps, seepage slopes, Hypericum bogs, emergent marsh and other similar areas.

Project design criteria (PDC) required to qualify for verification under SAJ-86:

1. Impacts to wetlands must meet all of the following criteria:

    a. Impacts to altered wetlands shall not exceed 20% of the total altered wetlands in any one sub-basin. The area within a particular sub-basin to be used to make the 20% calculation does not include areas within either mitigation banks or conservation units located within the sub-basin. Sub-basins are depicted in Exhibit 3. The 20% calculation is the equivalent of a 4:1 (80/20) preservation to impact ratio on an areal basis.

    b. Projects may impact more than 20% of the altered wetlands within an individual project site, if cumulative altered wetland impacts for all approved individual projects within the sub-basin do not exceed 20%, as defined above, at any time. Examples of how this may occur include:

        (1) An individual project impacts only 15% of the altered wetlands in the project site and the remaining on-site wetlands are preserved through a conservation easement. A subsequent project owned by the same applicant within that sub-basin may impact more than 20% of the altered wetlands in the project site, as long as the total impact to altered wetlands for within the sub-basin does not exceed 20%.

(2) An individual project impacts 30% of the altered wetlands on the project site. As a part of the project, the applicant must provide an offsite area within the sub-basin (in this case, and area equivalent to 10% of the altered wetlands on the site) to be preserved through a conservation easement so as not to exceed the maximum 20% impact to altered wetlands for all approved projects within the sub-basin.

c. Impacts to high quality wetlands:

(1) Must be limited to road and bridge crossings, boardwalks and paths, linear infrastructure (which includes stormwater conveyances, but not stormwater ponds), utility corridors, and any other linear access facilities necessary to support the associated development. The impacts shall typically not exceed a width of 100 feet of combined filling or clearing at each crossing but may on a case-by-case basis, be allowed up to a total width of 160 feet. Florida Department of Transportation roads may be allowed up to a width of 200 feet consistent with criteria in this section.

(2) The aggregate total filling or clearing of high quality wetlands for road crossings within the RGP area shall not exceed 125 acres for this permit instrument.

(3) The first preference for new road crossings of high quality wetlands and associated waters of the United States will be at existing silviculture road crossings. Road crossings at locations other than existing silviculture crossings are allowed if the crossing is designed and constructed to minimize wetland impacts.

(4) All road or bridge crossings in wetlands shall be designed so that the hydrologic conveyance is not reduced or impaired. Bridging is encouraged wherever practicable. The following factors shall be considered when determining if bridging of the wetlands is practicable: (1) the degree of water flow within the wetland, (2) the length of the wetland crossing, (3) the topography of the wetland and associated upland, and (4) the degree to which a roadway would adversely affect the movement of wildlife expected to use the wetland.

2. Lake Powell Basin: Projects must be designed to include appropriate buffers where impacts are prohibited. In Walton County, a 100-foot buffer adjacent to Lake Powell measured from the ordinary high water line (OHWL) to the limits of disturbance must be included in project design. In Bay County, a 30-foot buffer adjacent to Lake Powell measured from the OHWL of Lake Powell to the limits of disturbance must be included in project design.

3. High Quality Wetland Buffers: Buffers will be required around all high quality wetlands in individual project sites. Except at road crossings, buffers adjacent to high

quality wetlands shall be an average of 50 feet wide, with a minimum 30-foot width. Buffers shall be placed under conservation easement, which must substantially comply with the conservation easement template included in Exhibit 4.

4. No discharge of dredged or fill material is allowed that would sever hydrologic connection in high quality wetlands.

5. Discharge of dredged or fill material may sever hydrologic connection in altered wetlands; however, the altered wetlands severed by the discharge are treated as impacted wetlands for purposes of this RGP. The required 4:1 preservation to impact ratio for altered wetland impacts must be met, and compensatory mitigation must be provided for the area of altered wetlands within the severed area.

6. Proposed projects must include appropriate compensatory mitigation to replace functions lost as a result of permitted impacts in accordance with the following:

a. Compensatory mitigation consistent with the 2008 Mitigation Rule for individual project wetland impacts may be satisfied using:

(1) Federal mitigation bank credits from approved mitigation banks.

(2) Permittee-responsible mitigation within designated conservation units in accordance with a mitigation plan approved by the Corps.

(3) Onsite permittee-responsible mitigation in accordance with a mitigation plan approved by the Corps.

b. Mitigation for projects within the Lake Powell basin must be consistent with the 2008 Mitigation Rule and in accordance with a mitigation plan approved by the Corps, and may be accomplished by either:

(1) Permittee-responsible mitigation within the project site.

(2) Permittee-responsible mitigation within a designated conservation unit within the Lake Powell basin.

c. The Corps on a case-by-case basis may approve compensatory mitigation projects located within the conservation units or within individual project sites in accordance with the 2008 Mitigation Rule. Conservation easements shall be placed over areas on which compensatory mitigation projects are located, in the form of Exhibit 4. The activities, as described within Exhibit 4, are allowed within compensatory mitigation project areas within conservation units or within individual project sites, unless otherwise prohibited or modified by the specific compensatory mitigation plan for the site.

d. For compensatory mitigation credits and debits defined in terms of functional

units using the UMAM assessment method, each acre of impact to altered wetlands shall be valued at 0.53 FU, and each acre of impact to high quality wetlands shall be valued at 0.87 FU. For mitigation bank credits and debits that were previously defined in terms of functional units using the WRAP assessment method, each acre of impact to altered wetlands valued at 0.65 FU, and each acre of impact to high quality wetlands valued at 0.92 FU.

e. Compensatory mitigation will occur prior to or be implemented concurrent with permitted impacts.

f. Compensatory mitigation required for projects authorized by this RGP will be maintained in perpetuity in the enhanced/restored ecological condition, as described in the individual project's compensatory mitigation plan, which must meet the requirements in 33 CFR 332.4(c)(2) through (14).

7. Conservation units:

a. Ten conservation units identified in Exhibits 6 through 16 are excluded from development and are subject to the restrictions, as described below.

b. Conservation units may only be used for conservation purposes, wetland or habitat mitigation, and limited passive recreational purposes as outlined in the allowable uses section of Exhibit 5.

c. As part of individual project authorizations under the RGP, perpetual conservation easements shall be placed on portions of conservation units equal to the percentage of the total acreage of approved projects in each sub-basin. Conservation Easements placed within CUs shall be recorded using the form in Exhibit 5, with proof provided to the Corps within 6 months of commencement of project construction.

To determine the acreage of the conservation units that must be placed under an easement for each individual project authorization:

Divide the total acreage within an approved project boundary in a sub-basin (including off-site wetland preservation areas) by the total acreage of land within the sub-basin minus the area of any conservation units with the same sub-basin. This percentage of the conservation units in each sub-basin shall be placed under conservation easement. The cumulative acreage of conservation units transferred or sold to governmental entities or 501c (3) conservation organization contributes to the total acreage placed under a conservation easement.

d. The Principles of Forestry Management Plan (Exhibit 27) shall be utilized for all land management practices, as required in the FDEP EMA.

e. St. Joe must ensure that conservation easements are placed on sold or transferred conservation unit parcels prior to transfer.

8. Conservation easements (CEs): There are 2 types of CEs recorded within the RGP area. CEs placed on lands within CUs have different allowable uses than CEs on lands outside of CUs. PDC 7 above discusses CUs and their CE requirements. This section addresses the placement of all other conservation easements, as required by this RGP.

a. Perpetual CEs will be placed on all unimpacted wetlands on each project site; and will include any required buffers. CEs must be in place prior to commencing any activities authorized by this RGP or according to the timeframe specified in the approval. The easement shall be in the form of Exhibit 4.

b. Perpetual CEs will be placed on areas within the subbasin, but outside of the CUs to compensate for individual project impacts greater than the allowed ratio. The easement shall be in the form of Exhibit 4.

c. For areas to be used for compensatory mitigation outside of a mitigation bank, a CE will be placed on the mitigation area prior to the commencement of any activities authorized by this RGP. The CE shall be in the form of Exhibit 4.

9. Wetland Identification: For the purposes of this RGP, in order to establish one wetland line for all Individual Project Approvals the identification and delineation of wetlands is the most landward line identified in accordance with the Corps of Engineers Wetlands Delineation Manual (1987) and the Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Atlantic and Gulf Coastal Plain Region (2010)) or the State of Florida methodology prescribed in Chapter 62-340, F.A.C. Wetland boundaries may be identified using aerial photo- interpretation (API) and ground-truthing, and, if necessary, mapped using the Global Positioning System (GPS) and other Geographical Information System (GIS) mapping techniques. In much of the project area, historical aerial photography will be used to obtain pre-pine plantation wetland community signatures. A documented field verification based on ground-truthing with flagged wetland delineation lines, will be required.

10. Stormwater management systems for projects authorized under this RGP area will be designed, constructed, operated, and maintained in accordance with the Stormwater System Design and Review Criteria Manual. A signed statement by a Florida licensed engineer which verifies that the project conforms to the aforementioned manual will be submitted prior to permit verification.

VI. <u>Geographic Area</u>: As shown in Exhibit 1, this RGP applies to non-Section 10 waters of the United States, which are located in three large watersheds: The Lake Powell watershed, and various drainage basins of the Choctawhatchee Bay and West Bay watersheds. The RGP area also includes two small areas, which drain either directly to the Gulf of Mexico, or through the Camp Creek Lake watershed into the Gulf of Mexico. The RGP area is located within southeastern Walton County and southwestern Bay County. More specifically, the proposed RGP project area is located south of the Intracoastal Waterway (ICW) and north of U.S. Highway 98 (U.S. 98),

extending from eastern West Bay west to Choctawhatchee Bay. Ten proposed conservation units (Exhibits 6-16) and two mitigation banks (Exhibits 17 &18) are located within the boundaries of the RGP. In Bay County, Township, Range, and Sections are: T2S, R16W, S17-20 & 28-33; T2S, R1 7W, S13-17 & 19-36; T3S, R15W, S28-33; T3S, R16W, S4-9, 15-18, 20-22, & 25-27; and T3S, R 17W, S1-6 &1 0-13. In Walton County, Township, Range, and Sections are: T2S, R18W, S31; T2S, R19W, S25, 26, 35 & 36; T3S, R18W, 83-6,8-11, 13-1 6, 23-26, 35 & 36; and T3S, R19W, S1 & 2.

VII. Excluded Uses: This RGP does not authorize:

1. Discharge of dredged or fill material into wetlands for septic tanks or drainfields.

2. Stormwater ponds within high quality wetlands.

VIII. Pre-Application Notification and Application Procedures:

1. To be authorized under this RGP, the applicant must first submit a pre-application notification (PAN), including a draft application form ENG 4345 and satisfactory drawings, to the appropriate permitting section. This information will be discussed during standing monthly pre-application meetings with appropriate representatives from the Corps, United States Fish and Wildlife Service (USFWS), United States Environmental Protection Agency (EPA), Florida Department of Environmental Protection (FDEP), Florida Fish and Wildlife Conservation Commission (FWC), and the Northwest Florida Water Management District (NWFWMD) (Team). The application must be provided 14 days prior to the scheduled meeting. Pre-application materials received less than 14 days prior to the scheduled monthly meeting will be reviewed at the next scheduled meeting. Pre-application materials must include all of the information required in the Individual Project Approval Checklist (Exhibit 26) including the following information:

a. Scope of the project - Type of project and how it comports with activities authorized by the RGP.

b. Location / project boundaries - Exhibits showing general project location within the project area boundaries and specific location (1"=200' or other appropriate scale).

c. Proposed impacts. The number, type, location, and acreage of all impacts to waters of the United States, as well as drawings and other exhibits that sufficiently depict that the proposed project fully complies with this RGP. Under current guidance, the Preliminary Jurisdictional Determination form provided in Exhibit 19 may be utilized for each Individual Project Approval under this RGP. Atlantic and Gulf Coastal Plain Region data forms should be submitted with the draft application prior to the formal pre-application meeting.

d. Maps of high quality and altered wetlands onsite. The existing high quality/altered wetland map shall be used as a starting point for delineation of altered versus high quality wetlands (Exhibit 2). During or after wetland boundaries have been established, the resulting wetland areas will be classified and mapped by quality, as defined above. The procedure will use a combination of GPS technology, visual inspection of photography, timber stand data and ground-truthing.

e. Prior to submittal of an application, a site visit must be conducted to verify the wetland limits and quality.

f. Compensatory Mitigation: Applicant must provide documentation that the project complies with PDC 6 above.

g. Reticulated flatwoods salamander (*Ambystoma bishopi*): A site evaluation for the reticulated flatwoods salamander shall be performed and documented through completion of the RGP-86 Flatwoods Salamander Pre-application Evaluation Form (Exhibit 20). The completed site evaluation shall be provided at the pre-application meeting.

h. Bald eagle (*Haliaeetus leucocephalus*): Provide documentation of the location of known bald eagle nests and distance from proposed project area.

If a bald eagle's nest occurs within 660 feet of a project, provide documentation that shows that the applicant followed the U.S. Fish and Wildlife Service's May 2007 National Bald Eagle Management Guidelines and has contacted the Florida Fish and Wildlife Conservation Commission for recommendations relative to Florida's Bald Eagle Management Plan and Permitting Guidelines. Appropriate protections must be incorporated in the project design and documentation must be provided showing how the protections will be implemented.

i. Telephus spurge (*Euphorbia telephioides*): A site evaluation for Telephus spurge must be performed and documented through the completion of the SAJ-86 Telephus Surge Pre- application Evaluation (Exhibit 23). The completed site evaluation shall be provided at the pre-application meeting.

j. Eastern indigo snake (Drymarchon corais couperi) (EIS): The applicant must provide documentation that impacts to the eastern indigo snake have been evaluated using the EIS Effects Determination Key. The Permittee must comply with the most current USFWS's Standard Protection Measures for the Eastern Indigo Snake (Exhibit 24). The applicant must provide documentation that these protection measures will be implemented during the design and construction of the permitted work.

k. Documentation of coordination by the applicant with the State Historic Preservation Officer (SHPO) regarding potential impacts on cultural and historical resources associated with a project is required. When a Cultural Resource Assessment Survey (CRAS) has been conducted, SHPO's written response to the report shall be

included with the applicant's coordination documentation.

l. The applicant shall provide documentation whether coordination with the USFWS and/or FWC was required by that agency and/or initiated regarding any needed fish and wildlife surveys for the project area, and any measures needed to avoid, minimize, or mitigate adverse impacts to listed/protected fish and wildlife species and their habitats.

2. Once the comments received at the pre-application meeting are incorporated into the application package, the application for an individual project may be formally submitted to the Corps for processing. Authorization of the proposed work would be provided through a verification that the project meets the requirements of the RGP if performed in accordance with the terms and conditions specified in this permit instrument and any project-specific terms and conditions in the verification.

IX. Terms and Conditions:

1. **Reporting Address**: The Permittee shall submit all reports, notifications, documentation, and correspondence required by the general and special conditions of this permit to either (not both) of the following addresses:

a. For electronic mail (preferred): SAJ-RD-Enforcement@usace.army.mil (not to exceed 15 MB).

b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.

2. **Cultural Resources/Historic Properties:**

a. No structure or work shall adversely affect, impact, or disturb properties listed in the *National Register of Historic Places* (NRHP), or those eligible for inclusion in the NRHP.

b. If, during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with native cultures or early colonial settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps at the addresses listed in the **Reporting Address Special Condition** within the same business day (8 hours). The Corps shall coordinate with the SHPO to assess the significance of the discovery and devise appropriate actions.

c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition and, if deemed necessary by the SHPO or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend, or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.

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

3. **Erosion Control:** Prior to the initiation of any work authorized by this permit, the Permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material outside the work area into waters of the United States. The erosion control measures shall remain in place and be maintained until all authorized work is completed and the work areas are stabilized.

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

5. **Onsite Wetlands and Offsite Preservation Areas**: All unimpacted onsite wetlands and offsite preservation areas must be placed under a conservation easement substantially in the form of the template included in Exhibit 4.

6. **Offsite Preservation Location**: Locations outside of an individual project boundary may be approved for use as the required preservation for a project. These offsite preservation locations must be abutting a designated Conservation Unit or existing preservation area and must consist of a mosaic of upland and altered and high quality wetlands. See PDC 1.b.2 for an example of an offsite preservation scenario. Offsite preservation locations must be placed into conservation easement in the form of Exhibit 4.

7. **Buffers**: Buffers will be required around all high quality wetlands within a project site. Except at road crossings, buffers adjacent to high quality wetlands shall be an average of 50 feet wide, with a minimum 30-foot width. Buffers shall be placed under conservation easement, using the form in Exhibit 4. All buffers, whether upland or wetland, will be preserved and maintained in a natural condition, except boardwalks for dock access and at-grade trails. Buffers may be enhanced or restored to a more natural condition. Application of fertilizers, herbicides, or pesticides is prohibited in all buffers, except for the use of herbicides for the eradication of exotic and invasive plants.

8. **Crossings**: For each crossing proposed at a point where no previous crossing existed, an existing silviculture road crossing within the sub-basin must be removed and the wetland connection restored. Restoration in this section is defined as re-establishment of natural soil surface grades and natural re-vegetation. Restoration activities must occur no later than February 15th of each year following the date of the initiation of construction of the new crossing. Projects authorized 45 days prior to February 15th may be completed by the following year. Once all existing silviculture crossings have been restored within a particular sub-basin this requirement shall lapse.

9. **Conservation Easements**:

a. The permittee shall have the conservation easement, including a legal description, survey, and scaled drawings of the areas in question, prepared and sent for legal review and approval to the U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section via electronic mail at SAJ-RD-Enforcement@usace.army.mil.

b. Within 30 days of U.S. Army Corps of Engineers' approval of the proposed easement, the permittee shall record the easement in the public records of Bay or Walton County, Florida. Within 60 days of the Corps approval of the draft conservation easement, the permittee shall forward a certified copy of the recorded easement to the Regulatory Division, at the addresses listed in the **Reporting Address Special Condition**.

c. The Permittee must show that it has clear title to the real property and can legally place it under a conservation easement. Along with the submittal of the draft conservation easement, the Permittee shall submit a title insurance commitment, in favor of the grantee, for the property that is being offered for preservation. Any existing liens or encumbrances on the property must be subordinated to the conservation easement. At the time of recordation of the conservation easement, a copy of a title insurance policy written in favor of the DEP must be provided to the Corps in an amount equal to the current market value of the property.

d. In the event the permit verification is transferred, proof of delivery of a copy of the recorded conservation easement to the subsequent permittee or permittees must be submitted to the Corps together with the notification of

permit transfer.

e. Grantee shall not assign its rights or obligations under a conservation easement except to another organization qualified to hold such interests under the applicable state and federal laws, including §704.06 Florida Statutes, and committed to holding the conservation easement exclusively for conservation purposes. The Grantee shall notify the Corps in writing of any intention to reassign the conservation easement to a new grantee and must approve selection of the grantee. The new grantee must accept the assignment in writing and deliver a copy of the acceptance to the Corps. The conservation easement must then be re-recorded and indexed in the same manner as any other instrument affecting title to real property, and a certified copy of the recorded conservation easement shall be furnished to the Corps.

f. The conservation easements must be recorded prior to commencing any activities authorized by this RGP or according to the timeframe specified in the verification.

g. The required conservation unit acreages must be placed under conservation easement within 6 months from the date of issuance of individual project approval. Conservation easements in Conservation Units shall use the form in Exhibit 5.

10. **Reporting and Monitoring Requirements**: By 15 February of every year in which impacts are authorized, St. Joe must provide an Annual Report. The Annual Report must include:

a. The total acreage of impact approved.

b. The location and acreage of any mitigation activity undertaken.

c. The number and acreage of conservation easements recorded. Conservation easements for projects authorized 45 days prior to February 15th may be recorded in the following year.

d. Conservation units conveyed to other owners.

e. The number and location of high quality wetland road crossings restored.

f. Activities undertaken within conservation units including the total number of acres of land disturbance.

g. Other activities that may impact this RGP.

11. **Ledger**: The St. Joe Company will maintain a GIS-based ledger and map depicting the amount, type and percentage of wetland impact and mitigation implemented in the

EMA area. The Corps will provide The St. Joe Company with information regarding the amount, type and percentage of wetland impact and mitigation implemented in areas not owned by The St. Joe Company. Updated ledger balance sheet shall be submitted with each individual request for project approval. The ledger shall include the following by sub-watershed:

a. Total high quality and altered wetlands in the EMA area.

b. Total project size - uplands and wetlands total.

c. Project impacts - high quality and altered wetlands amount and percent of total.

d. Mitigation required and location.

e. Cumulative project impacts (acreage total and percentage).

f. Total high quality and altered wetlands remaining in the EMA area.

12. **Sale of Conservation Units**: Prior to the sale or transfer of a conservation unit to a governmental entity or 501c(3) private conservation owner, The St. Joe Company shall place conservation easements on such property to assure the perpetual conservation use of the conservation units. The perpetual conservation easement shall be in the form of Exhibit 5. Within seven days of conveyance of any portion or interest of a conservation unit, The St. Joe Company shall provide a complete copy of the RGP, including the U.S. Fish and Wildlife Service's (FWS) revised Biological Opinion (BO) dated March 3, 2005, and the re-issued BO letter dated May 19, 2009 (Exhibit 25) to the new owner. Within fourteen days of any such conveyance The St. Joe Company will provide a letter signed by the appropriate representatives of The St. Joe Company and the new owner to the Corps stating that the exchange has taken place.

13. **Biological Opinion**: This RGP does not authorize the take of an endangered species. In order to legally take a listed species, separate authorization under the Endangered Species Act (ESA) is required (e.g., an ESA section 10 permit, or a biological opinion (BO) under ESA section 7, with "incidental take" provisions with which permittees under this RGP must comply). The enclosed FWS's revised BO dated March 3, 2005, and the re-issued BO letter dated May 19, 2009, contain mandatory terms and conditions to implement the reasonable and prudent measures that are associated with the "incidental take" that is specified in the BO (Exhibit 25). Authorization under this RGP is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, which terms and conditions are incorporated herein by reference. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, will constitute an unauthorized take, and will also constitute non-compliance with this RGP. The FWS is the

appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

14. **Proposed species and critical habitat**: If any species or critical habitat should become federally listed within the range of the permitted action, the Permittee is required to stop work and ask the Corps to re-evaluate effects on the species or designated critical habitat, and if needed, complete Section 7 consultation with the United States Fish and Wildlife Service or National Marine Fisheries Service to address potential impacts to the species and/or designated critical habitat.

15. **As-Built Certification**: Within 60 days of completion of the work authorized by this permit, the Permittee shall submit as-built drawings of the authorized work and a completed "As-Built Certification by Professional Engineer" form to the Corps. The as-built drawings shall be signed and sealed by a registered professional engineer and include the following:

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

b. A list of any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the attached "As-Built Certification by Professional Engineer" form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or "As-Built Certification by Professional Engineer" form does not constitute approval of any deviations by the Corps.

c. Include the Department of the Army permit number on all sheets submitted.

16. **Section 408**: Any proposed work that may alter or occupy a Civil Works project will require case-specific review by the Corps Jacksonville District Engineering Division in accordance with 33 USC 408 (Section 408) and approval from the Jacksonville District Commander or the appropriate delegated authority prior to authorization under this RGP. Under the terms of 33 USC 408, any proposed modification requires a determination that such proposed alteration or permanent occupation or use of a Civil Works project is not injurious to the public interest and will not impair the usefulness of such work. For those Civil Works projects with Non-Federal Sponsors, Section 408 requests must be routed through the appropriate Non-Federal sponsor prior to submittal to the Corps Regulatory Office. Additional conditions may be required pursuant to Section 408 approval.

17. **Perpetual Conservation:** The Permittee shall maintain the mitigation areas in their naturally existing, restored, enhanced or created condition in perpetuity. The Permittee

agrees that the only future utilization of these areas will not be in conflict with the intended ecological function of the site and the following uses and/or activities will be prohibited except as required or authorized by this permit:

a. Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.

b. Dumping or placing soil or other substances or materials as landfill or dumping or placing of trash, waste or unsightly or offensive materials.

c. Removing, destroying or trimming trees, shrubs, or other vegetation, except for the following: Removing, destroying or trimming trees, shrubs, or other vegetation, except the following: The removal of dead trees and shrubs or leaning trees that could cause damage to property is authorized; the destruction and removal of noxious, nuisance or exotic invasive plant species as listed on the most recent Florida Exotic Pest Plant Council's List of Invasive Species is authorized; and activities authorized by the Permit or described in the Management Plan or otherwise approved in writing by the Corps.

d. Excavation, dredging or removal of loam, peat, gravel, soil, rock, or other material substance in such a manner as to affect the surface.

e. Surface use, except for authorized purposes that permit the land or water area to remain in its naturally restored, enhanced, or created condition.

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation, including, but not limited to, ditching, diking, clearing, and fencing.

g. Activities or uses detrimental to such aforementioned retention of land or water areas in their naturally restored, enhanced, or created condition; and
Acts or use detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, architectural, or cultural significance.

18. **40 CFR 121.7(d) Condition of General Water Quality Certification:** Prior to construction, activities qualifying for RGP SAJ-86 must receive an Individual Project Approval under Section IX of the St. Joe Ecosystem Management Agreement for Bay County and Walton County, Florida (Bay-Walton Sector Plan).

19. **15 CFR 930.4(a)(1) Florida Coastal Zone Management Program**: Prior to construction, activities qualifying for RGP SAJ-86 must receive an Individual Project Approval under Section IX of the St. Joe Ecosystem Management Agreement for Bay County and Walton County, Florida (Bay-Walton Sector Plan).

X. Discretionary Authority: Conformance with the descriptions and criteria contained herein does not guarantee authorization under this RGP. The District Engineer reserves the right to require that any request for authorization under this RGP be processed as an individual permit.

XI. General Conditions:

1. The time limit for completing the work authorized ends on November 6, 2030.

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 the permit verification, you must obtain the signature and mailing address of the new owner in the space on the transfer page provided below and forward a copy of the permit verification and executed transfer page to this office to validate the transfer of the authorization.

5. 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.

XI. Further Information:

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

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

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

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

2. Limits of this authorization.

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

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

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

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

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

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or Construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

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

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

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 3 above).

c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

6. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 C.F.R. § 325.7 or enforcement procedures such as those contained in 33 C.F.R. § 326.4 and 326.5. The

referenced enforcement procedures provide for the issuance of an administrative order requiring you to 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 C.F.R. § 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

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

Shawn H. Zinszer
_____ _____
(DISTRICT ENGINEER) (DATE)
For Brandon L. Bowman
Colonel, U.S. Army
District Commander

Attachments to Department of the Army Regional General Permit SAJ-86

Exhibit 1: SAJ-86 Boundary Map/Mitigation Strategy

Exhibit 2: High Quality/Altered Wetlands

Exhibit 3: Hydrologic Unit Code (HUC) Map

Exhibit 4: Conservation Easement

Exhibit 5: Conservation Unit Easement

Exhibit 6: Conservation Units Map

Exhibit 7: Conservation Unit 1 – Point Washington State Forest

Exhibit 8: Conservation Unit 2 - Wildlife Corridor

Exhibit 9: Conservation Unit 3 - Side Camp Road

Exhibit 10: Conservation Unit 4 - Lake Powell Headwater

Exhibit 11: Conservation Unit 5 - Cypress and Wet Pine Flats

Exhibit 12: Conservation Unit 6 - Ward Creek

Exhibit 13: Conservation Unit 7 - South American Swamp

Exhibit 14: Conservation Unit 8 - Southwest West Bay

Exhibit 15: Conservation Unit 9 - Salamander Triangle

Exhibit 16: Conservation Unit 10 - Breakfast Point Peninsula

Exhibit 17: Breakfast Point Mitigation Bank

Exhibit 18: Devils Swamp Mitigation Bank

Exhibit 19: Preliminary Jurisdictional Determination Form

Exhibit 20: RGP-86 Flatwoods Salamander Pre-Application Evaluation

Exhibit 21: National Bald Eagle Management Guidelines (USFWS, May 2007)

Exhibit 22: FWC Bald Eagle (Haliaeetus leucocephalus) Management Plan Handbook (FWC, June 2010)

Exhibit 23: RGP-86 Telephus Spurge Pre-application Evaluation

Exhibit 24: Standard Protection Measures for the Eastern Indigo Snake

Exhibit 25: Biological Opinion and Updates

Exhibit 26: Checklist for Department of the Army Regional General Permit SAJ-86 (2020 Reissuance Version) for Residential, Commercial, Recreational, and Institutional Fill in the Choctawhatchee Bay, Lake Powell, and West Bay Basins Bay and Walton Counties, Florida

Exhibit 27: Principles of Forestry Management

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 the permit verification and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

_____ _____
(TRANSFEREE-SIGNATURE) (DATE)

_____
(NAME-PRINTED)

_____
(ADDRESS)

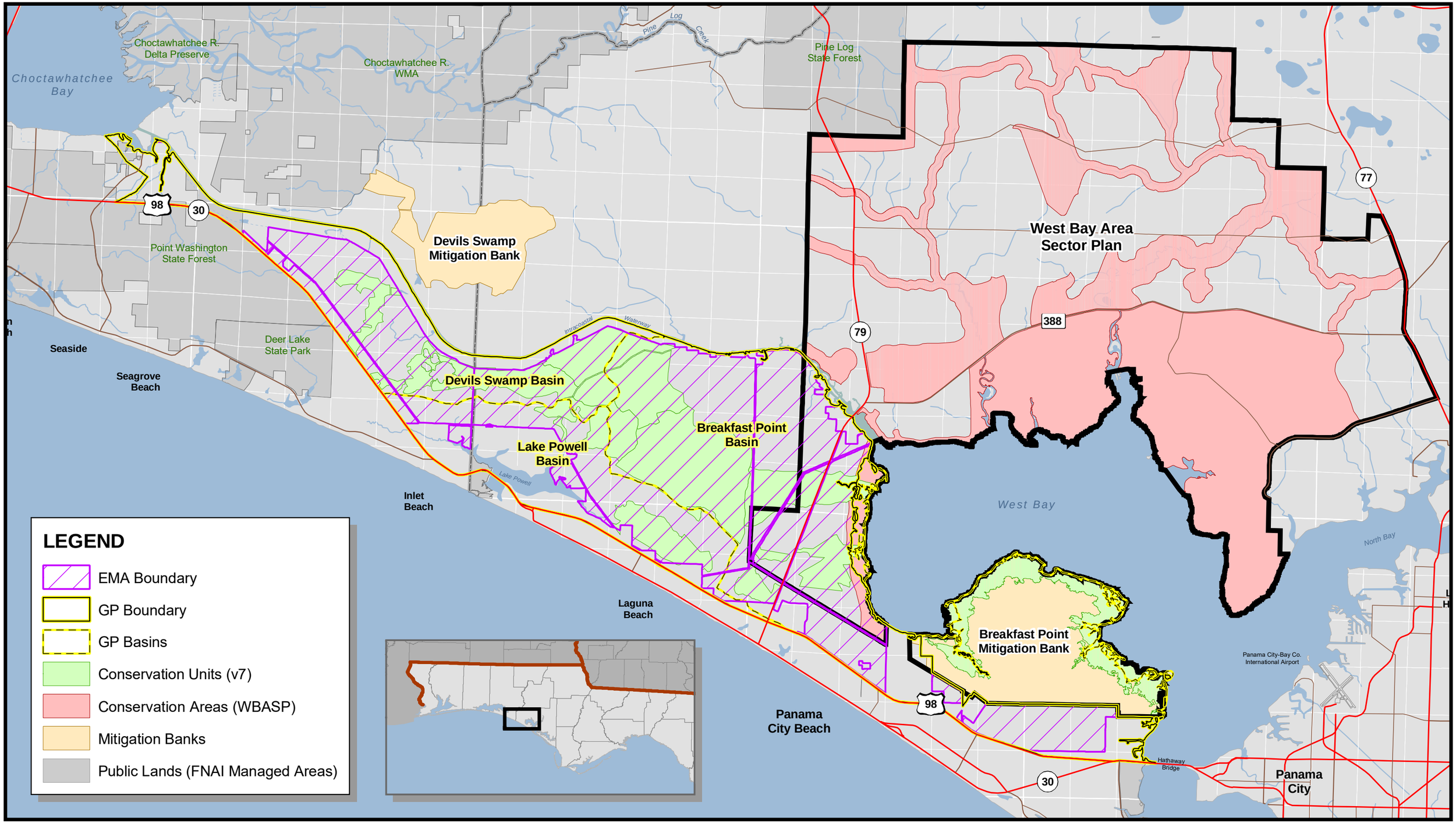


EXHIBIT 01

MITIGATION STRATEGY

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1 INCH EQUALS 1.89 MILES

1:120,000

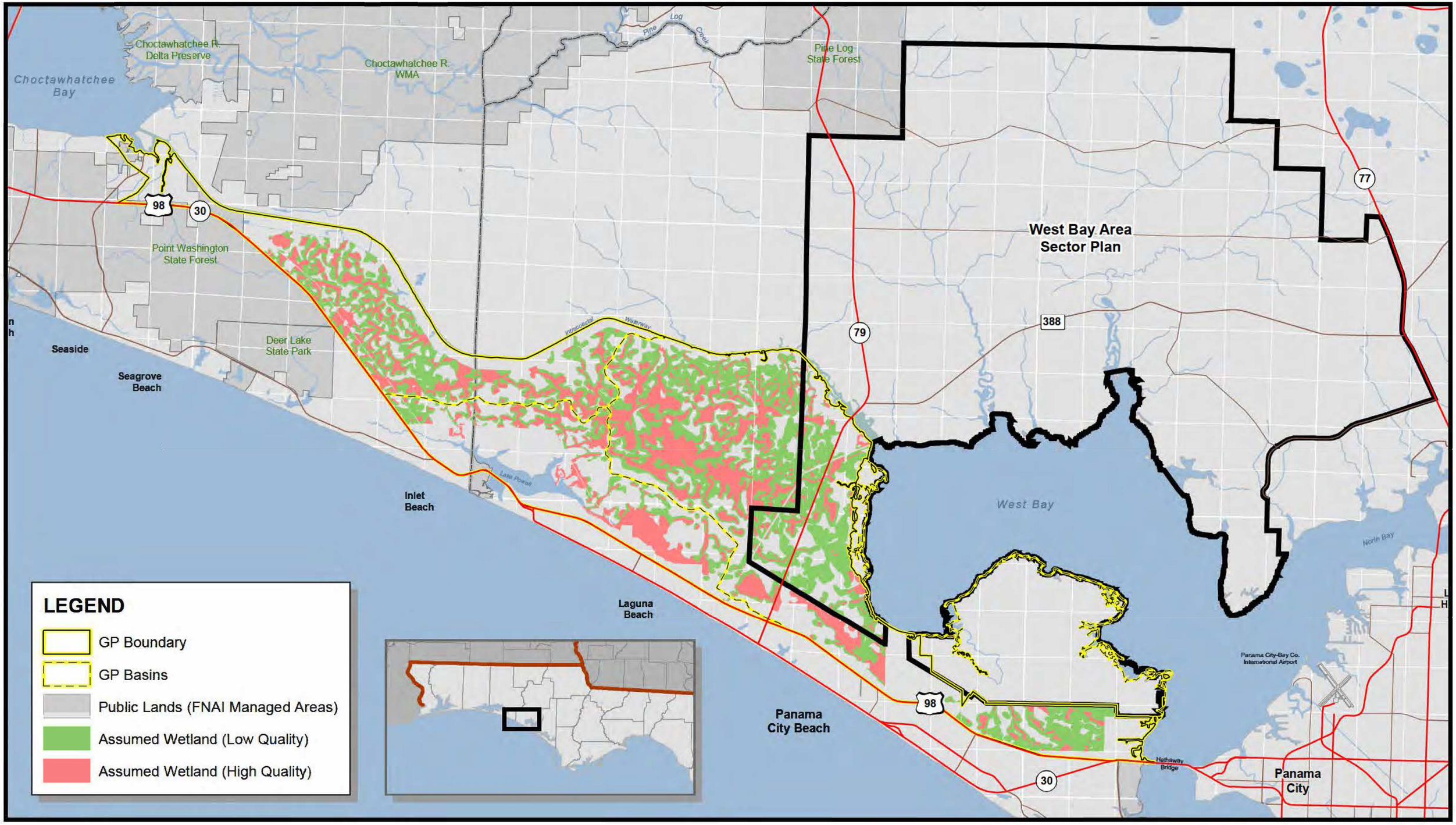


EXHIBIT 02

HIGH QUALITY/ ALTERED WETLANDS

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1 INCH EQUALS 1.89 MILES
1:120,000

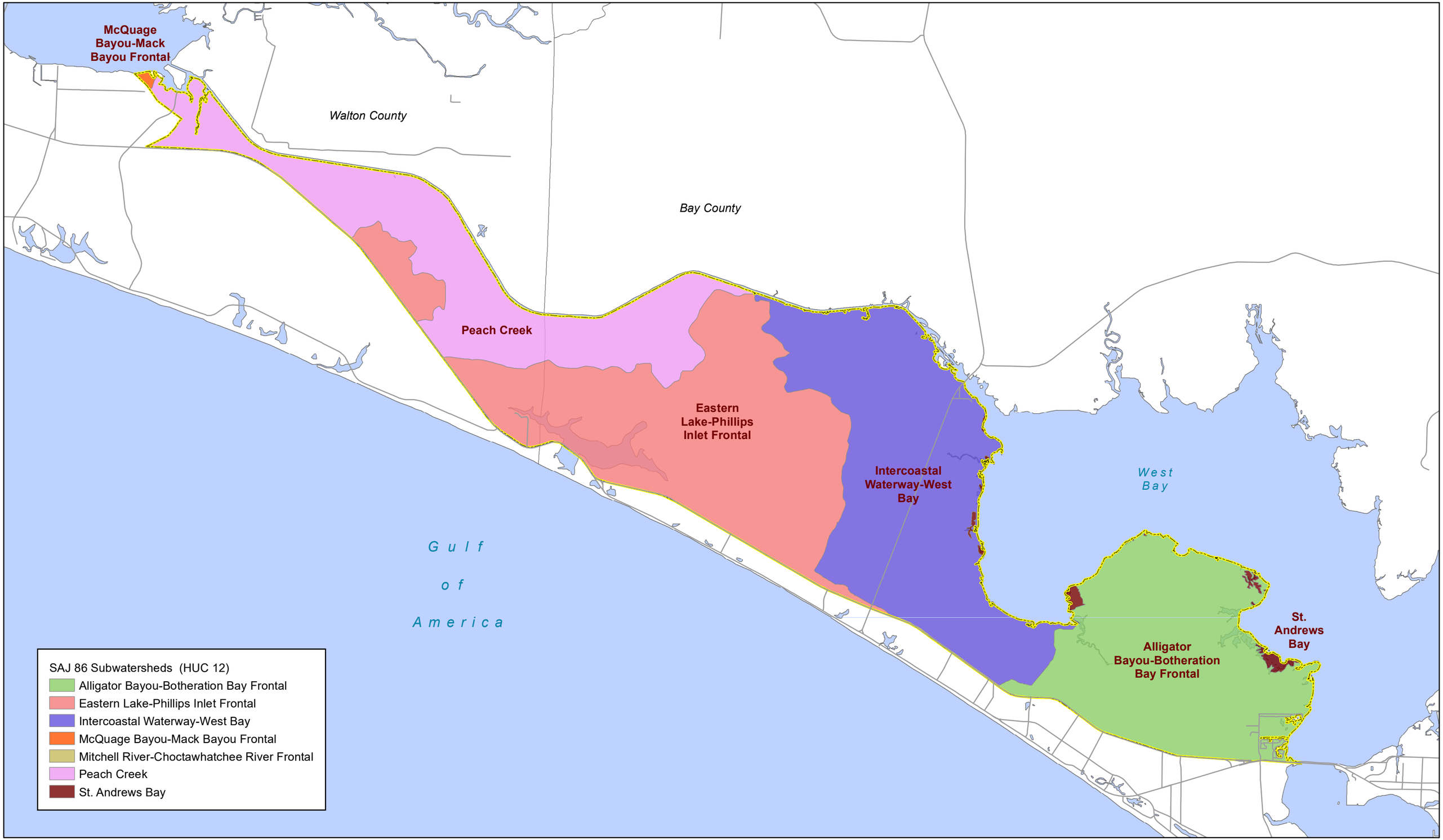


EXHIBIT 03

SAJ 86 - Sub Watersheds (HUC 12)

March, 2019

Exhibit 4: Conservation Easement Allowable Activities and Instrument

Activities Allowed in Conservation Easement Areas:

(1) Wetland and upland habitat enhancement and restoration.

(2) Wetland mitigation.

(3) Firefighting or fire suppression activities.

(4) Mechanical clearing of fire lanes/fire breaks as part of controlled burn activities, firefighting, or fire suppression.

(5) Installation of fences for land management or habitat protection purposes.

(6) Removal or extermination of nuisance or exotic animal species.

(7) Hunting of deer, quail, and other indigenous animal species pursuant to properly issued hunting permits only where consistent with the St. Joe Hunt Plan approved by and on file with Grantee at the time of the recording of the conservation easement.

(8) Installation of signs for land management, facilitation of passive recreation or habitat protection purposes.

(9) Maintenance of unpaved nature trails.

(10) Installation of interpretive signs for nature trails.

(11) Maintenance of existing drainage ditches to original as-built dimensions and configurations. All materials removed for the maintenance of existing ditches must be disposed of within an upland disposal site, which is not located within any preserved lands subject to this RGP.

Prepared by:

Return original or certified recorded document to:
(Insert name and address
of WMD or DEP)

Deed of Conservation Easement
Third Party Beneficiary Rights to the
U.S. Army Corps of Engineers

THIS DEED OF CONSERVATION EASEMENT ("Conservation Easement") is given this day of , 20 , by ("Grantor") whose mailing address is to the Choose an item. ("Grantee") with third party enforcement rights to the U.S. Army Corps of Engineers ("Corps") ("Third Party Beneficiary"). As used herein, the term "Grantor" shall include any and all heirs, successors, or assigns of the Grantor, and all subsequent owners of the "Conservation Easement Area" (as hereinafter defined); the term "Grantee" shall include any successor or assignee of Grantee; and the term "Third Party Beneficiary" shall include any successor or assignee of the Third Party Beneficiary.

WITNESSETH

WHEREAS, the Grantor is the fee simple owner of certain lands situated in County, Florida, and more specifically depicted on the location map in Exhibit "A" attached hereto and incorporated herein (the "Property"); and

WHEREAS, Permit No. ("Permit") and any modifications thereto issued by the Grantee authorizes certain activities which could affect wetlands or other surface waters in or of the State of Florida; and

WHEREAS, the U.S. Army Corps of Engineers Permit No. ("Corps Permit") authorizes certain activities in the waters of the United States and requires this site protection instrument over the lands identified in Exhibit B as mitigation for such activities;

WHEREAS, the Grantor, in consideration of the consent granted by the Permit or other good and valuable consideration provided to Grantor, is agreeable to granting and securing to the Grantee a perpetual Conservation Easement as defined in Section 704.06, Florida Statutes (F.S.), over the area of the Property described on Exhibit "B" ("Conservation Easement Area"); and

WHEREAS, Grantor grants this Conservation Easement as a condition of the Permit, solely to off-set or prevent adverse impacts to natural resources, fish and wildlife, and wetland functions; and

WHEREAS, Grantor desires to preserve the Conservation Easement Area in perpetuity in its natural condition, or, in accordance with the Permit, in an enhanced, restored, or created condition; and

NOW, THEREFORE, in consideration of the issuance of the Permit to construct and operate the permitted activity, and as an inducement to Grantee in issuing the Permit, together with other good and valuable consideration provided to the Grantor, the adequacy and receipt of which are hereby acknowledged, Grantor hereby voluntarily grants, creates, conveys, and establishes a perpetual

Conservation Easement for and in favor of the Grantee upon the Conservation Easement Area which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature, and character of this Conservation Easement shall be as follows:

1. **Recitals.** The recitals hereinabove set forth are true and correct and are hereby incorporated into and made a part of this Conservation Easement.

2. **Purpose.** It is the purpose of this Conservation Easement to retain land or water areas in their existing, natural, vegetative, hydrologic, scenic, open, or wooded condition and to retain such areas as suitable habitat for fish, plants, or wildlife in accordance with Section 704.06, F.S. Those wetland and upland areas included in this Conservation Easement which are to be preserved, enhanced, restored, or created pursuant to the Permit (or any modification thereto) and any Management Plan attached hereto as Exhibit "C" ("Management Plan") which has been approved in writing by the Grantee, shall be retained and maintained in the preserved, enhanced, restored, or created condition required by the Permit (or any modification thereto).

To carry out this purpose, the following rights are conveyed to Grantee by this Conservation Easement:

a. To enter upon the Conservation Easement Area at reasonable times with any necessary equipment or vehicles to inspect, determine compliance with the covenants and prohibitions contained in this Conservation Easement, and to enforce the rights herein granted in a manner that will not unreasonably interfere with the use and quiet enjoyment of the Conservation Easement Area by Grantor at the time of such entry; and

b. To proceed at law or in equity to enforce the provision of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and to require the restoration of such areas or features of the Conservation Easement Area that may be damaged by any activity or use that is inconsistent with this Conservation Easement.

3. **Prohibited Uses.** Except for activities that are permitted or required by the Permit (or any modification thereto) (which may include restoration, creation, enhancement, maintenance, monitoring activities, or surface water management improvements) or other activities described herein or in the Management Plan (if any), any activity on or use of the Conservation Easement Area inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities are expressly prohibited in or on the Conservation Easement Area (except as authorized or required by the Permit (or any modification thereof) or in a Management Plan which has been approved in writing by the Grantee):

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removing, destroying or trimming trees, shrubs, or other vegetation, except:

i. The removal of dead trees and shrubs or leaning trees that could cause damage to property is authorized;

ii. The destruction and removal of noxious, nuisance or exotic invasive plant species as listed on the most recent Florida Exotic Pest Plant Council's List of Invasive Species is authorized;

iii. Activities authorized by the Permit or described in the Management Plan or otherwise approved in writing by the Grantee are authorized; and

iv. Activities conducted in accordance with a wildfire mitigation plan developed with the Florida Forest Service that has been approved in writing by the Grantee are authorized. No later than thirty (30) days before commencing any activities to implement the approved wildfire mitigation plan, Grantor shall notify the Grantee in writing of its intent to commence such activities. All such activities may only be completed during the time period for which the Grantee approved the plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural, restored, enhanced, or created condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking, clearing, and fencing;

g. Acts or uses detrimental to such aforementioned retention of land or water areas; and

h. Acts or uses which are detrimental to the preservation of the structural integrity or physical appearance of sites or properties having historical, archaeological, or cultural significance.

4. **Grantor's Reserved Rights.** Grantor reserves all rights as owner of the Conservation Easement Area, including the right to engage or to permit or invite others to engage in all uses of the Conservation Easement Area that are not prohibited herein and which are not inconsistent with the Permit (or any modification thereto), Management Plan, or the intent and purposes of this Conservation Easement.

5. **Rights of the U.S. Army Corps of Engineers ("Corps").** The Corps, as a third-party beneficiary, shall have the right to enforce the terms and conditions of this Conservation Easement, including:

a. The right to take action to preserve and protect the environmental value of the Conservation Easement Area;

b. The right to prevent any activity on or use of the Conservation Easement Area that is inconsistent with the purpose of this Conservation Easement, and to require the restoration of areas or features of the Conservation Easement Area that may be damaged by any inconsistent activity or use;

c. The right to enter upon and inspect the Conservation Easement Area in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement; and

d. The right to enforce this Conservation Easement by injunction or proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein~~,~~ to prevent the occurrence of any of the prohibited activities set forth herein, and the right to require Grantor, or its successors or assigns, to restore such areas or features of the Conservation Easement Area that may be damaged by any inconsistent activity or use or unauthorized activities.

The Grantor, including their successors or assigns, shall provide the Corps at least 60 days advance notice in writing before any action is taken to amend, alter, release, or revoke this Conservation Easement. The Grantee shall provide reasonable notice and an opportunity to comment or object to the release or amendment to the Corps. The Grantee shall consider any comments or objections from the Corps when making the final decision to release or amend this Conservation Easement.

6. **No Dedication.** No right of access by the general public to any portion of the Conservation Easement Area is conveyed by this Conservation Easement.

7. **Grantee's and Third Party Beneficiary's Liability.** Grantee's liability is limited as provided in Sections 704.06(10) and 768.28, F.S. Additionally, Grantee and Third Party Beneficiary shall not be responsible for any costs or liabilities related to the operation, upkeep, or maintenance of the Conservation Easement Area.

8. **Enforcement.** Enforcement of the terms, provisions, and restrictions of this Conservation Easement shall be at the reasonable discretion of Grantee, and any forbearance on behalf of Grantee to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights hereunder. Grantee shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

9. **Third Party Beneficiary's Enforcement Rights.** The Third Party Beneficiary of this Conservation Easement shall have all the rights of the Grantee under this Conservation Easement, including third party enforcement rights of the terms, provisions, and restrictions of this Conservation Easement. Third Party Beneficiary's enforcement of the terms, provisions, and restrictions shall be at the discretion of the Third Party Beneficiary, and any forbearance on behalf of the Third Party Beneficiary to exercise its rights hereunder in the event of any breach hereof by Grantor, shall not be deemed or construed to be a waiver of Third Party Beneficiary's rights hereunder. Third Party Beneficiary shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

10. **Taxes.** When perpetual maintenance is required by the Permit, Grantor shall pay before delinquency any and all taxes, assessments, fees, and charges of whatever description levied on or assessed by competent authority on the Conservation Easement Area, and shall furnish the Grantee with satisfactory evidence of payment upon request.

11. **Assignment.** Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement except to another organization or entity qualified to hold such interests under the applicable state laws.

12. **Severability.** If any provision of this Conservation Easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby, as long as the purpose of the Conservation Easement is preserved.

13. **Terms and Restrictions.** Grantor shall insert the terms and restrictions of this Conservation Easement (or incorporate the terms and restrictions by reference) in any subsequent deed or other legal instrument by which Grantor divests itself of any interest in the Conservation Easement.

14. **Written Notice.** All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

15. **Modifications.** This Conservation Easement may be amended, altered, released, or revoked only by written agreement between the parties hereto or their heirs, assigns, or successors-in-interest, which shall be filed in the public records in County, Florida.

16. **Recordation.** Grantor shall record this Conservation Easement in timely fashion in the Official Records of County, Florida, and shall rerecord it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this Conservation Easement in the public records. Grantor will hold Grantee harmless from any recording costs or taxes necessary to record this Conservation Easement in the public records.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions, and purposes imposed with this Conservation Easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Conservation Easement Area.

Grantor hereby covenants with Grantee that Grantor is lawfully seized of said Conservation Easement Area in fee simple; that the Conservation Easement is free and clear of all encumbrances that are inconsistent with the terms of this Conservation Easement; all mortgages and liens on the Conservation Easement Area, if any, have been subordinated to this Conservation Easement; that Grantor has good right and lawful authority to convey this Conservation Easement; and that it hereby fully warrants and defends record title to the Conservation Easement Area hereby conveyed against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, ("Grantor") has hereunto set its authorized hand this day of , 20 .

,

☐ A Florida corporation or ☐ (*choose one*)

By: _____
(Signature)
Name:

Title:

Signed, sealed and delivered in our presence as witnesses:

By: _____ By: _____
(Signature) (Signature)

Name: _____ Name: _____
(Print) (Print)

STATE OF FLORIDA
COUNTY OF _____

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____, the person who subscribed to the foregoing instrument, as the _____ (title), of _____ _____ ☐ (corporation), a Florida corporation, or ☐ _____ _____ (*choose one*) and acknowledged that he/she executed the same on behalf of said ☐ corporation, or ☐ _____(*choose one*) and that he/she was duly authorized to do so. He/She is personally known to me or has produced a _____ (state) driver's license as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

_____
(Signature)

_____
(Name)

My Commission Expires: _____

Mortgagee (Lender) Joinder, Consent, and Subordination

For Ten Dollars ($10.00) and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, , the owner and holder of a mortgage dated , given by (“Mortgagor/Borrower”) to (“Mortgagee/Lender”), encumbering the real property described on Exhibit "B" attached hereto ("Conservation Easement Area"), which is recorded in Official Records Book at Page ,(together with that certain Assignment of Leases and Rents recorded in Official Records Book , at Page , and those certain UCC-1 Financing Statement(s) recorded in Official Records Book , at Page , all in the Public Records of County, Florida (said mortgage, assignment of leases and rents, and UCC-1 Financing Statements, as modified, are hereinafter referred to as the "Mortgage"), hereby joins in, consents to and subordinates the lien of its Mortgage, as it has been, and as it may be, modified, amended and assigned from time to time, to the foregoing Conservation Easement granted to the Choose an item., as said Conservation Easement may be modified, amended, and assigned from time to time, with the intent that the Mortgage shall be subject and subordinate to the Conservation Easement.

IN WITNESS WHEREOF, this Mortgagee/Lender Joinder, Consent, and Subordination is made this _____ day of _____, 20____.

By: _____ _____
(Signature) (Mortgagee/Lender)

Name: _____

Title: _____
(Print)

WITNESSES:

By: _____ By: _____
(Signature) (Signature)

Name: _____ Name: _____
(Print) (Print)

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ (print name), as _____ _____ (title) of _____ (Mortgagee/Lender) on behalf of the ☐ (corporation), a Florida corporation, or ☐_____ (*choose one*). He/She is personally known to me or has produced a _____ (state) driver's license as identification.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

NOTARY PUBLIC, STATE OF FLORIDA

_____
(Signature)

_____
(Name)

My Commission Expires: _____

EXHIBIT A

[LOCATION MAP]

EXHIBIT B

[LEGAL DESCRIPTION AND SKETCH OF CONSERVATION EASEMENT AREA]

EXHIBIT C

[MANAGEMENT PLAN OR “INTENTIONALLY LEFT BLANK”]

Exhibit 5: Conservation Unit Easement Allowable Activities and Instrument

(1) Wetland and upland habitat enhancement and restoration.

(2) Forest management shall be conducted so as to enhance conservation and habitat restoration, using Best Management Practices and uneven age management regimes in accordance with the Principles for Forest and Wildlife Management of Conservation Units within the Regional General Permit Area and Ecosystem Agreement Area -Revision 2014 (Exhibit 27). Timber management for the sole purpose of timber production is prohibited. No timbering of cypress or wetland hardwoods will occur in conservation units. Clear cutting is prohibited except as allowed in the referenced management plan.

(3) Hunting pursuant to properly issued hunting permits, fishing, and birding.

(4) Prior approval from the Corps is required for construction of nature trails, boardwalks, gathering shelters, restroom facilities and other similar passive recreational activities in the conservation units. These activities shall result in no more than minimal impacts to the conservation units. Additional activities may be approved after review by the Corps, and only if the Corps determines the proposed activity to be consistent with the purpose of this RGP.

(5) Wetland mitigation. The management plan, as provided in Exhibit 27, may be replaced by a wetland mitigation plan, upon the written approval of the Corps.

(6) Effluent disposal, including necessary transmission lines, distribution facilities, and attendant structures, in the Cypress and Wet Pine Flats Conservation Unit, if authorized by separate DEP and Corps permits. Treatment facilities shall not be allowed in the conservation unit.

(7) Reinstitution of fire regime, including necessary firebreaks, which mimics natural conditions.

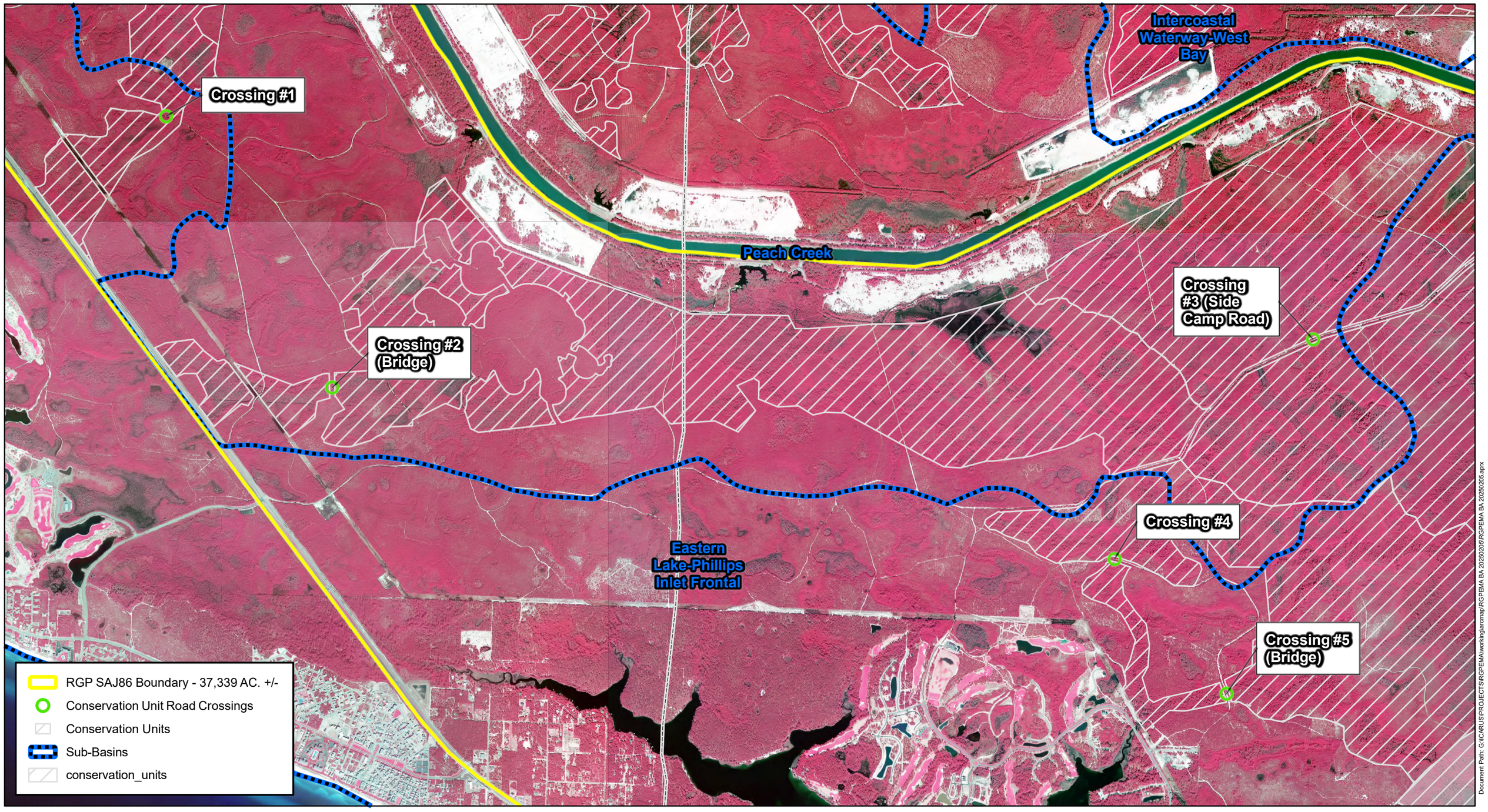
(8) Incorporation into adjacent developments as open space and limited to the uses outlined above.

(9) Maintenance of roads and ditches where needed to implement activities listed above.

(10) Maintenance of existing drainage ditches to original as-built dimensions and configurations. All materials removed for the maintenance of existing ditches must be disposed of within an upland disposal site, which is not located within any preserved lands subject to this RGP.

(11) Construction of five new or improved road crossings, as shown on map below. Crossing Number 4, through the Wildlife Corridor Conservation Unit, shall be bridged. These road crossings shall be subject to the road crossing criteria and wetland impact limitations as required in Special Condition 5.c above.

(12) Activities needed to maintain, in current condition, existing access within and through the conservation units. With the exception of the crossings identified above, these do not include activities to improve, enlarge or relocate such access.



Document Path: G:\ICARUS\PROJECTS\RGPEMA\workingfarcmap\RGPEMA BA 20250205\RGPEMA BA 20250205.aprx

SAJ-86 Conservation Unit Road Crossings

County: Bay and Walton
State: Florida
Imagery: ESRI World Imagery

0 0.25 0.5 1 1.5 2 2.5 Miles

F

ICARUS ecological services inc.
Maps Prepared By:
Icarus Ecological Services, Inc.
8639 Ranchwood Lane
St. Augustine, FL 32092
904.307.9911

CONSERVATION UNIT EASEMENT

DEED OF CONSERVATION EASEMENT

THIS DEED OF CONSERVATION EASEMENT is given this _____day of _____20___, by THE ST. JOE COMPANY/ST. JOE TIMBERLAND COMPANY OF DELAWARE, L.L.C., having an address at 130 North Richard Jackson Boulevard, Panama City Beach, Florida 32407 (Grantor) to the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION whose address is Department of Environmental Protection, Division of State Lands, 3900 Commonwealth Boulevard, Mail Station 130, Tallahassee, Florida 32399-3000 (Grantee) with third party enforcement rights to the U.S. Army Corps of Engineers ("Corps" or "Third Party Beneficiary"). As used herein, the term Grantor shall include any and all heirs, successors or assigns of the Grantor, and all subsequent owners of the Property (as hereinafter defined); the term Grantee shall include any successor or assignee of Grantee; and the term "Third Party Beneficiary" shall include any successor or assignee of the Third Party Beneficiary.

WITNESSETH

WHEREAS, the Grantor is the sole owner in fee simple of certain lands situated in Bay County, Florida, more specifically described in Exhibit A attached hereto and incorporated herein (Property);

WHEREAS, the Department and Grantor executed an Ecosystem Management Agreement, dated , (Agreement), which authorizes certain activities that affect waters in or of the State of Florida;

WHEREAS, the Agreement and individual project approvals issued pursuant to the Agreement ("Approval") requires the set aside of certain areas called Conservation Units, as defined in the Agreement, and requires that the Grantor exclude from development wetlands and uplands within such Conservation Units;

WHEREAS, the Property is a part of a Conservation Unit;

WHEREAS, Grantor grants this conservation easement as a condition of the Approval to offset or prevent secondary and cumulative adverse impacts to water quality and natural resources, such as fish, wildlife, and wetland or other surface water functions, and to provide a net ecosystem benefit as provided in the Agreement;

WHEREAS, the U.S. Army Corps of Engineers (the "Corps") General Permit No. SAJ-86 (RGP) authorizes certain activities in the waters of the United States and requires this conservation easement over the lands identified in Exhibit A as a condition for such activities; and

WHEREAS, this conservation easement is subject to and governed by the Agreement and the RGP and provisions within both the Agreement and RGP affect this conservation easement and owners of property subject to this conservation easement are advised to refer to the Agreement and RGP, which documents are available as public records.

NOW THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, together with other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, Grantor hereby voluntarily grants and conveys a perpetual conservation easement as defined in Section 704.06 Florida Statutes, for and in favor of the Grantee upon the Property which shall run with the land and be binding upon the Grantor, and shall remain in full force and effect forever.

The scope, nature and character of this conservation easement shall be as follows:

1. Purpose. The purpose of this conservation easement is to retain land or water areas in their natural vegetative, hydrologic, scenic, agricultural or wooded condition so as to preserve their environmental value and to retain such areas as suitable habitat for fish, plants or wildlife, while allowing certain passive recreational activities and facilities. Those wetland or upland areas included in the Conservation Units which are to be enhanced or restored pursuant to the Approval shall be retained and maintained in the enhanced or restored conditions required by the Approval.

2. Rights of Grantee. To carry out this purpose, the following rights are conveyed to Grantee by this easement:

a. The right to take action to preserve and protect the environmental value of the Property;

b. The right to prevent any activity on or use of the Property that is inconsistent with purpose of this conservation easement, and to require the restoration of areas or features of the Property that may be damaged by any activity inconsistent with the purpose of this conservation easement;

c. The right to enter upon and inspect the Property in a reasonable manner and at reasonable times, including the right to use vehicles and all necessary equipment to determine if Grantor or its successors and assigns are complying with the purpose of this conservation easement; and

d. The right to enforce this conservation easement by injunction or proceed at law or in equity to enforce the provisions of this conservation easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities hereinafter set forth, and the right to require Grantor to restore such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. Prohibited Activities. Any activity which violates the purpose of this conservation easement is prohibited, including the following:

a. Construction or placing of buildings, roads, signs, billboards, docks or other similar structures on or above the ground;

b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation, except for timbering done in accordance with the Principles for Forest and Wildlife Management of Conservation Units within the West Bay EMA ("Forest and Wildlife Plan") which is part of the Agreement and for the purpose of enhancing or restoring wetlands or uplands in a mitigation area in accordance with applicable permits;

d. Planting or seeding of plants that are outside their natural range or zone of dispersal and has or is able to form self-sustaining, expanding, and free-living populations in a natural community on the Property with which it has not previously associated;

e. Exploration for or extraction of oil or gas, and excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance;

f. Surface use except for purposes that allow the land or water area to remain in its natural condition;

g. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;

h. Acts or uses detrimental to such aforementioned retention of land or water areas;

i. Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance; and.

j. The application of fertilizers, herbicides and pesticides is prohibited, except in buffers as authorized in accordance with Section 4(l).

k. No wells shall be installed within the Property.

4. Authorized activities. Any activity which is consistent with the purpose of this conservation easement is authorized, including the following:

a. Wetland and upland habitat enhancement and restoration.

b. Forest management, which shall be conducted through sustainable forestry, uneven age management regimes and best management practices, in accordance with, and as

defined in the Principles for Forest and Wildlife Management of Conservation Units within the West Bay Ecosystem Management Agreement and SAJ-86 ("Forest and Wildlife Management Plan") which is part of the Agreement. No timbering of cypress or wetland hardwoods or clear cutting is permitted except as allowed in the Forest and Wildlife Management Plan.

c. Hunting, fishing, and birding.

d. Passive recreational facilities and activities such as hiking and biking trails, boardwalks, gathering shelters, restrooms, camping platforms, horseback trails and hitching areas and other facilities of a similar nature. These facilities shall result in no more than minimal impacts. Trails and boardwalks may cross wetlands, but must be minimized to the maximum extent practicable. All other facilities may only be located in uplands.

e. Wetland mitigation as required by any future permit.

f. Green Burial Council certified *Conservation Burial Grounds*. This level of certification employs burial/scattering programs that aid in the restoration, acquisition and/or stewardship of natural areas.

g. Reinstitution of fire regime, including necessary firebreaks, which mimics natural conditions.

h. Linear utilities and infrastructure facilities, which shall be defined as (i) electric transmission, collection and/or distribution lines, (ii) water transmission, collection and/or distribution lines, (iii) sewer transmission, collection and/or distribution lines, (iv) natural gas transmission, collection and/or distribution lines, (v) data and/or telecommunications transmission, collection and/or distribution lines (phone, cable, fiber optics, internet), and (vi) stormwater conveyances, but not stormwater ponds. In addition, ancillary facilities that are part of and support the linear utilities and infrastructure facilities described above shall be allowed. All linear utilities and infrastructure facilities shall, when practical, be co-located with road crossings and be installed by direct bore methods. The linear infrastructure shall be subject to the criteria and wetland impact limitations as set forth in special condition 5.c of the RGP and paragraph 3 of Article VII. of the Agreement.

i. Activities needed to maintain, in current condition, existing access, roads and ditches within and through the Property. These allowable maintenance activities do not include activities to relocate such access, roads and ditches.

j. Nature Centers, including single access roads. A Leadership in Energy and Environmental Design (LEED) certification of silver or higher must be obtained for any enclosed structures. Nature Centers may only be located in uplands. Access roads to serve nature centers must comply with special conditions 5.c and 12.e(i) of the RGP and paragraph 12 of Article V and paragraph 3 of Article VII of the Agreement.

k. Within buffers that are required to be preserved by the Approval and that are part of the Property, construction of boardwalks for dock access and on-grade trails will be permitted. Also, application of fertilizers, herbicides and pesticides is authorized to the extent fertilizers, herbicides and pesticides are used to control exotic plant vegetation within the buffers.

5. Land Disturbance. Activities which result in any manmade change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, grading, grubbing, discing, blading, contouring, ripping, root raking and includes areas covered by impervious surfaces such as roofs, concrete and asphalt, but excluding pervious hiking and biking trails, pervious horseback riding trails and boardwalks ("Land Disturbance") are prohibited, except to the extent Land Disturbance occurs as a result of activities which are allowed in this Section. The Agreement and RGP place restrictions on the amount of Land Disturbance which can occur within the total area of Conservation Units and require certain mitigation for any Land Disturbance or impacts to converted wetlands within the Conservation Units.

6. Written Approval Required. Written approval from the Corps and DEP shall be required for any uses, activities or facilities sought to be constructed on the Property as allowed by this conservation easement ("Conservation Unit Project Approval"). Written authorization for allowable projects within the Property is required prior to initiation of construction. Conservation Unit Project Approval shall be conducted consistent with the RGP and Article V of the Agreement. In applying for Conservation Unit Project Approval an applicant will be required to include an avoidance and minimization impact analysis with respect to the proposed uses, activities and facilities and review by the Corps and DEP will include a review of the total scale of facility to insure that the proposed use, activity or facility is limited and consistent with the preservation objectives of the Conservation Units.

7. Reserved Rights. Grantor reserves all rights as owner of the Property, including the right to engage in uses of the Property that are not prohibited herein and which are not inconsistent with the purpose of this conservation easement or any Department rule, criteria, or Agreement.

8. Public Access. No right of access by the general public to any portion of the Property is conveyed by this conservation easement.

9. Responsibilities of Parties. Grantor, its successors or assigns, shall take responsibility for any costs or liabilities related to the ownership, operation, upkeep or maintenance of the Property. In addition, the Grantee, its successors or assigns, shall have no responsibility for any costs or liabilities related to the ownership, operation, upkeep or maintenance of the Property.

10. Taxes. Grantor, its successors or assigns, shall pay, before delinquency, any and all taxes, assessments, fees, and charges of whatever description levied on or assessed by competent authority on the Property, and shall furnish Grantee with satisfactory evidence of payment upon request.

11. Liability. Grantee shall not assume any liability for any injury or damage to the person or property of Grantor or third parties which may occur on the Property, except to the extent Grantee or its employees or agents is found legally responsible therefore. Neither Grantor, its

successors or assigns, nor any person or entity claiming by or through Grantor its successors or assigns, shall hold Grantee liable for any damage or injury to person or personal property which may occur on the Property, except to the extent Grantee or its employees or agents is found legally responsible therefore. Furthermore, the Grantor, its successors or assigns shall indemnify and hold harmless Grantee from all liability, and injury or damage to the person or property of third parties which may occur on the Property, except to the extent Grantee or its employees or agents is found legally responsible therefore. Grantee may not bring any action against Grantor for any injury to or change in the property resulting from natural causes beyond Grantor's control including, without limitation, fire, flood, storm and earth movement, or from any necessary action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the property or to persons resulting from such causes.

12. Hazardous Waste. Grantor covenants and represents that to the best of its knowledge, no hazardous substance or toxic waste exists nor has been generated, treated, stored, used, disposed of, or deposited in or on the Property, and that there are not now any underground storage tanks located on the Property.

13. Enforcement Discretion. Enforcement of the terms, provisions and restrictions of this conservation easement shall be at the discretion of Grantee, and any forbearance on the part of Grantee to exercise its rights hereunder in the event of any breach by Grantor, shall not be deemed or construed to be a waiver of Grantee's rights.

14. Enforcement Costs. If the Grantee prevails in an enforcement action, it shall be entitled to recover the cost of restoring the land to the natural vegetative and hydrologic condition existing at the time of execution of the conservation easement or to the vegetative and hydrologic condition required by the RGP and the Approval.

15. Assignment of Rights. Grantee will hold this conservation easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this conservation easement except to another organization qualified to hold such interests under applicable state laws. The Corps reserves the right to approve successor grantees for the purpose of meeting the continuing compensatory mitigation requirements of its permit, permits or individual project approvals.

16. Recording in Land Records. Grantor shall record this conservation easement and any amendments hereto in a timely fashion in the Official Records of _____County, Florida. Grantor shall pay all recording costs and taxes necessary to record this conservation easement in the public records.

17. Successors. The covenants, terms, conditions and restrictions of this conservation easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Property.

18. Notices. All notices, consents, approvals or other communications hereunder shall be in writing and shall be deemed properly given if sent by United States certified mail, return receipt requested, addressed to the appropriate party or successor-in-interest.

19. Severability. If any provision of this conservation easement or the application thereof to any person or circumstances is found to be invalid, the remainder of the provisions of this conservation easement shall not be affected thereby, as long as the purpose of the conservation easement is preserved.

20. Alteration or Revocation. This conservation easement may be amended, altered, released or revoked only by Agreement modification as necessary and written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records of __ County, Florida.

21. Controlling Law. The interpretation and performance of this conservation easement shall be governed by the laws of the State of Florida.

22. Rights of the Corps. The Corps, as a third party beneficiary, shall have the right to enforce the terms and conditions of the Conservation Easement, including:

a. The right to take action to preserve and protect the environmental value of the Conservation Easement Area;

b. The right to prevent any activity on or use of the Conservation Easement Area that is inconsistent with the purpose of this Conservation Easement, and to require the restoration of areas or features of the Conservation Easement Area that may be damaged by any inconsistent activity or use;

c. The right to enter upon and inspect the Conservation Easement Area in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement; and

d. The right to enforce this Conservation Easement by injunction or proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and the right to require Grantor, or its successors or assigns, to restore such areas or features of the Conservation Easement Area that may be damaged by any inconsistent activity or use or unauthorized activities.

The Grantor, including their successors or assigns, shall provide the Corps at least 60 days advance notice in writing before any action is taken to amend, alter, release, or revoke this Conservation Easement. The Grantee shall provide reasonable notice and an opportunity to comment or object to the release or amendment to the Corps. The Grantee shall consider any comments or objections from the Corps when making the final decision to release or amend this Conservation Easement.

TO HAVE AND TO HOLD unto Grantee forever. The covenants, terms, conditions, restrictions and purpose imposed with this conservation easement shall be binding upon Grantor, and shall continue as a servitude running in perpetuity with the Property.

Grantor hereby covenants with said Grantee that Grantor is lawfully seized of the

Property in fee simple; that the Property is free and clear of all encumbrances that are inconsistent with the terms and conditions of this conservation easement; that all mortgages have been joined or subordinated; that Grantor has good right and lawful authority to convey this conservation easement; and that Grantor hereby fully warrants and defends the title to this conservation easement against the lawful claims of all persons whatsoever.

IN WITNESS WHEREOF, the Grantor has executed this Conservation easement on the day and year first above written.

Signed, sealed and delivered
in our presence as witnesses:

_____

_____
Print Name:

_____

By:_____
Print Name:
Title: _____

Print Name:

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ___ day of _____ , 20___, by _____ as _____ of the (corporation's name) _____ He/She is personally known to me or has produced _____ as identification.

(SEAL)

_____
Notary Public Signature

_____
Printed/Typed Name of Notary

Commission No. _____

Commission Expires: _____

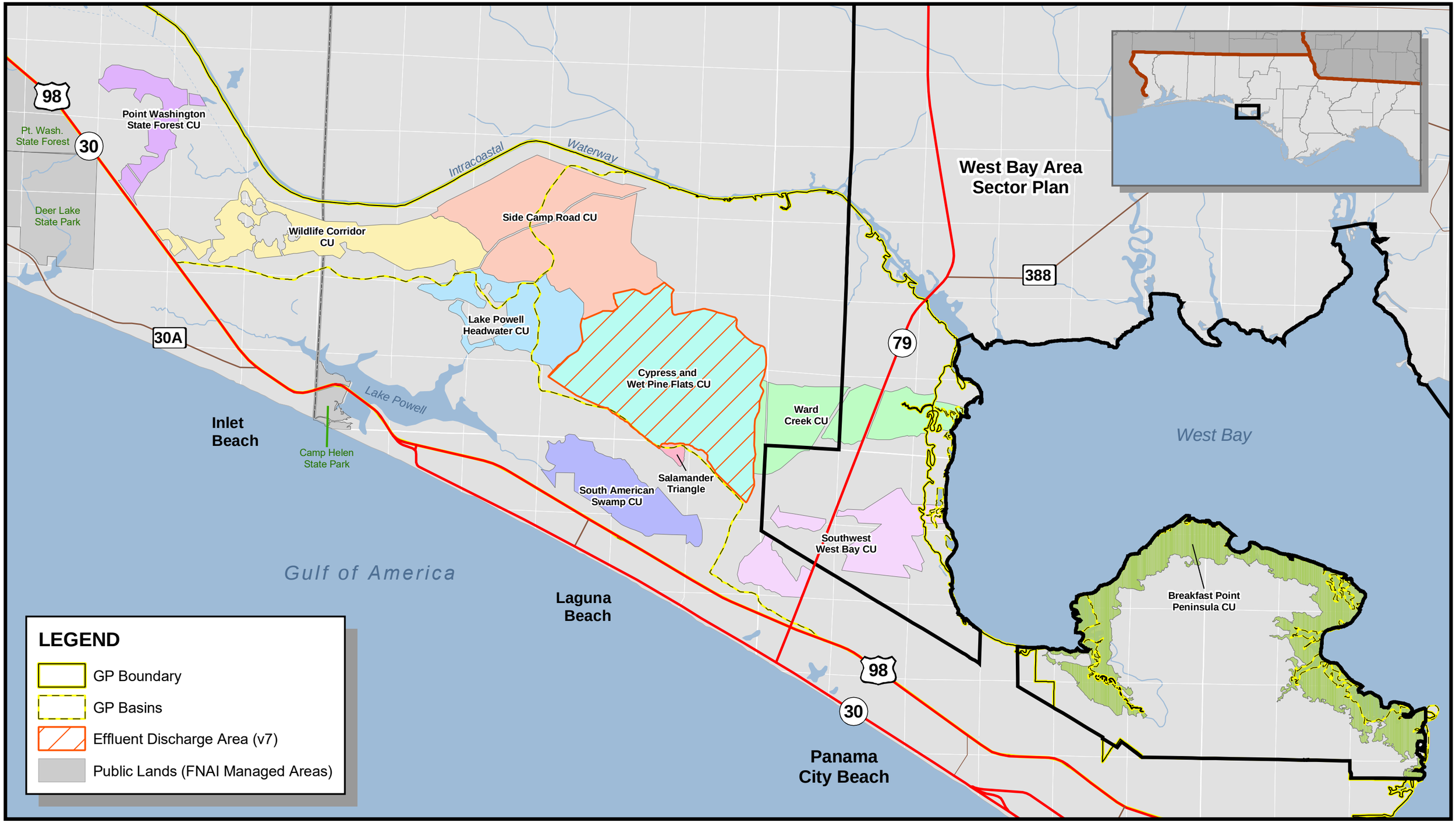


EXHIBIT 06

CONSERVATION UNITS

0 1 2 3
MILES

1 INCH EQUALS 1.18 MILES
1:75,000



EXHIBIT 07

Conservation Unit 1
Point Washington State Forest
466 Acres

0 0.25 0.5
MILES

1 INCH EQUALS 2,000 FEET
1:24,000

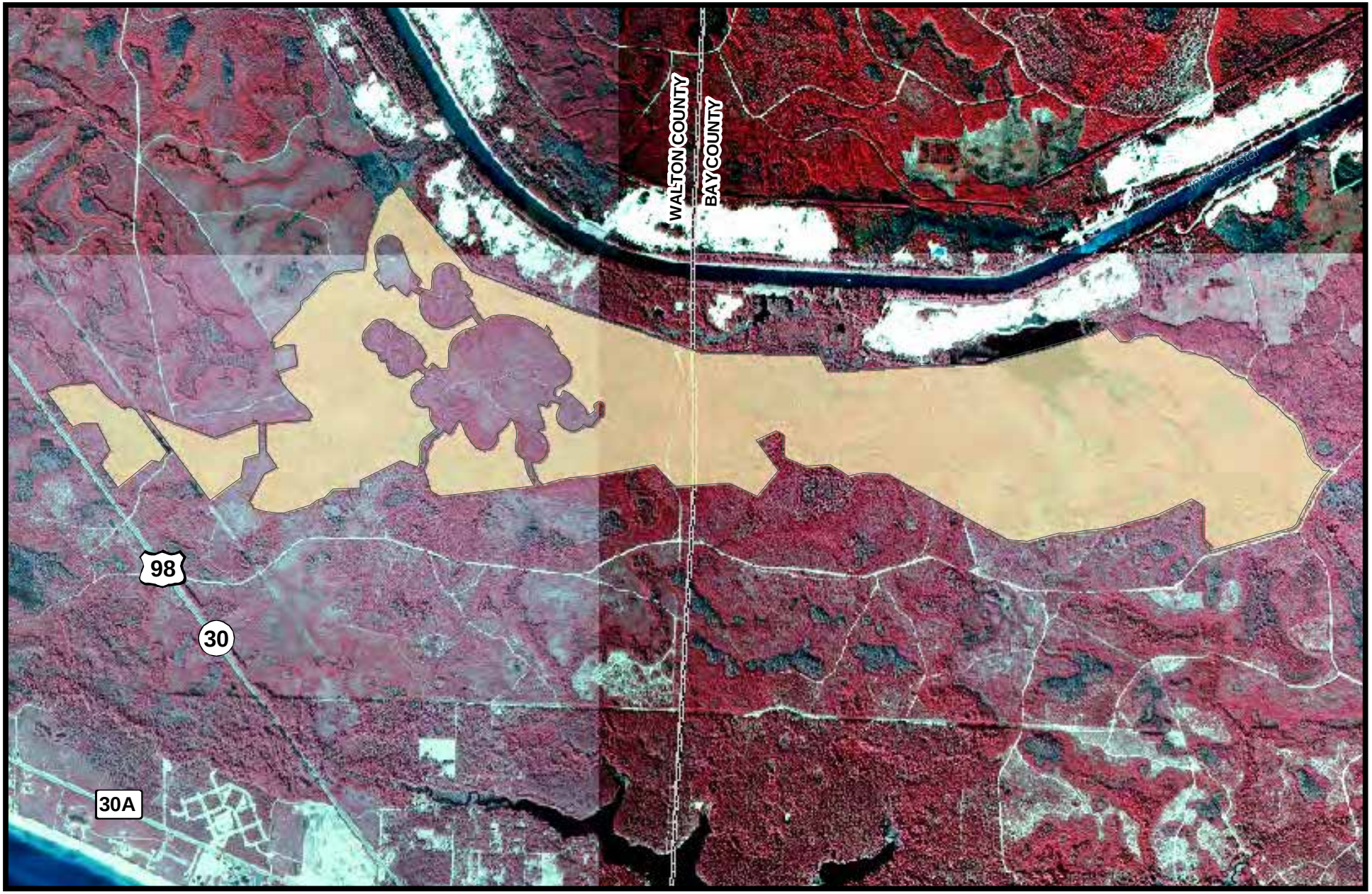


EXHIBIT 08

Conservation Unit 2
Wildlife Corridor
1,247 Acres

0 0.25 0.5
MILES

1 INCH EQUALS 2,500 FEET
1:30,000



EXHIBIT 09

Conservation Unit 3
Side Camp Road
2,330 Acres

0 0.25 0.5
MILES

1 INCH EQUALS 2,500 FEET
1:30,000



EXHIBIT 10

Conservation Unit 4
Lake Powell Headwater
912 Acres

0 0.25 0.5
MILES

1 INCH EQUALS 2,000 FEET
1:24,000

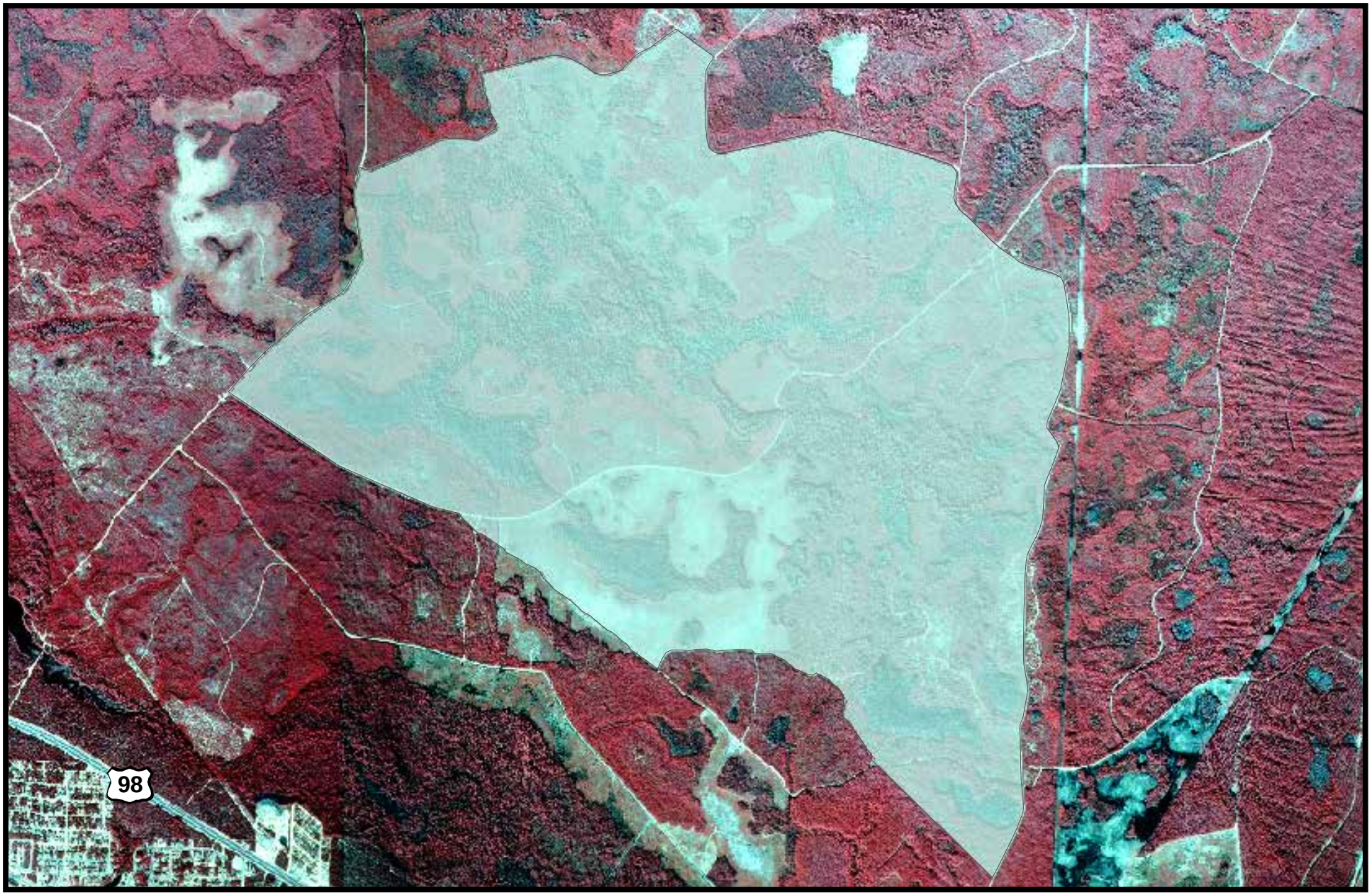


EXHIBIT 11

Conservation Unit 5
Cypress and Wet Pine Flats
2,910 Acres

0 0.25 0.5
MILES

1 INCH EQUALS 2,500 FEET
1:30,000



EXHIBIT 12

Conservation Unit 6
Ward Creek
1,239 Acres

0 0.25 0.5
MILES

1 INCH EQUALS 2,000 FEET
1:24,000



EXHIBIT 13

Conservation Unit 7
South American Swamp
803 Acres

0 0.25 0.5
MILES

1 INCH EQUALS 2,000 FEET
1:24,000



EXHIBIT 14

Conservation Unit 8
Southwest West Bay
962 Acres

0 0.25 0.5
MILES

1 INCH EQUALS 2,000 FEET
1:24,000



EXHIBIT 15

Conservation Unit 9
Salamander Triangle
42 Acres

0 0.25 0.5
MILES

1 INCH EQUALS 2,000 FEET
1:24,000

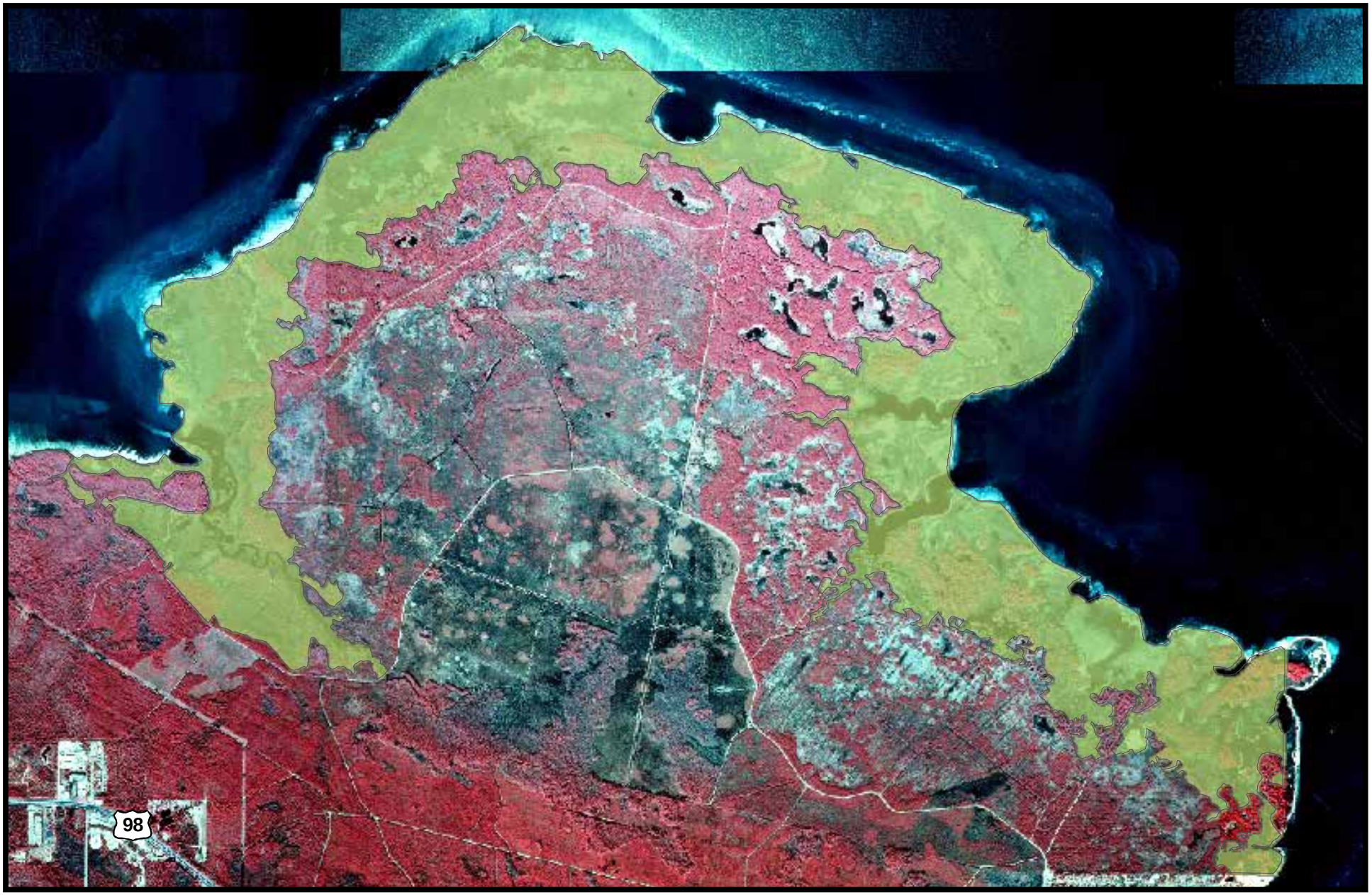


EXHIBIT 16

Conservation Unit 10
Breakfast Point Peninsula
2,289 Acres

0 0.25 0.5 0.75
MILES

1 INCH EQUALS 3,000 FEET
1:36,000

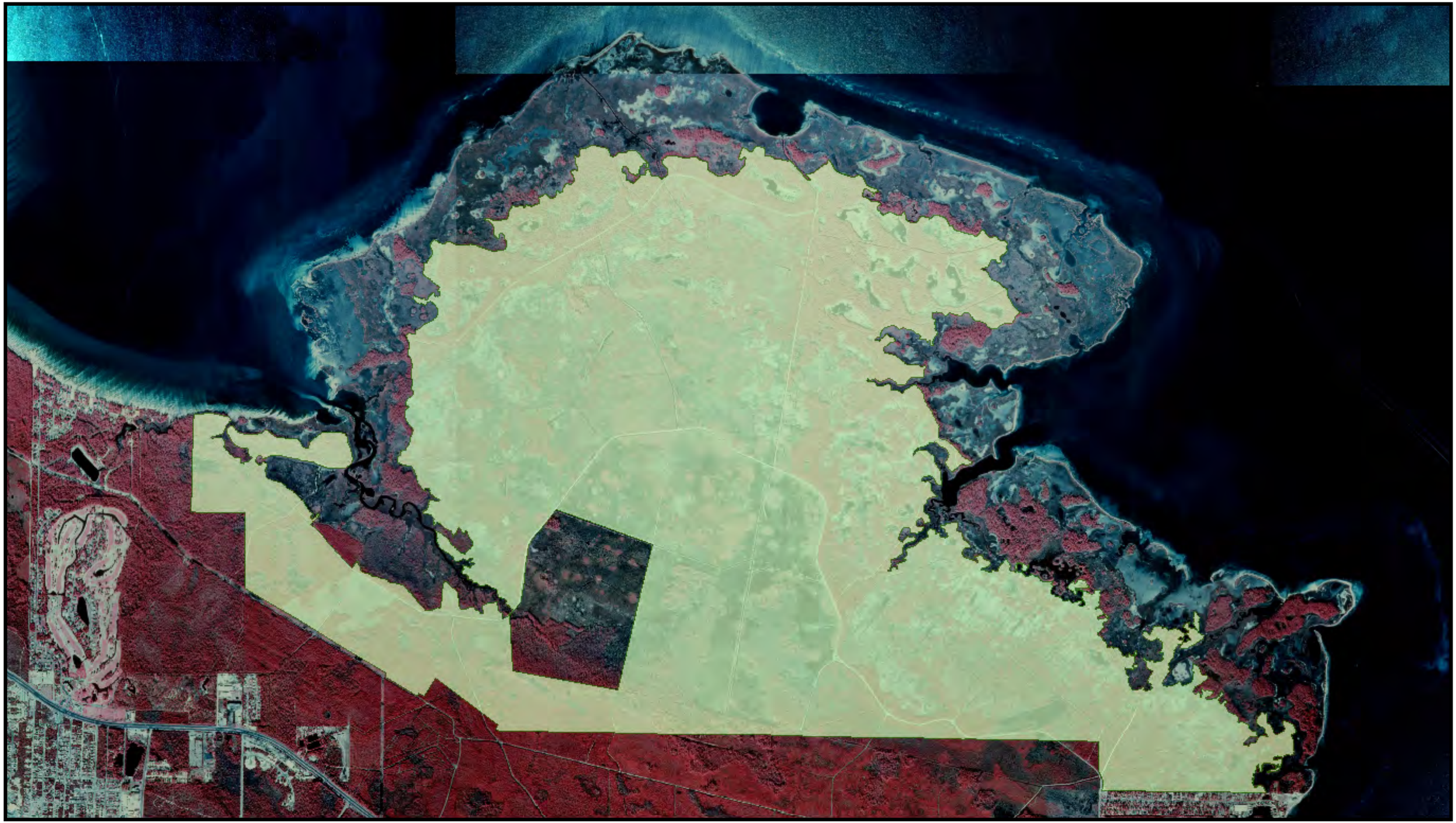


EXHIBIT 17

BREAKFAST POINT MITIGATION BANK

4,636 ACRES

0 1

MILES

1 INCH EQUALS 0.41 MILES
1:26,000

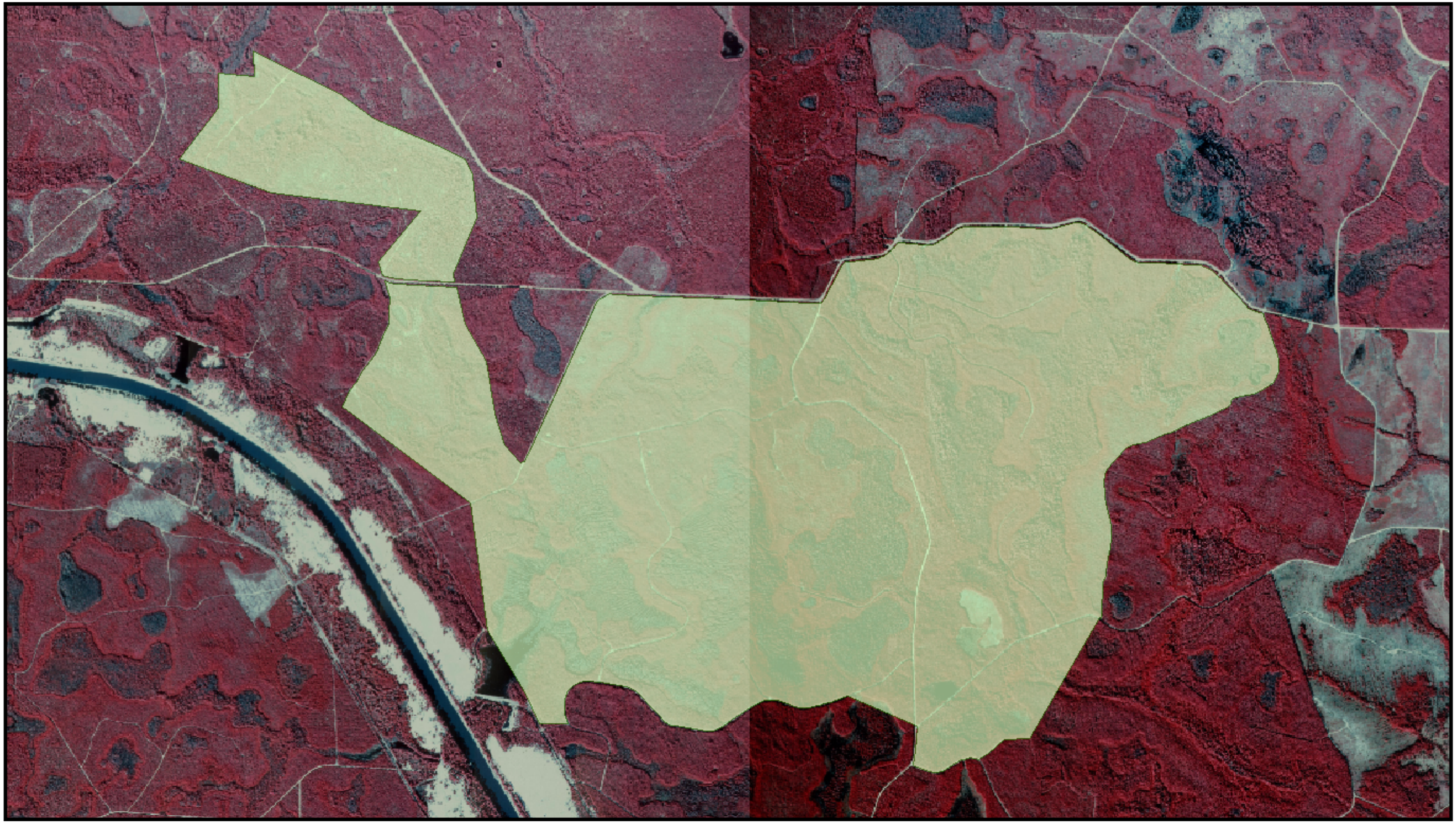


EXHIBIT 18

DEVILS SWAMP MITIGATION BANK

3,049 ACRES

0 0.25 0.5 0.75

MILES

1 INCH EQUALS 0.33 MILES
1:21,000

U.S. Army Corps of Engineers
WETLAND DETERMINATION DATA SHEET – Atlantic and Gulf Coastal Plain Region
See ERDC/EL TR-10-20; the proponent agency is CECW-COR

OMB Control #: 0710-0024, Exp: 09/30/2027
Requirement Control Symbol EXEMPT:
(Authority: AR 335-15, paragraph 5-2a)

Project/Site: _____ City/County: _____ Sampling Date: _____

Applicant/Owner: _____ State: _____ Sampling Point: _____

Investigator(s): _____ Section, Township, Range: _____

Landform (hillside, terrace, etc.): _____ Local relief (concave, convex, none): _____ Slope (%): _____

Subregion (LRR or MLRA): _____ Lat: _____ Long: _____ Datum: _____

Soil Map Unit Name: _____ NWI classification: _____

Are climatic / hydrologic conditions on the site typical for this time of year? Yes ____ No ____ (If no, explain in Remarks.)

Are Vegetation ____, Soil ____, or Hydrology ____ significantly disturbed? Are "Normal Circumstances" present? Yes ____ No ____

Are Vegetation ____, Soil ____, or Hydrology ____ naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present?	Yes ____	No ____	**Is the Sampled Area within a Wetland?** **Yes** ____ **No** ____
Hydric Soil Present?	Yes ____	No ____	
Wetland Hydrology Present?	Yes ____	No ____	

Remarks:

HYDROLOGY

Wetland Hydrology Indicators:

Primary Indicators (minimum of one is required; check all that apply)

- ___ Surface Water (A1)
- ___ High Water Table (A2)
- ___ Saturation (A3)
- ___ Water Marks (B1)
- ___ Sediment Deposits (B2)
- ___ Drift Deposits (B3)
- ___ Algal Mat or Crust (B4)
- ___ Iron Deposits (B5)
- ___ Inundation Visible on Aerial Imagery (B7)
- ___ Water-Stained Leaves (B9)
- ___ Aquatic Fauna (B13)
- ___ Marl Deposits (B15) **(LRR U)**
- ___ Hydrogen Sulfide Odor (C1)
- ___ Oxidized Rhizospheres on Living Roots (C3)
- ___ Presence of Reduced Iron (C4)
- ___ Recent Iron Reduction in Tilled Soils (C6)
- ___ Thin Muck Surface (C7)
- ___ Other (Explain in Remarks)

Secondary Indicators (minimum of two required)

- ___ Surface Soil Cracks (B6)
- ___ Sparsely Vegetated Concave Surface (B8)
- ___ Drainage Patterns (B10)
- ___ Moss Trim Lines (B16)
- ___ Dry-Season Water Table (C2)
- ___ Crayfish Burrows (C8)
- ___ Saturation Visible on Aerial Imagery (C9)
- ___ Geomorphic Position (D2)
- ___ Shallow Aquitard (D3)
- ___ FAC-Neutral Test (D5)
- ___ Sphagnum Moss (D8) **(LRR T, U)**

Field Observations:

Surface Water Present?	Yes ____	No ____	Depth (inches): ____
Water Table Present?	Yes ____	No ____	Depth (inches): ____
Saturation Present? (includes capillary fringe)	Yes ____	No ____	Depth (inches): ____

Wetland Hydrology Present? **Yes** ____ **No** ____

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

VEGETATION (Five Strata) – Use scientific names of plants. Sampling Point: _____

Tree Stratum (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status
1.			
2.			
3.			
4.			
5.			
6.			
	=Total Cover		

50% of total cover: _____ 20% of total cover: _____

Sapling Stratum (Plot size: _____)			
1.			
2.			
3.			
4.			
5.			
6.			
	=Total Cover		

50% of total cover: _____ 20% of total cover: _____

Shrub Stratum (Plot size: _____)			
1.			
2.			
3.			
4.			
5.			
6.			
	=Total Cover		

50% of total cover: _____ 20% of total cover: _____

Herb Stratum (Plot size: _____)			
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
	=Total Cover		

50% of total cover: _____ 20% of total cover: _____

Woody Vine Stratum (Plot size: _____)			
1.			
2.			
3.			
4.			
5.			
	=Total Cover		

50% of total cover: _____ 20% of total cover: _____

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: _____ (A)

Total Number of Dominant Species Across All Strata: _____ (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: _____ (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:	
OBL species _____	x 1 =	_____
FACW species _____	x 2 =	_____
FAC species _____	x 3 =	_____
FACU species _____	x 4 =	_____
UPL species _____	x 5 =	_____
Column Totals: _____ (A)		_____ (B)

Prevalence Index = B/A = _____

Hydrophytic Vegetation Indicators:

___ 1 - Rapid Test for Hydrophytic Vegetation

___ 2 - Dominance Test is >50%

___ 3 - Prevalence Index is ≤3.0[1]

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Definitions of Five Vegetation Strata:

Tree – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and 3 in. (7.6 cm) or larger in diameter at breast height (DBH).

Sapling – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and less than 3 in. (7.6 cm) DBH.

Shrub - Woody Plants, excluding woody vines, approximately 3 to 20 ft (1 to 6 m) in height.

Herb – All herbaceous (non-woody) plants, including herbaceous vines, regardless of size, and woody plants, except woody vines, less than approximately 3 ft (1 m) in height.

Woody Vine – All woody vines, regardless of height.

Hydrophytic Vegetation Present? **Yes** ____ **No** ____

Remarks: (If observed, list morphological adaptations below.)

VEGETATION (Four Strata) – Use scientific names of plants. Sampling Point: _____

Tree Stratum (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
	=Total Cover		
50% of total cover: _____	20% of total cover: _____		
Sapling/Shrub Stratum (Plot size: _____)			
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
	=Total Cover		
50% of total cover: _____	20% of total cover: _____		
Herb Stratum (Plot size: _____)			
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
	=Total Cover		
50% of total cover: _____	20% of total cover: _____		
Woody Vine Stratum (Plot size: _____)			
1.			
2.			
3.			
4.			
5.			
	=Total Cover		
50% of total cover: _____	20% of total cover: _____		

Dominance Test worksheet:

Number of Dominant Species That Are OBL, FACW, or FAC: _____ (A)

Total Number of Dominant Species Across All Strata: _____ (B)

Percent of Dominant Species That Are OBL, FACW, or FAC: _____ (A/B)

Prevalence Index worksheet:

Total % Cover of:	Multiply by:
OBL species _____	x 1 = _____
FACW species _____	x 2 = _____
FAC species _____	x 3 = _____
FACU species _____	x 4 = _____
UPL species _____	x 5 = _____
Column Totals: _____ (A)	_____ (B)

Prevalence Index = B/A = _____

Hydrophytic Vegetation Indicators:

___ 1 - Rapid Test for Hydrophytic Vegetation

___ 2 - Dominance Test is >50%

___ 3 - Prevalence Index is ≤3.0[1]

___ Problematic Hydrophytic Vegetation[1] (Explain)

[1]Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.

Definitions of Four Vegetation Strata:

Tree – Woody plants, excluding vines, 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height.

Sapling/Shrub – Woody plants, excluding vines, less than 3 in. DBH and greater than 3.28 ft (1 m) tall.

Herb – All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft tall.

Woody Vine – All woody vines greater than 3.28 ft in height.

Hydrophytic Vegetation Present? **Yes** ____ **No** ____

Remarks: (If observed, list morphological adaptations below.)

SOIL

Sampling Point: _____

Profile Description: (Describe to the depth needed to document the indicator or confirm the absence of indicators.)

Depth (inches)	Matrix Color (moist)	%	Redox Features Color (moist)	%	Type[1]	Loc[2]	Texture	Remarks

[1]Type: C=Concentration, D=Depletion, RM=Reduced Matrix, MS=Masked Sand Grains.

[2]Location: PL=Pore Lining, M=Matrix.

Hydric Soil Indicators: (Applicable to all LRRs, unless otherwise noted.)

- ___ Histosol (A1)
- ___ Histic Epipedon (A2)
- ___ Black Histic (A3)
- ___ Hydrogen Sulfide (A4)
- ___ Stratified Layers (A5)
- ___ Organic Bodies (A6) **(LRR P, T, U)**
- ___ 5 cm Mucky Mineral (A7) **(LRR P, T, U)**
- ___ Muck Presence (A8) **(LRR U)**
- ___ 1 cm Muck (A9) **(LRR P, T)**
- ___ Depleted Below Dark Surface (A11)
- ___ Thick Dark Surface (A12)
- ___ Coast Prairie Redox (A16) **(MLRA 150A)**
- ___ Iron Monosulfide (A18)
- ___ Sandy Mucky Mineral (S1) **(LRR O, S)**
- ___ Sandy Gleyed Matrix (S4)
- ___ Sandy Redox (S5)
- ___ Stripped Matrix (S6)
- ___ Dark Surface (S7) **(LRR P, S, T, U)**
- ___ Polyvalue Below Surface (S8) **(LRR S, T, U)**
- ___ Thin Dark Surface (S9) **(LRR S, T, U)**
- ___ Barrier Islands 1 cm Muck (S12) **(MLRA 153B, 153D)**
- ___ Loamy Mucky Mineral (F1) **(LRR O)**
- ___ Loamy Gleyed Matrix (F2)
- ___ Depleted Matrix (F3)
- ___ Redox Dark Surface (F6)
- ___ Depleted Dark Surface (F7)
- ___ Redox Depressions (F8)
- ___ Marl (F10) **(LRR U)**
- ___ Depleted Ochric (F11) **(MLRA 151)**
- ___ Iron-Manganese Masses (F12) **(LRR O, P, T)**
- ___ Umbric Surface (F13) **(LRR P, T, U)**
- ___ Delta Ochric (F17) **(MLRA 151)**
- ___ Reduced Vertic (F18) **(MLRA 150A, 150B)**
- ___ Piedmont Floodplain Soils (F19) **(MLRA 149A)**
- ___ Anomalous Bright Floodplain Soils (F20) **(MLRA 149A, 153C, 153D)**
- ___ Very Shallow Dark Surface (F22) **(MLRA 138, 152A in FL, 154)**

Indicators for Problematic Hydric Soils[3]:

- ___ 1 cm Muck (A9) **(LRR O)**
- ___ 2 cm Muck (A10) **(LRR S)**
- ___ Coast Prairie Redox (A16) **(outside MLRA 150A)**
- ___ Reduced Vertic (F18) **(outside MLRA 150A, 150B)**
- ___ Piedmont Floodplain Soils (F19) **(LRR P, T)**
- ___ Anomalous Bright Floodplain Soils (F20) **(MLRA 153B)**
- ___ Red Parent Material (F21)
- ___ Very Shallow Dark Surface (F22) **(outside MLRA 138, 152A in FL, 154)**
- ___ Other (Explain in Remarks)

[3]Indicators of hydrophytic vegetation and wetland hydrology must be present, unless disturbed or problematic.

Restrictive Layer (if observed):

Type: _____

Depth (inches): _____

Hydric Soil Present? **Yes** ____ **No** ____

Remarks:

VEGETATION Continued (Five Strata) – Use scientific names of plants. Sampling Point: _____

Tree Stratum	Absolute % Cover	Dominant Species?	Indicator Status
7.			
8.			
9.			
10.			
11.			
12.			
	=Total Cover		
50% of total cover:		20% of total cover:	
Sapling Stratum			
7.			
8.			
9.			
10.			
11.			
12.			
	=Total Cover		
50% of total cover:		20% of total cover:	
Shrub Stratum			
7.			
8.			
9.			
10.			
11.			
12.			
	=Total Cover		
50% of total cover:		20% of total cover:	
Herb Stratum			
12.			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
	=Total Cover		
50% of total cover:		20% of total cover:	
Woody Vine Stratum			
6.			
7.			
8.			
9.			
10.			
	=Total Cover		
50% of total cover:		20% of total cover:	

Definitions of Five Vegetation Strata:

Tree – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and 3 in. (7.6 cm) or larger in diameter at breast height (DBH).

Sapling – Woody plants, excluding woody vines, approximately 20 ft (6 m) or more in height and less than 3 in. (7.6 cm) DBH.

Shrub - Woody Plants, excluding woody vines, approximately 3 to 20 ft (1 to 6 m) in height.

Herb – All herbaceous (non-woody) plants, including herbaceous vines, regardless of size, and woody plants, except woody vines, less than approximately 3 ft (1 m) in height.

Woody Vine – All woody vines, regardless of height.

Remarks: (If observed, list morphological adaptations below.)

VEGETATION Continued (Four Strata) – Use scientific names of plants. Sampling Point: _____

Tree Stratum	Absolute % Cover	Dominant Species?	Indicator Status
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
	=Total Cover		
50% of total cover:	20% of total cover:		
Sapling/Shrub Stratum			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
16.			
	=Total Cover		
50% of total cover:	20% of total cover:		
Herb Stratum			
13.			
14.			
15.			
16.			
17.			
18.			
19.			
20.			
21.			
22.			
23.			
24.			
	=Total Cover		
50% of total cover:	20% of total cover:		
Woody Vine Stratum			
6.			
7.			
8.			
9.			
10.			
	=Total Cover		
50% of total cover:	20% of total cover:		

Definitions of Four Vegetation Strata:

Tree – Woody plants, excluding vines, 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height.

Sapling/Shrub – Woody plants, excluding vines, less than 3 in. DBH and greater than 3.28 ft (1 m) tall.

Herb – All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft tall.

Woody Vine – All woody vines greater than 3.28 ft in height.

Remarks: (If observed, list morphological adaptations below.)

AGENCY DISCLOSURE NOTIFICATION

The public reporting burden for this collection of information, OMB Control Number 0710-0024, is estimated to average 30 minutes per response, including the timefor reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services,at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. **PLEASE DO NOT RETURN YOUR REQUEST TO THE ABOVE EMAIL.**

PRIVACY ACT STATEMENT

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Programs of the Corps of Engineers; Final Rule 33 CFR 320-332. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public and may be made available as part of a public notice as required by Federal law. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and/or instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned. System of Record Notice (SORN). The information received is entered into our permit tracking database and a SORN has been completed (SORN #A1145b) and may be accessed at the following website: http://dpcld.defense.gov/Privacy/SORNsIndex/DOD-wide-SORN-Article-View/Article/570115/a1145b-ce.aspx

Exhibit 20
(Revised March 3, 2005)

RGP-86 Flatwoods Salamander Pre-Application Evaluation

Endangered Species Act formal consultation was conducted between the U.S. Fish and Wildlife Service and the Corps of Engineers as part of the development of RGP-86. Consultation was based on presumed presence of salamanders due to the proximity of two known locations and the observance of suitable habitat in the action area. Best available methods were used to determine potential impacts to flatwoods salamanders that could be expected from implementation of the permit. However, it is reasonable to expect that with a project area covering more than 47,000 acres (about 1/3 of which is potentially developable) undetected habitat could be present. In order to avoid and minimize potential take of salamanders in these situations, the following habitat evaluation was developed. This evaluation must be completed by all applicants and performed by a qualified ecologist/biologist.

Step 1: Preliminary Project Site Review

1.. Applicants and consultants shall obtain and review an informational brochure developed by the Florida Fish and Wildlife Conservation Commission. The brochure is available from Florida Fish and Wildlife Conservation Commission, Bureau of Wildlife Diversity Conservation, 620 South Meridian Street, Tallahassee, Florida 32399-1600..

2.. Applicants and/or their consultants shall compare aerial photographs of their project site to Figures 2, 3 and 4 of the Biological Opinion. Note all data points located within the project site and within 450 meters (1,476 feet) of the project site or limits of construction..

3. If any data points of Figure 4 are located within the project site or within 450 meters of the project site or limits of construction, **re-initiation of consultation is required. Continue with Step 2.**

4.. Other data points of Figures 2 and 3 that are within the project site action area (including 450 meters) do not need further evaluation. Previous work conducted as part of the biological opinion addressed these sites. **Continue with Step 2.**

Step 2: Procedures for Reviewing Other Data to Determine Whether Additional Field Surveys Should be Conducted (based on Palis 2003)

There is a potential that suitable habitat may have been overlooked during the analysis for the biological opinion. Therefore, specific project sites must be reviewed using the procedures outlined below to determine whether they need to be field surveyed.

1.- Review project site using high-resolution recent infrared aerials (scale of 1 inch = 400 feet), NRCS soils data for Bay and Walton counties, and historical aerials of your project area that are of as high a resolution as is obtainable. Note any ponds[1] not depicted on Figures 2 or 3 with similarity of appearance to those of Figure 4 in the biological opinion.

2.. Features to look for on the infrared aerials are as follows:.

- Absence of a dense titi cover completely surrounding ponds. Absence is a positive indicator. Dense titi appears relatively dark red and smooth
- A graminaceous, treeless ecotone along part of the pond edges. Presence is a positive indicator. Wet herbaceous edges appear as smooth grayish blue, greenish grayish blue, or as a light band along the edge.
- Absence of deep water. Absence of deep water is a positive indicator. Deep water appears dark blue or almost black..

[1] "Ponds" are not traditional open waterbodies, but are ephemeral wetlands that are ponded for a portion of the year.

3. On historical aerials, look for open savannahs or pine flatwoods around ponds. These are positive indicators and appear as smooth, light-colored areas with scattered-to-no-trees.

4. On soil maps, where ponds occur, look for hydric or mesic soils around pond; hydric or mesic soils are positive indicators of flatwoods salamander use.

5. The presence of all of the above positive indicators means that the pond(s) should be field surveyed.

- If yes, then you must conduct field surveys to determine whether the pond(s) is a potential flatwoods salamander pond. **Continue with Step 3.**
- If no here and no to Step 1. 3., then **you are finished with the flatwoods salamander evaluation - Go to Step 5** (Flatwoods Salamander Findings).
- If no here and yes to Step 1. 3., then **re-initiation of consultation is required.**

Step 3: Field Assessment of Potential Flatwoods Salamander (*Ambystoma cingulatum*) Ponds

The Description Data Sheet (next page) may be completed at the same time as other fieldwork, such as wetland delineation. The field data sheet that must be completed at the time of the field survey follows. Photographs must also be taken of the ecotone and pond, particularly noting the location of the most graminaceous portion of ecotone and wetland groundcover.

Potential Flatwoods Salamander *(Ambystoma cingulatum)* Pond Description Data Sheet

Instructions: Circle the number of the most appropriate descriptor in each category. If no description option applies, circle "other" and describe. In some categories, such as ECOTONE VEGETATION DESCRIPTION, SPECIES COMPOSITION, and SURROUNDING UPLANDS, circle the number for all appropriate descriptors.

Pond# _____ Date _____ Observer(s) _____

ECOTONE VEGETATION DESCRIPTION

(If more than one descriptor applies, circle and estimate percentage of pond perimeter. ***Also circle appropriate grass and shrub species)***

1) undisturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*)[1], few to no shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____%

2) disturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*; bedded/rutted), few to no shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____%

3) undisturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*) under thick *Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____%

4) weedy graminaceous (*Andropogon, Panicum verrucosum*, and/or *weedy Rhynchospora*), few to no shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____%

5) disturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*; bedded/rutted), under thick *Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia* _____%

8) weedy graminaceous (*Andropogon, Panicum verrucosum*, weedy *Rhynchospora*) under thick *Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia* _____%

9) thick shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) over little to no graminaceous (*Aristida stricta, Calamovilfa curtissii, Andropogon, Panicum verrucosum*, weedy *Rhynchospora*) _____%

10) no ecotone _____%

11) other:_____ _____%

GRAMINACEOUS ECOTONE EXTENT DESCRIPTION

1) > 75 % of pond perimeter
2) 51-75% of pond perimeter
3) 26-50 % of pond perimeter
4) <25% of pond perimeter

GRAMINACEOUS ECOTONE WIDTH DESCRIPTION

1) > 0 m wide
2) 6-10 m wide
3) 3-5 m wide
4) 1-2m wide

---

1 "Undisturbed graminaceous" and "disturbed graminaceous" mean that the appropriate ground cover species are present (*Aristida stricta, Calamovilfa curtissii*, wiry *Rhynchospora* spp., and *Sporobolus*). However, "disturbed graminaceous" indicates that the soil has been disturbed by human activities such as chopping, bedding, ATV or skidder tracks. "Weedy graminaceous" means that not only are the appropriate ground cover species absent, but that the soil has been disturbed.

POND GRAMINACEOUS GROUNDCOVER SPECIES COMPOSITION
(place asterisk adjacent to visually dominant species)

1) *Aristida affinis*
2) *Carex*
3) *Dichanthelium (Panicum) erectifolium*
4) *Eriocaulon compressum*
5) *Panicum rigidulum*
6) *Rhynchospora inundata/corniculata*
7) *Rhynchospora* _____
8) *Sphagnum*
9) *Xyris*
10) other: _____

POND GRAMINACEOUS VEGETATION COVERAGE

1) extensive throughout basin, marsh-like
2) over most of basin (> 75 %)
3) scattered and local in basin (approx 25-74%)
4) limited to basin edge
5) sparse
6) none

POND CANOPY SPECIES COMPOSITION
(place asterisk adjacent to visually dominant species)

1) *Taxodium ascendens*
2) *Nyssa biflora*
3) *Pinus elliottii*
4) *Ilex myrtifolia*
5) other: _____

POND CANOPY COVERAGE

1) <25% 2) 26-50% 3) 51-75% 4) >75%

POND SUBSTRATE

1) relatively firm mud/sand with little to no leaf/needle litter
2) relatively firm mud/sand with abundant leaf/needle litter
3) soft and peaty (thick leaf/needle litter)

APPROXIMATE WATER DEPTH (_____ m)

If site dry, estimate using high water stains on trees: ____ m

WATER COLOR

1) clear to light stain 2) moderate stain (ice tea) 3) dark stain (coffee) 4) no water

SURROUNDING UPLANDS
(circle every applicable number and indicate relative percentage of area around pond)

1) undisturbed graminaceous (*Aristida stricta, Sporobolus*) dominated, few to no shrubs _____%
2) disturbed graminaceous (*Aristida stricta, Sporobolus*) dominated, few to no shrubs _____%
3) approximately 50/50 undisturbed graminaceous (*Aristida stricta, Sporobolus*)/shrubs _____%

4) approximately 50/50 disturbed graminaceous (*Aristida stricta, Sporobolus*)/shrubs ____%
5) disturbed with sparse vegetation (i.e., principally pine straw) ____%

6) shrub dominated (shrubs knee high or less), sparse graminaceous (*Aristida stricta, Sporobolus*) ____%

7) shrub dominated (shrubs between knee and head high), sparse graminaceous (*Aristida stricta, Sporobolus*) ____%
8) shrub dominated (shrubs head high or more), sparse graminaceous (*Aristida stricta, Sporobolus*) ____%
9) weedy graminaceous (e.g., *Andropogon*), few to no shrubs ____%
10) shrub dominated (shrubs knee high or less), sparse weedy graminaceous (*Andropogon*, etc.) ____%
11) shrub dominated (shrubs knee to head high), sparse weedy graminaceous (*Andropogon*, etc.) ____%
12) shrub dominated (shrubs head high or more), sparse weedy graminaceous (*Andropogon*, etc.) ____%
13) other _____ ____%

UPLANDS SPECIES PRESENT
(circle number and place asterisk by visually dominant species)

1) *Andropogon*
2) *Aristida stricta*
3) *Conradina canescens*
4) *Cyrilla racemiflora*
5) *Ilex glabra*
6) *Kalmia hirsuta*
7) *Licania michauxii*
8) *Lyonia lucida*
9) *Myrica cerifera*
10) *Pteridium aquilinum*
11) *Quercus minima/pumila*
12) *Serenoa repens*
13) *Vaccinium darrowi/myrsinites*
14) _____

General Notes: _____

SKETCH WETLAND/UPLAND (North ↑)
(delineate locations of vegetational differences in ecotone and in wetland and uplands)
(**photograph** the ecotone and pond noting the location of the most graminaceous portion of ecotone and wetland ground cover, note photo points)

Step 4: Expert Review of Field Results

When Steps 2 and 3 have been completed, the completed field data sheets and photographs should be sent to a recognized flatwoods salamander expert. In addition, the current and historical aerials, soil data, and a map of the

project site should also be forwarded to the expert. The expert will review all the information to determine whether the pond might be a potential flatwoods salamander pond.
The field data sheet used in Step 3 has been organized so that the descriptors under each category of interest are ordered from best to worst conditions for flatwoods salamanders. For example, under the category Ecotone Vegetation Description, the first descriptor [1) undisturbed graminaceous... few to no shrubs...] describes the best conditions for flatwoods salamanders and the last two descriptors [9) thick shrubs... and 10) no ecotone] describe the worst conditions.

The expert will evaluate the descriptors selected for each category of interest to determine whether the pond might be a potential flatwoods salamander breeding pond. If mostly low number descriptors were selected on the field data sheet, then the pond is more likely to be considered a potential breeding pond; conversely, if primarily high number descriptors were selected on the field data sheet, then the pond is less likely to be considered a potential breeding pond. However, no formula presently exists that encompasses all the possibilities that might eliminate or elect a pond for further consideration as a potential breeding pond.

If the expert cannot determine whether or not the pond should be considered a potential flatwoods salamander breeding pond, s/he may request additional information from the ecologist/biologist who visited the pond and/or the project applicant. If the request for additional information is not fulfilled within a reasonable time period or the response is not sufficiently helpful, the expert may also elect to visit the pond himself at the expense of the project applicant.

The expert will provide a written determination as to whether the surveyed pond(s) is likely to be a potential flatwoods salamander breeding pond.

Review Time Frames:

- Provide field data sheets to expert;
- Expert reviews field data sheets within 10 working days of receipt, and
    - Requests additional information, or
    - Provides[2] written determination;
- Project applicant or their consultant provides additional information to expert;
- Expert provides written determination to project applicant within 5 working days of receipt of sufficient additional information;
- Project applicant provides the expert's written determination and background documentation (prepared map of ponds, aerials, soil data, field data sheets, and photographs) to the agencies as part of the pre-application Item #8.

2 "Provides" implies postmarked, emailed or faxed.

Step 5: Flatwoods Salamander Findings

	Yes	No
1. The project site contains or is within 450 meters (1,476 feet) of one or more of the data points indicated in Figure 4 of the biological opinion. **If yes, re-initiation of consultation is required.**	____	____
2. The project site contains or is within 450 meters of potential habitat not evaluated in the biological opinion.	____	____
3. Field evaluations and expert review were necessary for additional habitat.	____	____
4. Expert review indicates that suitable habitat is located within the project action area. Name of flatwoods salamander expert _____. **If yes, re-initiation of consultation is required.**	____	____
5. Appropriate documentation is included to support these findings.	____	____

Signature _____ Date _____

Ecologist/Biologist who Performed the Evaluation

Exhibit **21**

NATIONAL BALD EAGLE MANAGEMENT GUIDELINES

U.S. Fish and Wildlife Service

May 2007

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INTRODUCTION

The bald eagle (*Haliaeetus leucocephalus*) is protected by the Bald and Golden Eagle Protection Act (Eagle Act) and the Migratory Bird Treaty Act (MBTA). The MBTA and the Eagle Act protect bald eagles from a variety of harmful actions and impacts. The U.S. Fish and Wildlife Service (Service) developed these National Bald Eagle Management Guidelines to advise landowners, land managers, and others who share public and private lands with bald eagles when and under what circumstances the protective provisions of the Eagle Act may apply to their activities. A variety of human activities can potentially interfere with bald eagles, affecting their ability to forage, nest, roost, breed, or raise young. The Guidelines are intended to help people minimize such impacts to bald eagles, particularly where they may constitute "disturbance," which is prohibited by the Eagle Act.

The Guidelines are intended to:

(1) Publicize the provisions of the Eagle Act that continue to protect bald eagles, in order to reduce the possibility that people will violate the law,

(2) Advise landowners, land managers and the general public of the potential for various human activities to disturb bald eagles, and

(3) Encourage additional nonbinding land management practices that benefit bald eagles (see Additional Recommendations section).

While the Guidelines include general recommendations for land management practices that will benefit bald eagles, the document is intended primarily as a tool for landowners and planners who seek information and recommendations regarding how to avoid disturbing bald eagles. Many States and some tribal entities have developed state-specific management plans, regulations, and/or guidance for landowners and land managers to protect and enhance bald eagle habitat, and we encourage the continued development and use of these planning tools to benefit bald eagles.

Adherence to the Guidelines herein will benefit individuals, agencies, organizations, and companies by helping them avoid violations of the law. However, the Guidelines themselves are not law. Rather, they are recommendations based on several decades of behavioral observations, science, and conservation measures to avoid or minimize adverse impacts to bald eagles.

The U.S. Fish and Wildlife Service strongly encourages adherence to these guidelines to ensure that bald and golden eagle populations will continue to be sustained. The Service realizes there may be impacts to some birds even if all reasonable measures are taken to avoid such impacts. Although it is not possible to absolve individuals and entities from liability under the Eagle Act or the MBTA, the Service exercises enforcement discretion to focus on those individuals, companies, or agencies that take migratory birds without regard for the consequences of their actions and the law, especially when conservation measures, such as these Guidelines, are available, but have not been implemented. The Service will prioritize its enforcement efforts to focus on those individuals or entities who take bald eagles or their parts, eggs, or nests without implementing appropriate measures recommended by the Guidelines.

The Service intends to pursue the development of regulations that would authorize, under limited circumstances, the use of permits if “take” of an eagle is anticipated but unavoidable. Additionally, if the bald eagle is delisted, the Service intends to provide a regulatory mechanism to honor existing (take) authorizations under the Endangered Species Act (ESA).

During the interim period until the Service completes a rulemaking for permits under the Eagle Act, the Service does not intend to refer for prosecution the incidental “*take*” of any bald eagle under the MBTA or Eagle Act, if such take is in full compliance with the terms and conditions of an incidental take statement issued to the action agency or applicant under the authority of section 7(b)(4) of the ESA or a permit issued under the authority of section 10(a)(1)(B) of the ESA.

The Guidelines are applicable throughout the United States, including Alaska. The primary purpose of these Guidelines is to provide information that will minimize or prevent violations only of *Federal* laws governing bald eagles. In addition to Federal laws, many states and some smaller jurisdictions and tribes have additional laws and regulations protecting bald eagles. In some cases those laws and regulations may be more protective (restrictive) than these Federal guidelines. If you are planning activities that may affect bald eagles, we therefore recommend that you contact both your nearest U.S. Fish and Wildlife Service Field Office (see the contact information on p.16) and your state wildlife agency for assistance.

LEGAL PROTECTIONS FOR THE BALD EAGLE

The Bald and Golden Eagle Protection Act

The Eagle Act (16 U.S.C. 668-668c), enacted in 1940, and amended several times since then, prohibits anyone, without a permit issued by the Secretary of the Interior, from “taking” bald eagles, including their parts, nests, or eggs. The Act provides criminal and civil penalties for persons who “take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or any manner, any bald eagle ... [or any golden eagle], alive or dead, or any part, nest, or egg thereof.” The Act defines “take” as “pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb.” “Disturb’’ means:

> "Disturb means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior."

In addition to immediate impacts, this definition also covers impacts that result from human-induced alterations initiated around a previously used nest site during a time when eagles are not present, if, upon the eagle=s return, such alterations agitate or bother an eagle to a degree that injures an eagle or substantially interferes with normal breeding, feeding, or sheltering habits and causes, or is likely to cause, a loss of productivity or nest abandonment.

A violation of the Act can result in a criminal fine of $100,000 ($200,000 for organizations), imprisonment for one year, or both, for a first offense. Penalties increase substantially for additional offenses, and a second violation of this Act is a felony.

The Migratory Bird Treaty Act
The MBTA (16 U.S.C. 703-712), prohibits the taking of any migratory bird or any part, nest, or egg, except as permitted by regulation. The MBTA was enacted in 1918; a 1972 agreement supplementing one of the bilateral treaties underlying the MBTA had the effect of expanding the scope of the Act to cover bald eagles and other raptors. Implementing regulations define "take" under the MBTA as "pursue, hunt, shoot, wound, kill, trap, capture, possess, or collect."

Copies of the Eagle Act and the MBTA are available at: http://permits.fws.gov/ltr/ltr.shtml.

State laws and regulations
Most states have their own regulations and/or guidelines for bald eagle management. Some states may continue to list the bald eagle as endangered, threatened, or of special concern. If you plan activities that may affect bald eagles, we urge you to familiarize yourself with the regulations and/or guidelines that apply to bald eagles in your state. Your adherence to the Guidelines herein does not ensure that you are in compliance with state laws and regulations because state regulations can be more specific and/or restrictive than these Guidelines.

NATURAL HISTORY OF THE BALD EAGLE

Bald eagles are a North American species that historically occurred throughout the contiguous United States and Alaska. After severely declining in the lower 48 States between the 1870s and the 1970s, bald eagles have rebounded and re-established breeding territories in each of the lower 48 states. The largest North American breeding populations are in Alaska and Canada, but there are also significant bald eagle populations in Florida, the Pacific Northwest, the Greater Yellowstone area, the Great Lakes states, and the Chesapeake Bay region. Bald eagle distribution varies seasonally. Bald eagles that nest in southern latitudes frequently move northward in late spring and early summer, often summering as far north as Canada. Most eagles that breed at northern latitudes migrate southward during winter, or to coastal areas where waters remain unfrozen. Migrants frequently concentrate in large numbers at sites where food is abundant and they often roost together communally. In some cases, concentration areas are used year-round: in summer by southern eagles and in winter by northern eagles.

Juvenile bald eagles have mottled brown and white plumage, gradually acquiring their dark brown body and distinctive white head and tail as they mature. Bald eagles generally attain adult plumage by 5 years of age. Most are capable of breeding at 4 or 5 years of age, but in healthy populations they may not start breeding until much older. Bald eagles may live 15 to 25 years in the wild. Adults weigh 8 to 14 pounds (occasionally reaching 16 pounds in Alaska) and have wingspans of 5 to 8 feet. Those in the northern range are larger than those in the south, and females are larger than males.

Where do bald eagles nest?

Breeding bald eagles occupy "territories," areas they will typically defend against intrusion by other eagles. In addition to the active nest, a territory may include one or more alternate nests (nests built or maintained by the eagles but not used for nesting in a given year). The Eagle Act prohibits removal or destruction of both active and alternate bald eagle nests. Bald eagles exhibit high nest site fidelity and nesting territories are often used year after year. Some territories are known to have been used continually for over half a century.

Bald eagles generally nest near coastlines, rivers, large lakes or streams that support an adequate food supply. They often nest in mature or old-growth trees; snags (dead trees); cliffs; rock promontories; rarely on the ground; and with increasing frequency on human-made structures such as power poles and communication towers. In forested areas, bald eagles often select the tallest trees with limbs strong enough to support a nest that can weigh more than 1,000 pounds. Nest sites typically include at least one perch with a clear view of the water where the eagles usually forage. Shoreline trees or snags located in reservoirs provide the visibility and accessibility needed to locate aquatic prey. Eagle nests are constructed with large sticks, and may be lined with moss, grass, plant stalks, lichens, seaweed, or sod. Nests are usually about 4-6 feet in diameter and 3 feet deep, although larger nests exist.



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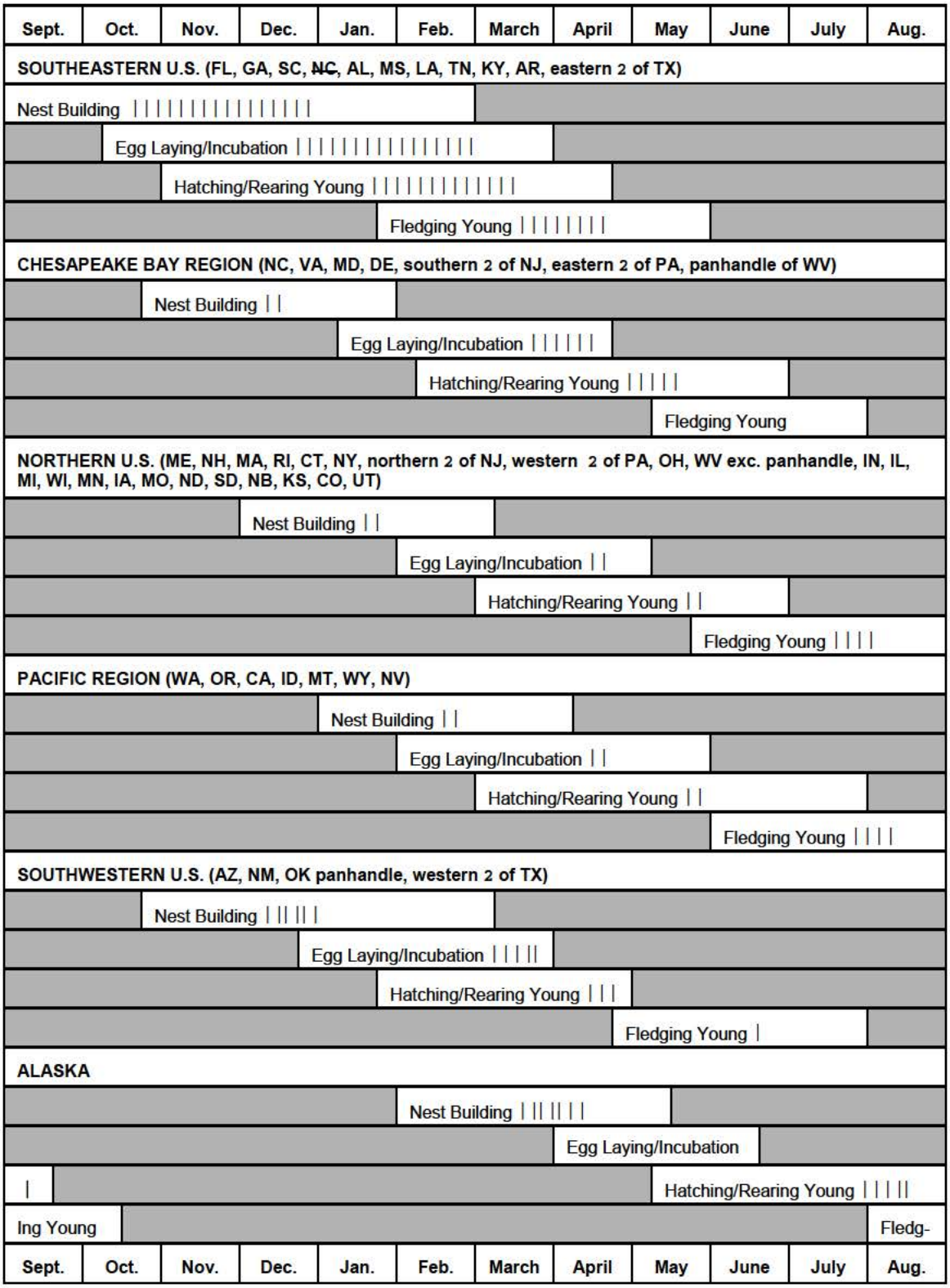
The range of breeding bald eagles in 2000 (shaded areas). This map shows only the larger concentrations of nests; eagles have continued to expand into additional nesting territories in many states. The dotted line represents the bald eagle's wintering range.

When do bald eagles nest?

Nesting activity begins several months before egg-laying. Egg-laying dates vary throughout the U.S., ranging from October in Florida, to late April or even early May in the northern United States. Incubation typically lasts 33-35 days, but can be as long as 40 days. Eaglets make their first unsteady flights about 10 to 12 weeks after hatching, and fledge (leave their nests) within a few days after that first flight. However, young birds usually remain in the vicinity of the nest for several weeks after fledging because they are almost completely dependent on their parents for food until they disperse from the nesting territory approximately 6 weeks later.

The bald eagle breeding season tends to be longer in the southern U.S., and re-nesting following an unsuccessful first nesting attempt is more common there as well. The following table shows the timing of bald eagle breeding seasons in different regions of the country. The table represents the range of time within which the majority of nesting activities occur in each region and does not apply to any specific nesting pair. Because the timing of nesting activities may vary within a given region, you should contact the nearest U.S. Fish and Wildlife Service Field Office (see page 16) and/or your state wildlife conservation agency for more specific information on nesting chronology in your area.

Chronology of typical reproductive activities of bald eagles in the United States.



How many chicks do bald eagles raise?
The number of eagle eggs laid will vary from 1-3, with 1-2 eggs being the most common. Only one eagle egg is laid per day, although not always on successive days. Hatching of young occurs on different days with the result that chicks in the same nest are sometimes of unequal size. The overall national fledging rate is approximately one chick per nest, annually, which results in a healthy expanding population.

What do bald eagles eat?
Bald eagles are opportunistic feeders. Fish comprise much of their diet, but they also eat waterfowl, shorebirds/colonial waterbirds, small mammals, turtles, and carrion. Because they are visual hunters, eagles typically locate their prey from a conspicuous perch, or soaring flight, then swoop down and strike. Wintering bald eagles often congregate in large numbers along streams to feed on spawning salmon or other fish species, and often gather in large numbers in areas below reservoirs, especially hydropower dams, where fish are abundant. Wintering eagles also take birds from rafts of ducks at reservoirs and rivers, and congregate on melting ice shelves to scavenge dead fish from the current or the soft melting ice. Bald eagles will also feed on carcasses along roads, in landfills, and at feedlots.

During the breeding season, adults carry prey to the nest to feed the young. Adults feed their chicks by tearing off pieces of food and holding them to the beaks of the eaglets. After fledging, immature eagles are slow to develop hunting skills, and must learn to locate reliable food sources and master feeding techniques. Young eagles will congregate together, often feeding upon easily acquired food such as carrion and fish found in abundance at the mouths of streams and shallow bays and at landfills.

The impact of human activity on nesting bald eagles
During the breeding season, bald eagles are sensitive to a variety of human activities. However, not all bald eagle pairs react to human activities in the same way. Some pairs nest successfully just dozens of yards from human activity, while others abandon nest sites in response to activities much farther away. This variability may be related to a number of factors, including visibility, duration, noise levels, extent of the area affected by the activity, prior experiences with humans, and tolerance of the individual nesting pair. The relative sensitivity of bald eagles during various stages of the breeding season is outlined in the following table.

Nesting Bald Eagle Sensitivity to Human Activities

Phase	Activity	Sensitivity to Human Activity	Comments
I	Courtship and Nest Building	Most sensitive period; likely to respond negatively	Most critical time period. Disturbance is manifested in nest abandonment. Bald eagles in newly established territories are more prone to abandon nest sites.
II	Egg laying	Very sensitive period	Human activity of even limited duration may cause nest desertion and abandonment of territory for the breeding season.
III	Incubation and early nestling period (up to 4 weeks)	Very sensitive period	Adults are less likely to abandon the nest near and after hatching. However, flushed adults leave eggs and young unattended; eggs are susceptible to cooling, loss of moisture, overheating, and predation; young are vulnerable to elements.
IV	Nestling period, 4 to 8 weeks	Moderately sensitive period	Likelihood of nest abandonment and vulnerability of the nestlings to elements somewhat decreases. However, nestlings may miss feedings, affecting their survival.
V	Nestlings 8 weeks through fledging	Very sensitive period	Gaining flight capability, nestlings 8 weeks and older may flush from the nest prematurely due to disruption and die.

If agitated by human activities, eagles may inadequately construct or repair their nest, may expend energy defending the nest rather than tending to their young, or may abandon the nest altogether. Activities that cause prolonged absences of adults from their nests can jeopardize eggs or young. Depending on weather conditions, eggs may overheat or cool too much and fail to hatch. Unattended eggs and nestlings are subject to predation. Young nestlings are particularly vulnerable because they rely on their parents to provide warmth or shade, without which they may die as a result of hypothermia or heat stress. If food delivery schedules are interrupted, the young may not develop healthy plumage, which can affect their survival. In addition, adults startled while incubating or brooding young may damage eggs or injure their young as they abruptly leave the nest. Older nestlings no longer require constant attention from the adults, but they may be startled by loud or intrusive human activities and prematurely jump from the nest before they are able to fly or care for themselves. Once fledged, juveniles range up to ¼ mile from the nest site, often to a site with minimal human activity. During this period, until about six weeks after departure from the nest, the juveniles still depend on the adults to feed them.

The impact of human activity on foraging and roosting bald eagles

Disruption, destruction, or obstruction of roosting and foraging areas can also negatively affect bald eagles. Disruptive activities in or near eagle foraging areas can interfere with feeding, reducing chances of survival. Interference with feeding can also result in reduced productivity (number of young successfully fledged). Migrating and wintering bald eagles often congregate at specific sites for purposes of feeding and sheltering. Bald eagles rely on established roost sites because of their proximity to sufficient food sources. Roost sites are usually in mature trees where the eagles are somewhat sheltered from the wind and weather. Human activities near or within communal roost sites may prevent eagles

from feeding or taking shelter, especially if there are not other undisturbed and productive feeding and roosting sites available. Activities that permanently alter communal roost sites and important foraging areas can altogether eliminate the elements that are essential for feeding and sheltering eagles.

Where a human activity agitates or bothers roosting or foraging bald eagles to the degree that causes injury or substantially interferes with breeding, feeding, or sheltering behavior and causes, or is likely to cause, a loss of productivity or nest abandonment, the conduct of the activity constitutes a violation of the Eagle Act's prohibition against disturbing eagles. The circumstances that might result in such an outcome are difficult to predict without detailed site-specific information. If your activities may disturb roosting or foraging bald eagles, you should contact your local Fish and Wildlife Service Field Office (see page 16) for advice and recommendations for how to avoid such disturbance.

RECOMMENDATIONS FOR AVOIDING DISTURBANCE AT NEST SITES

In developing these Guidelines, we relied on existing state and regional bald eagle guidelines, scientific literature on bald eagle disturbance, and recommendations of state and Federal biologists who monitor the impacts of human activity on eagles. Despite these resources, uncertainties remain regarding the effects of many activities on eagles and how eagles in different situations may or may not respond to certain human activities. The Service recognizes this uncertainty and views the collection of better biological data on the response of eagles to disturbance as a high priority. To the extent that resources allow, the Service will continue to collect data on responses of bald eagles to human activities conducted according to the recommendations within these Guidelines to ensure that adequate protection from disturbance is being afforded, and to identify circumstances where the Guidelines might be modified. These data will be used to make future adjustments to the Guidelines.

To avoid disturbing nesting bald eagles, we recommend (1) keeping a distance between the activity and the nest (distance buffers), (2) maintaining preferably forested (or natural) areas between the activity and around nest trees (landscape buffers), and (3) avoiding certain activities during the breeding season. The buffer areas serve to minimize visual and auditory impacts associated with human activities near nest sites. Ideally, buffers would be large enough to protect existing nest trees and provide for alternative or replacement nest trees.

The size and shape of effective buffers vary depending on the topography and other ecological characteristics surrounding the nest site. In open areas where there are little or no forested or topographical buffers, such as in many western states, distance alone must serve as the buffer. Consequently, in open areas, the distance between the activity and the nest may need to be larger than the distances recommended under Categories A and B of these guidelines (pg. 12) if no landscape buffers are present. The height of the nest above the ground may also ameliorate effects of human activities; eagles at higher nests may be less prone to disturbance.

In addition to the physical features of the landscape and nest site, the appropriate size for the distance buffer may vary according to the historical tolerances of eagles to human activities in particular localities, and may also depend on the location of the nest in relation

to feeding and roosting areas used by the eagles. Increased competition for nest sites may lead bald eagles to nest closer to human activity (and other eagles).

Seasonal restrictions can prevent the potential impacts of many shorter-term, obtrusive activities that do not entail landscape alterations (e.g. fireworks, outdoor concerts). In proximity to the nest, these kinds of activities should be conducted only outside the breeding season. For activities that entail both short-term, obtrusive characteristics and more permanent impacts (e.g., building construction), we recommend a combination of both approaches: retaining a landscape buffer *and* observing seasonal restrictions.

For assistance in determining the appropriate size and configuration of buffers or the timing of activities in the vicinity of a bald eagle nest, we encourage you to contact the nearest U.S. Fish and Wildlife Service Field Office (see page 16).

Existing Uses

Eagles are unlikely to be disturbed by routine use of roads, homes, and other facilities where such use pre-dates the eagles' successful nesting activity in a given area. Therefore, in most cases *ongoing* existing uses may proceed with the same intensity with little risk of disturbing bald eagles. However, some *intermittent, occasional, or irregular* uses that pre-date eagle nesting in an area may disturb bald eagles. For example: a pair of eagles may begin nesting in an area and subsequently be disturbed by activities associated with an annual outdoor flea market, even though the flea market has been held annually at the same location. In such situations, human activity should be adjusted or relocated to minimize potential impacts on the nesting pair.

ACTIVITY-SPECIFIC GUIDELINES

The following section provides the Service=s management recommendations for avoiding bald eagle disturbance as a result of new or intermittent activities proposed in the vicinity of bald eagle nests. Activities are separated into 8 categories (A – H) based on the nature and magnitude of impacts to bald eagles that usually result from the type of activity. Activities with similar or comparable impacts are grouped together.

In most cases, impacts will vary based on the visibility of the activity from the eagle nest and the degree to which similar activities are already occurring in proximity to the nest site. Visibility is a factor because, in general, eagles are more prone to disturbance when an activity occurs in full view. For this reason, we recommend that people locate activities farther from the nest structure in areas with open vistas, in contrast to areas where the view is shielded by rolling topography, trees, or other screening factors. The recommendations also take into account the existence of similar activities in the area because the continued presence of nesting bald eagles in the vicinity of the existing activities indicates that the eagles in that area can tolerate a greater degree of human activity than we can generally expect from eagles in areas that experience fewer human impacts. To illustrate how these factors affect the likelihood of disturbing eagles, we have incorporated the recommendations for some activities into a table (categories A and B).

First, determine which category your activity falls into (between categories A – H). If the activity you plan to undertake is not specifically addressed in these guidelines, follow the recommendations for the most similar activity represented.

If your activity is under A or B, our recommendations are in table form. The vertical axis shows the degree of visibility of the activity from the nest. The horizontal axis (header row) represents the degree to which similar activities are ongoing in the vicinity of the nest. Locate the row that best describes how visible your activity will be from the eagle nest. Then, choose the column that best describes the degree to which similar activities are ongoing in the vicinity of the eagle nest. The box where the column and row come together contains our management recommendations for how far you should locate your activity from the nest to avoid disturbing the eagles. The numerical distances shown in the tables are the closest the activity should be conducted relative to the nest. In some cases we have included additional recommendations (other than recommended *distance* from the nest) you should follow to help ensure that your activity will not disturb the eagles.

Alternate nests

For activities that entail permanent landscape alterations that may result in bald eagle disturbance, these recommendations apply to both active and alternate bald eagle nests. Disturbance becomes an issue with regard to alternate nests if eagles return for breeding purposes and react to land use changes that occurred while the nest was inactive. The likelihood that an alternate nest will again become active decreases the longer it goes unused. If you plan activities in the vicinity of an alternate bald eagle nest and have information to show that the nest has not been active during the preceding 5 breeding seasons, the recommendations provided in these guidelines for avoiding disturbance around the nest site may no longer be warranted. The nest itself remains protected by other provisions of the Eagle Act, however, and may not be destroyed.

If special circumstances exist that make it unlikely an inactive nest will be reused before 5 years of disuse have passed, and you believe that the probability of reuse is low enough to warrant disregarding the recommendations for avoiding disturbance, you should be prepared to provide all the reasons for your conclusion, including information regarding past use of the nest site. Without sufficient documentation, you should continue to follow these guidelines when conducting activities around the nest site. If we are able to determine that it is unlikely the nest will be reused, we may advise you that the recommendations provided in these guidelines for avoiding disturbance are no longer necessary around that nest site.

This guidance is intended to minimize disturbance, as defined by Federal regulation. In addition to Federal laws, most states and some tribes and smaller jurisdictions have additional laws and regulations protecting bald eagles. In some cases those laws and regulations may be more protective (restrictive) than these Federal guidelines.

Temporary Impacts

For activities that have temporary impacts, such as the use of loud machinery, fireworks displays, or summer boating activities, we recommend seasonal restrictions. These types of activities can generally be carried out outside of the breeding season without causing disturbance. The recommended restrictions for these types of activities can be lifted for alternate nests within a particular territory, including nests that were attended during the current breeding season but not used to raise young, after eggs laid in another nest within the territory have hatched (depending on the distance between the alternate nest and the active nest).

In general, activities should be kept as far away from nest trees as possible; loud and disruptive activities should be conducted when eagles are not nesting; and activity between the nest and the nearest foraging area should be minimized. If the activity you plan to undertake is not specifically addressed in these guidelines, follow the recommendations for the most similar activity addressed, or contact your local U.S. Fish and Wildlife Service Field Office for additional guidance.

If you believe that special circumstances apply to your situation that increase or diminish the likelihood of bald eagle disturbance, or if it is not possible to adhere to the guidelines, you should contact your local Service Field Office for further guidance.

Category A:
Building construction, 1 or 2 story, with project footprint of ½ acre or less.
Construction of roads, trails, canals, power lines, and other linear utilities.
Agriculture and aquaculture – new or expanded operations.
Alteration of shorelines or wetlands.
Installation of docks or moorings.
Water impoundment.

Category B:
Building construction, 3 or more stories.
Building construction, 1 or 2 story, with project footprint of more than ½ acre.
Installation or expansion of marinas with a capacity of 6 or more boats.
Mining and associated activities.
Oil and natural gas drilling and refining and associated activities.

	If there is no similar activity within 1 mile of the nest	***If there is similar activity closer than 1 mile from the nest***
If the activity will be visible from the nest	660 feet. Landscape buffers are recommended.	660 feet, or as close as existing tolerated activity of similar scope. Landscape buffers are recommended.
If the activity will not be visible from the nest	Category A: 330 feet. Clearing, external construction, and landscaping between 330 feet and 660 feet should be done outside breeding season. Category B: 660 feet.	330 feet, or as close as existing tolerated activity of similar scope. Clearing, external construction and landscaping within 660 feet should be done outside breeding season.

The numerical distances shown in the table are the closest the activity should be conducted relative to the nest.

Category C. Timber Operations and Forestry Practices

- Avoid clear cutting or removal of overstory trees within 330 feet of the nest at any time.

- Avoid timber harvesting operations, including road construction and chain saw and yarding operations, during the breeding season within 660 feet of the nest. The distance may be decreased to 330 feet around alternate nests within a particular territory, including nests that were attended during the current breeding season but not used to raise young, after eggs laid in another nest within the territory have hatched.

- Selective thinning and other silviculture management practices designed to conserve or enhance habitat, including prescribed burning close to the nest tree, should be undertaken outside the breeding season. Precautions such as raking leaves and woody debris from around the nest tree should be taken to prevent crown fire or fire climbing the nest tree. If it is determined that a burn during the breeding season would be beneficial, then, to ensure that no take or disturbance will occur, these activities should be conducted only when neither adult eagles nor young are present at the nest tree (i.e., at the beginning of, or end of, the breeding season, either before the particular nest is active or after the young have fledged from that nest). Appropriate Federal and state biologists should be consulted before any prescribed burning is conducted during the breeding season.

- Avoid construction of log transfer facilities and in-water log storage areas within 330 feet of the nest.

Category D. Off-road vehicle use (including snowmobiles). No buffer is necessary around nest sites outside the breeding season. During the breeding season, do not operate off-road vehicles within 330 feet of the nest. In open areas, where there is increased visibility and exposure to noise, this distance should be extended to 660 feet.

Category E. Motorized Watercraft use (including jet skis/personal watercraft). No buffer is necessary around nest sites outside the breeding season. During the breeding season, within 330 feet of the nest, (1) do not operate jet skis (personal watercraft), and (2) avoid concentrations of noisy vessels (e.g., commercial fishing boats and tour boats), except where eagles have demonstrated tolerance for such activity. Other motorized boat traffic passing within 330 feet of the nest should attempt to minimize trips and avoid stopping in the area where feasible, particularly where eagles are unaccustomed to boat traffic. Buffers for airboats should be larger than 330 feet due to the increased noise they generate, combined with their speed, maneuverability, and visibility.

Category F. Non-motorized recreation and human entry (e.g., hiking, camping, fishing, hunting, birdwatching, kayaking, canoeing). No buffer is necessary around nest sites outside the breeding season. If the activity will be visible or highly audible from the nest, maintain a 330-foot buffer during the breeding season, particularly where eagles are unaccustomed to such activity.

Category G. Helicopters and fixed-wing aircraft.
Except for authorized biologists trained in survey techniques, avoid operating aircraft within 1,000 feet of the nest during the breeding season, except where eagles have demonstrated tolerance for such activity.

Category H. Blasting and other loud, intermittent noises.
Avoid blasting and other activities that produce extremely loud noises within 1/2 mile of active nests, unless greater tolerance to the activity (or similar activity) has been demonstrated by the eagles in the nesting area. This recommendation applies to the use of fireworks classified by the Federal Department of Transportation as Class B explosives, which includes the larger fireworks that are intended for licensed public display.

RECOMMENDATIONS FOR AVOIDING DISTURBANCE AT FORAGING AREAS AND COMMUNAL ROOST SITES

1. Minimize potentially disruptive activities and development in the eagles' direct flight path between their nest and roost sites and important foraging areas.

2. Locate long-term and permanent water-dependent facilities, such as boat ramps and marinas, away from important eagle foraging areas.

3. Avoid recreational and commercial boating and fishing near critical eagle foraging areas during peak feeding times (usually early to mid-morning and late afternoon), except where eagles have demonstrated tolerance to such activity.

4. Do not use explosives within ½ mile (or within 1 mile in open areas) of communal roosts when eagles are congregating, without prior coordination with the U.S. Fish and Wildlife Service and your state wildlife agency.

5. Locate aircraft corridors no closer than 1,000 feet vertical or horizontal distance from communal roost sites.

ADDITIONAL RECOMMENDATIONS TO BENEFIT BALD EAGLES

The following are additional management practices that landowners and planners can exercise for added benefit to bald eagles.

1. Protect and preserve potential roost and nest sites by retaining mature trees and old growth stands, particularly within ½ mile from water.

2. Where nests are blown from trees during storms or are otherwise destroyed by the elements, continue to protect the site in the absence of the nest for up to three (3) complete breeding seasons. Many eagles will rebuild the nest and reoccupy the site.

3. To avoid collisions, site wind turbines, communication towers, and high voltage transmission power lines away from nests, foraging areas, and communal roost sites.

4. Employ industry-accepted best management practices to prevent birds from colliding with or being electrocuted by utility lines, towers, and poles. If possible, bury utility lines in important eagle areas.

5. Where bald eagles are likely to nest in human-made structures (e.g., cell phone towers) and such use could impede operation or maintenance of the structures or jeopardize the safety of the eagles, equip the structures with either (1) devices engineered to discourage bald eagles from building nests, or (2) nesting platforms that will safely accommodate bald eagle nests without interfering with structure performance.

6. Immediately cover carcasses of euthanized animals at landfills to protect eagles from being poisoned.

7. Do not intentionally feed bald eagles. Artificially feeding bald eagles can disrupt their essential behavioral patterns and put them at increased risk from power lines, collision with windows and cars, and other mortality factors.

8. Use pesticides, herbicides, fertilizers, and other chemicals only in accordance with Federal and state laws.

9. Monitor and minimize dispersal of contaminants associated with hazardous waste sites (legal or illegal), permitted releases, and runoff from agricultural areas, especially within watersheds where eagles have shown poor reproduction or where bioaccumulating contaminants have been documented. These factors present a risk of contamination to eagles and their food sources.

CONTACTS

The following U.S. Fish and Wildlife Service Field Offices provide technical assistance on bald eagle management:

Alabama	Daphne	(251) 441-5181
Alaska	Anchorage	(907) 271-2888
	Fairbanks	(907) 456-0203
	Juneau	(907) 780-1160
Arizona	Phoenix	(602) 242-0210
Arkansas	Conway	(501) 513-4470
California	Arcata	(707) 822-7201
	Barstow	(760) 255-8852
	Carlsbad	(760) 431-9440
	Red Bluff	(530) 527-3043
	Sacramento	(916) 414-6000
	Stockton	(209) 946-6400
	Ventura	(805) 644-1766
	Yreka	(530) 842-5763
Colorado	Lakewood	(303) 275-2370
	Grand Junction	(970) 243-2778
Connecticut	(See New Hampshire)	
Delaware	(See Maryland)	
Florida	Panama City	(850) 769-0552
	Vero Beach	(772) 562-3909
	Jacksonville	(904) 232-2580
Georgia	Athens	(706) 613-9493
	Brunswick	(912) 265-9336
	Columbus	(706) 544-6428
Idaho	Boise	(208) 378-5243
	Chubbuck	(208) 237-6975
Illinois/Iowa	Rock Island	(309) 757-5800
Indiana	Bloomington	(812) 334-4261
Kansas	Manhattan	(785) 539-3474
Kentucky	Frankfort	(502) 695-0468
Louisiana	Lafayette	(337) 291-3100
Maine	Old Town	(207) 827-5938
Maryland	Annapolis	(410) 573-4573
Massachusetts	(See New Hampshire)	
Michigan	East Lansing	(517) 351-2555
Minnesota	Bloomington	(612) 725-3548
Mississippi	Jackson	(601) 965-4900
Missouri	Columbia	(573) 234-2132
Montana	Helena	(405) 449-5225
Nebraska	Grand Island	(308) 382-6468
Nevada	Las Vegas	(702) 515-5230
	Reno	(775) 861-6300
New Hampshire	Concord	(603) 223-2541
New Jersey	Pleasantville	(609) 646-9310
New Mexico	Albuquerque	(505) 346-2525
New York	Cortland	(607) 753-9334
	Long Island	(631) 776-1401
North Carolina	Raleigh	(919) 856-4520
	Asheville	(828) 258-3939
North Dakota	Bismarck	(701) 250-4481
Ohio	Reynoldsburg	(614) 469-6923
Oklahoma	Tulsa	(918) 581-7458
Oregon	Bend	(541) 383-7146
	Klamath Falls	(541) 885-8481
	La Grande	(541) 962-8584
	Newport	(541) 867-4558
	Portland	(503) 231-6179
	Roseburg	(541) 957-3474
Pennsylvania	State College	(814) 234-4090
Rhode Island	(See New Hampshire)	
South Carolina	Charleston	(843) 727-4707
South Dakota	Pierre	(605) 224-8693
Tennessee	Cookeville	(931) 528-6481
Texas	Clear Lake	(281) 286-8282
Utah	West Valley City	(801) 975-3330
Vermont	(See New Hampshire)	
Virginia	Gloucester	(804) 693-6694
Washington	Lacey	(306) 753-9440
	Spokane	(509) 891-6839
	Wenatchee	(509) 665-3508
West Virginia	Elkins	(304) 636-6586
Wisconsin	New Franken	(920) 866-1725
Wyoming	Cheyenne	(307) 772-2374
	Cody	(307) 578-5939

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Arlington, VA 22203-1610
(703) 358-1714
http://www.fws.gov/migratorybirds

State Agencies

To contact a state wildlife agency, visit the Association of Fish & Wildlife Agencies' website at http://www.fishwildlife.org/where_us.html

GLOSSARY

The definitions below apply to these National Bald Eagle Management Guidelines:

Communal roost sites – Areas where bald eagles gather and perch overnight – and sometimes during the day in the event of inclement weather. Communal roost sites are usually in large trees (live or dead) that are relatively sheltered from wind and are generally in close proximity to foraging areas. These roosts may also serve a social purpose for pair bond formation and communication among eagles. Many roost sites are used year after year.

Disturb – To agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.

In addition to immediate impacts, this definition also covers impacts that result from human-caused alterations initiated around a previously used nest site during a time when eagles are not present, if, upon the eagle=s return, such alterations agitate or bother an eagle to a degree that injures an eagle or substantially interferes with normal breeding, feeding, or sheltering habits and causes, or is likely to cause, a loss of productivity or nest abandonment.

Fledge – To leave the nest and begin flying. For bald eagles, this normally occurs at 10-12 weeks of age.

Fledgling – A juvenile bald eagle that has taken the first flight from the nest but is not yet independent.

Foraging area – An area where eagles feed, typically near open water such as rivers, lakes, reservoirs, and bays where fish and waterfowl are abundant, or in areas with little or no water (i.e., rangelands, barren land, tundra, suburban areas, etc.) where other prey species (e.g., rabbit, rodents) or carrion (such as at landfills) are abundant.

Landscape buffer – A natural or human-made landscape feature that screens eagles from human activity (e.g., strip of trees, hill, cliff, berm, sound wall).

Nest – A structure built, maintained, or used by bald eagles for the purpose of reproduction. An **active** nest is a nest that is attended (built, maintained or used) by a pair of bald eagles during a given breeding season, whether or not eggs are laid. An **alternate** nest is a nest that is not used for breeding by eagles during a given breeding season.

Nest abandonment – Nest abandonment occurs when adult eagles desert or stop attending a nest and do not subsequently return and successfully raise young in that nest for the duration of a breeding season. Nest abandonment can be caused by altering habitat near a nest, even if the alteration occurs prior to the breeding season. Whether the eagles migrate during the non-breeding season, or remain in the area throughout the non-breeding season, nest abandonment can occur at any point between the time the eagles return to the nesting site for the breeding season and the time when all progeny from the breeding season have

dispersed.

Project footprint – The area of land (and water) that will be permanently altered for a development project, including access roads.

Similar scope – In the vicinity of a bald eagle nest, an existing activity is of similar scope to a new activity where the types of impacts to bald eagles are similar in nature, and the impacts of the existing activity are of the same or greater magnitude than the impacts of the potential new activity. Examples: (1) An existing single-story home 200 feet from a nest is similar in scope to an additional single-story home 200 feet from the nest; (2) An existing multi-story, multi-family dwelling 150 feet from a nest has impacts of a greater magnitude than a potential new single-family home 200 feet from the nest; (3) One existing single-family home 200 feet from the nest has impacts of a lesser magnitude than three single-family homes 200 feet from the nest; (4) an existing single-family home 200 feet from a communal roost has impacts of a lesser magnitude than a single-family home 300 feet from the roost but 40 feet from the eagles' foraging area. The existing activities in examples (1) and (2) are of similar scope, while the existing activities in example (3) and (4) are not.

Vegetative buffer – An area surrounding a bald eagle nest that is wholly or largely covered by forest, vegetation, or other natural ecological characteristics, and separates the nest from human activities.

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Exhibit
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FWC Bald Eagle (*Haliaeetus leucocephalus*) Management Plan Handbook

June 2010

FLORIDA FISH AND WILDLIFE CONSERVATION COMMISSION
620 South Meridian Street
Tallahassee, Florida 32399-1600

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FWC Management Plan Definitions

For more definitions please see the FWC Bald Eagle Management Plan (2008). Visit FWC's bald eagle Web site to obtain a copy of the management plan.

Active nest- a nest that shows or showed evidence of breeding by bald eagles, such as an adult attending the nest or in incubating position, a clutch of eggs, or a brood of nestlings, at any time during the current or most recent nesting season.

Alternate Nest: a bald eagle nest that is intact or partially intact and has been used by bald eagles at any time during the past five nesting seasons, but was not used during the current or most recent nesting season.

Abandoned Nest: a bald eagle nest that is intact or partially intact, but it has been inactive through six or more consecutive nesting seasons. While the buffer zone surrounding the nest is no longer protected, the nest itself may not be altered.

Lost Nest: a nest that is no longer present or intact due to natural causes (*e.g.*, fell apart or was blown out of a tree). In some cases, the nest tree itself may be lost. The FWC recommendations in the section entitled Permitting Framework April 2008 apply to lost nests through two complete, consecutive nesting seasons.

*Nesting Season: 1 Oct- 15 May

*Non-nesting Season 16 May- 30 Sep

***Eagles may begin nesting prior to 1 Oct or may nest after 15 May. It is the responsibility of the interested party to determine if eagles are present.**

Bald Eagle (*Haliaeetus leucocephalus*) Biology

BIOLOGICAL BACKGROUND

The bald eagle (*Haliaeetus leucocephalus*) is the symbol of the United States and one of North America's most spectacular birds. It is also one of the most thoroughly studied birds, with perhaps 2,500 articles published on its biology or management (Buehler 2000). Detailed information on the biology of bald eagles throughout their range is found in Stalmaster (1987), Gerrard and Bortolotti (1988), and Buehler (2000). For more information regarding bald eagle biology visit FWC's bald eagle Web site.

Life History and Habitat

Breeding Behavior

Bald eagles in Florida begin nest building or nest maintenance activities in late September or early October. The nesting season is prolonged, with egg-laying beginning as early as October or as late as April (later nests are mostly renesting attempts; Millsap *et al.* 2004). For purposes of the FWC management plan (2008), the bald eagle nesting season is defined as the period 1 October–15 May. Nest sites tend to be built near habitat edges (McEwan and Hirth 1980) in a living tree that offers a view of the surrounding area and that can support the eagle's often sizeable nest. Substrates used in Florida vary according to local conditions, and include pines (*Pinus palustris* and *P. elliottii*), cypress (*Taxodium* spp.), mangroves (*Avicennia germinans* and *Rhizophora mangle*), great blue heron (*Ardea herodia*) nests, artificial structures such as communication towers, transmission towers, and raptor nesting platforms, and even—very rarely—on the ground (Broley 1947, Shea *et al.* 1979, Curnutt and Robertson 1994, Curnutt 1996, Millsap *et al.* 2004). However, bald eagles in Florida strongly prefer living native pines to all other substrates; 75% of all eagle nests surveyed during 2006 were built in living native pines (FWC unpublished data).

Eagle pairs often build more than one nest, which allows them to move to an alternate nest while remaining in their territory. Throughout their range, eagles maintain an average of 1.5 nests per territory, ranging from one nest to five nests (Stalmaster 1987, Buehler 2000).

Most clutches of eggs in Florida are laid between December and early January. Mean clutch size throughout the bald eagle's range is 1.87 eggs, with most nests containing two eggs. Incubation lasts about 35 days. Average brood size in Florida is 1.56 nestlings per nest (FWC unpublished data). Nestlings in Florida fledge at around 11 weeks of age and remain with their parents near the nest for an additional 4–11 weeks (Wood 1992, Wood *et al.* 1998). Fledglings begin widespread local movements before initial dispersal, which occurs from April to July (Millsap *et al.* 2004).

Habitat

The quality of foraging habitat is characterized by the diversity, abundance, and vulnerability of eagle prey, the structure of the aquatic habitat (*e.g.*, presence of shallow water), and the extent of human disturbance (Buehler 2000). Bald eagle nesting habitats are protected by law, but little or no emphasis has yet been placed on the preservation of roosting or foraging habitats (Mojica 2006). The greatest numbers of bald eagle nesting territories in Florida are found along the Gulf coast and around some of the larger inland lakes and river systems in the peninsula (Figure 1).

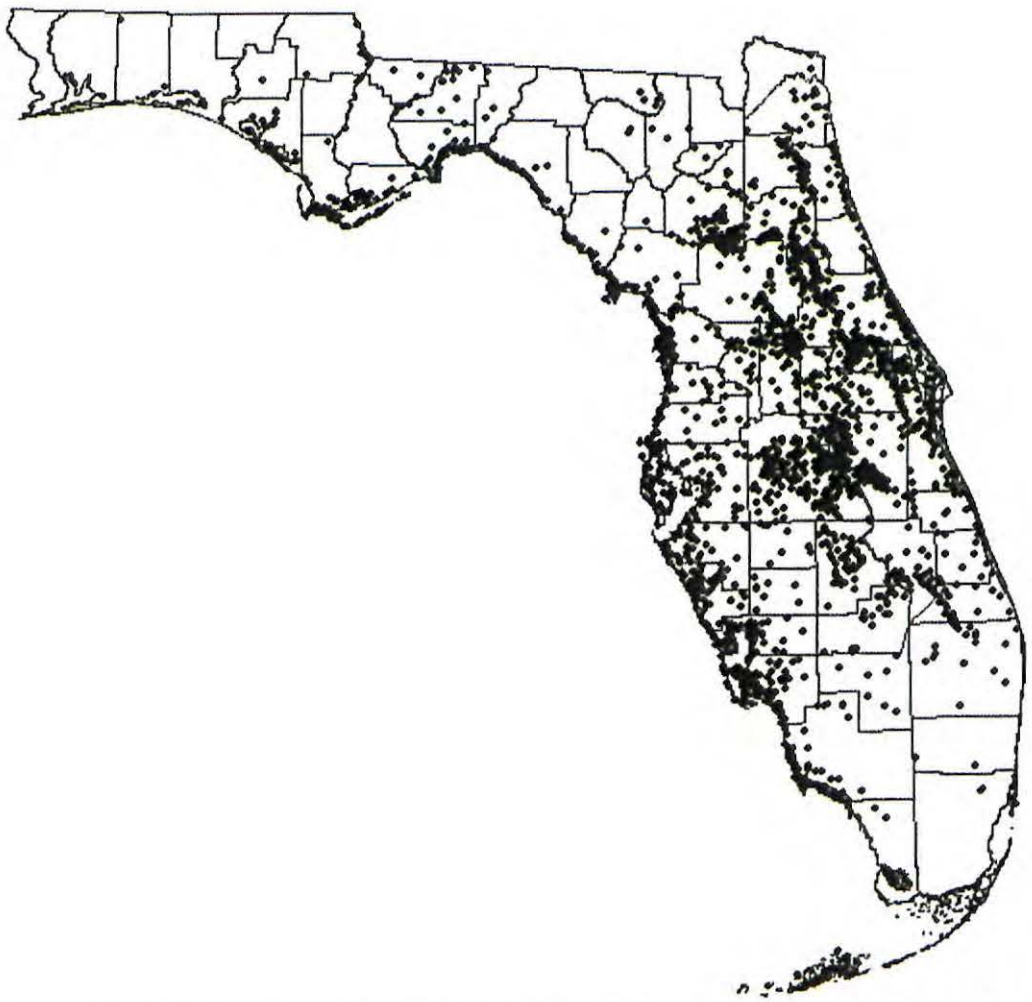


Figure 1. The Distribution of active bald eagle nesting territories in Florida, 2008-2009.

Distribution and Population Status

Current Distribution

Bald eagles reclaimed their entire historic range by the late 1990s (Buehler 2000). Recovery in the Lower 48 states has been dramatic, increasing from an estimated 417 pairs in 1963 to an estimated 9,789 pairs by 2007 (USFWS 2007a). Bald eagles have met or exceeded the population goals established in all five regional recovery plans, and on 8 August 2007, the USFWS removed the species from the list of federally endangered and threatened species.

Bald eagles were known to breed in 59 of Florida's 67 counties by 2005, the exceptions being Baker, Broward, Calhoun, Gilchrist, Holmes, Lafayette, Madison, and Nassau (Nesbitt 2005; Figure 1). Most nests are found on privately-owned lands (67% in 2003;

Nesbitt *et al.* in review; unpublished GIS data), underscoring the importance of private lands in the conservation of eagles in Florida.

Concentrations of nesting territories are clustered around several significant wetland systems. The FWC has identified 16 areas of concentrated bald eagle nesting activity that contain a majority of the known nesting territories in Florida (Figure 2). Many of these ~~–~~core nesting areas" have persisted for decades, suggesting the presence of high-quality breeding and foraging habitats (Nesbitt *et al.* in review). These core nesting areas are located along the Gulf coast from St. Vincent Island to Lee County, and inland from the lower St. Johns River to Lake Okeechobee (Figure 2). Changes in the size, configuration, and location of these core nesting areas are monitored, and their importance to the overall population of bald eagles in Florida will be determined as new data become available. The most current list of active territories by county is available below (Table 1).

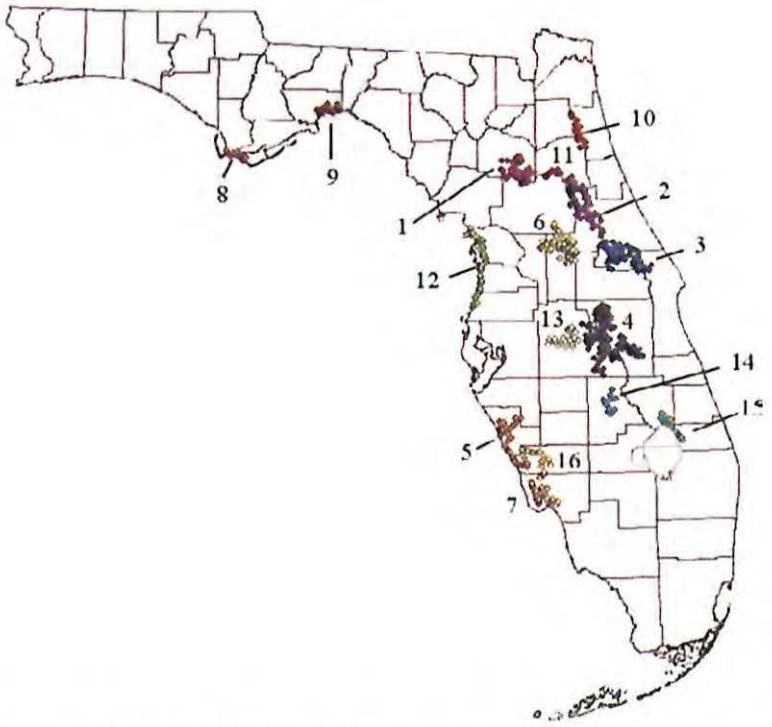


Figure 2. Location of bald eagle core nesting areas in Florida, 2005–2006. These core nesting areas, which are numbered chronologically from their discovery, are found in the following sites: (1) lakes Lochloosa, Newnans, and Orange; (2) Lake George; (3) the middle St. Johns River; (4) the Kissimmee chain of lakes; (5) the Placida Peninsula; (6) the Harris chain of lakes; (7) the Lee County coast; (8) St. Vincent National Wildlife Refuge; (9) St. Marks National Wildlife Refuge; (10) the lower St. Johns River; (11) Rodman Reservoir; (12) the central Gulf coast; (13) central Polk County; (14) Lake Istokpoga; (15) northeast Lake Okeechobee; and (16) coastal Charlotte County.

Table 1. Partial list of active territories by county, 2004-2009. Data source is Brush and Nesbitt (2009).

COUNTY	YEAR						
	2009	2008	2007	2006	2005	2004	Average
Polk	116*	119	113	121	122	118	118
Osceola	125	116	112	107	118	116	116
Lake	66*	70	69	75	65	68	69
Volusia	70	73	60	66	70	67	68
Putnam	77*	67	50	41	57	46	56
Seminole	49*	49	51	52	47	46	49
Lee	47	51	50	47	42	43	47
Marion	58*	51	46	38	36	34	44
Alachua	53*	51	42	43	40	33	44
Brevard	30	39	42	43	42	41	40
Sarasota	45*	41	37	33	34	31	37
Orange	40*	38	35	34	29	30	34
Highlands	35*	37	32	37	30	25	33
Charlotte	43*	38	29	26	26	25	31
Franklin	33*	28	40	25	34	20	30

* Designates estimates based on statistical analyses

Effects of Development on Eagles

Some bald eagle pairs in Florida tolerate disturbance much closer than 660 feet from the nest, and the behavior of eagles nesting close to or within developed areas seems to be increasing in Florida. Bald eagle use of urban areas is a relatively new event, and the long-term stability of urban eagle territories has not been documented fully. Although some eagles have demonstrated tolerance for intensive human activity, this does not mean that all eagles will do so (Millsap *et al.* 2004). A minimum of five years of post-impact data is needed to study the long-term effects of development within regulated nest buffer zones (Nesbitt *et al.* 1993). Both studies described above (Nesbitt *et al.* 1993, Millsap *et al.* 2004) recommended retaining buffer zones around bald eagle nests. Therefore, the conservation of active or alternate bald eagle nests and the retention of

recommended buffer zones (USFWS 2007b) are recommended to sustain the bald eagle population in Florida at or above its current level.

Bald Eagle Recovery Status

Historic and Ongoing Conservation Efforts

Substantial monitoring, management, and research activities have been conducted on Florida's bald eagles for more than 60 years, and many journal articles and reports have been produced. Since the 1972–1973 nesting season, all known nesting territories were monitored annually by use of aircraft to determine reproductive parameters such as territory occupancy, brood size, breeding productivity, and reproductive success. Beginning in the 2008-2009 breeding season, the FWC began using a new survey protocol based on a stratified sampling method with coverage of 1/3 of the known nests each year. A subset of the known active nests was revisited to get a statewide production estimate. Using these data, an extrapolated population estimate was derived with the use of an algorithm based on data collected during the preceding 35 years of activity and production surveys (Brush and Nesbitt 2009; Appendix 1).

Several federal and state laws have directly or indirectly protected bald eagles. The most important laws include the federal Migratory Bird Treaty Act, the federal Bald and Golden Eagle Protection Act, and the federal Endangered Species Act, as well as state regulations noted in this document. The bald eagle was first protected nationally in 1918 under the Migratory Bird Treaty Act (16 U.S.C. 703–711), which protected nearly all native birds and their nests. The Bald and Golden Eagle Protection Act of 1940 (16 U.S.C. 668a–668c) offered additional protection against take and disturbance of bald eagles and their nests. In 1972, the U.S. Environmental Protection Agency banned all domestic use of DDT, and this prohibition allowed bald eagle populations to recover from pesticide poisoning. The following year, the Endangered Species Act of 1973 (16 U.S.C. 1531–1544) was passed, and the bald eagle was added to the list of federally endangered and threatened species in 1978.

Bald eagle nesting habitats in Florida have been protected primarily through the Endangered Species Act in accordance with habitat management guidelines in the southeastern United States (USFWS 1987). These federal guidelines created buffers around eagle nests in which activities such as development or logging were restricted. Two buffer zones were recommended: a primary zone (0 to 750–1500 feet from the nest) and a secondary zone (1,500 feet to one mile beyond the end of the primary zone). The USFWS (2007b) published federal guidelines that recommend a buffer zone that extends up to 660 feet from the nest depending upon whether a visual screen of vegetation exists around the nest, and the presence of existing activities in the vicinity of the nest, with additional recommendations for proposed activities occurring during the nesting season.

Florida also had state regulations that protected the bald eagle. The eagle was listed as threatened and therefore received protections afforded it by Rule 68A-27.004 of the Florida Administrative Code (F.A.C.), which prohibited the non-permitted take or harassment of eagles or their nests. There are local and state regulations tied to the listing

category of a species. The Florida Land and Water Management Act of 1972 indirectly protected some eagle habitats by establishing two state programs: Development of Regional Impact and Area of Critical State Concern. The Area of Critical State Concern Program regulates development in areas of regional or statewide natural significance, such as Apalachicola Bay, the Green Swamp, Big Cypress Swamp, and the Florida Keys. The bald eagle is listed as a species of "greatest conservation need" in the Florida Comprehensive Wildlife Conservation Strategy (FWC 2005). This is not a legal designation but rather makes conservation work on the bald eagle eligible to receive State Wildlife Grant funds to address the need for continued management and monitoring activities.

State water management districts and local governments provided additional layers of protection for bald eagles. Local regulations emphasize listed species (endangered, threatened, or species of special concern) and their habitats when considering comprehensive planning, zoning, development review, and permitting activities. Prioritization of listed species, requirements for surveys and documentation, increased buffer zones, protection of upland habitats, additional mitigation requirements, more intensive levels of review, and coordination and compliance with appropriate federal and state wildlife agencies are some of the procedures that local governments and state wildlife agencies apply to listed species.

Bald Eagle Rules and Regulations

During 2006, the USFWS proposed removing the bald eagle from the list of federally endangered and threatened species, and this action was finalized in August 2007. Although the bald eagle is no longer protected under the Endangered Species Act, it is still protected under the Bald and Golden Eagle Protection Act and the Migratory Bird Treaty Act. The USFWS (2007b) has redefined some of the terminology included in the Bald and Golden Eagle Protection Act, which prohibits the unpermitted "take" of bald eagles, including their nests or eggs. The act defines "take" to mean to "pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, molest or disturb" an eagle. The new definition of "disturb" is to "agitate or bother a bald or golden eagle to the degree that causes, or is likely to cause, based on the best scientific information available, 1) injury to an eagle, 2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior" (USFWS 2007b). The FWC management plan (2008) adopted the federal definition of "disturb" in 50 C.F.R. § part 22.3 and Florida's definition of "take" in Rule 68A-1.004, F.A.C.

To better organize existing rules and to provide a location for eagle-specific rules, the FWC proposed to establish a new section within F.A.C. Chapter 68A for nongame birds (Rules Relating to Birds. F.A.C. 68A-16). Currently there are specific sections of Chapter 68A that regulate the "take" of game species, freshwater fish, fur-bearing animals, reptiles, amphibians, and many saltwater species. F.A.C. 68A-16 will create one location for existing rules pertaining to all non-listed, nongame birds. The FWC proposed moving F.A.C. 68A-13.002, "Migratory Birds; Adoption of Federal Statutes and Regulations," to this new section (Rules Relating to Birds. F.A.C. 68A-16.001). A review of current FWC

rules will likely identify other rules that should be moved to this new section. Other than the eagle specific rule proposed below, the FWC is not proposing any new rules, only the reorganization of existing rules.

One rule change was necessary to implement the removal of the bald eagle from the list of threatened species (68A-27.004 F.A.C.). The FWC management plan (2008) recommended that 68A-27.004 F.A.C. be amended by removing the bald eagle from the list simultaneously with the addition of the bald eagle rule language proposed below.

F.A.C. 68A-16.002 Bald Eagle (*Haliaeetus leucocephalus*).

(1) No person shall take, feed, disturb, possess, sell, purchase or barter, or attempt to engage in any such conduct, any bald eagle or parts thereof, or their nests or eggs, except:

(a) As authorized from the executive director by specific permit, which will be issued based upon whether the permit would advance the management plan goal and objectives;

(b) When such conduct is consistent with the FWC Eagle Management Guidelines;

(c) When such conduct is consistent with a previously issued permit, exemption, or authorization issued by the FWC under imperiled species regulations (Chapter 68A-27, F.A.C.) or by the USFWS under the Endangered Species Act (U.S.C. 1531 et seq.)

(2) For purposes of this section, the term ~~"~~disturb" is defined as, ~~"~~To agitate or bother a bald eagle to the degree that causes, or is likely to cause (a) injury to an eagle, (b) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (c) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior."

(3) On public land, it is unlawful for any person to knowingly enter any area posted as closed for the protection of bald eagles, their nests, or their nest trees, except the staff or authorized agents of the managing public entity for that area, or as authorized pursuant to subsection 1.

(4) The section of the Bald Eagle Management Plan (2008) entitled ~~"~~Permitting Framework April 2008," which includes the FWC Eagle Management Guidelines, is incorporated herein by reference.

FWC Bald Eagle Management Plan Guidelines

Permitting Options

Permitting Process Map

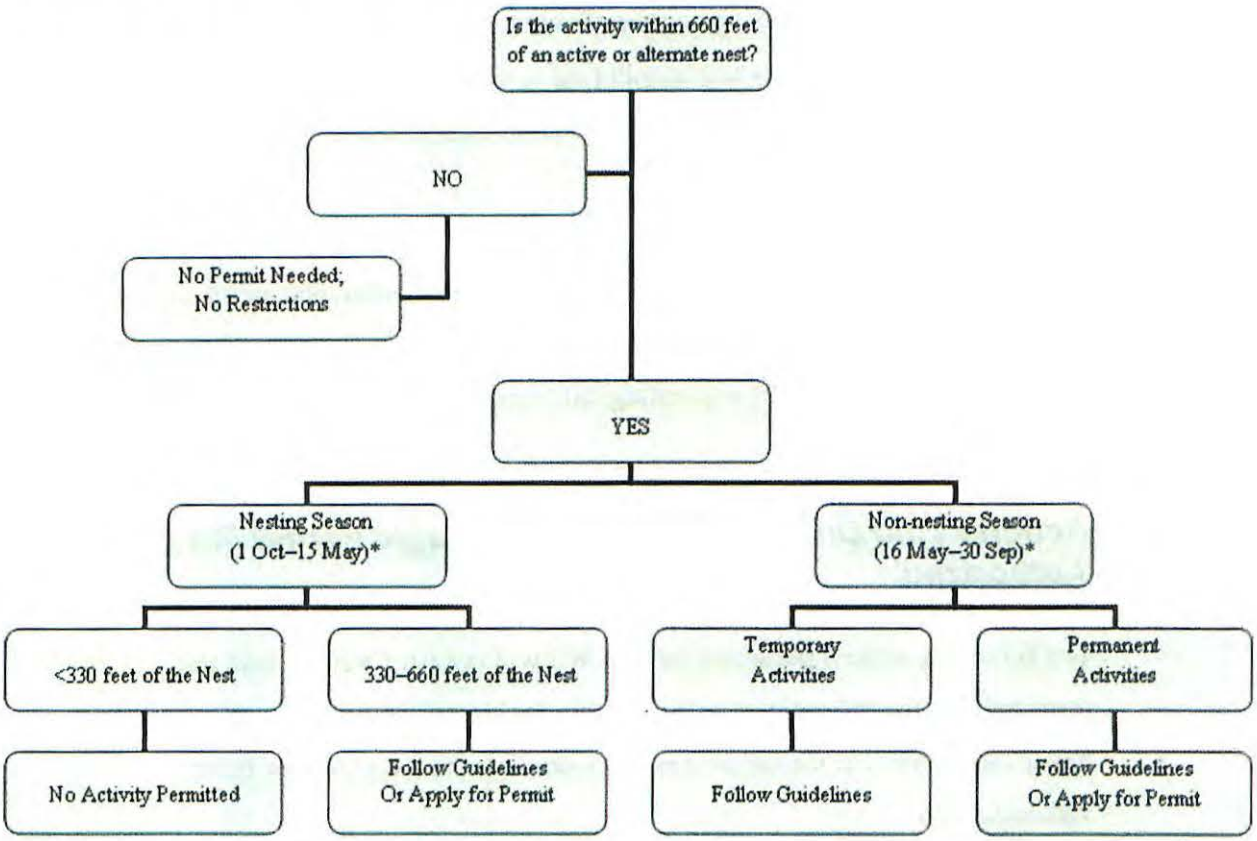


Figure 3. Process map for determining whether or not a FWC Eagle Permit would be recommended for a proposed activity near a bald eagle nest. For ongoing activities that are conducted at a historic rate, or for activities that may fall under similar scope to existing activities, refer to the FWC Eagle Management Plan (2008) guidelines for more detail.
* Unless nestlings fledge before or after these dates.

Actions That Do Not Require a FWC Eagle Permit:

No Permit is Recommended/Required for Activities:

1) Outside of the 660′ nest tree buffer
2) Any temporary activity outside of the nesting season (see guidelines definition of temporary)

3) Any activity that complies with the guidelines

- Maintenance of artificial structures with no substantial impacts to the nest—Any artificial structure that contains a bald eagle nest may be maintained, repaired, or upgraded if: (1) the work will not remove or substantially alter the nest to the extent that further use for nesting may be affected; and (2) the work is conducted outside the nesting season or when nest monitoring in accordance with the USFWS Nest Monitoring Guidelines (2007c) documents that the nest is not being used by eagles when the work occurs.

- Existing activities of similar scope (see definition) within 660′ of an eagle nest—**In most cases**, existing activities of the same degree (~~"~~similar scope") may continue with little risk of disturbing nesting bald eagles. See the FWC eagle plan for further details.

Actions That Do Not Require a FWC Eagle Permit (if Federally Authorized):

The following actions permitted by USFWS will not need a FWC bald eagle permit provided that the federal permit is available for inspection while the permitted activity is being conducted (i.e. the authorized individual carries a copy of the federal authorization).

- Modifications within the buffer zone of a lost nest—The FWC eagle guidelines prescribe protection buffers for lost nests for two consecutive nesting seasons. If federal authorization in the form of a ~~"~~take" permit/statement or a formal technical assistance letter is obtained to perform an activity within the recommended buffer of a naturally-destroyed bald eagle nest prior to the nest being declared lost (*i.e.*, prior to two nesting seasons post-destruction), then no state permit will be required. Once a nest meets the definition of lost (*i.e.*, has been missing for >2 consecutive nesting seasons), then the buffer zone no longer applies, and therefore no eagle permit is necessary.

- Destruction of an abandoned bald eagle nest—No state permit is needed if a federal ~~"take~~" permit is obtained to destroy an abandoned nest.

- Previously permitted project—The FWC will not refer the ~~"take~~" of a bald eagle or parts thereof, or its nests or eggs, for prosecution if such ~~"take~~" is in compliance with the terms and conditions of a USFWS bald eagle Technical Assistance Letter or any Biological Opinion or Incidental Take Permit issued under Sections 7 or 10 of the E.S.A as amended. Such letters and permits shall serve as state authorization provided that the authorizations are issued prior to the effective date of the proposed state bald eagle rule, and that the FWC is provided with a copy of the federal authorization.

- Salvage—Federal authorization to handle bald eagle carcasses or parts for salvage purposes functions as state authorization.

- Possession for religious or cultural purposes—Federal authorization for the possession of bald eagles or their parts for religious or cultural purposes functions as state authorization.

- Possession of eagle parts for educational purpose—Federal authorization for the possession of bald eagle parts, nests, or eggs for educational purposes functions as state authorization.

Activities That May Require a FWC Eagle Permit

- The USFWS Bald Eagle Monitoring Guidelines should be followed if any activities, other than those of similar scope, are conducted <660' from the nest tree during the nesting season.

The USFWS and FWC **recommend** biological monitoring of the nesting territory if new activities which include construction of buildings, roads, trails, canals, power lines, and other linear utilities; new or expanded operations of agriculture and aquaculture,

alteration of shorelines or wetlands, installation of docks or moorings, marinas, water impoundment, and mining and associated activities is proposed to occur within 660' of the nest tree during the nesting season (October 1 - May 15), or when nesting eagles are present. The USFWS also recommends that monitoring be conducted where an eagle's nest is located on or adjacent to, or in close proximity of, electrical transmission towers, communication towers, airport runways, or other locations where they may create hazards to themselves or humans.

- New activities proposed within 660' of an eagle nest– see the permitting process map or the web-based technical assistance section.

- Intermittent, occasional or irregular activities- activities associated with auctions, field dog trials, or other sporting events may disturb a pair of bald eagles. In such situations, the activity should be adjusted or relocated to minimize potential disturbance to the eagles.

- The activities that may disturb eagles are divided into nine categories based on their nature and magnitude of potential disturbance (A-I).
    - Category A
        i. Building construction of one or two stories, and with a project footprint of ≤ 0.5 acre;
        ii. Construction of roads, trails, canals, power lines, or other linear utilities;
        iii. New or expanded agriculture or aquaculture operations;
        iv. Alteration of shorelines, aquatic habitat, or other wetlands;
        v. Installation of docks or moorings;
        vi. Water impoundment.

    - Category B
        i. Building construction of one or two stories, and with a project footprint of > 0.5 acre;

ii. Building construction of three or more stories,
iii. Installation or expansion of marinas with a capacity of six or more boats;
iv. Mining;
v. Oil or natural gas drilling or refining.

The minimum allowed distances from an active or alternate bald eagle nest that a Category A or Category B activity can occur *without* the need for a FWC bald eagle permit. Activities proposed to occur closer to an eagle nest than the distances designated here should apply for a FWC Eagle Permit.

	No similar activity within 1,500 feet of the nest	***Similar activity closer than 1,500 feet from the nest***
There is no visual buffer between the nest and the activity	Categories A and B: 660 feet.	Categories A and B: 660 feet, or as close as existing activities of similar scope.
There is a visual buffer between the nest and the activity	Category A: 300 feet. Site work and exterior construction between 330-660 feet should be conducted outside the nesting season unless the Bald Eagle Monitoring Guidelines (USFWS 2007d) are followed. Category B: 660 feet.	Categories A and B: 330 feet, or as close as existing activity of similar scope. Site work and exterior construction between 330-660 feet should be performed outside the nesting season.

The use of dump trucks within 660′ of an eagle nest should occur only when the USFWS Nest Monitoring Guidelines (2007c) are followed. Minimize noise and human activity associated with interior construction during the nesting season.

Construction activities may occur during the nesting season (1 Oct-15 May) if nest monitoring, following the USFWS Nest Monitoring Guidelines (2007c) confirms that eagles have not returned to the nest by 1 October, or that nestlings have fledged before 15 May. In either situation, the regional FWC nongame biologist should be notified.

Any project that follows these guidelines and uses nest monitoring to allow construction within 660′ during the nest season must provide monitoring reports to the permitting staff of FWC (Attn: Bald Eagle Plan Coordinator 1239 SW 10th Street, Ocala, FL 34471). This

requirement will allow for data to be collected that can be analyzed to evaluate the appropriateness of the protective measures.

- Category C- Land Management Practices, including Forestry
    i. Avoid clear-cutting within 330' of the nest at any time. Restrictions may be lifted under emergency circumstances- contact the Avian Coordinator;
    ii. Avoid construction of log transfer facilities and in-water log storage areas within 330' of the nest. Avoid routing logging traffic within 330' of any active nest during the nesting season;
    iii. Avoid timber harvesting, replanting, or other silvicultural operations, including road construction, chain saw and yarding operations, within 660' of the nest during nesting season- if the USFWS nest monitoring guidelines are applied then activities between 330' and 660' may be allowed during the nesting season. If nest monitoring confirms the nest is inactive then seasonal restrictions would not apply;
    iv. Selectively thin to retain at least 50% of the total canopy and the largest native pines within 660' of the nest and take precautions to protect the nest tree;
    v. Prescribed burning (*outside of the nesting season*) - prescribed burning is permitted within 330' of the nest tree and fireline installation or maintenance is permitted within 660' of the nest tree. Protect the nest tree by raking around the trunk's perimeter- only when eagles are not present. Burning is permitted during the nesting season only if the eagles are not present at the nest. Mechanical treatments outside of the nesting season are permitted within 330'. Avoid smoking out the nest.

- Category D- Agricultural and Linear Utilities (Existing Operations)
    i. No buffer necessary outside of the nesting season. If the activities are consistent with the guidelines then routine vegetation management

during the nesting season within the 660' buffer does not necessitate a permit. New or expanded operations see category A above.

- Category E- Off-road Vehicles
    i. No buffer necessary outside of the nesting season. During the nesting season- vehicles should not be operated within 330' or within 660' if noise and visibility from the tree are increased (open area).

- Category F- Motorized Watercraft
    i. No buffer necessary outside of the nesting season. During the nesting season- load vessels or concentrations of vessels are not permitted within 660'. Minimize other motorized boat traffic and avoid stopping within 330'.

- Category G- Non-motorized Recreation (hiking, camping, birding, fishing, hunting or canoeing)
    i. No buffer necessary outside of the nesting season. During the nesting season- activities that are highly visible or audible should be avoided within 330'.

- Category H- Aircraft (Including Helicopters)
    i. No buffer necessary outside of the nesting season. During the nesting season- aircraft should not be operated within 1,000' (vertical or horizontal) of the nest, unless there are trained biologists conducting a survey or the eagles have demonstrated a tolerance for such activity.

- Category I- Blasting or Other Loud, Intermittent Noises
    i. No buffer necessary outside of the nesting season for blasting activities that do not alter the landscape. During the nesting season- no blasting within 660' of an active nest. No loud noises (including class B fireworks) or blasting activities that alter the landscape within 660' of

the nest, unless the eagles have demonstrated a tolerance. Any new land-altering activity- follow distance rules in the above table (category B).

Actions That Require a FWC Eagle Permit

Except for the federally-authorized actions listed above, any action that cannot be undertaken consistent with the FWC Eagle Management Plan (2008) guidelines may require a FWC Eagle Permit to avoid a violation. As such, any action that results in the taking, feeding, disturbing, possessing, selling, purchasing, or bartering of eagles or eagle parts requires a permit (see the FWC eagle plan definitions for take and disturb). Under the appropriate conditions the FWC will issue the following types of permits for bald eagles: disturbance, scientific collection, and nest removal. Other, more general permits may be issued for certain activities listed below. The FWC will issue an eagle permit where the applicant provides minimization and/or conservation measures that will advance the goal and objectives of the management plan. See minimization measures below.

- Eagle Depredation at Agricultural or Aquacultural Facilities—any non-injurious disturbance of bald eagles that are depredating agricultural or aquacultural resources requires a FWC Eagle Permit. These permits will be issued solely in accordance with appropriate federal law. No conservation measures are required, as these permits authorize solely non-injurious harassment. Permits should be issued solely for persistent depredations rather than occasional events. See the FWC eagle plan for further details.

- Activities That Involve Possession

Federal permits for these actions are required unless federal rules or a FWC/USFWS agreement defers the need for a federal permit when the action is authorized by the state. No conservation measures are necessary for educational display, rehabilitation, or scientific collection because these activities provide a conservation benefit to eagles

i. Educational Display—Any facility that wishes to possess live bald eagles for educational purposes must abide by caging requirements (Rule 68A-6, F.A.C.) and obtain a license for exhibition/public sale (372.921 Florida Statutes). Federal authorization for the possession of bald eagle parts, nests, or eggs for educational purposes functions as state authorization, provided that the authorized individual carries a copy of the federal authorization, and that all requirements of the federal authorization are met.

ii. Rehabilitation—Wildlife rehabilitators who possess a FWC Wildlife Rehabilitation permit (Rules 68-A-6 and 68A-9, F.A.C.) and federal authorization to possess migratory birds may possess bald eagles for rehabilitation purposes. No eagle nestling or fledgling that is attended by adult eagles should be handled for rehabilitation without first consulting the FWC regional nongame biologist.

iii. Scientific Collection—Research that might result in disturbance to bald eagles requires a Scientific Collection permit (Rule 68A-9.002, F.A.C.). Scientific Collection permits will be issued solely for projects with a sound scientific design and those that demonstrate scientific or educational benefits to the bald eagle.

iv. Falconry—Rules pertaining to the use of birds of prey in Florida for falconry purposes are found in 68A-9, F.A.C. While the bald eagle currently may not be used in falconry, its status in falconry may change upon delisting. Please see the FWC eagle plan guidelines for further details.

- Activities That Require Emergency Authorization

Declared emergency—Emergency activities associated with recovery from a federal- or state-declared disaster will require an after-the-fact FWC Eagle Permit if the activities cannot be undertaken consistent with the FWC Eagle Management Guidelines. See the FWC eagle plan guidelines for further details.

- Activities That Require Nest Removal

Except for the federally-authorized activities listed above, a FWC nest removal permit is required to remove or destroy any bald eagle nest, even when eagles are not present. Minimization and conservation measures for these permits will be based on the extent of the emergency and the impacts to eagles. See the guidelines for further details.

An abandoned nest as defined in the FWC eagle plan guidelines is still considered a nest by FWC for the purposes of state rule and it also remains protected under the Bald and Golden Eagle Protection Act.

- Airports—Bald eagle nests on or adjacent to airports could increase the risk of an aircraft/avian strike, and are therefore considered hazardous to human safety and to nesting bald eagles and their young. Federal law requires airports to develop and implement a Wildlife Hazard Management Plan (WHMP) to manage and control wildlife that presents a risk to public safety from aircraft collisions. Both a FWC nest removal permit and federal authorization are required for the removal of eagle nests on or adjacent to airports.

Nest removal from artificial structures—when maintenance of an artificial structure requires the removal of an active or alternate bald eagle nest that is not an immediate threat to human safety, then the nest may be removed only outside the nesting season and only after a FWC nest removal permit has been issued. Federal authorization may also be required. Minimization and conservation measures will be assessed on a project-by-project basis, but in general, activities that take place outside the bald eagle nesting season may not require conservation measures.

Minimization and Conservation Measures

Minimization Measures for Actions Requiring a Permit:

The following minimization measures are intended to reduce the potential for disturbing eagles, and may be required as part of a FWC Eagle Permit. These actions are recommended, regardless of whether or not a permit is obtained.

- Construction-related Activities Within 660′ of an Eagle Nest

For projects that receive a FWC Eagle Permit, the following minimization efforts may be required:

i. Implement the USFWS Nest Monitoring Guidelines (2007c) for all site work or exterior construction activities. Avoid exterior construction activities within 330′ of the nest during the nesting season.
ii. Avoid construction activity (except those related to emergencies) within 100′ of an eagle nest during any time of the year except for nests built on artificial structures, or when similar scope may allow construction activities to occur closer than 100′.
iii. Avoid the use or placement of heavy equipment within 50′ of the nest tree at any time to avoid potential impacts to the tree roots. This minimization does not apply to existing roads, trails, or other linear facilities near an eagle nest or to nests built on artificial structures.
iv. Schedule construction activities so that construction farther from the nest occurs before construction closer to the nest.
v. Shield new exterior lighting so that lights do not shine directly onto the nest.
vi. Create, enhance, or expand the vegetative buffer between construction activities and the nest by planting appropriate native pines or hardwoods.
vii. Site stormwater ponds no closer than 100′ from the eagle nest, and construct them outside the nesting season. Consider planting native

pines or hardwoods around the pond to create, enhance, or expand the visual buffer.

viii. Incorporate industry-approved avian-safe features for all new utility construction- see the web site for further details.

ix. Retain the largest native pines for use as potential roost or nest sites.

- Land-Management Activities Within 660′ of an Eagle Nest

For land management activities that receive a FWC Eagle Permit, the following minimization efforts are recommended:

i. Avoid the use or placement of heavy equipment within 50′ of the nest tree to avoid potential impacts to tree roots. Equipment such as mowers may used so long as they are not heavy enough to cause root damage. This minimization does not apply to existing roads, trails, or other linear facilities near an eagle nest or to nests built on artificial structures.

ii. Plan the activity to avoid the nesting season to the greatest extent possible. Avoid disruptive activities when eagles are incubating eggs or when nestlings are close to fledging.

iii. Schedule activities so that activities farther from the nest occur before activities closer to the nest.

iv. Maintain the greatest possible vegetative buffer between land management activities and the nest to provide a visual buffer between the activity and the nest tree.

v. Retain the largest native pines for use as potential roost or nest trees.

Conservation Measures for Actions Requiring a Permit:

When an activity cannot be undertaken consistent with the FWC Eagle Management Guidelines (e.g., when disturbance or take may occur), then a FWC Eagle Permit is recommended to avoid a violation of the FWC eagle rule.

When construction activities are planned inside the recommended buffer zone of an active or alternate bald eagle nest, then issuance of a FWC Eagle Permit **may** require

one or more of the following conservation measures. The number of conservation measures will depend upon the distance that the activity will occur from a bald eagle nest. For activities between 330′ and 660′, only one conservation measure should be provided. For activities within 330′ of a nest, two conservation measures should be provided; a $35,000* contribution to the Bald Eagle Management Fund (#iii below) and any other additional conservation measure. When activities would likely cause disturbance during only one nesting season (temporary activities), conservation measures need not be provided if they would only affect an alternate nest, but should be provided if they will affect an active nest.

i. Grant a conservation easement over the 330′ foot buffer zone of an active or alternate bald eagle nest within the same or an adjacent county, or within the same core nesting area (see figure 3 in the FWC eagle guidelines). When the buffer is only partially owned by the applicant: contribute an onsite easement over the portion of the 330-foot buffer zone to which the applicant holds title;
ii. Grant a conservation easement over suitable bald eagle nesting habitat onsite or offsite;
iii. Contribute $35,000 to the Bald Eagle Conservation Fund to support bald eagle monitoring and research;
iv. Provide a financial assurance (such as a surety bond) in the amount of $50,000. The FWC is not currently accepting letters of credit;
v. Propose an alternate conservation measure that provides conservation value similar to the options listed above, unless unusual circumstances preclude such measures.

* The monetary contribution to the Bald Eagle Management Fund will be updated annually (March 1st) based on the All-Urban Consumer Price Index (CPI-U). Please see the FWC eagle Web site for the latest donation total.

Conservation Measure Guidelines:

i. Conservation easements and financial assurances will be terminated, released, or returned if the nest for which an activity is permitted is active for at least one of the three years after the permitted activity is completed; the burden of proof is upon the applicant. Financial assurances not terminated or returned will be provided to the Bald Eagle Management Fund.

ii. Fee structure is based on the likelihood of disturbance to eagles; activities closer to a nest provide more conservation measures than activities farther away. Activities permitted within 330′ of an active or alternate bald eagle nest should contribute $35,000 to the Bald Eagle Conservation Fund **and** provide an additional conservation measure.

iii. The amounts of fees paid outright are lower than fees paid as a bond because costs for FWC administration (including site visits) are less.

iv. The fee amount is for calendar year 2010; the fee will be adjusted in subsequent years as specified below in the Monetary Contribution section. The donation total will be updated and posted to the FWC eagle Web site every March.

v. Suitable habitat for bald eagles will be evaluated based upon the following characteristics: within 3 km of a permanent water body $\geq$ 0.2 square miles in size; contain a canopy of mature native pines or cypresses with several perch trees and an unimpaired line of sight (habitat in southern Florida may include mangrove or other native species); few land-use features (low density housing, industrial, etc.) and linear and point features (roads, powerlines, railroads, etc.) within ½ mile; ideally should be located in a previously identified bald eagle core nesting area.

vi. Conservation easements must include at least the 330' buffer around an active or alternate eagle nest. Where the buffer is only partially owned by the applicant, an onsite easement may be placed over that portion of the property to which the applicant holds title. Easements may be placed only around nests that are in suitable habitat as described above.

vii. Conservation easements must include provision of funds for management practices for the life of the easement. Management practices should include all activities listed under "Category C: Land Management Practices, including Forestry" and must be conducted by the landowner or other entity. The FWC will hold all easements and will ensure compliance with minimization and conservation measures.

viii. Bald eagles often build multiple nests that are used alternately. Projects that either avoid potential take by avoiding impacts within the buffer zone or that receive a permit to conduct activities within the buffer zone may later be affected if an eagle pair initiates construction of a new nest within the project boundary. Projects that follow proper procedures for bald eagles should not have to provide additional conservation measures for any new eagle nest built on the site after the planning and permitting procedures have been completed. Such projects will not be expected to provide further conservation measures if bald eagles choose to move their nest location within the project site. The nest itself cannot be destroyed at any time unless authorized.

Landowner Stewardship Incentives

Landowners seeking assistance with habitat management will likely find it offered within FWC's Landowner Assistance Program (LAP). There are many forms of assistance that include technical, financial, educational, and various forms of recognition that seek to award landowners who manage their habitat properly for wildlife. Please visit the FWC LAP Web site for more information.

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BO Appendix III

RGP-86 Telephus Spurge Pre-Application Evaluation

Endangered Species Act formal consultation was conducted between the U.S. Fish and Wildlife Service (Service) and the Corps of Engineers as part of the development of the RGP-86. Consultation was based on the presence of telephus spurge (*Euphorbia telephioides*) at t three locations in Gulf and Bay counand the observance of suitable habitat throughout the action area. Best available methods were used to determine potential impacts to telephus spurge that could be expected from implementation of the permit. However, it is reasonable to expect that with a project area covering more than 447,000 acres (about 1/3 of which is potentially developable) undetected habitat could be present. To avoid and minimize potential take of telephus spurge in these situations, the following survey protocol was developed. This evaluation must be completed by all applicants and performed by a qualified plant ecologist/field botanist.

Step 1: Preliminary Project Site Review

Applicants and/or their consultants shall contact the Service for the latest information on the telephus spurge. The proposed project site shall be reviewed to determine if any known occurrences of the telephus spurge are present in the vicinity.

Step 2: Procedures for Reviewing Other Data to Determine Whether Additional Field Surveys Should be Conducted:

The telephus spurge occurs in a variety of soil types and plant communities ranging from sandhill to mesic flatwoods to pine savannahs. Suitable soil types are primarily the drier Leon sand and Pottsburg sand, although the plant is sometimes found in mesic soils, particularly within the ecotone surrounding sandy soils. Most of the known locations have been impacted by silviculture. Telephus spurge has been found in pine plantations with bedding present. Specific project sites must be reviewed using the procedures outlined below to determine the presence or absence of the telephus spurge.

1. Review the project site using NRCS soils data for Bay and Walton Counties, high-resolution infrared and/or true color aerials (scale of 1 inch=400 feet), and historic aerials of your project area.

2. Look for the following positive indicators:

- Suitable soils. Suitable soil types include Leon sand, Pottsburg sand, and Hurricane sand.

- Open canopy. Features to look for on the infrared aerials include the absence of a dense, closed canopy cover. Absence is a positive indicator. Dense canopy cover like tifi appears dark red and smooth. The absence of a dense canopy shows up lighter often with patchy red areas throughout.

3. The presence of one or more positive indicators means that the site is potential telephus spurge habitat.

- If yes, then you must conduct field surveys to determine whether telephus spurge is present. **Continue to step 3.**
- If no, then you **are finished with the telephus spurge evaluation. Go to step 4.**

Step 3: Field Assessment of Potential Telephus Spurge (*Euphorbia telephioides*) Habitat

Before beginning any field work, develop search pattern recognition of *Euphorbia telephioides* by examining photographs or herbarium species or by visiting field locations. See: www.plantatlas.usf.edu and www.fws.gov/panamacity/species/plants.html for a photo reference collection.

Select potential survey polygons based on presence of Leon sand or Pottsburg sand. After reviewing aerial photography and conducting preliminary site inspections, add those areas that have a relatively open canopy and remnant native groundcover. Be sure to include roadsides, open trails, utility easements, burned areas, and wetland ecotones. Eliminate areas that are densely vegetated with shrubs and trees or are obviously wet most of the year.

Selected polygons should be field surveyed for presence or absence of telephus spurge using a qualitative transect method. The surveys should be supervised by a qualified botanist. Straight line transects at 20-foot intervals should be laid out to cover the entire polygon. Alternate on each side of the transect with 10-foot square quadrants. (Figure 1) The quadrant boundaries can be estimated and visually scanned for telepbus spurge. Areas with extremely dense vegetation can be overlooked.

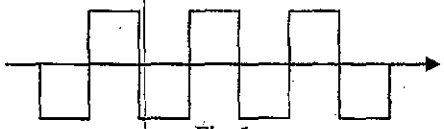


Fig. 1

Surveys can be conducted anytime from April through September. The plant generally dies back at the end of the growing season and does not re-grow to a noticeable height until several weeks after the last frost. Ideal survey months are May through August.

Step 4: Telephus Spurge Findings

	Yes	No
1. Positive indicators were detected in Step 2.	___	___
2. Field surveys detected presence of telephus spurge. **If yes, re-initiation of consultation is required.**	___	___
3. Appropriate documentation is included to support these findings. Negative and positive survey data are provided to USFWS in a GIS format.	___	___

Signature _____ Date _____

Ecologist/Botanist who performed the evaluation

STANDARD PROTECTION MEASURES FOR THE EASTERN INDIGO SNAKE
U.S. Fish and Wildlife Service
August 12, 2013

The eastern indigo snake protection/education plan (Plan) below has been developed by the U.S. Fish and Wildlife Service (USFWS) in Florida for use by applicants and their construction personnel. At least **30 days prior** to any clearing/land alteration activities, the applicant shall notify the appropriate USFWS Field Office via e-mail that the Plan will be implemented as described below (North Florida Field Office: jaxregs@fws.gov; South Florida Field Office: verobeach@fws.gov; Panama City Field Office: panamacity@fws.gov). As long as the signatory of the e-mail certifies compliance with the below Plan (including use of the attached poster and brochure), no further written confirmation or "approval" from the USFWS is needed and the applicant may move forward with the project.

If the applicant decides to use an eastern indigo snake protection/education plan other than the approved Plan below, written confirmation or "approval" from the USFWS that the plan is adequate must be obtained. At least 30 days prior to any clearing/land alteration activities, the applicant shall submit their unique plan for review and approval. The USFWS will respond via e-mail, typically within 30 days of receiving the plan, either concurring that the plan is adequate or requesting additional information. A concurrence e-mail from the appropriate USFWS Field Office will fulfill approval requirements.

The Plan materials should consist of: 1) a combination of posters and pamphlets (see **Poster Information** section below); and 2) verbal educational instructions to construction personnel by supervisory or management personnel before any clearing/land alteration activities are initiated (see **Pre-Construction Activities** and **During Construction Activities** sections below).

POSTER INFORMATION

Posters with the following information shall be placed at strategic locations on the construction site and along any proposed access roads (a final poster for Plan compliance, to be printed on 11" x 17" or larger paper and laminated, is attached):

DESCRIPTION: The eastern indigo snake is one of the largest non-venomous snakes in North America, with individuals often reaching up to 8 feet in length. They derive their name from the glossy, blueeblack color of their scales above and uniformly slate blue below. Frequently, they have orange to coral reddish coloration in the throat area, yet some specimens have been reported to only have cream coloration on the throat. These snakes are not typically aggressive and will attempt to crawl away when disturbed. Though indigo snakes rarely bite, they should NOT be handled.

SIMILAR SNAKES: The black racer is the only other solid black snake resembling the eastern indigo snake. However, black racers have a white or cream chin, thinner bodies, and WILL BITE if handled.

LIFE HISTORY: The eastern indigo snake occurs in a wide variety of terrestrial habitat types throughout Florida. Although they have a preference for uplands, they also utilize some wetlands

and agricultural areas. Eastern indigo snakes will often seek shelter inside gopher tortoise burrows and other below- and above-ground refugia, such as other animal burrows, stumps, roots, and debris piles. Females may lay from 4 - 12 white eggs as early as April through June, with young hatching in late July through October.

PROTECTION UNDER FEDERAL AND STATE LAW: The eastern indigo snake is classified as a Threatened species by both the USFWS and the Florida Fish and Wildlife Conservation Commission. "Taking" of eastern indigo snakes is prohibited by the Endangered Species Act without a permit. "Take" is defined by the USFWS as an attempt to kill, harm, harass, pursue, hunt, shoot, wound, trap, capture, collect, or engage in any such conduct. Penalties include a maximum fine of $25,000 for civil violations and up to $50,000 and/or imprisonment for criminal offenses, if convicted.

Only individuals currently authorized through an issued Incidental Take Statement in association with a USFWS Biological Opinion, or by a Section 10(a)(1)(A) permit issued by the USFWS, to handle an eastern indigo snake are allowed to do so.

IF YOU SEE A <u>LIVE</u> EASTERN INDIGO SNAKE ON THE SITE:

- Cease clearing activities and allow the live eastern indigo snake sufficient time to move away from the site without interference;
- Personnel must NOT attempt to touch or handle snake due to protected status.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Immediately notify supervisor or the applicant's designated agent, **and** the appropriate USFWS office, with the location information and condition of the snake.
- If the snake is located in a vicinity where continuation of the clearing or construction activities will cause harm to the snake, the activities must halt until such time that a representative of the USFWS returns the call (within one day) with further guidance as to when activities may resume.

IF YOU SEE A <u>DEAD</u> EASTERN INDIGO SNAKE ON THE SITE:

- Cease clearing activities and immediately notify supervisor or the applicant's designated agent, **and** the appropriate USFWS office, with the location information and condition of the snake.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Thoroughly soak the dead snake in water and then freeze the specimen. The appropriate wildlife agency will retrieve the dead snake.

Telephone numbers of USFWS Florida Field Offices to be contacted if a live or dead eastern indigo snake is encountered:

North Florida Field Office – (904) 731-3336
Panama City Field Office – (850) 769-0552
South Florida Field Office – (772) 562-3909

PRE-CONSTRUCTION ACTIVITIES

1. The applicant or designated agent will post educational posters in the construction office and throughout the construction site, including any access roads. The posters must be clearly visible to all construction staff. A sample poster is attached.

2. Prior to the onset of construction activities, the applicant/designated agent will conduct a meeting with all construction staff (annually for multi-year projects) to discuss identification of the snake, its protected status, what to do if a snake is observed within the project area, and applicable penalties that may be imposed if state and/or federal regulations are violated. An educational brochure including color photographs of the snake will be given to each staff member in attendance and additional copies will be provided to the construction superintendent to make available in the onsite construction office (a final brochure for Plan compliance, to be printed double-sided on 8.5" x 11" paper and then properly folded, is attached). Photos of eastern indigo snakes may be accessed on USFWS and/or FWC websites.

3. Construction staff will be informed that in the event that an eastern indigo snake (live or dead) is observed on the project site during construction activities, all such activities are to cease until the established procedures are implemented according to the Plan, which includes notification of the appropriate USFWS Field Office. The contact information for the USFWS is provided on the referenced posters and brochures.

DURING CONSTRUCTION ACTIVITIES

1. During initial site clearing activities, an onsite observer may be utilized to determine whether habitat conditions suggest a reasonable probability of an eastern indigo snake sighting (example: discovery of snake sheds, tracks, lots of refugia and cavities present in the area of clearing activities, and presence of gopher tortoises and burrows).

2. If an eastern indigo snake is discovered during gopher tortoise relocation activities (i.e. burrow excavation), the USFWS shall be contacted within one business day to obtain further guidance which may result in further project consultation.

3. Periodically during construction activities, the applicant's designated agent should visit the project area to observe the condition of the posters and Plan materials, and replace them as needed. Construction personnel should be reminded of the instructions (above) as to what is expected if any eastern indigo snakes are seen.

POST CONSTRUCTION ACTIVITIES

Whether or not eastern indigo snakes are observed during construction activities, a monitoring report should be submitted to the appropriate USFWS Field Office within 60 days of project completion. The report can be sent electronically to the appropriate USFWS e-mail address listed on page one of this Plan.

Exhibit
25

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Field Office
1601 Balboa Avenue
Panama City, FL 32405-3721

IN REPLY REFER TO:

Tel: (850) 769-0552
Fax: (850) 763-2177

May 19, 2009

RECEIVED
MAY 20 2009
JACKSONVILLE DISTRICT
USACE

Colonel Paul L. Grosskruger, District Engineer
Department of the Army
Jacksonville District, Corps of Engineers
Panama City Regulatory Office
475 Harrison Avenue, Suite 202
Panama City, Florida 32401-2731

Attn: Don Hambrick

Re: FWS Log No. 4-P-04-054
Reissued Biological Opinion Letter
West Bay to East Walton Counties, FL
Regional General Permit SAJ-86
SAJ-2004-01861

Dear Colonel Grosskruger:

This letter addresses the reinitiation of consultation for the U.S. Army Corps of Engineers (Corps) RGP SAJ-86 and responds to the Corps April 15 and April 28, 2009 letters. This correspondence is provided in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

The original biological opinion (BO) for this project was transmitted to the Corps on May 19, 2004 and revised on March 3, 2005. The RGP SAJ-86 was issued by the Corps on June 30, 2004. Since that time, the western population of flatwoods salamander (reticulated flatwoods salamander *Ambystoma bishopi*) has been recognized as a new and separate endangered species. The bald eagle (*Haliaeetus leucocephalus*) was delisted (August 8, 2007), and the telephus spurge (*Euphorbia telephioides*) *RGP-86 Telephus Spurge Pre-Application Evaluation* form has been updated.

The *RGP-86 Flatwoods Salamander Pre-Application Evaluation* and *RGP-86 Telephus Spurge Pre-Application Evaluation* are still required in order to make a determination of impact within and minimize potential take of these species in the action area. If the pre-application evaluation process indicates suitable habitat for flatwoods salamanders within a proposed project area, the Corps is required to re-initiate consultation with the Service.

Our review of the effects of the action indicate the effects to flatwoods salamanders remain the same as those described in the original BO; however, the western population (*Ambystoma bishopi*) has been designated as a distinct species within the action area. No critical habitat is within the boundaries of the RGP. There are no changes to the Terms and Conditions to minimize the potential for incidental take of the reticulated flatwoods salamander. Implementation of these Terms and Conditions are non-discretionary in order to be exempt from the prohibitions of section 9 of the Act. The extent of take to date is 24.83 acres. Therefore 85.15 acres remain under the provisions of the Incidental Take Statement.

Since delisting, the Act no longer protects the bald eagle. However, the MBTA and BGPA do.

- Technical Assistance: The RGP conditions regarding the bald eagle should be revised to read: "if a bald eagle's nest occurs within 660 feet of a project, the applicant should follow the Service's May 2007 National Bald Eagle Management Guidelines. The applicant should also contact the Florida Fish and Wildlife Conservation Commission (FWC) for recommendations relative to Florida's Bald Eagle Management Plan and Permitting Guidelines."

The telephus spurge (*Euphorbia telephioides*) *RGP-86 Telephus Spurge Pre-Application Evaluation* form has been updated to reflect the following:

- BO Appendix III, Step 3: See www.plantatlas.usf.edu, www.fws.gov/panamacity/species/plants.html for photo reference collections.
- BO Appendix III, Step 3: Ideal survey months are May through August.

According to the Act, Terms and Conditions are not applicable to plants; therefore, actions that avoid and minimize take for plants are listed only in the Conservation Measures section of the BO for the telephus spurge. Additionally, the telephus spurge March 3, 2005 Revised BO included Conservation Recommendations, item number 1, which should be updated by the addition of the following paragraph:

- It is well accepted that there is no exact number below which plant populations are lost or above which they are safe (Matthies et al. 2004; Menges 1990); that is studies have demonstrated variation among the number of plants necessary for a population to survive risks of extinction. As a general rule, authors suggest an effective population size of 50-500 to maintain sufficient genetic variation for adaptation to environmental changes (i.e., viable population). In order to maintain a viable population with an effective size, each population should have between 357 and 3,571 individuals. Studies on 379 populations of eight threatened species in northern Germany demonstrated that very small populations face a considerable risk of extinction, while the risk for populations with more than 1,000 individuals was very small (Matthies et al. 2004). Therefore, in order to consider an experimental translocated population as having the potential for recovery, we recommend a minimum population size of at least 1,000 individuals.

The Service continues to concur with the determination in the Biological Assessment (BA) of "not likely to adversely affect" for red-cockaded woodpecker (*Picoides borealis*), manatee (*Trichechus manatus latirostris*), Gulf sturgeon (*Acipenser oxyrinchus desotoi*) (including its critical habitat), eastern indigo snake (*Drymarchon couperi*), and Godfrey's butterwort (*Pinguicula ionantha*). This concurrence is based upon implementation of the avoidance and minimization measures identified in the final BA and supplemental information provided on December 22, 2003. No additional information that is pertinent to our conclusion has been collected since that time. If these protective, avoidance and minimization measures as identified in your plan or the Terms and Conditions in the BO cannot be implemented, re-initiation of consultation may be required. Additional information on re-initiation of consultation is provided in the Re-initiation Notice within the BO.

After reviewing the current status of the Service's revised BO, the environmental baseline for the action area, the effects and cumulative effects of the RGP SAJ-86, the Corps' information on implementation of the Terms and Conditions to date, and information on file, it is the Service's biological opinion that the Corps RGP SAJ-86 is not likely to jeopardize the continued existence of the species addressed in the Service's revised BO, and it is not likely to destroy or adversely modify designated critical habitat.

This concludes RGP SAJ-86 BO reissuance consultation. If you have any questions about this RGP SAJ-86 BO consultation, please contact staff ecologist Ted Martin of our Panama City Field Office at (850) 769-0552, extension 239.

Sincerely,

Janet Mizzi
Deputy Field Supervisor

Enclosures:
Revised Appendix II, RGP-86 Flatwoods Salamander Pre-Application Evaluation
Revised Appendix II RGP-86 Potential Flatwoods Salamander Pond Description Data Sheet
Revised Appendix III, RGP-86 Telephus Spurge Pre-Application Evaluation

References:
Menges, E. 1990. Population viability analysis for an endangered plant. Conservation Biology. 4: 52-62.
Matthies, D., I. Bräuer, W. Maibom, and T. Tscharntke. 2004. Population size and the risk of local extinction: empirical evidence from rare plants.

cc:
St. Joe Company, WaterSound, FL (Thomas Estes)
USFWS, Atlanta, GA (ARD-ES)
USFWS, ES, Jackson, MS (Linda LaClaire)
USFWS, Habitat Conservation/section 7, Atlanta, GA (e-mail copy to Joe Johnston)
NMFS, Habitat Conservation, Panama City, FL (Mark Thompson)
NWFWMD, Havana, FL (Ron Bartel)
FWC, Office of Environmental Services, Tallahassee, FL (Ted Hoehn)
COE, Jacksonville, FL (Osvaldo Collazo)
USEPA, Atlanta, GA (Cecelia Harper)
FDEP, Pensacola, FL (Larry O'Donnell)

Tel: (850) 769-0552
Fax: (850) 763-2177

March 3, 2005

Colonel Robert Carpenter, District Engineer
U.S. Army Corps of Engineers
Jacksonville District Office
475 Harrison Avenue, Suite 202
Panama City, Florida 32401

Attn: Don Hambrick

Re: FWS Log No. 4-P-04-054
Revised Biological Opinion
Regional General Permit 86 (RGP-86)
West Bay to East Walton Counties, Florida

Dear Colonel Carpenter:

Enclosed is the Fish and Wildlife Service's (Service) revised biological opinion (BO) for the U.S. Army Corps of Engineers (Corps) Regional General Permit 86 (RGP-86). This opinion is provided in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

The original BO for this project was transmitted to the Corps on May 19, 2004. RGP-86 was issued by the Corps on June 30, 2004. Since that time, we have received new information regarding actions that may affect listed species in a manner not considered in the original opinion. Specifically, a newly proposed construction project would impact the listed plant telephus spurge *(Euphorbia telephioides)*, and a new location for the plant has been documented within the RGP boundary. The original BO determined that RGP-86 may affect, but was not likely to adversely affect telephus spurge based on the stipulation that all impacts to known plant locations would be avoided. The new information reveals a more realistic scenario in that permit authorizations under RGP-86 will likely result in adverse effects to telephus spurge. The Service has determined in the revised biological opinion analysis that the permit would not jeopardize the continued existence of this species.

The analysis of impacts to flatwoods salamanders remains the same as the original BO with one minor modification to the salamander "checklist" as noted. There are no other changes to the Terms and Conditions to minimize the potential for incidental take of the flatwoods salamander. Implementation of these Terms and Conditions are non-discretionary in order to be exempt from

the prohibitions of Section 9 of the Act. According to the Act, Terms and Conditions are not applicable to plants; therefore, actions that avoid and minimize take are listed only in the Conservation Measures section of the BO for the telephus spurge.

The Service continues to concur with the previous determination in the Biological Assessment (BA) of "not likely to adversely affect" for red-cockaded woodpecker, bald eagle, manatee, Gulf sturgeon (including its critical habitat), eastern indigo snake, and Godfrey's butterwort. This concurrence is based upon implementation of the avoidance and minimization measures identified in the final BA and supplemental information provided on December 22, 2003. We have included the avoidance and minimization measures in the Conservation Measures section of the BO. If these protective, avoidance, and minimization measures as identified in your plan or the Terms and Conditions cannot be implemented, re-initiation of consultation may be required. Additional information on re-initiation is provided in the Re-initiation Notice of the biological opinion.

We have also provided Conservation Recommendations for each species that are actions that could be taken by the Corps to further the recovery of federally listed species and to help conserve other species that occur within the RGP area. While they are voluntary actions, we feel that many of the recommendations we have provided will help the Corps meet their responsibilities under Section 7(a)(1) of the Act and will also serve to improve future consultations under the RGP-86.

The following findings and recommendations constitute the report of the Department of the Interior. This concludes formal consultation. If you have any questions about this opinion or consultation, please contact staff biologist Hildreth Cooper of our Panama City Field Office at (850) 769-0552, extension 221.

Sincerely yours,

Gail A. Carmody

Gail A. Carmody
Project Leader

Enclosure:
Revised Biological Opinion

cc:
St. Joe Company, Jacksonville, FL (Dave Tillis)
USFWS, Atlanta, GA (ARD-ES)
USFWS, ES, Jackson, MS (Linda LaClaire)
USFWS, Habitat Conservation/section 7, Atlanta, GA (e-mail copy to Joe Johnston)
NMFS, Protected Species, St. Petersburg, FL
NMFS, Habitat Conservation, Panama City, FL (Mark Thompson)
NWFWMD, Havana, FL (Ron Bartel)
FWC, Office of Environmental Services, Tallahassee, FL (Rick McCann)
FWC, Non-game Program, Tallahassee, FL (Thomas Eason)
COE, Jacksonville, FL (Osvaldo Collazo))
USEPA, Atlanta, GA (Haynes Johnson)
FDEP, Pensacola, FL (Dick Fancher)

HC/kh/c:bo-kathy'sfinal.doc

U.S. Army Corps of Engineers
Regional General Permit 86
West Bay to East Walton Counties, Florida

Revised Biological Opinion
March 3, 2005

Prepared by:
U.S. Fish and Wildlife Service
1601 Balboa Avenue
Panama City, Florida

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Appendix I. Memo dated April 30, 2004

Appendix II. Memo dated October 29, 2004

Appendix III. RGP-86 Telephus Spurge Pre-Application Evaluation

Appendix IV. RGP-86 Flatwoods Salamander Pre-Application Evaluation

INTRODUCTION

This document transmits the Fish and Wildlife Service's (Service) revised biological opinion (BO) for the U.S. Army Corps of Engineers (Corps) issuance of Regional General Permit (RGP-86). RGP-86 authorizes certain dredge and fill activities in non-navigable waters of the U.S. which are located in three large watersheds, including the Lake Powell watershed and various drainage basins of the Choctawhatchee Bay and West Bay watersheds within southeastern Walton County and southwestern Bay County, Florida. This opinion is in accordance with Section 7 of the Endangered Species Act of 1973, as amended (Act), (16 U.S.C. 1531 *et seq.*).

This biological opinion is based on information provided in the December 22, 2003, Biological Assessment (BA) and draft permit advertised on August 29, 2003. A complete administrative record of this consultation is on file in the Service's Panama City, Florida Field Office.

CONSULTATION HISTORY

May 1999	An interagency group met to review cumulative impacts to wetlands in the project area. The focus was primarily on specific projects being proposed by the St. Joe Company in the vicinity of Panama City Beach.
May 1999 through October 2001	The interagency group continued to meet with varying representatives of agencies, applicants, and consultants involved in development projects in the area. The group addressed ways to improve coordination and review of specific projects and approaches to evaluating cumulative impacts. On April 20, 2001, the group met at Disney Wilderness Preserve to learn more about the mitigation approach used by the Orlando Airport Authority and others.
October 2001	The Service presented a potential landscape approach of addressing build-out of the area and assessing impact and conservation needs to the group. The study area at that time was the southwestern quadrant of West Bay.
Winter 2002	The interagency group further explored regulatory mechanisms for assessing cumulative impacts and implementing a comprehensive conservation plan for the watersheds of southern West Bay, Lake Powell, and southeastern Choctawhatchee Bay.

Winter 2002 to present	The interagency teams continue to meet regularly to develop the "West Bay to East Walton Regional General Permit" (RGP-86) and the State equivalent regulatory mechanism, an "Ecosystem Management Agreement."
July 16, 2003	The interagency team discussed the consultation requirements. The consultant requested that the Service identify the species that should be addressed in the project analysis. The Service noted that this is the purpose of the BA, which should be prepared in conjunction with the Federal action agency, the Corps of Engineers. Species lists for the counties would be provided by the Service.
August 1, 2003	The Service provided a species list only for Walton County since a current list for Bay County was provided in 2001 before the project area was expanded.
August 22, 2003	All parties teleconferenced to discuss the BA.
August 26, 2003	The consultant provided a draft species list and proposed determinations of effects.
August 29, 2003	The Corps issues a public notice for RGP-86.
September 24, 2003	The Service participated in a Corps public workshop to discuss RGP-86.
September 29 – October 3, 2003	The St. Joe Company enlisted consulting herpetologist, John Palis, to evaluate potential flatwoods salamander habitat within the project area.
October 23, 2003	The Service provided written concurrence of the species lists used in the BA.
October 30, 2003	A draft BA was transmitted by the consultant to the Corps and to the Service.
November 13-14, 2003	The interagency team provided verbal comments on the BA.

December 4 and 9, 2003	The Service assisted the consultant and John Palis with field evaluations of potential flatwoods salamander habitat.
December 11, 2003	Another draft BA was transmitted to the Service.
December 16-17, 2003	The interagency team met to discuss the BA and other items related to RGP-86.
December 22, 2003	The consultant transmitted the final BA to the Service.
December 23, 2003	In a letter to the Service, the Corps concurs with the findings of the BA and requests initiation of formal consultation.
December 24, 2003	The Service transmitted an electronic copy of the draft BO to the Corps with copies as requested to WilsonMiller and the St. Joe Company.
January 12, 2004	The Service participated in a public workshop regarding DEP's Ecosystem Management Agreement.
January 27, 2004	WilsonMiller provided comments on the draft BO to the Service and to the Corps.
January 30, 2004	A revised draft of the BO was transmitted to the Corps.
February 5, 2004	At the request of the agencies, WilsonMiller provided a "salamander checklist" as an addition to the BA.
February 25, 2004	The Service and Corps met to discuss suggested revisions to the BO.
March 18, 2004	The Service faxed a memorandum to the Corps and WilsonMiller regarding telephus spurge conservation.
April 21, 2004	WilsonMiller conducted a survey for telephus spurge north of Highway 98.

April 30, 2004	WilsonMiller provided details of the telephus spurge survey and a memorandum describing revised Conservation Measures.
May 6, 2004	The Corps concurred with the Service that the additional information was sufficient to proceed with the final biological opinion.
May 19, 2004	The final BO was delivered to the Corps.
May 27, 2004	The Service and other agencies received preliminary materials describing the North Glades Development project.
June 9, 2004	The first RGP pre-application meeting and site visit to a newly documented telephus spurge location. The Service advised the North Glades applicant that more information would be needed regarding telephus spurge locations, impacts, and conservation.
June 18, 2004	The Service received a copy of a draft dredge and fill permit application for "North Glades Development." The packet included an evaluation of telephus spurge for the project.
June 30, 2004	RGP-86 was issued by the Corps.
July 28, 2004	An interagency meeting was convened to discuss pending projects for authorization under RGP-86, including North Glades and potential re-initiation for telephus spurge effects. The applicant was advised that additional information would be needed.
July 28, 2004	The Service received an e-mail from the Corps requesting re-initiation for the North Glades project.
August 3, 2004	The Service transmitted a draft list of additional information to the North Glades consultant and to the Corps.
August 10, 2004	The Service advised the North Glades consultant that the list of additional information should be considered final.

August 11, 2004	The Service and the consultant conducted a teleconference to discuss the technical details of the analysis.
September 9, 2004	The Service attended an interagency pre-application meeting for the Waterfall project within the RGP boundary. The meeting illustrated the need to modify the flatwoods salamander checklist for clarification. (Appendix 1)
October 18, 2004	The Service sent a reminder to the North Glades applicant that the consultation information has not been received.
October 29, 2004	The Service received via e-mail from the consultant the information necessary to proceed with consultation.
November 3, 2004	The Service proposed to the interagency group a modification to the flatwoods salamander checklist as suggested at the September 9, 2004, meeting regarding the Waterfall project.
December 2, 2004	The Service attended an interagency "RGP Team" meeting and clarified the consultation process. There was also discussion about the availability of "negative" survey data for the telephus spurge.
December 23, 2004	The Service again requested the "negative" survey data from the St. Joe Company.
December 29, 2004	The Service requested from the St. Joe Company additional telephus spurge survey information related to plants documented south of the Breakfast Point Mitigation Bank.
January 5, 2005	The consultant for the St. Joe Company responded with three documents that clarified survey information for the telephus spurge.
February 25, 2005	The Corps concurred with the draft BO which was delivered on February 11, 2005.

BIOLOGICAL OPINION

DESCRIPTION OF THE PROPOSED ACTION

Regional General Permit #86 (RGP-86) was cooperatively developed by several State and Federal agencies to address the cumulative effects of existing and anticipated development pressures within a fast growing region of the Florida panhandle. A public notice for the permit was published on August 29, 2003. The area addressed by the permit is approximately 47,480 acres in southwest Bay County and southeast Walton County (Figure 1, page 8). Approximately 90 percent of the property is presently in silviculture (forestry) management and is owned by the St. Joe Company. However, as recent trends near the coastline indicate, forestry is giving way to more lucrative residential and commercial development. In addition, just outside the RGP area is the location for a proposed new regional airport, which is undergoing separate review by the Federal Aviation Administration (FAA).

Wetland regulatory agencies have been inundated with permit applications in the area, particularly along U.S. Highway 98 and in the vicinity of Lake Powell. These agencies, along with other Federal and State natural resource agencies, have recognized the need to develop an ecosystem approach to reviewing these permits and assessing the adequacy of mitigation sequencing. RGP-86 provides a mechanism for addressing the cumulative effects of many potential dredge and fill permits by influencing the extent and intensity of development across the landscape. It is accompanied by a State regulatory mechanism, which is known as an Ecosystem Management Agreement (EMA) and is administered by the Florida Department of Environmental Protection (FDEP).

RGP-86 does not directly control development in the area, but it provides an incentive for landowners to participate in the watershed plan that was developed by the agencies. Landowners may continue to submit applications for routine individual permits; however, it is recognized that agency review will require more time and may not be favorable unless ecosystem benefits similar to the principles of RGP-86 can be achieved. The basic principles of RGP-86 are that a maximum 20 percent of a watershed's low quality wetlands can be impacted; these wetland impacts must be fully compensated within the larger watershed; less than one percent of high quality wetlands will be impacted and fully compensated; the Lake Powell watershed wetland functions will not be diminished by any amount; large areas of wetlands and uplands (Conservation Units) will be set aside from future development; and compensatory mitigation will be consolidated in two large mitigation banks.

One recently proposed construction project within the RGP boundary is the cause for Section 7 re-initiation. This project, known as North Glades, will be constructed within the only previously known location of a federally listed plant, telephus spurge (*Euphorbia telephioides)* within the RGP boundary. The permit applicant has indicated that impacts to some of the plants cannot be avoided. In addition, a new location for the plant has been recently discovered nearby on other property owned by the applicant. This information will be discussed in more detail in the telephus spurge section of the BO.

Conservation Measures

The interagency working group developed the following Conservation Measures that will be incorporated within RGP-86. These measures will further the recovery of the species under review.

1. A maximum of 20 percent of low quality wetlands on a project site or within a watershed sub-basin can be impacted. Impacts will be compensated in a mitigation bank, on site, or within identified Conservation Units. The interagency team defined low quality wetlands as those planted for pine silviculture and ditches.

2. Impacts to high quality wetlands (wetlands not in silviculture) will be limited to necessary, minimized road crossings. Total fill of high quality wetlands in the entire 47,480-acre project area cannot exceed 125 acres.

3. Avoidance of impacts to wetlands could assist in the recovery of the flatwoods salamander, indigo snake, bald eagle, and Godfrey's butterwort, if these areas are managed appropriately.

4. Restoration and management of two mitigation banks will secure for conservation two large, strategically placed parcels totaling approximately 7,700 acres. These banks are currently used for industrial forestry, and without RGP-86 could be partially converted to development sites in the future. The mitigation banks could assist in the recovery of the flatwoods salamander, red-cockaded woodpecker, indigo snake, bald eagle, Godfrey's butterwort, telephus spurge, Gulf sturgeon, and manatee.

5. Approximately 10,665 acres of uplands and wetlands (27 percent of the project area) will be designated as Conservation Units (CU's). These areas will be removed from development potential and industrial forestry practices. They will eventually be restored in amounts relative to parcel sizes of future development projects. The interagency working group developed specific prescriptions for wildlife management that focus on listed species. The CU's include significant amounts of uplands, which do not normally receive direct attention in wetland regulatory programs. The CU's could eventually assist in the recovery of the flatwoods salamander, red-cockaded woodpecker, indigo snake, bald eagle, Godfrey's butterwort, telephus spurge, Gulf sturgeon, and manatee.



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Figure 1

RGP Boundary Biological Opinion

West Bay to East Walton RGP

Legend

Conservation Units

- Project Area (Including Tidal Soils)
- Devil's Swamp Mitigation Bank
- Breakfast Point Mitigation Bank

Disclaimer:
This exhibit was prepared utilizing GIS data provided by various sources that may include but not limited to federal, state, district and local agencies. Data provided by other sources are not warranted by WilsonMiller for accuracy or for any particular use that may require accurate information. This map is for informational purposes only and should not be substituted for a wetland jurisdictional determination, true title search, property appraisal, survey, or for zoning verification.

Map Date:
02/04/04

0 0.5 1 2 3 4 Miles

WilsonMiller

New Directions in Planning, Design & Engineering

6. In general, low quality wetlands provide somewhat of a buffer to high quality wetlands in the project area. For specific projects, buffers to high quality wetlands will be comprised of uplands and/or low quality wetlands, and will be on average not less than 50 feet with a minimum of 30 feet in some locations. The buffers will remain in a natural condition with no application of fertilizers and herbicides. Providing buffers where they are not currently required could assist in the recovery of the flatwoods salamander, red-cockaded woodpecker, indigo snake, bald eagle, Godfrey's butterwort, telephus spurge, Gulf sturgeon, and manatee.

7. A sub-basin watershed approach to wetlands avoidance is a priority over the larger watershed approach. Protection of sub-basins should provide better protection of water quality and quantity functions. This could assist in the recovery of species such as Gulf sturgeon and manatees, which may occur in receiving water bodies.

8. Environmental Resource Permitting (ERP) stormwater attenuation standards will be applied to all development projects. This is a higher standard than currently exists in the Northwest District of the Florida Department of Environmental Protection (FDEP). The increased protection could assist in the recovery of species such as Gulf sturgeon and manatees, which may occur in receiving water bodies.

9. Corps jurisdictional determinations (JD) will be applied to all development projects. The Corps JD is generally more encompassing than the FDEP method.

10. No fill in wetlands will be allowed for septic tanks or drainfields.

11. *Habitat Management Guidelines for the Bald Eagles in the Southeast Region* (USFWS, 1987) will be applied to all development sites, mitigation banks, and CU's.

12. Road construction at WaterSound North, a proposed project under RGP-86, will include wildlife crossings as identified in the project plans dated January 30, 2004.

13. The North Glades applicant has conducted additional surveys for telephus spurge within the RGP-86 Conservation Units (CU) in Bay County, Florida, and within the Breakfast Point mitigation bank (BPMB) (Appendix I). As a result, one new population of telephus spurge containing over 200 plants was located in the Breakfast Point mitigation area and adjacent lands to the south that have no conservation designation. The portion of the population within the BPMB will be managed and monitored in conjunction with the existing management requirements within the RGP-86 permit. [US. Fish and Wildlife Service (USFWS) recovery plan tasks 1.33, 3.1, 3.2, 3.3].

14. The North Glades applicant has agreed to place 2.33 acres (containing approximately 6,825 plants) of 6.43 acres (containing approximately 17,250 plants) of the telephus spurge population of the North Glades development parcel into a conservation easement to protect and manage into perpetuity. The applicant has provided a monitoring plan for the North Glades conservation easement area to assess success of restoration activities (Appendix II). [USFWS recovery plan tasks 3.1, 3.2, 3.3].

15. The North Glades applicant has agreed to transfer 500 plants of telephus spurge to an as yet undetermined location within the BPMB. These plants would otherwise be destroyed by the proposed development plan. The applicant will set up 5 monitoring plots with 100 plants transplanted within each plot. Each plot will be quantitatively monitored for 5 years to assess their overall survival and viability (ERC, 2004). [USFWS recovery plan task 5.0].

16. All proposed project sites within the RGP will be surveyed for presence or absence of telephus spurge according to the survey protocol (Appendix III).

Action area

For purposes of the Endangered Species Act, action area is defined as all areas affected directly or indirectly by a Federal action, including interdependent and interrelated actions and proposed Conservation Measures. Although each potentially affected species will define a separate action area, the most inclusive geographic area is referenced for simplicity.

The action area for this analysis is generally described as the proposed boundary of the RGP, including the mitigation banks. Receiving waters under consideration for aquatic or water-dependent species are West Bay, Lake Powell, the intracoastal waterway, and extreme southeast Choctawhatchee Bay. Adjacent wetlands and uplands were considered where development or conservation actions could potentially affect non-aquatic species.

Determination of effects

Based on the proposed protective, avoidance, and minimization measures and the analysis provided in the BA, the Service concurs with the following determinations of effects. More detail regarding these species and potential effects of the project is found in the BA.

-Piping plover (*Charadrius melodus*) – No Effect

- Only one historical record occurs near the project. The site is not within listed critical habitat for the species. There are no direct effects to the site, and indirect effects would be difficult to measure.

-Sea turtles – No Effect

- Beachfront habitat is located near the project site at Lake Powell inlet, but not within the RGP boundary. Almost all beachfront that is not presently developed at Lake Powell is within Camp Helen State Recreation Area. Based on the project description and location, the Service concurs with the determination that no effects to sea turtles will occur as a result of the proposed action.

-Wood storks (*Mycteria americana*) – No Effect

- No documented occurrences in vicinity.

-American alligator (*Alligator mississippiensis*) – No Effect

- Alligators were listed due to similarity of appearance with crocodiles; however, the project is not located within the range of the crocodile.

-Eastern indigo snake (Drymarchon corais couperi) - No Effect

- No documented occurrences in the vicinity.

-Plants (federally listed) – Six federally listed plant species were considered in the BA. These were selected from the Service's lists of plants that have the potential to occur in Bay and Walton counties. Additional plant surveys were conducted, although they were limited considering the size of the project area and the timeframe for RGP development. No federally listed plant species were observed within the project area during the initial surveys that were conducted as part of this project; however, subsequent surveys verified and expanded known locations of one plant, telephus spurge, in the project area.

1. Cooley's meadow rue (*Thalictrum cooleyi*) – No Effect
   - Only one known population of Cooley's meadow rue occurs in Florida, and it appears that suitable soils may not be present in the project area. This species does not tolerate disturbance, and most impacts of the permit would be in areas that are highly disturbed.

2. Crystal Lake nailwort (*Paronychia chartacea* ssp. *minima)* – No Effect
   - There are no recorded observations of this species within the project area; there is no suitable habitat (sandhill upland lakes and karst ponds); and the known species range is well northeast of the project area.

3. Florida skullcap (*Scutellaria floridana*) – No Effect
   - There are no recorded observations of this species within the project area. The only known record in Bay County occurs approximately 17 miles from the project, and all other records in its range are in counties even farther to the east. This species does not tolerate disturbance, and most impacts of the permit would be in areas that are highly disturbed.

4. White birds-in-a-nest (*Macbridea alba*) – No Effect
   - Within the project area, potentially suitable habitat for white birds-in-a-nest may be present in cleared or recently planted areas, in roadside ditches, or along the edges of pine plantations. However, this species has not been observed in the project area, and the nearest observations are in eastern Bay County in the vicinity of Sandy Creek and East Bay, approximately 17 miles from the project site.

5. Godfrey's butterwort (*Pinguicula ionantha*) – May Affect, Not Likely to Adversely Affect
    - There are no recorded observations of this species within the project area, but there are records in the vicinity to the southeast of the project. Suitable habitat may be present in small pockets within pine plantations that could be affected by the developments within the project area. The species could also be found in herbaceous ecotones of the more high quality wetlands that will be protected. Beneficial effects of the project include the following: protection of high quality wetlands and high quality ecotone habitat that may be adjacent to them; establishment of buffers around preserved wetlands; and protection of uplands and wetlands within conservation units and two mitigation banks. Without RGP-86, most of the suitable habitat would continue to be negatively affected by intense silviculture.

6. Telephus spurge (*Euphorbia telephioides*) - Likely to Adversely Affect
    - The Service concurs with the determination for this species.

-Manatees (*Trichechus manatus latirostris*) – May Affect, Not Likely to Adversely Affect
    - There are few documented records of occurrence in the action area. The species is considered transitory in this area.

    - Project could indirectly affect seagrass through hydrologic alterations and increased sediment, nutrient, and chemical loading. However, effects are expected to be of a scale that will not measurably alter the system's ecological balance due to the expanse of the receiving waterbody. Conservation Measures address water quality issues to the extent currently practicable by adopting ERP stormwater criteria.

    - Note that the manatee key also leads to a May Affect, Not Likely to Adversely Affect determination, even though the project is not located in Section 10 waters. This determination is based on the fact that the potential indirect effects related to water quality are insignificant in consideration of the large geographic area covered by RGP-86, including extensive shoreline areas.

-Gulf sturgeon (*Acipenser oxyrinchus desotoi*) – May Affect, Not Likely to Adversely Affect
    - The project could indirectly affect Gulf sturgeon habitat due to increased stormwater associated with development. The Service received concurrence from National Marine Fisheries Service (NMFS) that we should be the lead agency in this case because potential impacts are related to water quality (Bolton, August 2003). NMFS would be the lead agency only if there were proposed direct impacts to sturgeon habitat. There are few documented records of species occurrences in West Bay, where the species is transitory. Critical habitat is located near the action area in Choctawhatchee Bay; however, only a small portion of the Choctawhatchee Bay watershed occurs in the action area. Indirect

effects are expected to be of a scale that will not measurably alter the system's ecological balance due to the expanse of the receiving waterbody and the Conservation Measures provided that address water quality issues to the extent currently practicable. These measures are described in the BA. Furthermore, the influence of these hydrologic alterations and increased sediment, nutrient, and chemical loadings would be minor in comparison to large influence of nutrient and sediment inputs currently stemming from the Choctawhatchee River. However, if measurable impacts on any of the primary constituent elements essential for the conservation of the Gulf sturgeon are documented, re-initiation of consultation with the Service should occur. The primary constituent elements are those habitat components that support feeding, resting, sheltering, reproduction, migration, and physical features necessary for maintaining the natural processes that support these habitat components. Relevant to this project, any impacts that alter the abundance of prey items, disrupt aggregation areas, decrease water quality, or increase sediment quality would potentially affect the Gulf sturgeon. The added stormwater provisions of RGP-86 minimize adverse effects.

-Red-cockaded woodpeckers (*Picoides boralis*) – May Affect, Not Likely to Adversely Affect

- The action area has been surveyed on numerous occasions. No active cavities were recorded, including an evaluation of two historical cavity trees within the action area. Almost all upland habitats have been converted to silviculture, and most remaining unplanted wetlands are cypress/bayhead communities with dense shrub and mid-story layers. Wildlife surveys for projects will be conducted as they come into the planning stages. If active cavities are found, the landowner will notify the Corps, which will re-initiate consultation with the Service. Additional information on re-initiation is provided in the Re-initiation Notice of this BO.

-Bald eagles (Haliaeetus leicocephalus) – May Affect, Not Likely to Adversely Affect

- One documented bald eagle nest is located in the action area. The nest is located within the proposed Breakfast Point mitigation bank. The management plan for the bank incorporates the *Habitat Management Guidelines for the Bald Eagles in the Southeast Region* (USFWS, 1987). Other areas have been surveyed, but will be surveyed again when each proposed large project goes into the planning stages. If new nests are found, the *Habitat Management Guidelines for Bald Eagles* will be incorporated into the project. If the guidelines cannot be implemented, initiation of consultation for the bald eagle may be required.

-Flatwoods salamander (*Ambystoma cingulatum*) – Likely to Adversely Affect

- The Service concurs with the determination for this species.

Based on the information provided in the project BA and supplemental information, and with the implementation of the protective, avoidance, and minimization measures, we concur that

RGP-86 would likely adversely affect telephus spurge and flatwoods salamanders. These two species will be addressed further in the biological opinion.

FLATWOODS SALAMANDER

STATUS OF THE SPECIES/CRITICAL HABITAT

This section summarizes the biology and ecology of the flatwoods salamander. The Service uses this information to assess whether a Federal action is likely to jeopardize the continued existence of this species. The Environmental Baseline section summarizes information on status and trends of the species specifically within the action area. These summaries provide the foundation for the Service's assessment of the effects of the proposed action, as presented in the Effects of Action section, and to make the Conservation Recommendations listed at the end of this opinion.

The flatwoods salamander (*Ambystoma cingulatum*) is listed as a threatened species under the authority of the Endangered Species Act of 1973, as amended (Act). The flatwoods salamander was designated as threatened in the Federal Register, April 1, 1999 (64 FR 15691), and became effective on May 3, 1999. No critical habitat has been designated for this species. Recovery planning is underway, but no recovery plan has been adopted.

Species description

The flatwoods salamander is a slender, small-headed mole salamander that is seldom greater than 5 inches in length. Adult dorsal color ranges from black to chocolate-black with highly variable, fine, light gray lines forming a net-like or cross-banded pattern across the back. Undersurface is plain gray to black with a few creamy or pearl gray blotches or spots. Flatwoods salamander larvae are long and slender, broad-headed and bushy-gilled, with white bellies and striped sides (Ashton, 1992; Palis, 1995). Flatwoods salamanders are known to occur in isolated populations across the lower southeastern Coastal Plain, with the majority of the remaining known populations located in Florida.

Life history

Adult and sub-adult flatwoods salamanders live in underground burrows. Adult flatwoods salamanders move above ground to their wetland breeding sites during rainy weather, in association with cold fronts, from October to December (Palis, 1997). Typical breeding sites are isolated pond cypress (*Taxodium ascendens*), blackgum (*Nyssa sylvatica* var. *biflora*), or slash pine (*Pinus elliottii*) dominated depressions which dry completely on a cyclic basis. They are generally shallow and relatively small, and have a marsh-like appearance with sedges often growing throughout, and wiregrass (*Aristida* sp.), panic grasses (*Panicum* spp.), and other herbaceous species concentrated in the shallow water edges. After breeding, adult flatwoods salamanders leave the pond.

Optimum adult habitat for the flatwoods salamander is an open, mesic (moderate moisture) woodland of longleaf/slash pine (*Pinus palustris/P. elliottii*) flatwoods maintained by frequent fires, with a dominant ground cover of wiregrass (*Aristida spp.*). The ground cover supports a rich herbivorous invertebrate community that serves as a food source for the species (64 FR 15692).

In a study by Ashton (1992), flatwoods salamanders were found greater than 1,859 yards from their breeding pond. However, based on more recent data (Semlitsch, 1998) and additional peer review, the final listing rule recommends a 1,476-feet "buffer" around breeding ponds to protect the majority of a flatwoods salamander population from the adverse effect of certain specified, silvicultural practices. This buffer extends 1,476 feet out from the wetland edge.

Since they may disperse long distances from their breeding ponds to upland sites, desiccation can be a limiting factor. Thus, it is important that areas connecting their wetland and terrestrial habitats are conserved in order to provide cover and appropriate moisture regimes during their migration. High quality habitat for the flatwoods salamander includes a number of isolated wetland breeding sites within a fire maintained landscape of longleaf pine/slash pine flatwoods having an abundant herbaceous ground cover (Sekerak, 1994). In Florida, Palis (1997) found that 70 percent of the active breeding sites were surrounded by second-growth longleaf or slash pine flatwoods with nearly undisturbed wiregrass ground cover.

Population dynamics

A flatwoods salamander population has been defined as those salamanders using breeding sites within 2 miles of each other, barring an impassable barrier such as a perennial stream (Palis, 1997). Since temporary ponds are not likely permanent fixtures of the landscape due to succession, there would be inevitable extinctions of local populations (Semlitsch, 1998). By maintaining a mosaic of ponds with varying hydrologies, and by providing terrestrial habitats for adult life stages and colonization corridors, some prevention of local population extinction can be achieved. A mosaic of ponds would ensure that appropriate breeding conditions would be achieved under different climate regimes. Colonization corridors would allow movement of salamanders to new breeding sites or previously occupied ones (Semlitsch, 1998).

Fire is needed to maintain the natural pine flatwoods community. The disruption of the natural fire cycle has led to an increase of slash pine on areas previously dominated by longleaf pine, increases in hardwood understory and canopy, and subsequent decreases in herbaceous ground cover (64 FR 15701). Isolated ponds that are surrounded with pine plantations and are protected from fire may become unsuitable breeding sites for the flatwoods salamander. This is a result of canopy closure and the reduction in herbaceous vegetation necessary for egg deposition and larval development (Palis, 1993).

Status and distribution

Historical records for the flatwoods salamanders in its range are limited. Longleaf pine/slash pine flatwoods historically occurred in a broad band across the lower southeastern Coastal Plain. The flatwoods salamander likely occurred in appropriate habitat throughout this area (64 FR

15691). Range-wide surveys in Alabama, Florida, Georgia, and South Carolina have been ongoing since 1990 in an effort to locate new populations. Most surveys were searches for the presence of larvae in the grassy edges of ponds.

The combined data from the surveys completed since 1990 indicate that 59 populations of flatwoods salamanders are known from across the historical range. Most of these occur in Florida (47 populations or 80 percent). Eight populations have been found in Georgia, four in South Carolina, and none have been found in Alabama. Some of these populations are inferred from the capture of a single individual. Slightly more than half the known populations for the flatwoods salamander occur on public land (40 of 59, or 68 percent).

ENVIRONMENTAL BASELINE

Status of the species within the action area

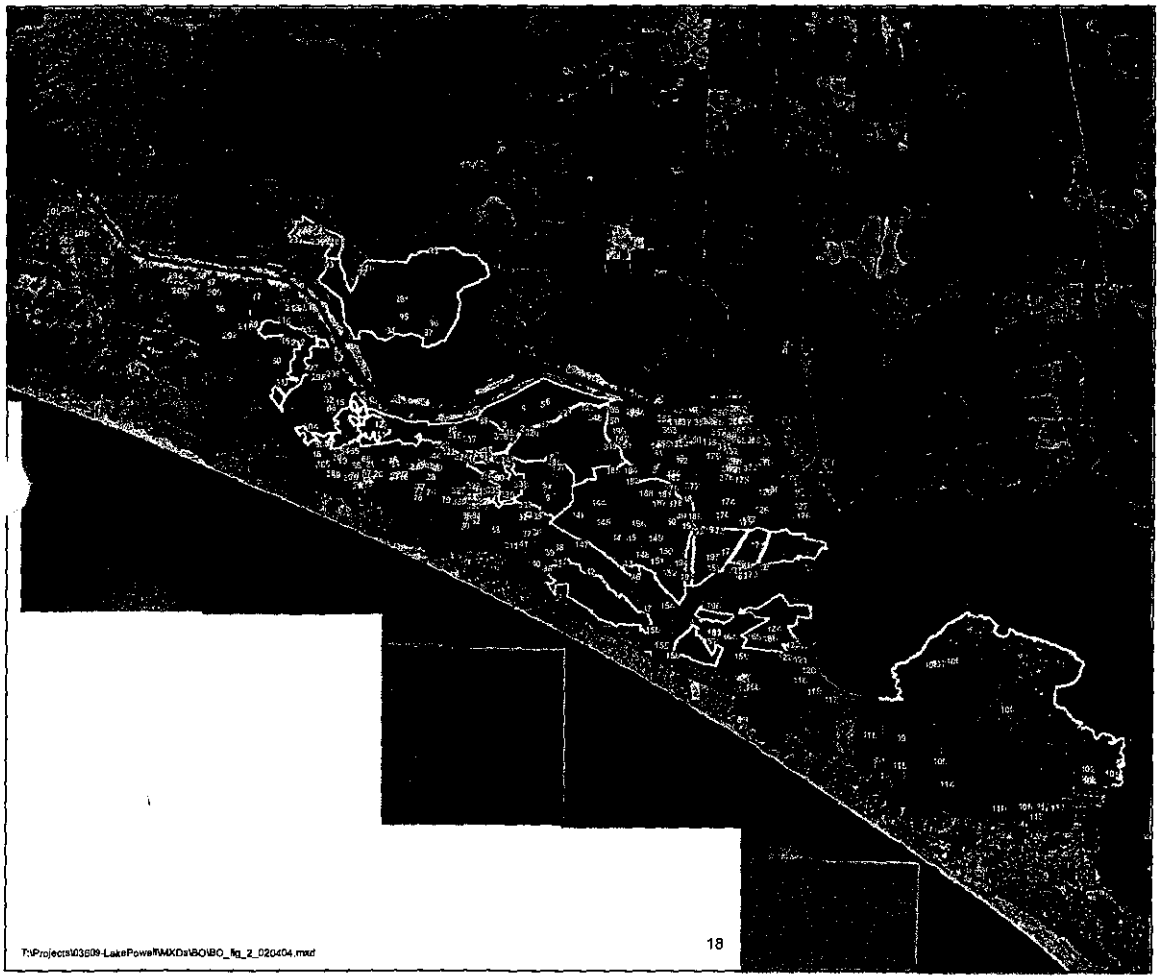
Historical data on flatwoods salamanders in the action area is limited. Most of the area is privately owned and has been intensively managed for silviculture for many years. Little remains of the natural terrestrial landscape. Almost all uplands and most wetlands were converted to pine plantations with site preparation that included clearcutting, roller chopping, herbicide application, and bedding. In addition, pine flatwoods are not considered wetlands under State of Florida best management practices for silviculture; therefore, this habitat type receives no special consideration when converted and managed for industrial forestry.

There are no documented occurrences of flatwoods salamanders in Bay County and only one recent record in Walton County. The Walton County record is for one individual at one location in Point Washington State Forest, which is adjacent to the RGP-86 boundary but separated to a great extent by a four-lane highway. One large parcel of the State Forest bisects the RGP area at the western end, and other parcels are adjacent to the RGP boundary north of the highway in that vicinity. The known record for the flatwoods salamander at the State Forest is located south of the four-lane highway. Further field investigations were recommended for the RGP area due to the proximity to the known location and the absence of surveys across this vast expanse of private lands in the project area. There is also one other known occurrence approximately seven miles north of the project area in Pine Log State Forest in Washington County.

The St. Joe Company (St. Joe) owns the majority of lands in the action area. St. Joe has received assistance from the Service in recent years in an effort to develop a habitat suitability model for flatwoods salamanders. Such a model would provide useful information for salamander management and recovery, particularly in the Florida panhandle where St. Joe has much of its lands. Unusually dry conditions in recent years delayed progress on the model, but a fair amount of background data collection was conducted in the project area. The area also has been visited on several occasions by one of the foremost flatwoods salamander experts, John Palis. Mr. Palis was first contracted by St. Joe to visit the project area on March 8, 2000. This cursory visit identified potential habitat and that "flatwoods salamanders may occur at this site" (Palis, 2000). Subsequent field inspections were conducted by John Palis in the action area related to the habitat model and to Camp Creek Golf Course Phase II.

Mr. Palis was again contracted to evaluate potential flatwoods salamander habitat specifically in the RGP area. Details of his survey methods are described in the biological assessment. Approximately 300 potential sites were initially selected using aerial photography and GIS data. These sites were throughout the RGP area, not just on St. Joe Company lands (Figure 2, page 18). Upon further review of high resolution photography, historical photography, and soils maps, Palis selected 83 of the 300 sites "that merited a field visit to determine their potential as flatwoods salamander habitat" (WilsonMiller, 2003) (Figure 3, page 19). A team including Palis, the applicant, and consultants for the applicant inspected these sites, and any others that were noted in the field. Each site that was deemed to have at least a "small potential" for suitable habitat was re-visited by Palis. The final analysis concluded that only nine wetlands appeared to be suitable habitat (Figure 4, page 20).

There is no set protocol at this time for providing reasonable assurance that salamanders do not occur at a particular location. However, the consensus among herpetologists is that a reasonable effort would consist of drift fence surveys surrounding a potential breeding pond to be conducted in two consecutive "normal" weather years. There has not been an opportunity to adequately survey for the presence or absence of flatwoods salamanders in any of the potentially suitable habitats due to a recent drought. However, based on the remote sensing analysis, site inspections, and the proximity to at least two known locations, the Corps and the St. Joe Company have agreed to presume presence of flatwoods salamanders at the nine potential locations. This appears to be a reasonable approach given the size of the project area and the limited time frame to conduct surveys. Positive results from any future surveys would require re-initiation of Section 7 consultation if there is a potential to affect suitable habitat not addressed in the incidental take section of this opinion.



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Figure 2

300+ Sites Selected for Analysis Biological Opinion

West Bay to East Walton RGP

Legend

Conservation Units
- RGP Area (including Tidal Soils)
- Devil's Swamp Mitigation Bank
- Breakfast Point Mitigation Bank

● Ponds Reviewed Prior to Field Surveys for Potential Flatwoods Salamander Habitat

203 Pond Identification Number

Disclaimer:
This exhibit was prepared utilizing GIS data provided by various sources that may include but not limited to federal, state, district and local agencies. Data provided by other sources are not warranted by WilsonMiller for accuracy or for any particular use that may require accurate information. This map is for informational purposes only and should not be substituted for a wetland jurisdictional determination, true title search, property appraisal, survey, or for zoning verification.

Map Date:
02/04/04

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New Directions in Planning, Design & Engineering



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Figure 3

83 Sites Selected from 300+

West Bay to East Walton RGP

Legend

- Conservation Units
- RGP Area (including Tidal Soils)
- Devil's Swamp Mitigation Bank
- Breakfast Point Mitigation Bank
- Ponds Surveyed for Potential Flatwoods Salamander Habitat
- 203 Pond Identification

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Figure 4

Nine Potential Salamander Locations

West Bay to East Walton RGP

Legend

Conservation Units
- GP Area (Including Tidal Soils)
- Devils Swamp
- Breakfast Point

- Ponds Considered Potential Habitat Based on Field Survey Results
- 46 Pond Identification

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Map Date:
02/04/04

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Factors affecting species environment within the action area

West Bay Sector Plan - Bay County officials recently conducted a special planning effort for a portion of the RGP and additional adjacent areas totaling approximately 75,000 acres. The "West Bay Sector Plan" identifies potential development and conservation strategies for the area, and is predicated on re-location of the Panama City/Bay County International Airport. Although the Sector Plan may encourage and accelerate development, it could reduce adverse effects in comparison to existing land use regulations. There are no known flatwoods salamander records within the sector planning area. Potential habitat occurs in a proposed sector conservation area that coincides with the Breakfast Point mitigation bank. It is likely that other habitat could be found in the approximately 30,000 acres identified as the West Bay Preservation Area.

Camp Creek Golf Course, Medallist, and Highway 98 - These three projects are within the RGP boundary. Each project required Corps permits and formal consultations for flatwoods salamanders. Similar to the approach agreed upon for the RGP, each project area was presumed to have salamanders based on the presence of suitable habitat and the proximity to known locations. The amount of presumed take from these three projects totals 606 acres of buffer habitat. There was no direct take of breeding pond habitat.

Public Lands - Point Washington State Forest occurs within the RGP boundary. There is one known location of a flatwoods salamander breeding pond in the forest, but it is a considerable distance from any potential development that could occur in the RGP. The forest is actively managed in a manner that should improve salamander populations. Pine Log State Forest is in proximity to the RGP boundary, but not located within the project area. As with Point Washington, there is one documented occurrence of flatwoods salamanders, and the forest is managed to improve habitat for the species. The Northwest Florida Water Management District (WMD) also owns large parcels adjacent to the project area. There are no known occurrences of flatwoods salamanders on WMD land, but there is good potential that active management will improve habitat. The RGP conservation units blend with the State forest and WMD lands to provide an opportunity for habitat improvement and connectivity across a large area of Bay and Walton counties.

EFFECTS OF THE ACTION

RGP-86 is designed to manage the cumulative effects of numerous potential Section 404 dredge and fill permits. The RGP guides development to specific areas allowing no more than 20 percent of low quality silviculture wetlands to be impacted within each sub-watershed in the RGP area. More than 99 percent of high quality, unplanted wetlands will remain. Two mitigation banks of 7,700 acres will compensate for the loss of wetland functional values to both low and high quality wetlands. Conservation units of 13,200 acres will be removed from development potential as a condition of the permit, but will be encumbered by conservation easements concurrently as future development projects receive permit authorization. The conservation units and mitigation banks establish large, contiguous blocks of manageable lands, wildlife corridors, and provide for reduction of potential stormwater and hydrological impacts. Effects of the project on salamander habitat are based on two important premises: 1) best available methods were used to identify potential habitat, and 2) presence of salamanders is presumed for these areas although none have been documented.

Direct effects

The BA identifies specific direct effects of the project to include development projects within two potential habitats identified as Ponds 64 and 46. Pond 64 is the only potential breeding habitat that is not located within a conservation unit or one of the two mitigation banks. Pond 46 was added to a conservation unit following its discovery and evaluation; however, some of the surrounding buffer habitat of Pond 46 falls outside the conservation unit and is therefore subject to future development plans. All other identified suitable habitat, including buffers, is located either within a conservation unit or a mitigation bank. Direct effects could occur in other locations if suitable habitat is discovered at a later time; however, this situation would constitute new information that would trigger re-initiation of consultation.

The BA describes the method by which John Palis and the consultants quantified the amount of suitable habitat that could be affected at Ponds 64 and 46. This is based on a draft project design for a residential/golf course development adjacent to Pond 64 and presumed future development within suitable buffer habitat of Pond 46 that is outside the conservation unit. The BA indicates that approximately 57 acres of fair to fairly good buffer habitat will be affected at Pond 64. Approximately 53.6 acres of potential buffer habitat will be affected at Pond 46.

Management of the conservation units and the mitigation banks should ultimately benefit flatwoods salamander habitat. The conservation units will be managed according to *Principles for Forest and Wildlife Management for Conservation Units Within the Regional General Permit Area* that is part of RGP-86. The banks will be managed according to their mitigation banking instruments. The ultimate goal in both conservation units and banks is to restore the habitat to historical natural condition.

Indirect effects

Flatwoods salamanders are thought to be sensitive to soil and groundcover disturbing activities, especially when that disturbance creates an impediment to movement from upland habitat to the ephemeral wetlands they use for breeding and larval development. Soil disturbance can also result in potential sedimentation and erosion affecting nearby wetlands habitat. However, construction that could occur within proximity to suitable habitat is limited by the boundaries of the conservation units and mitigation banks and by the proposed buffers. In addition, a proposed road near Pond 64 has been re-designed to include underpasses for reptiles, amphibians, and small mammals. This would maintain a connection between the pond and an area to the north that will be placed in a conservation easement within the development and which connects to a large conservation unit.

CUMULATIVE EFFECTS

Cumulative effects include the effects of future State, tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed project are not considered in this opinion because they require separate consultation pursuant to section 7 of the Endangered Species Act.

RGP-86 was specifically designed through 3 years of interagency coordination to address cumulative effects that could be expected from increased development pressure in the area. The Service has evaluated numerous development projects in the area in recent years, and has conducted formal consultation for flatwoods salamanders for three of these projects. The general permit provides a more coordinated ecosystem approach for implementation of the current dredge and fill program in the area. The cooperation of the largest landowner in the area has been instrumental in the process. Additional evaluation of flatwoods salamander habitat will occur on a project-by-project basis using the procedures described in Appendix IV.

CONCLUSION

After reviewing the current status of the flatwoods salamander, the environmental baseline for the RGP-86 action area, the effects of the proposed activities, proposed protective, avoidance, and minimization measures, and the cumulative effects, it is the Service's biological opinion that the project, as proposed, is not likely to jeopardize the continued existence of the flatwoods salamander. Within the RGP project area, nine wetlands were identified as potential suitable habitat for the flatwoods salamander. No known breeding habitat for flatwoods salamander will be affected. As conditions of issuing the permit for the project, mitigation banks totaling 7,692 acres will be established to compensate for loss of wetland values and conservation units totaling 13,200 acres will be removed from development potential. Seven of the nine potential flatwoods salamander ponds are located completely within a conservation unit or mitigation bank. Of the two ponds not included, only one is completely outside a conservation unit or mitigation bank. The combined acreage of affected buffer habitat in both ponds totals 110.6 acres. This acreage, which has been established as the amount of take for the affected potentially occupied habitat, is

very small when compared to the amount of suitable upland and wetland habitat (18,357 acres) that will be restored and managed in perpetuity within the conservation units and mitigation banks. Loss of 110.6 acres of potential suitable habitat will not appreciably reduce the survival and recovery of the flatwoods salamander. No potential breeding pond habitat will be affected. Less than 2.4 percent of the buffer habitat surrounding these ponds will be taken. The RGP project area will allow for protection and expansion of populations if any are eventually located at the site. The existing and future land uses without the RGP (silviculture and haphazard development) would be more of a threat to recovery of the species than issuance of the permit. No critical habitat has been designated for the flatwoods salamander; therefore, none would be affected.

There are approximately 160 ponds in Florida with a conservative estimate of 376,000 acres of pond and buffer habitat in the State (average 5-acre pond size plus 1,476-ft. buffer). Therefore, the amount of take could be viewed as 0.0003 of the amount of known habitat in the State of Florida. As a reminder, it should be pointed out that all effects are for habitat that is **presumed** to support flatwoods salamanders, and that a majority of the buffer habitat around the two affected ponds will remain and be improved.

INCIDENTAL TAKE STATEMENT

Section 9 of the Endangered Species Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered or threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include major habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to noticeably disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited under the Act provided that such taking is in compliance with the Terms and Conditions of this incidental take statement.

The measures described below are non-discretionary, and must be implemented by the Corps of Engineers for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity covered by this incidental take statement. If the Corps (1) fails to assume and assure implementation of the Terms and Conditions, or (2) fails to require applicants to adhere to the Terms and Conditions of the incidental take statement through enforceable terms, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the Corps must report the progress of the project and its impacts on the species to the Service as specified in the incidental take statement [50 CFR §402.14(I)(3)].

Amount or extent of take

The Service has determined that incidental take of individual flatwoods salamanders is difficult to detect for the following reasons: (1) adult flatwoods salamanders are difficult to locate and observe. Individuals killed during construction would likely be buried under dirt and debris, and/or, (2) losses may be masked by natural fluctuations in numbers of individuals. Although mortality of individuals is difficult to document, the level of take of this species was determined as follows: An estimated 110.6 acres of potential buffer habitat is presumed to be taken by development activities allowed under RGP-86.

Effect of the take

In the accompanying biological opinion, the Service determined that the level of anticipated take is not likely to result in jeopardy to the species. The amount of take is for **presumed occupied** habitat and is small when compared to potential habitat that will remain in conservation units and mitigation banks, both of which will eventually be restored to more suitable habitat and managed in perpetuity. The amount of take is also for buffer habitat only; no take is given for potential breeding ponds themselves. No critical habitat has been designated for the flatwoods salamander; therefore none will be affected.

Reasonable and prudent measures

The Service believes the following reasonable and prudent measures (RPMs) are necessary and appropriate to minimize take of flatwoods salamanders.

1. All applicants for development projects will receive information about flatwoods salamander habitat.

2. Future development proposals will include a verification that the ponds on the site have been evaluated for their suitability as flatwoods salamander breeding ponds, as described in the Terms and Conditions.

3. Future owners of the conservation units will receive information about the flatwoods salamander Conservation Measures of RGP-86.

Terms and conditions

In order to be exempt from the prohibitions of section 9 of the Endangered Species Act, the Corps and applicants for RGP-86 must comply with the following Terms and Conditions, which implement the reasonable and prudent measures, described above. These Terms and Conditions are non-discretionary.

1. The Conservation Measures as described in the BA and in the proposed action section of this BO will be implemented.

2. The 5-year review and renewal process will provide an evaluation of salamander effects and conservation.

3. As part of the pre-application process for RGP-86, project sites will be assessed using the *Flatwoods Salamander Pre-Application Evaluation* (Appendix IV). This requirement is addressed in Special Condition 19.a (8) of the permit.

4. As Special Condition 13.d of RGP-86, sale or transfer of conservation units requires that a copy of RGP-86 and this biological opinion be provided to the new owner.

CONSERVATION RECOMMENDATIONS FOR FLATWOODS SALAMANDERS

Section 7(a)(1) of the Endangered Species Act (Act) directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. The following conservation recommendations will be implemented if possible:

1. The Corps recognizes that a joint effort is underway to develop a predictive model to determine habitat suitability for flatwoods salamander. The research to develop the model has been ongoing for 2 years and requires another year for completion. To the extent it is available for use, the Corps and the St. Joe Company should apply the model to the project area.

2. The Corps and the St. Joe Company should participate in conservation planning for telephus spurge in the RGP action area.

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

TELEPHUS SPURGE

STATUS OF THE SPECIES/CRITICAL HABITAT

This section summarizes the biology and ecology of telephus spurge. The Service uses this information to assess whether a Federal action is likely to jeopardize the continued existence of the species. The Environmental Baseline summarizes information on status and trends of the species specifically within the action area. These summaries provide a foundation for the Service's assessment of the effects of the proposed action, as presented in the Effects of Action section, and to make the Conservation Recommendations listed at the end of this opinion.

Telephus spurge was listed as a threatened species under the authority of the Endangered Species Act of 1973, as amended (Act). The telephus spurge was designated as threatened in the Federal Register, May 8, 1992 (57 FR 19813-19819) and became effective on June 8, 1992. No critical habitat has been designated for this species. This species is endemic to Bay, Franklin, and Gulf counties, Florida. It is threatened by habitat degradation due to conversion of habitat to pine plantations with accompanying mechanical destruction and eventual shading, as well as real estate development within its habitat. Use of herbicides within powerline right-of-ways may also adversely affect telephus spurge. A recovery plan was approved on June 22, 1994 (USFWS 1994).

Species description

Telephus spurge is a perennial herb with a stout storage root and numerous, erect stems to 1 foot tall. Stems and leaves are smooth and fleshy with milky sap. The leaves are alternate, 1-2 inches long, without leaf stalks, obovate to oblanceolate, usually over 1 cm wide at the widest part, with maroon midribs and margins. The species flowers from April through July with flowers that are reddish-green cyanthia (cup-like structures). It produces one female flower and several male flowers on short stalks, surrounded by 4-5 minute, petal-like glands. The fruit is a 3-lobed capsule. Naturally occurring telephus spurge is found in a variety of habitat types including pine savannas and wet prairies to sandhills, scrubby and mesic flatwoods, and coastal scrub on low sand ridges within 4 miles of the Gulf of Mexico (Chafin 2000, WilsonMiller 2004). Biologists from Florida Natural Areas Inventory (FNAI) and WilsonMiller have documented populations of telephus spurge persisting under powerlines, pine plantations, and remnant pine flatwoods and coastal scrub (WilsonMiller 2004). Botanists at Historic Bok Sanctuary have had minimal success with greenhouse propagation by transplanting individual plants (Cheryl Peterson, personal communication, September 21, 2004).

Status and distribution

When the USFWS listed telephus spurge, there were 22 known locations of this species. Since listing, the number of known extant telephus spurge locations increased from 22 to approximately 42 known locations due to additional survey work (Moranz, et.al., 2001; ERC 2004). However, several locations may now be extirpated.

There are currently 41 occurrences of telephus spurge documented in the Florida Natural Areas Inventory database (Sept 2004). Thirty sites (FNAI 1, 3, 4, 6, 10-19, 23-25, 27-34, 36-39, 41) are concentrated in a 28 square mile area east and south of the town of Port St. Joe in Gulf County; however, FNAI 1, 10, and 17 are believed to be extirpated. Outside the main concentration area, three sites (FNAI 7, 8, and 9) are found 40 miles west in Bay County. FNAI 9 is believed extirpated also. Two sites (FNAI 26, 35) were documented 20 miles east in Franklin County but are both now believed extirpated due to development. Six sites (FNAI 2, 5, 20, 21, 22, 40) were scattered to the east of the main concentration, but FNAI 2 is now believed to be extirpated. Twelve occurrences (FNAI 3, 18, 24, 25, 28, 29, 30, 31, 32, 33, 36, and 41) within the main area of concentration are protected on the St. Joseph State Buffer Preserve

(SJBP). The SJBP sites range mostly from 3-30 in plant numbers with a few ranging from 30-100 and one with numbers in the 1000's. The remaining sites are on private lands with most having from 0-50 plants, a few having 50-300 plants, and 4 sites having plant numbers in the 1000's. Plant numbers from most sites in the 2001 survey have been reduced compared to 1988 survey data. This is attributed mostly to conversion to pine plantations or development as well as the exclusion of fire. No plants were found at seven sites during recent surveys, but it is difficult to say whether the plants are actually extirpated or were simply not visible due to the absence of recent fire or other disturbance.

Appropriate management is occurring on the SJBP and has created a positive stimulus for telephus spurge. Cursory surveys from a recent site visit (August 2004) by USFWS biologists as well as discussions with staff from SJBP lead us to believe that the SJBP houses the largest and best managed populations of telephus spurge to date.

The telephus spurge occurrence records in the proposed North Glades project area are documented as FNAI 7 and 8. Originally located in 1988, surveyors documented approximately 200 plants at each site. Upon more specific surveys, the applicant's contractors located approximately 17,250 plants within a 6.43 acre area. Based on individual plant count data, this is the second largest population documented to date and is located in the western most extent of the species range since FNAI 9 is believed extirpated.

The North Glades applicant has conducted additional surveys within the RGP-86 Conservation Units in Bay County, Florida, and within the BPMB. As a result, one new population of telephus spurge containing over 200 plants was located in the BPMB and on adjacent lands that have no conservation designation. These 200 plants within BPMP will be managed and monitored in conjunction with the existing management requirements of the RGP-86 permit. We refer to this site as FNAI 42, the designation it will be given once data is entered.

The Service's recovery plan for telephus spurge states a goal of 15 populations of telephus spurge that are distributed throughout the species' historical range and that are adequately managed and protected before the species can be delisted (USFWS 1994). To apply this criterion, we would have to determine how many populations exist. The number of occurrences is greater than the number of populations because more than one occurrence may be part of the same population. We estimate that St. Joe Buffer Preserve's 12 locations equate to 3 populations. Bay County sites located on Panama City Beach (FNAI 7 and 8) are one population, and FNAI 42 will be a separate population (once there is a complete build out within the RGP-86 permitted area). Due to the extensive area covered by the RGP-86 permit and associated mitigation bank areas, not all suitable habitat has been surveyed throughout the RGP-86 area nor the mitigation bank areas, but the potential for locating additional telephus spurge sites seems fairly high.

ENVIRONMENTAL BASELINE

Under Section 7(a)(2) of the Act, when considering the effects of the action on federally listed species, we are required to take into consideration the environmental baseline. The

environmental baseline includes past and ongoing natural factors and past and present impacts from all Federal, State, or private actions and other activities in the action area (50 CFR 402.02), including Federal actions in the area that have already undergone Section 7 consultation and the impacts from State and private actions that are contemporaneous with the consultation in progress.

Status of the Species Within the Action Area

This revision of the original BO focuses specifically on the North Glades development. The original BO identified several federally listed species known or presumed to occur within the project boundary. At the time it was determined that plant surveys within the RGP-86 project area were limited considering the size of the project area. A conservation measure incorporated into the permit stipulated that all impacts to telephus spurge would be avoided and that consultation would be re-initiated if impacts could be avoided. Since completion of the original BO, additional surveys for telephus spurge have occurred within the RGP-86 permit boundaries. This resulted in the location of one additional site of telephus spurge referred to above as FNAI 42. Also during that time, a landowner proposed the North Glades development project that would impact telephus spurge at FNAI 7 and 8. Upon realization that the North Glades development would adversely impact the telephus spurge, the Corps re-initiated consultation with the Service and will continue to do so should additional sites containing telephus spurge be located and impacted by future development plans within the RGP-86 permit area.

The proposed North Glades project area consists of 66.96 acres. Of this, 6.43 acres contains approximately 17,250 telephus spurge plants. The applicant estimates that 4.10 acres and approximately 10,425 plants will be adversely impacted by the proposed development. The remaining 2.33 acres with approximately 6,825 plants will be managed and conserved through a perpetual conservation easement. It is unlikely that if the population were left without management in its current location that it would persist over time due to habitat loss and degradation. There are no other Federal actions ongoing or proposed for the action area at the present time.

Factors Affecting Species Environment Within the Action Area

This analysis describes factors affecting the environment of the species in the action area. The baseline includes State, local, Tribal, and private actions within the action area already affecting the species or that will occur contemporaneously with the proposed action and would affect the environment of the telephus spurge. Unrelated Federal actions affecting the telephus spurge that have completed formal or informal consultation are also part of the environmental baseline, as are Federal and other actions within the action area that benefit the telephus spurge.

RGP-86 was cooperatively developed by several State and Federal agencies to address the cumulative effects of existing and anticipated development pressures within a fast growing region of the Florida panhandle. The area addressed by the permit is approximately 47,480 acres in southwest Bay County and southeast Walton County. Approximately 90 percent of the property is presently in silviculture (forestry) management and is owned by the St. Joe Company.

Current forestry practices are now giving way to more lucrative residential and commercial developments for which the RGP-86 permit was intended.

Several development projects have occurred or are proposed in the vicinity of telephus spurge sites FNAI 7 and 8. These include Hombre Golf Club, Wingate Motel, Bay Medical Center, Sonny's Bar-B-Q, Beckrich Office Complex, "Alf Coleman," Highlands West, and Home Depot. One of these sites, Wingate Motel, is known to have telephus spurge that will likely be impacted by the proposed project. Another project, Home Depot, was recently completed prior to telephus spurge being documented on the periphery. It is likely that plants were destroyed by the construction of businesses and access roads associated with Home Depot.

Within the RGP area, approximately 10,665 acres of uplands and wetlands will be designated as Conservation Units. These areas will be removed from development potential and industrial forestry practices. They will eventually be restored in accordance with specific prescriptions for wildlife management that focus on listed species. Restoration and management of two wetland mitigation banks will secure for conservation two large, strategically placed parcels totaling approximately 7,700 acres. The previous land use of the banks is industrial forestry. It was intended for these mitigation banks to assist in the recovery of several federally listed species, including telephus spurge. The majority of the BPMB is of the soil types suitable to telephus spurge.

Telephus spurge sites FNAI 7 and 8 occur in an area proposed for a development project that would be permitted under RGP-86. FNAI site 42 is located in the BPMB and adjacent lands to the south of the bank boundary. Surveys for telephus spurge were conducted in 15 different locations within the Conservation Unit areas of the RGP (ERC, 2004). No additional populations have been located but due to the amount of habitat covered under the RGP-86 permit and the availability of suitable habitat, we believe that additional telephus spurge locations may exist. The Corps will continue to re-initiate consultation if the species is located prior to development. Active management within the mitigation banks and the Conservation Unit areas will improve the habitat for telephus spurge.

EFFECTS OF THE ACTION

Direct Effects

An estimated count of 10,425 plants of telephus spurge will be lost due to the proposed project, with a corresponding loss of habitat (4.10 acres). However, viability of the remaining North Glades telephus spurge population (6,825 plants over 2.33 acres) in the action area will be maintained and managed.

Indirect Effects

The applicant owns the remaining portion of the population and has agreed to place it into a conservation easement and manage it, so the population is not subject to direct impacts from future development projects. However, given the location of the population and the proposed development, this population will be isolated from any other natural habitat thereby reducing the

chance for natural expansion or rescue effect should this population be inadvertently disturbed. This site will be managed in as natural a state as possible given that the location will become completely surrounded by urban development (highways, restaurants, commercial stores, etc.).

Private activities in the action area that may adversely impact the species indirectly include human trampling, increased exotic species invasion and competition, increased edge effect (i.e., increased sunlight, increased temperature), contaminant impacts from parking lot and highway runoff, as well as the proposed management attempts such as mowing and exotic species control.

CUMULATIVE EFFECTS

Cumulative effects include the effects of future State, tribal, local, or private actions that are reasonably certain to occur in the action area considered in this Opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require a separate consultation pursuant to section 7 of the Act.

Specifically for the North Glades project, the 6,825 plants located on the remaining 2.33 acres within the conservation easement area could potentially be impacted by future development plans. The applicant has agreed to protect and manage appropriately this remaining 2.33 acres of the telephus spurge habitat and population into perpetuity, therefore no other State, tribal, local, or private actions are reasonably certain to occur at this particular site that would affect the telephus spurge.

Future actions within the RGP boundary will include industrial, commercial, and private residential development, which in turn could lead to further fragmentation, fire suppression and/or direct impacts to unknown, yet existing, populations of telephus spurge. Additional evaluation of telephus spurge habitat will occur on a project-by project basis using the procedures described in Appendix III.

CONCLUSION

Transplanting endangered or threatened plant species from project impact areas, while minimizing impacts to individuals, is generally not recommended. The intent of the Act is to protect the ecosystems upon which these federally listed species depend. Thus, protecting habitat is considered to be a key factor for ensuring conservation of listed species. In this case, even if the entire plant population on North Glades was protected from direct impacts, the long-term plans for the surrounding area will eventually see this population further fragmented and eventually isolated from all natural corridors. This project will involve transplanting of telephus spurge individuals to a protected site that has yet to be identified, and will also include the long-term commitment of active management and monitoring of the parent population within the North Glades conservation easement. At a minimum, we will learn whether transplanting telephus spurge is a viable option to be used for future unavoidable impacts to the species. At

most, we will create a new population that resides in a more natural setting conducive for long-term protection, management and viability.

The USFWS has set a goal of 15 populations of telephus spurge that are distributed throughout the species' historical range and that are adequately managed and protected before the species can be delisted (USFWS 1994). Currently three centrally located populations are protected in the St. Joe Buffer Preserve. The total number of locations of this plant is not considered a limiting factor toward recovery of the species; rather, it is the protection of populations that is limiting the species' recovery. The Conservation Measures provided by the applicant will increase the number of protected populations from three to five or possibly, six. This includes the three on the SJBP, the North Glades population (FNAI 7 and 8), the BPMB population (FNAI 42) and possibly an additional population depending on placement and the results from the translocation efforts. The location of the transplanted plants will determine whether they will be considered a new population.

After reviewing the current status of telephus spurge, the environmental baseline for the action area, the effects of the proposed development, the cumulative effects, and the proposed conservation measures, it is our biological opinion that the proposed development is not likely to jeopardize the continued existence of telephus spurge. No critical habitat has been designated for this species; therefore none will be affected.

CONSERVATION RECOMMENDATIONS FOR TELEPHUS SPURGE

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretional agency activities to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. We request that the following conservation recommendations be implemented.

1. Place the translocation study area more than 3 kilometers from other known populations if connected by natural habitat or about 1 kilometer if permanently unsuitable habitat is in between the populations. If the translocation is deemed successful, the transplanted population would count as an additional protected population and will aid in reaching the recovery goal of 15 protected populations.

2. Develop in cooperation with USFWS a long-term conservation strategy for telephus spurge on St. Joe Company lands in Bay and Gulf counties.

In order for us to be kept informed about actions that minimize or avoid adverse effects or that benefit listed species or their habitats, we request notification of the implementation of any conservation recommendations.

REINITIATION NOTICE

This concludes formal consultation on the action outlined in this biological opinion. As provided in 50 CFR 402.16, re-initiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending re-initiation.

HC/hc/kh/c:BO kathy'sfinal.doc

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Appendix I - Memo Dated April 30, 2004 from WilsonMiller, Inc.

WilsonMiller

TO: Hildreth Cooper, USFWS
Gail Carmody, USFWS
Don Hambrick, USACE

FROM: Ann Redmond and Trina Mitchell

CC: Dave Tillis, Thomas Estes, St. Joe Company

SUBJECT: *Euphorbia telephioides* (Telephus Spurge) Populations in the Action and Project Area

DATE: April 30, 2004

On March 18, Hildreth Cooper informed WilsonMiller that the Service is concerned about the presence of telephus spurge populations in the Action and Project Areas. Patty Kelly, U.S. Fish and Wildlife Service (USFWS), had raised some questions about the impacts of the RGP on the species. Following the Biological Assessment of January 2004, a more detailed discussion of the telephus spurge has occurred. The content is related below.

The Telephus spurge was first listed in 1992 (USFWS 1994). Based on vouchered specimens, this plant is an endemic species that occurs in Bay, Gulf, and Franklin Counties, Florida (Institute for Systematic Botany 2002). The plant occurs from Panama City Beach east to the Ochlockonee River (USFWS 1994). It has been recorded in 41 locations, nearly half of which are on public land (Map 1).

All known occurrences of Telephus spurge are on sites within 4 miles of the Gulf of Mexico (USFWS 1994). Numerous populations are protected on St. Joseph Bay State Buffer Preserve and adjacent tracts of land (SJBBP); many occurrences are on private timberlands and utility right-of-ways (Chafin 2000, FNAI 2003, Hilsenbeck 2004, Willson 2004). Ed and Lisa Keppner have searched for the telephus spurge in Bay County and have found none (Keppner 2004). Hilsenbeck (2004) believes that the spurge's listing as a G1/S1 plant should be downgraded based on the abundance of the species in the SJBBP area.

Populations in Action Area

Two populations of Telephus spurge (*Euphorbia telephioides*) have been documented outside the Action Area, but near the Project Area, and one has been documented within the Project Area (FNAI 2003, 2004; Chafin 2004; Kindell 2004; WilsonMiller 2004)(Map 2). FNAI (2003) element occurrence (EO) data indicate that during the 2001 survey, no plants were observed in population EUPHTELE*0009 outside the Project Area (Table 1). The other two populations were re-confirmed in 2001 (Table 1), including the one within the Project Area.

WilsonMiller, Inc., resurveyed for the population within the Project Area (EUPHTELE*0007) on April 21, 2004, and found numerous individuals along US 98 within an area approximately 0.5 mile long (Map 3). Individuals were observed within the "beauty strip," a narrow strip (about 20 feet wide) of longleaf pine-false rosemary-saw palmetto habitat located on the north side of US 98, between the highway and the slash pine plantation.

Table 1. Recorded Locations of Telephus Spurge in Bay County, Florida

Location	Last Observation	EO Data	EO Data	FNAI Map Label
Project Area	2004-04-21	2004-04-21. In a ~0.5-mile-long, 20-ft-wide strip along the north side of U.S.98. 2001-08-01. Now only on north side of road (PNDKIN02FLUS). 1988-08-08: 1.9 MI W OF JCT US98 AND US98 BYP; BOTH SIDES OF ROAD.	2004-04-21. More than 600 plants observed by WilsonMiller ecologists in the "beauty strip" of longleaf pine, wiregrass, false rosemary, saw palmetto, and Sporobolus floridana. 2003-09-26: no plants seen in survey of north side of road - habitat intact; narrow strip of flatwoods between US98 to south and titi/baygall to north; mostly shrubby (Ilex glabra, I. coriacea) with a few patches of wiregrass (PNDJOH01FLUS); 2001-08-01: 100+ plants seen. Etiolating in dense duff, about 10% of them in fruit or flower. Most plants are small, with only a few leaves. (PNDKIN02FLUS). 1988-08-08:200+, FLOWERING, FRUITING IN LEAF; NICE POPULATION.	EUPHTELE*0007
Outside Project Area, South side of US Highway 98	2001-08-01	2001-08-01: Directions given in this field in 1988 do not match where EO is mapped in GIS database. 1988-08-08: 0.7 MI E OF 30D ON ALT 30, S SIDE OF ROAD.	2001-08-01: Approximately 30 plants seen only within road right-of way, at edge of the flatwoods. All plants were small, and about 10 of them had fruits and flowers, (PNDKIN02FLUS) 1988-08-08: 200, FLOWERING AND FRUITING.	EUPHTELE*0008
Outside Project Area, south of US Highway 98 on CR30H	1988-08-23	1988-08-23: 0.2 MI S OF US 98 BYP ON CR 30H, E SIDE.	2001-08-01: no plants seen, possibly due to very dense vegetation. (PNDKIN02FLUS). 1988-08-23: 200+ COMMON IN OPEN AREAS, IN LEAF, FRUIT, FLOWER	EUPHTELE*0009

Source: WilsonMiller 2004; FNAI 2003, 2004.

Additional populations of Telephus spurge may be located within the Project Area west of the area indicated on Map 2, in cleared or recently planted areas, along roads, or along the edges of pine plantations.

Species Habitat Requirements

This species occurs in dry habitats along the Gulf coast on both sides of the Apalachicola River (USFWS 1994). This species occurs in longleaf pine savannas, scrubby and mesic flatwoods, and coastal scrub on low sand ridges near the Gulf of Mexico (Chafin 2000). The habitats for the population reconfirmed by WilsonMiller and for those recorded in the FNAI 2003 data are under power lines, in natural pinelands, and in remnant longleaf pine-saw palmetto-rosemary/wiregrass flatwoods. Hilsenbeck (2004) has observed the Telephus spurge in a wider variety of habitats in the SJBBP area than have been previously noted, from seasonally wet prairies to sandhills. In the wet prairies it co-occurred with *Rhynchospora oligantha* and a variety of sedges.

Habitat Conditions within the Project Area

Suitable habitat for Telephus spurge within the Project Area is almost entirely in planted pine and thus is typically in poor to very poor condition. However, the habitat in which the EUPHTELE*0007 population occurs is remnant longleaf pine-saw palmetto-rosemary/wiregrass flatwoods in a long, narrow strip along the north side of U.S. 98 (Map 2). This area is poor to good quality, lower quality resulting primarily from fire suppression.

Soils for the easternmost two populations are mapped as Leon Sand surrounded by Pottsburg Sand. Soils in the western population are mapped as Pamlico-Dorovan and Pottsburg Sand, although it occurs next to Leon Sand and it is unlikely that the spurge would occur in the wet Pamlico-Dorovan soils. These same types of soils complexes occur in the Breakfast Point Peninsula Conservation Unit and the Breakfast Point Mitigation Bank (Map 4; NRCS 1984).

Silviculture-associated activities that have been detrimental to this species include bedding, dense shading, and fire suppression (USFWS 1994). Coastal real estate and road development in the vicinity of Panama City Beach are known to have destroyed Telephus spurge habitat (USFWS 1994). Suitable habitat may already be protected where it occurs under power lines; however, herbicide use in these areas is a concern. Cooper (2004b) indicated that USFWS staff thought the EUPHTELE*0009 population may have been destroyed by the recent Pier Park development, but this site is 2.9 miles east of the Pier Park site and has not yet been cleared or developed.

Effects of the Proposed Action

A "may affect, not likely to adversely affect" determination was made for Telephus spurge in the Biological Assessment.

Where suitable habitat occurs under planted pine, it probably has been substantially degraded; where habitat occurs in the "beauty strip" and in power line and road right-of-ways, it likely has been somewhat protected and maintained. Power line right-of-ways and, to a lesser extent, road right-of-ways will continue to be somewhat protected and

maintained as suitable habitat under the Proposed Action. One of the two populations verified in 2001 occurred in road right-of way; the other two populations (one verified and one not verified in 2001) occurred in longleaf-palmetto flatwoods.

Direct and indirect beneficial effects associated with the Proposed Action on potentially suitable habitat within the Project Area include the immediate preservation and eventual restoration of uplands within the conservation units and immediate protection and beginning restoration within the Devil's Swamp and Breakfast Point Mitigation Banks.

Potentially suitable habitat may be negatively affected by eventual construction of roads, residential communities, and other developments. Negative effects would likely include loss of potential habitat within the Project Area, outside the conservation units.

General Conservation Measures of RGP 86

The Applicant will implement methods recommended by USFWS (1994) in suitable habitat in the conservation units and in the mitigation banks. Suitable habitats include sandhills, scrubby and mesic flatwoods, and powerline right-of-ways through these habitats.

- Reduction of canopy without compacting, mixing, and/or rutting soils or destroying ground cover;
- Burning appropriately, primarily during the growing season (generally April through September) and depending on habitat. For instance, natural fire regime in sandhills is more frequent than in scrub (2 to 5 years in sandhills; catastrophic fire every 20 to 80 years in scrub [FNAI and FDNR 1990]);
- Substituting mowing for use of herbicides;
- Preventing vehicles from driving through easily damaged scrub habitats.

Specific Conservation Measures for Telephus Spurge

Further discussion with Hildreth Cooper of the USFWS about the Telephus spurge population resulted in the drafting of this memorandum, which is intended to provide draft language for a conservation measure to be added to the biological opinion. Proposed language for this conservation measure follows:

> If the Applicant proposes a project that would impact the telephus spurge population indicated on Map 3 (WilsonMiller Observations of Telephus Spurge), impacts to this population should be avoided. If the proposed project cannot avoid impacts to this telephus spurge population, then re-initiation of consultation may be required. Consultation will take into consideration potential transplanting of individuals that would be impacted by a proposed project. Those individuals may be transplanted to appropriate areas of the Breakfast Point Mitigation Bank.
>
> To support this process, the specific location of this population (WilsonMiller Observations) is provided on Map 3 and on Figure 5 of the

Biological Opinion (attached), and will also be recorded in the St. Joe Company's internal real estate database no later than May 1, 2004.

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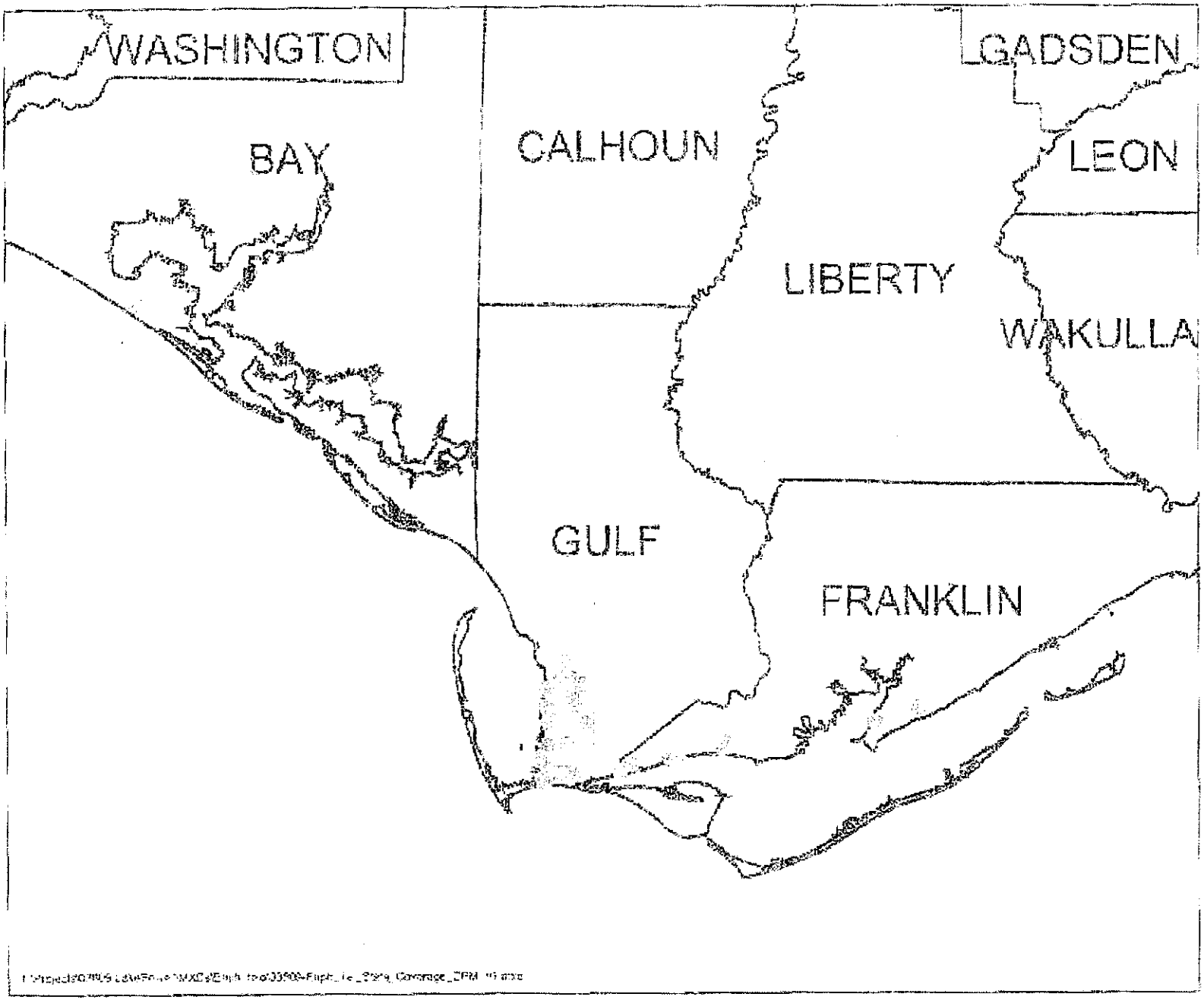
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Map 1

Locations of
Recorded Population of
Telephus Spurge
(Euphorbia telephioides)

Legend

FNAI Species Points

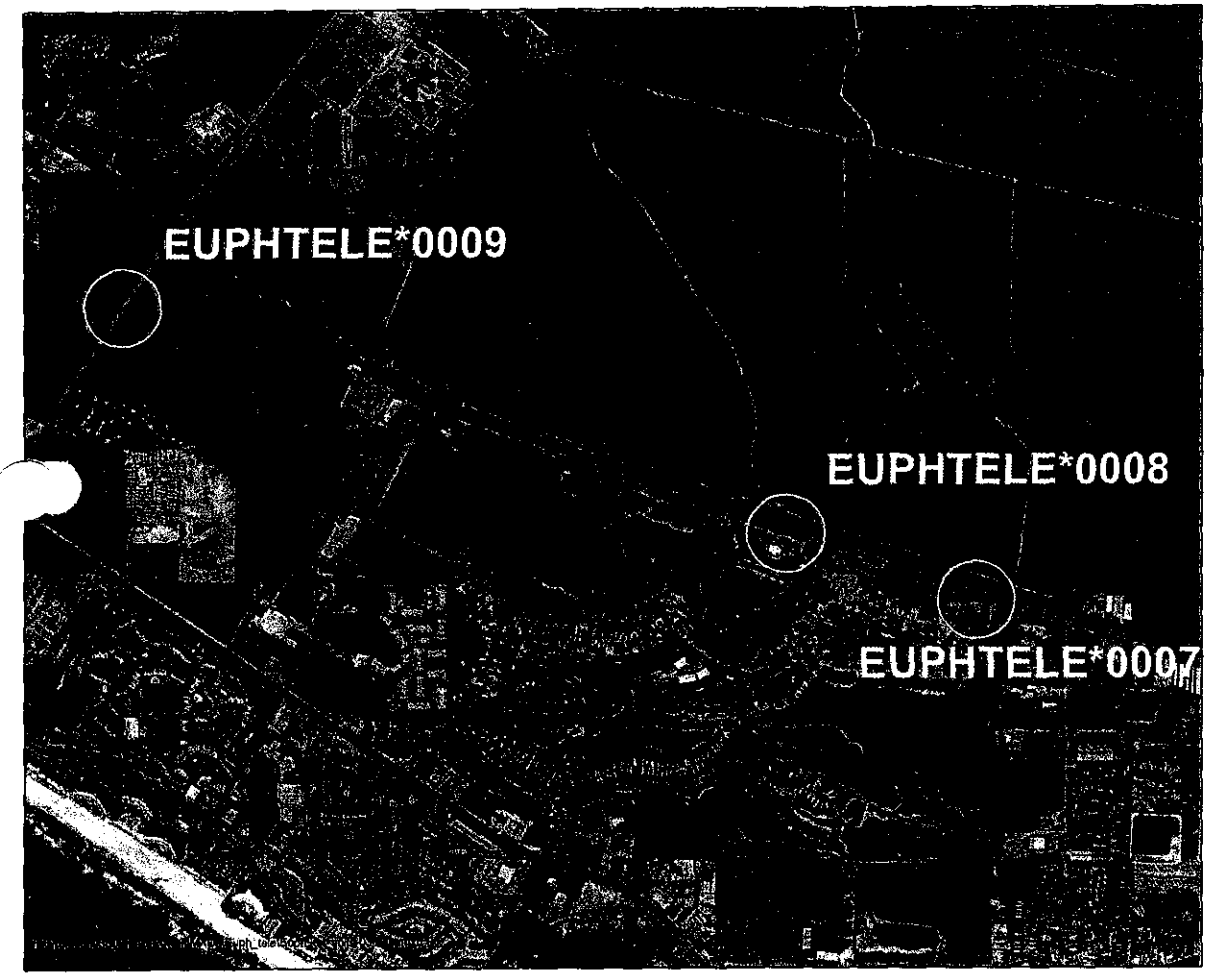
Disclaimer
This product was created using GIS data provided by various sources that may include but not limited to federal, state and local agencies. Data provided by other sources are not warranted by ANS and for accuracy or for any particular use. Although accurate information this map is for planning and purposes only and should not be substituted for a professional determination, field survey, precisely applied to for on-the-ground verification.

Map Date
1/31/2014

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Miles

Wilson Miller

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Map 2

Locations of Recorded Populations of Telephus Spurge *(Euphorbia telephioides)* within the West Bay to East Walton RGP (on 2003 FDOT Aerials)

Legend

- RGP Area (Including Tidal Soils)
- Breakfast Point
- FNAI Points for Euphorbia telephioides

EUPHTELE*0007 FNAI Map Label for Occurrence Record

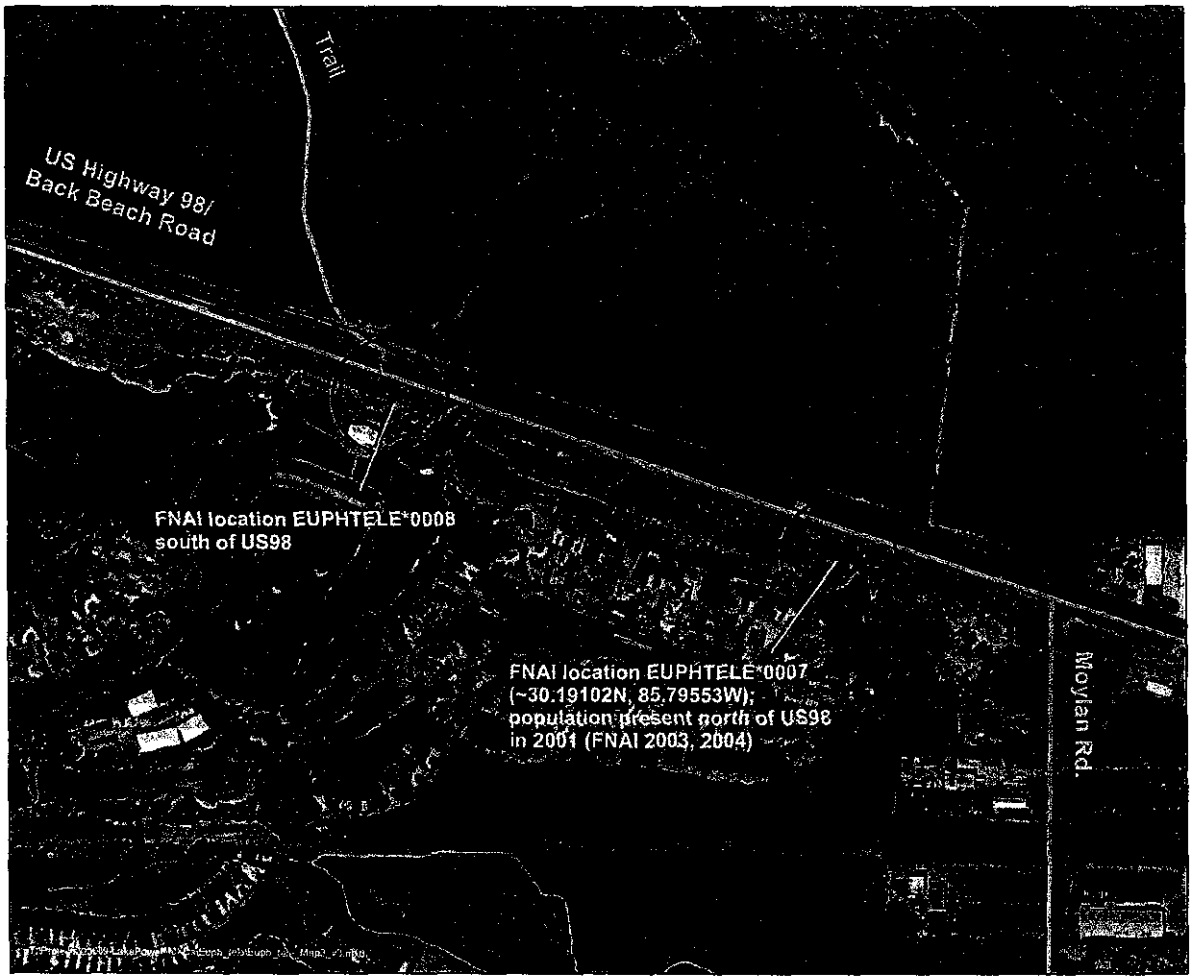
Disclaimer:
This exhibit was prepared utilizing GIS data provided by various sources that may include but not limited to federal, state, district and local agencies. Data provided by other sources are not warranted by WilsonMiller for accuracy or for any particular use that may require accurate information. This map is for informational purposes only and should not be substituted for a wetland jurisdictional determination, true title search, property appraisal, survey, or for zoning verification.

Map Date:
03/22/04

N

0 0.1 0.2 0.4 Miles

WilsonMiller
Your Direction in Planning, Design & Engineering



Map 3

Observed Population of Telephus Spurge *(Euphorbia telephioides)* within the West Bay to East Walton RGP

Legend

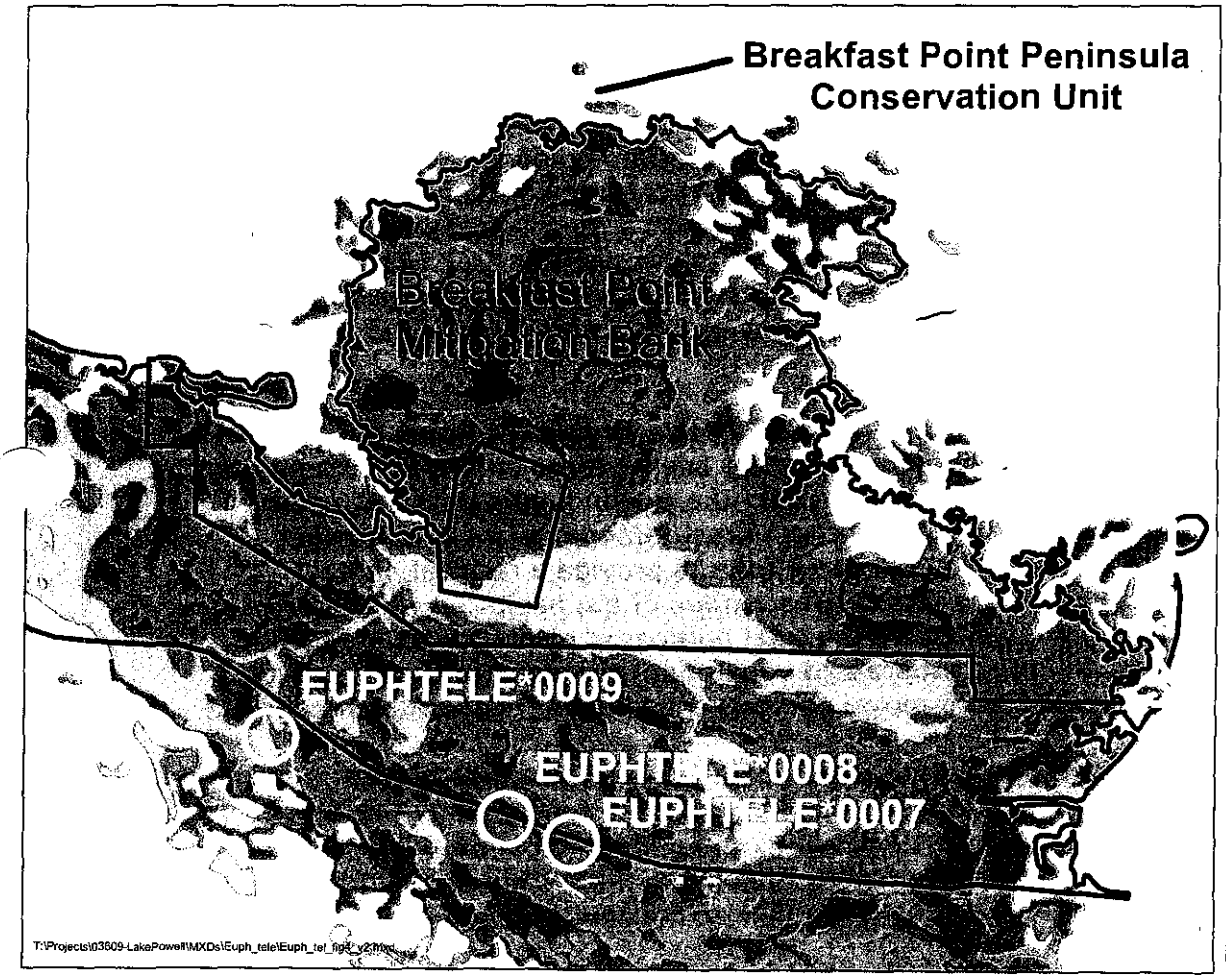
- WilsonMiller Observations of Telephus Spurge
- FNAI Telephus Spurge location EUPHTELE*0007
- RGP Area
- Roads

Disclaimer:
This exhibit was prepared utilizing GIS data provided by various sources that may include but not limited to federal, state, district and local agencies. Data provided by other sources are not warranted by WilsonMiller for accuracy or for any particular use that may require accurate information. This map is for informational purposes only and should not be substituted for a wetland jurisdictional determination, true title search, property appraisal, survey, or for zoning verification.

Map Date:
04/21/04

0 150 300 600 Feet

WilsonMiller
New Directions in Planning, Design & Engineering



Map 4

Locations of Recorded Populations of Telephus Spurge on NRCS Soils Data

Legend

FNAI Points for Telephus Spurge

EUPHTELE*0007 Map Label ID for FNAI Points

RGP Area

Breakfast Point Mitigation Bank

Breakfast Point Peninsula Conservation Unit

NRCS Soil Types

- LEON SAND
- PAMLICO-DOROVAN COMPLEX
- POTTSBURG SAND
- RUTLEGE SAND

Disclaimer:
This exhibit was prepared utilizing GIS data provided by various sources that may include but not limited to federal, state, district and local agencies. Data provided by other sources are not warranted by WilsonMiller for accuracy or for any particular use that may require accurate information. This map is for informational purposes only and should not be substituted for a wetland jurisdictional determination, true title search, property appraisal, survey, or for zoning verification.

Map Date:
05/06/04

0 0.3 0.6 1.2 Miles

WilsonMiller
New Directions in Planning, Design & Engineering

Appendix II

Recommendations for the necessary actions regarding E. telephioides At the Glades North site Bay County, Florida

The following is a summary of the actions ERC Tallahassee has completed to satisfy the components of the USFWS document titled ***Guidance on completion of consultation for*** *E. telephioides* (ET), provided by Hildreth Cooper (see Attachment A). The structure of the summary below follows that found in the USFWS document.

1) Brief description of proposed action:

Preserve and restore ET habitat in the conservation easement of the Glades North site. A large, viable population has been located in the proposed conservation easement associated with Glades North, this will afford long term protection of ET and provide a monitoring plan to assess successful restoration and appropriate response of ET to restoration activities. This is an experimental restoration that will combine knowledge of natural history with a mechanical woody vegetation removal schedule that is designed to mimic periodic fires. This is the most pragmatic approach to preservation of an existing population in situ near the Glades North development and urban build out. (See Attachment B1)

Preserve and restore ET habitat in the Breakfast Point Mitigation Bank. A large, viable population has been located on the BPMB lands and will be managed in conjunction with the existing mitigation instrument with an emphasis for the successful restoration of plant communities known to contain ET. With our efforts to provide a restoration and monitoring plan to assess the restoration of the habitat in which the ET is currently found, we expect the total number of plants to increase (with the reduction in fire suppressed vegetation) through the use of selective logging - vegetation removal and prescribed burns. (See Attachment B2)

Limited transplantation study of no more than 500 plants. A plan to locate and transfer ET that will be negatively affected by the impact sites on the Glades North site has been created. 5 plots will be set up in the BPMB and each will receive 100 plants. These will be quantitatively monitored for 5 years to assess their overall survival and viability. (See Attachment C)

2) Description of direct impact area should include: (most already provided in "Attachment L" of the permit application package)

- **Acreage of project area**
- **Acreage of plant population**
- **Acreage of plant population to be impacted**
- **Approx. number of plants found within project**
- **Approx. number of plants to be "taken" from site**

- **GIS layer with points of occurrence documenting plant locations**

Acreage of project area*:	66.96 acres
Acreage of plant population*:	6.43 acres
Acreage of plant population to be impacted:**	4.10 acres
Approx. number of plants found in project area*:**	17,250
Approx. number of plants to be "taken" from project area*:**	10,425

(* See Figure 1)
(** See Figure 2)
(*** See Figure 3)

3) Proposed actions to minimize effects to *Euphorbia telephioides*:

- **Management plan for remaining population, including area to east of North Glades (i.e. burning/mowing commitments, invasive control, keep natural, etc)**
  - **Long term protection commitment of population (conservation easement, Bay County Conservancy, St. Joe conservation unit, etc)**
  - **Monitoring plan—set up plots beginning prior to construction for pre-impact comparison, number of years client will monitor plots with justification of timeline, annual report on monitoring results with caveat to adjust management should the population decline below an acceptable % (support % with available literature if possible) over documented timeframe (support with literature if possible).**
- **Monitoring plan for translocation site to include the following:**
  - **# of plots to be monitored;**
  - **number of years client will monitor plots with justification of timeline;**
  - **annual report on monitoring results with caveat to adjust management should the population decline below an acceptable % (support with available literature if possible) over documented timeframe (support with literature if possible);**
  - **Description/supporting info for introduction site, i.e. similar habitat community type, same**

soil type, distance from parent population (FWS prefers site to be 1 km or > from known populations), map, acreage of site (needs to be sufficient size to support a viable population (200+ plants, unless better literature available to support);

- **Plan for movement of plants, time of year, when to complete movement, who to move;**
- **GIS layer/map with location of translocated site and specific plant locations;**
- **How/when will movement of population to introduced site be deemed a success?**

Management plan(s) for remaining populations, two separate reports detail how the population in the conservation easement will be restored, monitored and managed (Attachment B1) and the other report details the restoration, monitoring and management of the population within BPMB (Attachment B2). Finally, a Monitoring plan for the translocation of E. telephioides is included in a report called: Guidelines for transplantation methodology and long-term monitoring of relocated *Euphorbia telephioides* (Attachment C).

4) Provide (include map/GIS layer) survey data results (positive or negative) from other locations throughout the RGP boundary and the species range which are not reported by common data sources such as Florida Natural Areas Inventory (FNAI) data source:

Gis data for other locations of Euphorbia telephioides not reported by common data sources are included as separate electronic attachments to this document labeled:

Etelephiodes_GN.shp
Etelephiodes_BPMA.shp

5) If possible, discuss proposed projects which might impact other documented *Euphorbia telephioides* sites (impact meaning management, development, etc):

Projects along the Highway 98 corridor may inadvertently effect existing *Euphorbia telephioides* populations, however we believe we have crafted a regional solution to maintaining a population in Bay County through protection and management of the North Glades and Breakfast Point Mitigation Bank populations



Figure 1 - Acreage of Glades North project area, Proposed Conservation Easement and E. telephioides population within project area

Legend

- Proposed Site Plan
- Project Area - 66.86 acres
- Plant Population Area - 6.43 acres
- Conservation Easement - 2.19 acres
- 2003 B&W Aerial DOQQ

N

1:3,600

JPG_082904

Ecological Resource Consultants, Inc.



Figure 2 - Acreage of Glades North project area, Proposed Conservation Easement, proposed impacts/no impacts to E. telephioides population within project area

Legend

- Proposed Site Plan
- Project Area - 66.96 acres
- Plant Impact Area - 4.10 acres
- Plant No Impact Area - 2.33 acres
- Conservation Easement - 2.19 acres
- 2003 B&W Aerial DOQQ

N

1:3,600

Ecological Resource Consultants, Inc.



Figure 3 - Acreage of Glades North project area, Proposed Conservation Easement, with proposed impacts/no impacts to E. telephioides population within project area

Legend

- Proposed Site Plan
- Project Area - 66.96 acres
- Consevation Easement - 2.19 acres
- Impacted Plants ~10,433 plants
- Impacted Plants
- Non-Impacted Plants ~6618 plants
- Non-Impacted Plants
- 2003 B&W Aerial DOQQ

N

1:3,600

JPB 092804

Ecological Resource Consultants, Inc.

Attachment A

USFWS document titled ***Guidance on completion of consultation for*** *E. telephioides* (ET), provided by Hildreth Cooper

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DRAFT FWS PCFO 8-3-04

Guidance on completion of consultation for *Euphorbia telephioides* at North Glades:

COE provides letter to FWS requesting initiation of formal section 7 consultation
Provide to FWS a Biological Evaluation including the following components:

1) Brief description of proposed action
2) Description of direct impact area should include: (most already provided in "Attachment L" of the permit application package)
    - Acreage of project area
    - Acreage of plant population
    - Acreage of plant population to be impacted
    - Approx. number of plants found within project
    - Approx. number of plants to be "taken" from site
    - GIS layer with points of occurrence documenting plant locations
3) Proposed actions to minimize effects to *Euphorbia telephioides*:
    - Management plan for remaining population, including area to east of North Glades (i.e. burning/mowing commitments, invasive control, keep natural, etc)
        - Long term protection commitment of population (conservation easement, Bay County Conservancy, St. Joe conservation unit, etc)
        - Monitoring plan—set up plots beginning prior to construction for pre-impact comparison, number of years client will monitor plots with justification of timeline, annual report on monitoring results with caveat to adjust management should the population decline below an acceptable % (support % with available literature if possible) over documented timeframe (support with literature if possible).
    - Monitoring plan for translocation site to include the following:
        - # of plots to be monitored;
        - number of years client will monitor plots with justification of timeline;
        - annual report on monitoring results with caveat to adjust management should the population decline below an acceptable % (support with available literature if possible) over documented timeframe (support with literature if possible);
        - Description/supporting info for introduction site, i.e. similar habitat community type, same soil type, distance from parent population (FWS prefers site to be 1 km or > from known populations), map, acreage of site (needs to be sufficient size to support a viable population (200+ plants, unless better literature available to support);
        - Plan for movement of plants, time of year, when to complete movement, who to move;
        - GIS layer/map with location of translocated site and specific plant locations;
        - How/when will movement of population to introduced site be deemed a success?
4) Provide (include map/GIS layer) survey data results (positive or negative) from other locations throughout the RGP boundary and the species range which are not reported by common data sources such as Florida Natural Areas Inventory (FNAI) data source.
5) If possible, discuss proposed projects which might impact other documented *Euphorbia telephioides* sites (impact meaning management, development, etc).

Attachment B

B1: Monitoring Plan for the Conservation Easement Population

***As per* guidance on completion of consultation for *Euphorbia telephioides* at North Glades, USFSW document.**

3. Proposed actions to minimize effects to *Euphorbia telephioides*.

a. Long term Management plan for existing (in situ) population inside of North Glades site on lands to be designated as a conservation easement. Includes Long term protection commitment of population on conservation lands and monitoring plan. This population is located at least 1 kilometer (0.62 miles) from the existing population on the Breakfast Point Mitigatioon Bank site.

1. Monitoring Plan for *Euphorbia telephioides* to be used at the reference site and the restoration site of the conservation easement at the North Glades site, Bay county, Florida.

Introduction

Why develop monitoring procedures?
Monitoring procedures or protocols are detailed study plans that explain how the methodology is to be carried out and how the data are to be collected, managed, analyzed and reported, and are very important components of quality assurance for natural resource restoration and monitoring programs. Protocols are necessary to ensure that changes detected by monitoring are actually occurring in nature and not simply a result of measurements taken by different people or in slightly different ways.

Developing a monitoring procedure requires that the life history of the organism in question is known. In general, little is known about the biology of *Euphorbia telephioides* (ET) but we are beginning to understand more about the distribution and populations of this plant. For example, we know that ET is an herbaceous perennial that sprouts each year from underground stems and produces flowers in late spring and has ripened fruit (capsules) by mid summer. ET continue to flower throughout the growing season. A measurement of plants toward the end of the growing season will give an indication as to their ability to reproduce, i.e. count individuals in flower and fruit. Plants begin to turn yellow and senesce by later summer/early fall. Plants were observed with leaves and stems in late October of 2004. All known populations are found in a relatively small area of Florida and in some locations the populations could be described as locally abundant. We also know that this species grows in a range of primarily upland plant communities, all of which would have historically burned with a 2-5 year fire frequency and all of which are dominated by a canopy of *Pinus palustris* (longleaf pine) and/or *P. elliottii* (slash pine) with a groundcover that contains wiregrass (Clewell, 1997). ET grows in variety of dry to mesic sites, all with sandy soils and all sites are located within a few miles of the coastline of the Gulf of Mexico. These general factors will guide the restoration strategy and guide our selection of reference sites.

It's important to get consensus on the scope and design since changing these is time consuming and costly once you begin the field work and measurements.
Designing natural resource monitoring of rare plants is something you want to get right the first time, since it's difficult and costly to make major changes after you collected the data as per a particular methodology. Monitoring involves systematic data collection that provides information on the progress of the restoration project

and allows the monitoring practitioners to determine if the project goals have been met. A restoration project involving ET should be monitored until it appears to be healthy with appropriate reproduction and viability. Ideally a reference site should be used for collection of base-line data but due to the lack of management in areas where this plant is currently known to occur, it may not be possible to locate an ideal reference site. The reference site should be similar to restoration site in terms of soils, plant community composition, fire regime, topographic and physiographic location, hydrology, etc. (*fid*e Hildreth Cooper, USFWS, personal communication, August 11, 2004).

What are the measurements of success?
From the results of monitoring it can be determined if the restored population is successfully growing in similar conditions to those of the reference site. For this particular study, success would entail a restored, healthy ET populations in appropriate habitat. A healthy population for the purpose of this study is one in which the plants within the restoration site are determined to be viable and self-perpetuating. Excellent viability according to USFWS would mean a population of 200+ individuals in a natural, appropriate landscape (site has been well managed and burned, i.e. no fire suppression), with indication of sexual reproduction, and with intact associated native vegetation that displays appropriate growth form (*fid*e Hildreth Cooper, USFWS, personal communication, August 11, 2004).

This is not an outline for the study of population dynamics since a study of this magnitude would take decades of intensive quantitative measurements of the following: germination rates, seed and seedling survival, pollination biology, herbivory, individual survivorship, mortality, and reproductive success of individual plants using molecular techniques. This study seeks to measure the long term prognosis/success of a restored TE site through the use of quantitative measurements in quadrats over a five (5) year period and comparison to a reference site.

Monitoring
Ecologic restoration of plant communities is dynamic and is expected to go through various series or successional stages until a particular ecologic target is achieved. As such, periodic evaluation regarding the attainment of target conditions requires monitoring of sample areas to measure the effectiveness of the restoration techniques and the appropriate response of ET to the changes in its immediate environment. The annual monitoring will provide quantitative and qualitative information that can be objectively analyzed. The results of this analysis will allow for interpretation and conclusions from the data. These results will then be reported and if it is deemed that the current methodology is not producing the appropriate ecological response and the population is in decline, the methodology will be rethought and adaptive management can be applied as needed.

Ecological monitoring or sampling techniques described in this attachment will allow for the objective measure of species composition, species richness, as well as the proportional distribution (frequency, density and coverage) of lifeforms (groundcover, shrubs and trees). The experimental design for sampling of populations that allows for objective conclusions is derived from widespread and generally accepted procedures/protocol found in Field and Laboratory Methods for General Ecology (Brower, et.al.,1990; Barbour, Burk and Pitts, 1980). The

distribution, fecundity and overall health of the vegetation on this site is expected to respond favorable to the physical removal of primarily woody/fire suppressed vegetation by mechanical means. In order to track the changes in community structure, species composition and species diversity, we propose to use a transect along which plots will be sampled for the cover, density and frequency of groundcover/shrubs and trees. In areas where trees display a random distribution, i.e. outside of planted pine areas, point quarter sampling will be used to measure the canopy.

Plants will be identified using vascular plant identification manuals appropriate for this area of Florida (Clewell, 1985; Godfrey, 1988; Hall, 1978; Tobe, et. al. 1995 and Wunderlin 1998).

Extensive observations of similar ecosystems and studies were utilized in the development of the protocols (Burks, K.C. 1982; Burks, K.C. 1995; Clewell, 1985a; Ewel, 1990; FNAI, 1990; Frost, et. al. 1986; Glitzenstein, et. al., 1995; Harper, 1914; Anglin, 2004 personal communication; Burks, 2004 personal communication). In addition to using quantitative methods through such means as transects and plots, qualitative observations on the overall health and succession of plant assemblages will be noted by photography and notes during quantitative measurements. Invasive exotics will also be noted during all sampling on site. All vegetative sampling will be done once annually in summer (July-September) to ensure that ET can be measured in flower and in fruit.

Protocols

Vegetative monitoring will be carried out pre-restoration in August of 2004 and once annually thereafter for five (5) years. Two types of monitoring will be carried out, quantitative and qualitative. The quantitative monitoring/sampling will be through the use of transects, plots and point quarter method. The proposed location of quantitative transect are shown on a forthcoming map. The qualitative monitoring will record the overall health and notes on lifeforms of associated vegetation as well as any sightings of invasive exotics in the quadrats and in the immediate surrounding area.

An annual report will include the results of the quantitative and qualitative measurements/observations. This summary will include interpretation and drawing conclusions from the data and how these findings are instructive of the overall progress toward the restoration goals for ET. This critical thinking will allow for evaluation, readjustment and interpretation of the restoration methodology and techniques. Adaptive management will be used to adjust and revise management activities accordingly. Photographs taken during the sampling will visually support written observations and overall trends toward restoration goals.

Quantitative Plant Sampling

1. Groundcover, shrubs and subcanopy.

Definitions of vegetation lifeforms.

a. **Groundcover** is the herbaceous or weakly woody plant layer closest to the ground, typically less than 1.5 m tall and if weakly woody the plants have a diameter of less than 2.54 cm (1 in) at 1.5 m height.

b. **Shrub layer** are woody plants typically less than 1.5 meter tall but could grow as tall as 3 m. Stems are always woody and plants may have several stems from a common root system. No stem diameter requirement, although typically will be less than 2.54 cm (1 in) in diameter at 1.5 m.
c. **Subcanopy layer** are woody plants 3 m tall or taller with a stem 10 cm (4 in) diameter or less at breast height (1.5 m). Typically subcanopy plants have a single stem. Young trees or saplings with slender stems are often included in this layer.

If space allows, the quantitative sampling will be designed along a 50 meter transect that will be placed in a polygon of a particular plant assemblage that is known to contain ET. If the site cannot accommodate a single, linear, unbroken 50 meter transect, a modification to the standard transect approach will be used by breaking up the transect such so as to create several short transects that when combined would equal 50 meters. If transect will not yield a representative sample of the ET population then the location of each plot will be determined either by a systematic method such as a grid or by a standard random procedure such as using a randomly selected point as the center of the plot. The overall goal being to sample a transect that could be described as a representative sample within a known population of ET. These representative samples will measure the proportional distribution of groundcover, shrub, subcanopy and tree species. Trees are not the subject of this sampling technique but will be noted if they occur in the plots described below. Tree samping is a separate measurement, see trees sampling below. Each sample plot will be located along five points/locations, with each point distributed every ten meters (these will be georeferenced and marked by insertion of an iron piece at each point) along the transect. At each point three, 1 m x 1 m plots or square quadrats will be measured and sampled. These permanent plots will be georeferenced and marked by insertion of an iron piece at each corner for future location with a metal detector. The plots will be distributed in a linear fashion perpendicular to the 50 meter transect. Each transect will thus have five groups of three 1m x 1m plots for a total of 15 separate plots. All groundcover coverage will be measured using the following scale: 3%, 6%, 12%, 25%, 50%, 75%, 100%. This scale was developed for use with a square, 1 m x 1 m plot. Beginning with the total area of each plot, i.e.100% coverage, the proportional relationship of each successive subdivision of the square is calculated by simply halving each portion, such that you end up with areas of the following percentage: 50, 25, 12.5, 6.23, 3.1, etc. These subdivisions can be estimated and consistently applied by training field botanists to visualize each species as it relates to the overall plot and fitting its coverage into the coverage classes above.
The cover, density, frequency and shrub (if any) height will be recorded in each plot. Shrub height measure will use the following scale:1 less than 0.5m; 2=0.5-2m; 3=2-5m; 4=5-10m; 5=10m or greater.

2. Trees. Trees in this sampling technique include all woody plants with a main trunk greater than 10 cm (4 in) diameter at breast height (breast height =1.5 m) and have a stem at least 3 m tall. Basal areas of trees are determined from trunk circumference measured 1.5 m above the ground, generally a flexible tapeline is used with circumference units converted into diameter units for ease of use. A direct measurement of foliage coverage is difficult in trees, but the basal area generally is accepted by the scientific community as proportional to coverage.

This site consists of a relatively natural stand of upland pine forest. Point quarter sampling will be used, five points along the 50 m transect (each 10 m apart) will be used as the center for four compass directions (N, S, E, W), which divide the sampling site into four quarters or quadrants. Every 10 m of the transect will be georeferenced and marked with a metal piece to aid in relocation for annual monitoring. In each quadrant, the distance in meters to the center point of the nearest individual tree, regardless of species will be measured. Only one tree per quadrant is measured so that a total of four plants per point are measured. The tree is identified and the dbh is recorded as diameter expressed in cm.

Photography

The photographic specifications used in conjunction with the quantitative plant sampling protocol will include photographing the sampling site at either end of the 50 meter transect line. The photographs will include as much view as is typical for a standard 35 mm digital camera. Close up photos of important features may also be collected along the transects. All labeling of photographs in final reports will include the date of photo, photographer, location and figure or photo number. Electronic storage of photographs should be backed up for future reference.

Baseline Monitoring

Before ecological restoration activities are begun, the monitoring plots will be sampled. This data will be used for future comparison and will include the following information for each plot or quadrant.

1. General site conditions on, around and in the vicinity of the transects and plots.
2. Evidence of past land use activities will be noted, especially those that might effect plant distribution, composition and abundance.
3. The proportional distribution of groundcover, shrub and tree species using the protocol of sampling outlined in quantitative plant sampling, above.
4. Presence of invasive exotics in or adjacent to plots.

Analyzing the Data

The annual monitoring will provide quantitative and qualitative information that can be objectively analyzed. The results of this analysis will allow for interpretation and conclusions from the data. These results will then be reported and evaluated. If it is determined that the restoration methodology is not producing the appropriate ecological response as this relates to the success for this species, the methodology will be re-evaluated.

Reports and Record Keeping

Reports including all observations, raw and processed data, digital photographs will be compiled into a report this will be available to agency staff by the end of November of each year. Annual monitoring will in July of each year. A copy of all records, in addition to those submitted, will be maintained at the offices of Ecological Resource Consultants, ERC.

Success

This restoration project is expected to be successful in restoring the pre-existing plant communities and increasing the health of the ET population or at least show a strong trend toward this effect on the site. The measurement for increased health of ET will be quantitative, i.e. measuring coverage of various life forms of associated

speices, measuring coverage and numbers of individuals, with notes on those that display increased flowering, fruiting inside the plots, overall species richness and invasive exotic coverage; and subjective, general appearance of plants and general aspect of the population overall, evidence of invasive exotic encroachment. A complete list of plants species (species richness) typical for each sampling area (restoration site and possibly a reference site) will be included in the report and new plants added to as they are discovered in the sample sites.

Reference Site

If it can be located, an appropriate reference community will be selected from well managed public lands that contain a healthy, viable population of ET. The same sampling technique as described in the quantitative plant sampling above, will be used to collect relevant data that will be used for comparison. Target conditions of the restoration site may be modified in lieu of new information collected from reference communities. Target community type and realistic goals for this may need revision with the approval by the authorizing agencies.

Restoration of the ET site within the North Glades conservation easement site

The procedure for restoration at the North Glades conservation easement (NGCE) is unique as it is designed to mimic fire. It is our understanding that the use of fire will not be an option at the NGCE site. Because of this, an experimental approach has been developed that involves using fire ecology principles without the direct use of fire which can be unpredictable and would not be a pragmatic choice for use in the proposed urban buildout. We propose that mowing of the site at least once a year in March be carried out within the NGCE. By mechanically removing annual growth a simulation of fire may be achieved. The longleaf pines would be maintained in what would look to that average observer as a "park like" aspect, i.e. groundcover should be generally kept under 0.5 meter, including woody species such as gallberry (*Ilex glabra*) and fetterbush (*Lyonia* spp.).

From our understanding of ET natural history we have observed that this species is found in areas that would have burned at least once every 2-5 years. In addition, by examination of historic aerials, ET typically grew in fire created, open landscapes with widely scattered trees. At the NGCE site, the judicious use of mechanical means to reduce woody growth would mimic the effects of fire on woody growth found in the groundcover/low shrub layer and subcanopy. Mechanical means would not mimic all aspects of fire but it would provide part of the physical environment that will enhance ET growth and reproduction. We have observed that the easement along highway 98 has been mowed for many years, inhibiting the formation of unnaturally dense vegetation that is typically found in fire suppressed pine dominated communities. This mechanical removal of groundcover and shrub vegetation (basically all woody vegetation except for the existing canopy) has unintentionally enhanced the ET population on the Glades North site. It is hoped that the proposed restoration involving the removal of woody vegetation will ultimately result to the same or similar success in regard to the enhancement of the ET population in the NGCE area. Because there is always the chance for colonization by unwanted species, all invasive exotics will be removed/controlled as per the permit.

Removal and maintenance of woody vegetation

As already stated, the definition of trees in this report are those woody vascular plants that include subcanopy and canopy woody plants with a main trunk greater than 10 cm (4 inches) at breast height and have stem greater than 3 meters tall. Lack of appropriate fire or mechanical removal of woody vegetation in the groundcover, shrub and subcanopy layers often results in an artificial landscape of native woody species that would have no historical equivalent reference. In many cases species such as *Ilex glabra, Ilex coriacea, Cyrilla racimiflora, Cliftonia monophylla, Magnolia virginiana* , etc. would only have reached the density and dominance that one encounters in fire suppressed landscapes in ecotones of wetlands and within wetlands in landscapes that would have historically burned once every 2-5 years. To further complicate this picture of the landscape, silvicultural activities have created a landscape of pine monoculture (in this case slash pine) planted on furrows. The restoration of such a landscape depends on many factors such as last site preparation date and age of planted pines, length of time without fire, mechanical thinning or removal of competing woody vegetation. The goal of restoration at the NGCE is to thin the pines to appropriate density and remove all inappropriate woody vegetation. A machine such as a gyrotrac that will not rut and significantly disturb the soils will be used to reduce the fire suppressed woody vegetation to wood chips. Trees and any other vegetation that should not be removed will be designated by appropriate flagging by ERC staff, all other woody vegetation will be maintained by cutting at or within 1-3 inches of the soil or duff surface. The cut woody stems are to be reduced to wood chips or into similarly small fragments. Wood chips should be distributed so as not to make large areas of thick deposits that might inhibit ET growth. If it is feasible removal of all the cut woody stems from the site would be beneficial to the ET.

The timeline for the restoration can be broken down into the following general sequence. After year 5, October of 2008, the woody vegetation will be removed by the current owner every other year in perpetuity, no further monitoring will be required after this time.

	Year				
	2004	**2005**	**2006**	**2007**	**2008**
Baseline Monitoring	August				
Selective Harvesting / Vegetation Removal	Oct.	Oct.	Oct.	Oct.	Oct.
Annual Monitoring		July	July	July	July
Annual Reporting	Nov.	Nov.	Nov.	Nov.	Nov.

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Attachment B

B2: Monitoring Plan for the Breakfast Point Population

***As per* guidance on completion of consultation for *Euphorbia telephioides* at North Glades, USFSW document.**

3. Proposed actions to minimize effects to *Euphorbia telephioides*.

a. Long term Management plan for existing (in situ) population outside of Glades North site. Includes Long term protection commitment of population on conservation lands and monitoring plan. This population is located at least 1 kilometer (0.62 miles) from the existing population on the North Glades site.

1. Monitoring Plan for *Euphorbia telephioides* to be used at the reference site and the restoration site in the Breakfast Point Mitigation Bank, Bay county, Florida.

Introduction

Why develop monitoring procedures?

Monitoring procedures or protocols are detailed study plans that explain how the methodology is to be carried out and how the data are to be collected, managed, analyzed and reported, and are very important components of quality assurance for natural resource restoration and monitoring programs. Protocols are necessary to ensure that changes detected by monitoring are actually occurring in nature and not simply a result of measurements taken by different people or in slightly different ways.

Developing a monitoring procedure requires that the life history of the organism in question is known. In general, little is known about the biology of *Euphorbia telephioides* (ET) but we are beginning to understand more about the distribution and populations of this plant. For example, we know that ET is an herbaceous perennial that sprouts each year from underground stems and produces flowers in late spring (April) and has ripened fruit (capsules) by mid summer (June-July). ET continue to flower throughout the growing season. A measurement of plants toward the end of the growing season (July) will give an indication as to their ability to reproduce, i.e. count individuals in flower and fruit. All known populations are found in a relatively small area of Florida and in some locations the populations could be described as locally abundant. We also know that this species grows in a range of primarily upland plant communities, all of which would have historically burned with a 2-5 year fire frequency and all of which are dominated by a canopy of *Pinus palustris* (longleaf pine) and/or *P. elliottii* (slash pine) with a groundcover that contains wiregrass (Clewell, 1997). ET grows in variety of dry to mesic sites, all with sandy soils and all sites are located within a few miles of the coastline of the Gulf of Mexico. These general factors will guide the restoration strategy and guide our selection of reference sites.

It's important to get consensus on the scope and design since changing these is time consuming and costly once you begin the field work and measurements.

Designing natural resource monitoring of rare plants is something you want to get right the first time, since it's difficult and costly to make major changes after you collected the data as per a particular methodology.

Monitoring involves systematic data collection that provides information on the progress of the restoration project and allows the monitoring practitioners to determine if the project goals have been met. A restoration project involving ET should be monitored until it appears to be healthy with appropriate reproduction and viability. Ideally a reference site should be used for collection of base-line data but due to the lack of management in areas where this plant is currently known to occur, it may not be possible to locate an ideal reference site. The reference site should be similar to restoration site in terms of soils, plant community composition, fire regime, topographic and physiographic location, hydrology, etc. (*fide* Hildreth Cooper, USFWS, personal communication, August 11, 2004).

What are the measurements of success?
From the results of monitoring it can be determined if the restored population is successfully growing in similar conditions to those of the reference site. For this particular study, success would entail restored, healthy ET populations in appropriate habitat. A healthy population for the purpose of this study is one in which the plants within the restoration site are determined to be viable and self-perpetuating. Excellent viability according to Norden and Chafin, FNAI, 2003 and the USFWS (*fide* Hildreth Cooper, August 10, 2004) would mean a population of 200+ individuals in a natural, appropriate landscape (site has been well managed and burned, i.e. no fire suppression), with indication of sexual reproduction, and with intact associated native vegetation .

This is not an outline for the study of population dynamics since a study of this magnitude would take decades of intensive quantitative measurements of the following: germination rates, seed and seedling survival, pollination, herbivory, individual survivorship, mortality, and reproduction for individual plants. This study seeks to measure the long term prognosis/success of a restored TE site through the use of quantitative measurements in quadrats over a ten year period and comparison to a reference site.

Monitoring
Ecologic restoration of plant communities is dynamic and is expected to go through various successional stages until a particular ecologic target is achieved. As such, periodic evaluation regarding the attainment of target conditions requires monitoring of sample areas to measure the effectiveness of the restoration techniques and the appropriate response of ET to the changes in its immediate environment. The annual monitoring will provide quantitative and qualitative information that can be objectively analyzed. The results of this analysis will allow for interpretation and conclusions from the data. These results will then be reported and if it is deemed that the current methodology is not producing the appropriate ecological response and the population is in decline, the methodology will be rethought and adaptive management can be applied as needed.

Ecological monitoring or sampling techniques described in this attachment will allow for the objective measure of species composition, species richness, as well as the proportional distribution (frequency, density and coverage) of lifeforms (groundcover, shrubs and trees). The experimental design for sampling of populations that allows for objective conclusions is derived from widespread and generally accepted procedures/protocol found in Field and Laboratory Methods for General Ecology (Brower, et.al.,1990; Barbour, Burk and Pitts, 1980).

The distribution, fecundity and overall health of the vegetation on this site is expected to respond favorable to the proposed physical removal of primarily woody/fire suppressed vegetation by mechanical means and by prescribed fire. In order to track the changes in community structure, species composition and species diversity, we propose to use a transect along which plots will be sampled for the cover, density and frequency of groundcover/shrubs and trees. In areas where trees display a random distribution, i.e. outside of planted pine areas, point quarter sampling will be used to measure the canopy.

Plants will be identified using vascular plant identification manuals appropriate for this area of Florida (Clewell, 1985; Godfrey, 1988; Hall, 1978; Tobe, et. al. 1995 and Wunderlin 1998).

Extensive observations of similar ecosystems and studies were utilized in the development of the protocols (Burks, K.C. 1982; Burks, K.C. 1995; Clewell, 1985a; Ewel, 1990; FNAI, 1990; Frost, et. al. 1986; Glitzenstein, et. al., 1995; Harper, 1914; Anglin, 2004 personal communication; Burks, 2004 personal communication, Huffman, 2004, personal communication). In addition to using quantitative methods through such means as transects and plots, qualitative observations on the overall health and succession of plant assemblages will be noted by photography and notes during quantitative measurements. Invasive exotics will also be noted during all sampling on site. All vegetative sampling will be done once annually in summer (July-September) to ensure that ET will be reproducing, e.g. in flower or fruit.

Protocols

Vegetative monitoring will be carried out pre-restoration in August of 2004 and biannually thereafter for five (5) years. Two types of monitoring will be carried out, quantitative and qualitative. The quantitative monitoring/sampling will be through the use of transects, plots and point quarter method. The qualitative monitoring will record the species richness as well as any sightings of invasive exotics in the quadrats and in the immediate surrounding area.

An annual report will include the results of the quantitative and qualitative measurements/observations. This summary will include interpretation and drawing conclusions from the data and how these findings are instructive of the overall progress toward the restoration goals for ET. This critical thinking will allow for evaluation, readjustment and interpretation of the restoration methodology and techniques. Adaptive management will be used to adjust and revise management activities accordingly. Photographs taken during the sampling will visually support written observations and overall trends toward restoration goals.

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1. Groundcover, shrubs and subcanopy.

Definitions of vegetation lifeforms.

a. **Groundcover** is the herbaceous or weakly woody plant layer closest to the ground, typically less than 1.5 m tall and if weakly woody the plants have a diameter of less than 2.54 cm (1 in) at 1.5 m height.

b. **Shrub layer** are woody plants typically less than 1.5 meter tall but could grow as tall as 3 m. Stems are always woody and plants may have several stems from a common root system. No stem diameter requirement, although typically will be less than 2.54 cm (1 in) in diameter at 1.5 m.

c. **Subcanopy layer** are woody plants 3 m tall or taller with a stem 10 cm (4 in) diameter or less at breast height (1.5 m). Typically subcanopy plants have a single stem. Young trees or saplings with slender stems are often included in this layer.

If space allows, the quantitative sampling will be designed along a 50 meter transect that will be placed in a polygon of a particular plant assemblage that is known to contain ET. If the site cannot accommodate a single, linear, unbroken 50 meter transect, a modification to the standard transect approach will be used by breaking up the transect such so as to create several short transects that when combined would equal 50 meters. If transect will not yield a representative sample of the ET population then the location of each plot will be determined either by a systematic method such as a grid or by a standard random procedure such as using a randomly selected point as the center of the plot. The overall goal being to sample a transect that could be described as a representative sample within a known population of ET. These representative samples will measure the proportional distribution of groundcover, shrub, subcanopy and tree species. Trees are not the subject of this sampling technique but will be noted if they occur in the plots described below. Tree samping is a separate measurement, see trees sampling below. Each sample plot will be located along five points/locations, with each point distributed every ten meters (these will be georeferenced and marked by insertion of an iron piece at each point) along the transect. At each point three, 1 m x 1 m plots or square quadrats will be measured and sampled. These permanent plots will be georeferenced and marked by insertion of an iron piece at each corner for future location with a metal detector. The plots will be distributed in a linear fashion perpendicular to the 50 meter transect. Each transect will thus have five groups of three 1m x 1m plots for a total of 15 separate plots. All groundcover coverage will be measured using the following scale: 3%, 6%, 12%, 25%, 50%, 75%, 100%. This scale was developed for use with a square, 1 m x 1 m plot. Beginning with the total area of each plot, i.e.100% coverage, the proportional relationship of each successive subdivision of the square is calculated by simply halving each portion, such that you end up with areas of the following percentage: 50, 25, 12.5, 6.23, 3.1, etc. These subdivisions can be estimated and consistently applied by training field botanists to visualize each species as it relates to the overall plot and fitting its coverage into the coverage classes above.
The cover, density, frequency and shrub (if any) height will be recorded in each plot. Shrub height measure will use the following scale:1 less than 0.5m; 2=0.5-2m; 3=2-5m; 4=5-10m; 5=10m or greater.

Plots will be used to measure trees, each will be 10 m x 10 m. One plot will be randomly distributed at one point, chosen from the 5 points used to sample groundcover as described above, along the 50 meter transect. Each 10 m x 10 m plot will be georeferenced and marked by insertion of an iron piece at each corner for future location with a metal detector. The center of the plot will be located at the randomly chosen point along the 50 meter transect. In each plot the trees will be identified and the dbh will be recorded along with an estimate of the tree height using the following scale:1=10m or less; 2=11-20m; 3=21-29m; 4=30m or greater. Density and cover can be calculated from measuring basal area in the methodology described above.

Photography
The photographic specifications used in conjunction with the quantitative plant sampling protocol will include photographing the sampling site at either end of the 50 meter transect line. The photographs will include as much view as is typical for a standard 35 mm digital camera. Close up photos of important features may also be collected along the transects. All labeling of photographs in final reports will include the date of photo, photographer, location and figure or photo number. Electronic storage of photographs should be backed up for future reference.

Baseline Monitoring
Before ecological restoration activities are begun, the monitoring plots will be sampled. This data will be used for future comparison and will include the following information for each plot or quadrant.

5. General site conditions on, around and in the vicinity of the transects and plots.
6. Evidence of past land use activities will be noted, especially those that might effect plant distribution, composition and abundance.
7. The proportional distribution of groundcover, shrub and tree species using the protocol of sampling outlined in quantitative plant sampling, above.
8. Presence of invasive exotics in or adjacent to plots.

Analyzing the Data
The once annual monitoring will provide quantitative and qualitative information that can be objectively analyzed. The results of this analysis will allow for interpretation and conclusions from the data. These results will then be reported and evaluated. If it is determined that the restoration methodology is not producing the appropriate ecological response as this relates to the success for this species, the methodology will be re-evaluated.

Reports and Record Keeping
Reports including all observations, raw and processed data, and digital photographs will be compiled into a report. Annual monitoring will occur in summer (July-September) of each year. A copy of all records, in addition to those submitted, will be maintained at the offices of Ecological Resource Consultants, ERC.

Success
This restoration project is expected to be successful in restoring the pre-existing plant communities and increasing the health of the ET population or at least show a strong trend toward this effect on the site. The measurement for increased health of ET will be quantitative, i.e. measuring coverage of various life forms of associated species, measuring coverage and numbers of ET individuals, with notes on those that display increased flowering, fruiting inside the plots, overall species richness and invasive exotic coverage; and subjective, general appearance of plants and general aspect of the population overall, evidence of invasive exotic encroachment. A complete list of plants species (species richness) typical for each sampling area (restoration site and possibly a reference site) will be included in the report and new plants added to as they are discovered in the sample sites.

Reference Site

If it can be located, an appropriate reference community will be selected from well managed public lands that contain a healthy, viable population of ET. The same sampling technique as described in the quantitative plant sampling above, will be used to collect relevant data that will be used for comparison. Target conditions of the restoration site may be modified in lieu of new information collected from reference communities. Target community type and realistic goals for this may need revision with the approval by the authorizing agencies.

Restoration of the ET site within the BPMB

The procedure for restoration follows that proposed for the regional general permit (RGP) for Breakfast Point Mitigation Bank. See the following for a download of this permit from the U.S. Army Corps of Engineers, Jacksonville, Florida. http://www.saj.usace.army.mil/permit/permitting/general_permits/SAJ_86/SAJ86_TOC.htm

The timeline for the restoration can be broken down into the following general sequence. August 2004 obtain baseline data from restoration site in BPMB and reference site June-August 2005 controlled burn After the 2005 burn cycle, another burn cycle may be initiated after 2 years if appropriate amounts of vegetation/organic fuels have been produced, i.e. enough to carry a fire. This burn regime will be determined by the a qualified St. Joe forester (Kevin Smith) and in consultation with the qualified mitigation supervisor (John Tobe) as per the permit referenced above. All invasive exotics will be removed/controlled as per the permit.

The timeline for the restoration can be broken down into the following general sequence. After 2011 the site will no longer be managed by the mitigation bank sponsor and will most likely be managed in perpetuity by the State of Florida, no further monitoring will be required after November 2013.

	Year							
	2004	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**
Baseline Monitoring	August							
Prescribed Burn		April-July		April-July		April-July		April-July
Exoctic Species Removal		All	All	All	All	All	All	
Annual Monitoring		July	April & June	July	July	July	July	July
Annual Reporting		Jan.	Jan.	Jan.	Jan.	Jan.	Jan.	Jan.

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Figure 1 - E. Telephioides found in the Breakfast Point Mitigation Area (BPMA)

Legend

- Plant populations in BPMA
- Search Area BPMA
- Breakfast Point Mitigation Area
- 2003 B&W Aerial DOQQ

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ERC Ecological Resource Consultants, Inc.

Attachment C

Transplantation Methodology

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As per guidance on completion of consultation for _Euphorbia telephioides_ at North Glades, USFSW document.

3. Proposed actions to minimize effects to _Euphorbia telephioides_.

a. Guidelines for transplantation methodology and long-term monitoring of relocated Telephus Spurge, _Euphorbia telephioides_.

I. Introduction

Why attempt to transplant _Euphorbia telephioides_ (ET) from the Glades North site?

ET is a Florida endemic with a limited distribution in Gulf, Franklin and Bay counties. Because ET has been determined to be a species that is critically imperiled and in Florida it is considered to be imperil worldwide according to the Florida Natural Areas Inventory (see www.fnai.org). In addition, this species is considered threatened by the U. S. Endangered Species Act/U. S. Fish and Wildlife Service (USFWS). According to the link supplied by the USFWS (see www.natureserve.org), ET is known from 40 occurrences with total of fewer than 5,000 plants. Also published as a "natureserve conservation status factors", the global short term trend reports a "total number of plants known on private lands reduced from 1,000's in 1988 to 100's in 2001 survey". After some qualitative measurements of one known FNAI occurrence in Bay county and field inspections of some known and unknown populations in Gulf county, the information endorsed by the USFWS on the naturaserve site (as it pertains to the number of occurrences and total number of plants) is incorrect, see attachment L, A Preliminary Survey for _Euphorbia telephioides_, Telephus Spurge, unpublished report by Tobe, J, et. al., April 2004. It is the opinion of the author that there are currently more that 40 known populations and a greater number of individual plants than were reported in the 2001 survey. This begs the question as to why transplantation should be considered if another known population could be reinvigorated through a rigorous management plan. It is the author's assumption that transplantation is going to be considered for the population of ET in question and thoughts on this topic are the subject of this paper.

Relocation of rare plants (and animals) has always been controversial however most biologists agree that this is a pragmatic solution for populations of rare species that will be otherwise destroyed if not "rescued". In addition, translocation of existing plants is considered to be part of the recovery plan for ET, except that no one published any attempts at relocation of this species (Center for Plant Conservation, Missouri Botanical Garden, 1995; U.S. Fish and Wildlife Service, 1994).

Why develop transplantation methodologies and monitoring procedures?

Transplantation methodologies and monitoring procedures or protocols are detailed study plans that explain how the methodology is to be carried out and how the data are to be collected, managed, analyzed and reported, and are very important components of quality assurance for natural resource relocation and monitoring programs. Protocols are necessary to ensure that changes detected by monitoring are actually occurring in nature and not simply a result of measurements taken by different people or in slightly different ways.

Developing a transplantation methodology requires that a detailed life history of the organism is question is known and can be applied to a strategy for relocation.

In general, little is known about the biology of *Euphorbia telephioides* (ET) but we are beginning to understand more about the distribution and populations of this plant. For example, we know that ET is an herbaceous perennial that sprouts each year from underground stems and produces flowers in late spring and has ripened fruit (capsules) by mid summer. ET continues to flower throughout the growing season. A measurement of plants toward the end of the growing season will give an indication as to their ability to reproduce, i.e. count individuals in flower and fruit. All known populations are found in a relatively small area of Florida and in some locations the populations could be described as locally abundant. We also know that this species grows in a range of primarily upland plant communities, all of which would have historically burned with a 2-5 year fire frequency and all of which are dominated by a canopy of *Pinus palustris* (longleaf pine) and/or *P. elliottii* (slash pine) with a groundcover that contains wiregrass (Clewell, 1997). ET grows in variety of dry to mesic sites, all with sandy soils and all sites are located within a few miles of the coastline of the Gulf of Mexico. These general factors will guide the restoration strategy and guide our selection of reference sites.

It's important to get consensus on the scope and design since changing these is time consuming and costly once you begin the field work and measurements.

Designing natural resource monitoring of rare plants is something you want to get right the first time, since it's difficult and costly to make major changes after you collected the data as per a particular methodology. Monitoring involves systematic data collection that provides information on the progress of the transplantation/translocation project and allows the transplantation monitoring practitioners (e.g. ERC/USFWS staff) to determine if the project goals have been met. A transplantation/translocation project involving ET should be monitored until it appears mature and self-sustaining, which could take years or decades. Assessment of translocated plants will involve a comparison of adult survival and reproductive individuals between translocated plants and plants similarly measured in the reference sit. Thus the monitoring of translocated plants will have to be paired with an "undisturbed" or at least an appropriately managed reference site. Ideally the reference site should be used for collection of base-line data. The reference site should be similar to translocation site in terms of soils, plant community composition, fire regime, topographic and physiographic location, hydrology, etc. (*fide* Hildreth Cooper, USFWS, personal communication, August 11, 2004).

Parameters to be measured in the translocation and reference site.

Quantitative plant monitoring of a both translocation and reference sites will include the following measurements for each vascular plant species identified in the sample quadrat: (1) density, (2) coverage, (3) frequency. The following are specific measurements to be made of ET in the quadrats: (1) number of reproductive plants (flowering or fruiting), (2) if it can be determined, the number of seedlings versus vegetative plants, (3) notes on the number of etiolated or stressed plants, (4) evidence of herbivory or any other gross morphological damage. This data will be collected once annually toward the end of the growth cycle. Sample timing should be worked out as much as is feasible with the burn management cycle. The sampling ranges above are preferred since this plant tends to go dormant in fall and unless a

summer burn or mechanical injury initiates new growth, the plant body is likely to be absent after November. The timing of the sampling will allow for the collection of population related data such as number of sprouts in a given area, how much the translocated population has been able to spread vegetatively and sexually, by measuring the total number of sprouts and seedlings in a given area.

What are the measurements of success?

From the results of monitoring it can be determined if the transplanted population is successfully growing in similar conditions to those of the reference site. For this particular study, success would entail the establishment of new, healthy plant populations in appropriate habitat. A healthy population for the purpose of this study is one in which the translocated plants are determined to be viable and self-perpetuating. Excellent viability according to Norden and Chafin, FNAI, 2003 and the USFWS (*fide* Hildreth Cooper, USFWS, personal communication, August 11, 2004), would mean a population of 200+ individuals in a natural, appropriate landscape (site has been well managed and burned, i.e. no fire suppression), with indication of sexual reproduction, and with intact associated native vegetation.

This is not an outline for the study of population dynamics since a study of this magnitude would take decades of intensive quantitative measurements of, for example, the following: germination rates, seed and seedling survival, pollination biology, herbivory, individual survivorship, mortality, and reproduction for individual plants. This study seeks to create a successful transplantation methodology and a means to measure the survivorship and make an estimate as to the long term prognosis/success of the transplants through the use of quantitative measurements in quadrats over a five (5) year period.

Selection of the site to be used for the transplants, i.e. the translocation site.

The translocation site is to be determined by more field work to locate a site that most closely resembles the Glades North site. Extant ET populations were discovered after a search of Breakfast Point Mitigation Bank (BPMB). Our search strategy was based on overlaying the published soil survey polygons on the 2004 DOQQ's and searching for the best aerial signatures. We have searched the bulk of these CU's and have determined that the ET does not occur in the areas we searched. As of August 11, 2004 we have located a population of over 200 plants within the Breakfast Point Mitigation Bank. This site is currently planted in slash pine and fire suppressed. If plants are to be transplanted, areas adjacent to this population would be appropriate sites as they would be within the 1 kilometer range as recommended by the recovery plans for rare plants.

Site preparation of recipient site prior to transplantation.

The recipient site will be prepared for reception of the donor plant material by removing excessive, fire suppressed woody vegetation mechanically or through a management plan that includes burning. In all cases the recipient site should have a management plan that includes controlled fire in a cycle that occurs every 2-5 years. And if at all possible burning should be done between, May-August.

If the site consists of fire suppressed planted pine, especially those in pine plantations, some thinning will probably be needed to prevent damaging crown fires.

The extent of thinning will be determined in a case by case basis. The intact groundcover should show appropriate response after burning, i.e. woody species may stump sprout but should have been burned to ground level and percent coverage greatly reduced.

II. Transplantation methodology

Selection of the thickened root/rhizome.

ET is an herbaceous perennial with thickened roots/rhizomes that move vertically and horizontally through the soil column and a deep taproot that is generally found vertically in the soil column. In a limited sample we found that the thickened roots could be located within the upper 6-14 inches (16-35 cm) of the soil surface, the tap root can extend to an undetermined depth. The thickened roots/rhizomes act as a storage organ much like the familiar tuber of a potato. These thickened roots/rhizomes are the organ of choice for producing more plants. Standard plant propagation techniques often involve dividing thickened roots as a means of asexual propagation. The deeper taproot might also be used, if it can be readily extracted. As of this time no known published reports are known for specific propagation techniques for ET. Propagation by seed production is another alternative but it is unlikely that the large number of seeds needed for a large scale study would be available. It is our proposal that those plants slated for destruction will be the source material for ET used for transplantation.

Within the development footprint for the Glades North site, we propose to locate and dig the thickened roots-rhizomes in early fall, most of the summer grown, above ground stems, will have disappeared since the plants will have entered fall/winter dormancy. Provisions to identify and relocate sufficient plant material will have to be made in late July-early August. In fall the thickened portions will have accumulated food reserves, typically in the form of starches and will have the greatest chance for transplantation survival as they will have the entire winter to adjust to the new soil environment. The final length of thickened rhizome to use in transplantation/translocation will be determined in the field. At this time we estimate a 6-12 inch (16-30 cm) section of the root can be collected and stored in a bag of moist sand for transport to a new location. Hundreds of root fragments can be stored for several days in a single large zip lock bag kept at 50 °F (10 °C). A large cooler with ice would easily handle up to 20 zip lock bags filled with root fragments. Thus up to 1,000+ root fragments could easily be stored and transported in a large, standard cooler.

Planting the collected roots or donor material.

After the appropriate recipient site has been selected and prepared. The transplantation/recipient sites will be selected and divided to produce a 1m x 1m grid pattern. Each 1m x 1m area will be considered a potential sample site. When a1 m x 1 m plot or square quadrat is selected as a translocation site it will be georeferenced using a GPS and marked by insertion of an iron piece at each corner for future location with a metal detector, **see Figure 1**. From the grid described above, 5 random sample sites will be selected for the donor material. Careful attention to ecotones and microhabitats will be considered and reasonable scientific judgment will be rendered in the placement of all sample sites. Alternate sample sites will be randomly selected if the first choice is deemed inappropriate (i.e. a solid clump of saw palmetto, excessive rutting or a stump hole, etc.). Once the sample site has

been chosen, the 1m x 1m square will be subdivided into four quadrats. Each will receive 25 root/rhizome fragments for 100 root-rhizome sections in each 1m x 1m sample site; **see Figure 1**.

III. Baseline Monitoring

Before restorative and translocation activities that disrupt the landscape are begun, the plots to be monitored will be sampled. This data will be used for future comparison and will include the following information for each plot or quadrant.

9. General site conditions on, around and in the vicinity of the plots.
10. Evidence of past land use activities will be noted, especially those that might effect plant distribution, composition and abundance.
11. The proportional distribution of groundcover, shrub and tree species using the protocol of sampling outlined in quantitative plant sampling, below.
12. Presence of invasive exotics in or adjacent to plots.

In addition to the randomly selected sample site, eight, 1m x 1m plots will be configured such that each occupies and surrounds each of the sample sites, **see Figure 2.** Each of these 8 plots will have all vascular plants identified with their density, coverage with notes on non-vegetated areas. The reason for establishing these plots is to be able to measure any ET colonization of the immediate surroundings through the five (5) years of sampling. Thus we will be able to provide information on the progress of the transplantation/translocation project and determine if the project goals have been met. A transplantation/translocation project involving ET should be monitored until it appears mature and self-sustaining, which could take years or decades. Assessment of translocated plants will involve a comparison of adult survival, seed production, germination rates, seed survival, seedling survival, and growth rates between translocated plants and plants similarly measured in the reference sit.

For tree measurements, if the site has not been site prepped for silviculture, a standard 20 meter transect can be used to determine tree density. The placement of this transect can begin at the center of each sample site and extend from the center, northward for 10 meters, southward for 10 meters, basically on either side of the center of the plot in a north/south orientation. The point-quarter method can be used to determine tree density at 0 and 10 and 20 meters, **see Figure 3**. If site is currently a pine plantation or trees are evenly spaced a 10m x10m quadrat can be used to measure all trees within. To place this sample quadrat or plot use the center of the original sample plot and create a 10m x 10m quadrat, **see Figure 4**. In this latter case each pine within the quadrat will be measured at breast height to calculate the tree density based on basal diameter. See monitoring methodology below.

IV. Long Term Monitoring

All monitoring will continue for at least five (5) years. The quantitative sampling sites used for reference sites will be randomly selected from an appropriate landscape using the same methodology as described above from a known area of ET occurrence. Each 1m x 1m plots or square quadrat used as a reference will be georeferenced and marked by insertion of an iron piece at each corner for future location with a metal detector, see Figure 1. These representative samples will measure the proportional distribution of groundcover and shrubs. If trees have been planted in rows, simple measurements will determine the planting distances and

density. For additional information about groundcover, shrub and subcanopy monitoring see attachment B.

V. Photography

The photographic specifications used in conjunction with the quantitative plant sampling protocol will include photographing the sampling site by standing over the plot and including the 1mX1m sample area. The photographs will include as much view as is typical for a standard digital camera. Close up photos of important features may also be collected within the quadrats. No editing of photos will be used other than that used to manipulate photos for processing into formats suitable for report writing. All photos will be dated and georeferenced whenever possible. All labeling of photographs in final reports will include the date of photo, photographer, location and figure or photo number. Electronic storage of photographs will be saved for future reference.

VI. Analyzing the Data

The once annual monitoring will provide quantitative and qualitative information that can be objectively analyzed. The results of this analysis will allow for interpretation and conclusions from the data. These results will then be reported and evaluated. If it is determined that the translocation methodology is not producing the appropriate ecological response as this relates to the success of this endeavor, the methodology will be re-evaluated.

Figure 1

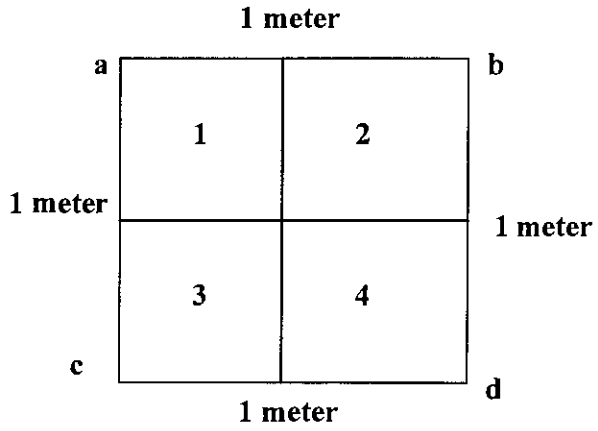


Figure 1. The transplant/recipient site will have the dimensions of 1m x 1m. This is also called a square quadrat. At each corner of the quadrat an iron stake will be inserted to permanently mark the quadrat at points a, b, c and d. The quadrat is divided into four sections labeled 1, 2, 3 and 4. Twenty-five donor plants will be planted in each section for a total of 100 donor plants per quadrat.

Figure 2

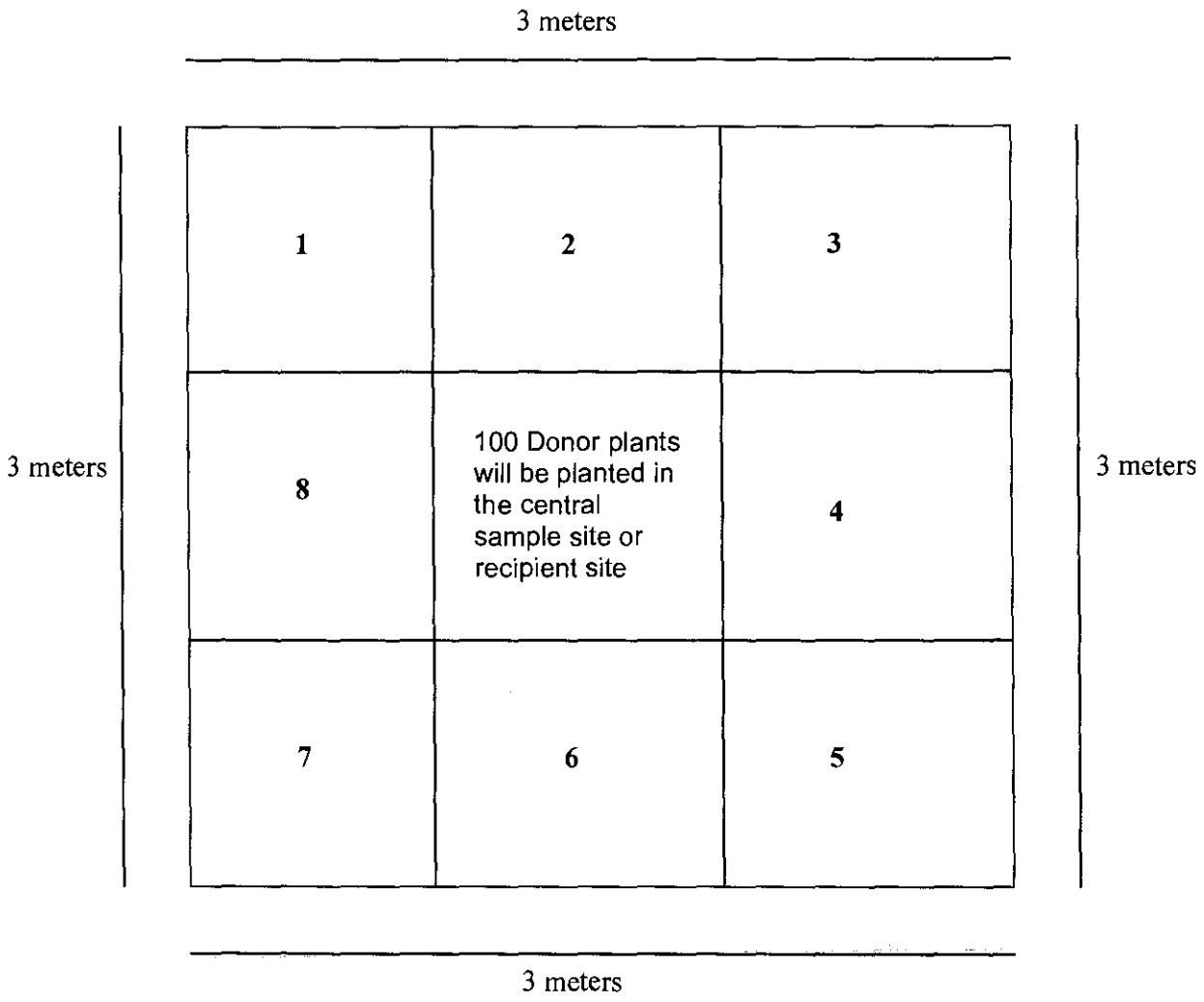


Figure 2. Configuration of eight 1m x 1m plots organized around the central sample site. The central sample site is that depicted in figure 1 it is also called the recipient site. All vascular plants in each of the eight plots will be measured for density and coverage. The central sample site will receive the donor plants. The idea is to measure how successfully the donor plants might move into the surrounding eight plots over time.

Figure 3

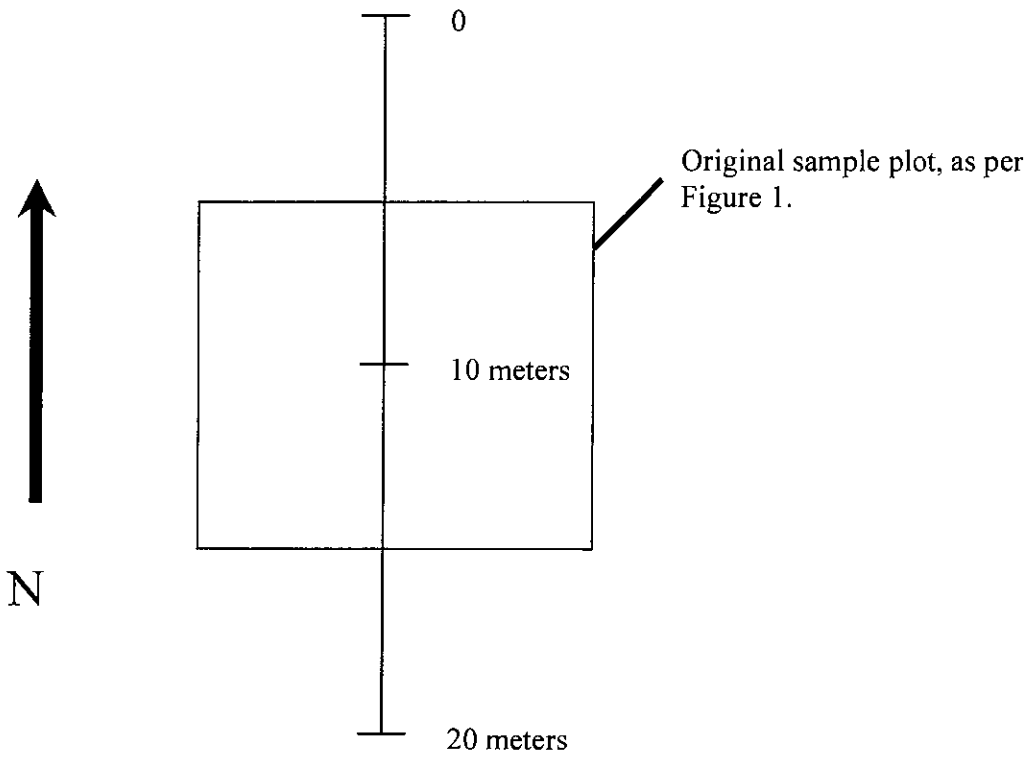


Figure 3. The placement of this transect can begin at the center of each sample site and extend from the center, northward for 10 meters on either side in a north/south orientation. The point-quarter method can be used to determine tree density at 0 and 10 and 20 meters.

Figure 4

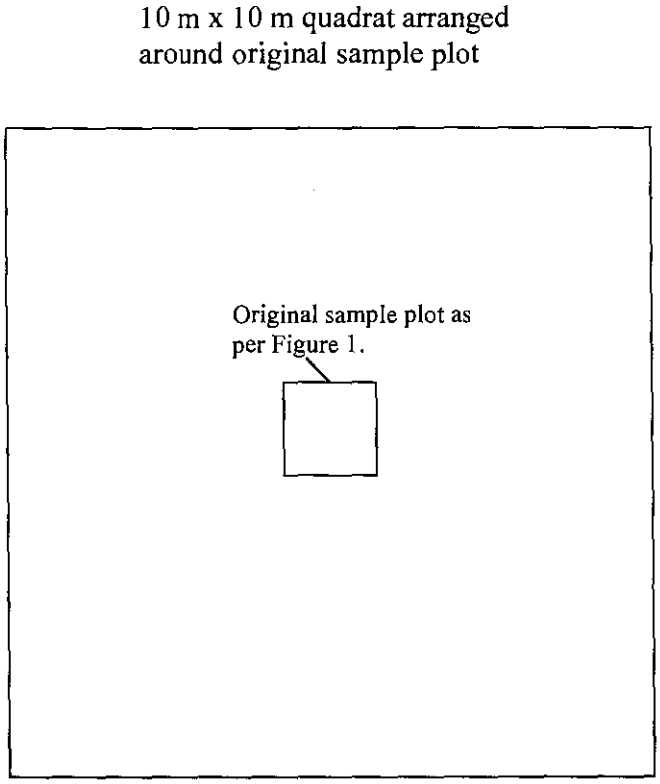


Figure 4. 10m x 10m plot used to sample trees if site is currently a pine plantation or trees are evenly spaced. All trees are measured within this plot. To place this sample plot use the center of the original sample plot and create a 10m x 10m quadrat.

Appendix III

RGP-86 Telephus Spurge Pre-Application Evaluation

Endangered Species Act formal consultation was conducted between the U.S. Fish and Wildlife Service (Service) and the Corps of Engineers as part of the development of the RGP-86. Consultation was based on the presence of telephus spurge (*Euphorbia telephioides)* at three locations in Gulf and Bay counties and the observance of suitable habitat throughout the action area. Best available methods were used to determine potential impacts to telephus spurge that could be expected from implementation of the permit. However, it is reasonable to expect that with a project area covering more than 47,000 acres (about 1/3 of which is potentially developable) undetected habitat could be present. To avoid and minimize potential take of telephus spurge in these situations, the following survey protocol was developed. This evaluation must be completed by all applicants and performed by a qualified plant ecologist/field botanist.

Step 1: Preliminary Project Site Review

Applicants and/or their consultants shall contact the Service for the latest information on the telephus spurge. The proposed project site shall be reviewed to determine if any known occurrences of the telephus spurge are present in the vicinity.

Step 2: Procedures for Reviewing Other Data to Determine Whether Additional Field Surveys Should be Conducted:

The telephus spurge occurs in a variety of soil types and plant communities ranging from sandhill to mesic flatwoods to pine savannahs. Suitable soil types are primarily the drier Leon sand and Pottsburg sand, although the plant is sometimes found in mesic soils, particularly within the ecotone surrounding sandy soils. Most of the known locations have been impacted by silviculture. Telephus spurge has been found in pine plantations with bedding present. Specific project sites must be reviewed using the procedures outlined below to determine the presence or absence of the telephus spurge.

1. Review the project site using NRCS soils data for Bay and Walton Counties, high-resolution infrared and/or true color aerials (scale of 1 inch=400 feet), and historic aerials of your project area.

2. Look for the following positive indicators:

- Suitable soils. Suitable soil types include Leon sand, Pottsburg sand, and Hurricane sand.

- Open canopy. Features to look for on the infrared aerials include the absence of a dense, closed canopy cover. Absence is a positive indicator. Dense canopy cover like titi appears dark red and smooth. The absence of a dense canopy shows up lighter often with patchy red areas throughout.

3. The presence of one or more positive indicators means that the site is potential telephus spurge habitat.

- If yes, then you must conduct field surveys to determine whether telephus spurge is present. **Continue to step 3.**
- If no, then **you are finished with the telephus spurge evaluation. Go to step 4.**

Step 3: Field Assessment of Potential Telephus Spurge (*Euphorbia telephioides*) Habitat

Before beginning any field work, develop a search pattern recognition of *Euphorbia telephioides* by examining photographs or herbarium species or by visiting field locations. See www.plantatlas.usf.edu for a photo reference collection.

Select potential survey polygons based on presence of Leon sand or Pottsburg sand. After reviewing aerial photography and conducting preliminary site inspections, add those areas that have a relatively open canopy and

remnant native groundcover. Be sure to include roadsides, open trails, utility easements, burned areas, and wetland ecotones. Eliminate areas that are densely vegetated with shrubs and trees or are obviously wet most of the year.

Selected polygons should be field surveyed for presence or absence of telephus spurge using a qualitative transect method. The surveys should be supervised by a qualified botanist. Straight line transects at 20-foot intervals should be laid out to cover the entire polygon. Alternate on each side of the transect with 10-foot square quadrants. (Figure 1) The quadrant boundaries can be estimated and visually scanned for telephus spurge. Areas with extremely dense vegetation can be overlooked.

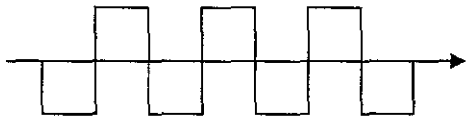


Fig. 1

Surveys can be conducted anytime from April through September. The plant generally dies back at the end of the growing season and does not re-grow to a noticeable height until several weeks after the last frost. Ideal survey months are July through September.

Step 4: Telephus Spurge Findings

	Yes	No
1. Positive indicators were detected in Step 2.	___	___
2. Field surveys detected presence of telephus spurge. **If yes, re-initiation of consultation is required.**	___	___
3. Appropriate documentation is included to support these findings. Negative and positive survey data are provided to USFWS in a GIS format.	___	___

Signature _____ Date_____

Ecologist/Botanist who performed the evaluation

Appendix IV.

RGP-86 Flatwoods Salamander Pre-Application Evaluation

Endangered Species Act formal consultation was conducted between the U.S. Fish and Wildlife Service and the Corps of Engineers as part of the development of RGP-86. Consultation was based on presumed presence of salamanders due to the proximity of two known locations and the observance of suitable habitat in the action area. Best available methods were used to determine potential impacts to flatwoods salamanders that could be expected from implementation of the permit. However, it is reasonable to expect that with a project area covering more than 47,000 acres (about 1/3 of which is potentially developable) undetected habitat could be present. In order to avoid and minimize potential take of salamanders in these situations, the following habitat evaluation was developed. This evaluation must be completed by all applicants and performed by a qualified ecologist/biologist.

Step 1: Preliminary Project Site Review

1. Applicants and consultants shall obtain and review an informational brochure developed by the Florida Fish and Wildlife Conservation Commission. The brochure is available from Florida Fish and Wildlife Conservation Commission, Bureau of Wildlife Diversity Conservation, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

2. Applicants and/or their consultants shall compare aerial photographs of their project site to Figures 2, 3 and 4 of the Biological Opinion. Note all data points located within the project site and within 450 meters (1,476 feet) of the project site or limits of construction.

3. If any data points of Figure 4 are located within the project site or within 450 meters of the project site or limits of construction, **re-initiation of consultation is required. Continue with Step 2.**

4. Other data points of Figures 2 and 3 that are within the project site action area (including 450 meters) do not need further evaluation. Previous work conducted as part of the biological opinion addressed these sites. **Continue with Step 2.**

Step 2: Procedures for Reviewing Other Data to Determine Whether Additional Field Surveys Should be Conducted (based on Palis 2003)

There is a potential that suitable habitat may have been overlooked during the analysis for the biological opinion. Therefore, specific project sites must be reviewed using the procedures outlined below to determine whether they need to be field surveyed.

1. Review project site using high-resolution recent infrared aerials (scale of 1 inch = 400 feet), NRCS soils data for Bay and Walton counties, and historical aerials of your project area that are of as high a resolution as is obtainable. Note any ponds[1] not depicted on Figures 2 or 3 with similarity of appearance to those of Figure 4 in the biological opinion.

2. Features to look for on the infrared aerials are as follows:

- Absence of a dense titi cover completely surrounding ponds. Absence is a positive indicator. Dense titi appears relatively dark red and smooth
- A graminaceous, treeless ecotone along part of the pond edges. Presence is a positive indicator. Wet, herbaceous edges appear as smooth grayish blue, greenish grayish blue, or as a light band along the edge.
- Absence of deep water. Absence of deep water is a positive indicator. Deep water appears dark blue or almost black.

[1] "Ponds" are not traditional open waterbodies, but are ephemeral wetlands that are ponded for a portion of the year.

3. On historical aerials, look for open savannahs or pine flatwoods around ponds. These are positive indicators and appear as smooth, light-colored areas with scattered-to-no-trees.

4. On soil maps, where ponds occur, look for hydric or mesic soils around pond; hydric or mesic soils are positive indicators of flatwoods salamander use.

5. The presence of all of the above positive indicators means that the pond(s) should be field surveyed.

- If yes, then you must conduct field surveys to determine whether the pond(s) is a potential flatwoods salamander pond. **Continue with Step 3.**
- If no here and no to Step 1. 3., then **you are finished with the flatwoods salamander evaluation - Go to Step 5** (Flatwoods Salamander Findings).
- If no here and yes to Step 1. 3., then **re-initiation of consultation is required.**

Step 3: Field Assessment of Potential Flatwoods Salamander (*Ambystoma cingulatum*) Ponds

The Description Data Sheet (next page) may be completed at the same time as other fieldwork, such as wetland delineation. The field data sheet that must be completed at the time of the field survey follows. Photographs must also be taken of the ecotone and pond, particularly noting the location of the most graminaceous portion of ecotone and wetland groundcover.

Potential Flatwoods Salamander *(Ambystoma cingulatum)* Pond Description Data Sheet

Instructions: Circle the number of the most appropriate descriptor in each category. If no description option applies, circle "other" and describe. In some categories, such as ECOTONE VEGETATION DESCRIPTION, SPECIES COMPOSITION, and SURROUNDING UPLANDS, circle the number for all appropriate descriptors.

Pond# _____ Date _____ Observer(s) _____

ECOTONE VEGETATION DESCRIPTION
(If more than one descriptor applies, circle and estimate percentage of pond perimeter.
Also circle appropriate grass and shrub species)

1) undisturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*)[1], few to no shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____ %
2) disturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*; bedded/rutted), few to no shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____ %
3) undisturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*) under thick *Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____ %
4) weedy graminaceous (*Andropogon, Panicum verrucosum*, and/or *weedy Rhynchospora*), few to no shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____ %
5) disturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*; bedded/rutted), under thick *Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia* _____ %
8) weedy graminaceous (*Andropogon, Panicum verrucosum*, weedy *Rhynchospora*) under thick *Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia* _____ %
9) thick shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) over little to no graminaceous (*Aristida stricta, Calamovilfa curtissii, Andropogon, Panicum verrucosum*, weedy *Rhynchospora*) _____ %
10) no ecotone _____ %
11) other:_____ _____ %

GRAMINACEOUS ECOTONE EXTENT DESCRIPTION

1) > 75 % of pond perimeter
2) 51-75% of pond perimeter
3) 26-50 % of pond perimeter
4) <25% of pond perimeter

GRAMINACEOUS ECOTONE WIDTH DESCRIPTION

1) > 0 m wide
2) 6-10 m wide
3) 3-5 m wide
4) 1-2m wide

1 "Undisturbed graminaceous" and "disturbed graminaceous" mean that the appropriate ground cover species are present (*Aristida stricta, Calamovilfa curtissii*, wiry *Rhynchospora* spp., and *Sporobolus*). However, "disturbed graminaceous" indicates that the soil has been disturbed by human activities such as chopping, bedding, ATV or skidder tracks. "Weedy graminaceous" means that not only are the appropriate ground cover species absent, but that the soil has been disturbed.

POND GRAMINACEOUS GROUNDCOVER SPECIES COMPOSITION
(place asterisk adjacent to visually dominant species)

1) *Aristida affinis*
2) *Carex*
3) *Dichanthelium (Panicum) erectifolium*
4) *Eriocaulon compressum*
5) *Panicum rigidulum*
6) *Rhynchospora inundata/corniculata*
7) *Rhynchospora* _____
8) *Sphagnum*
9) *Xyris*
10) other: _____

POND GRAMINACEOUS VEGETATION COVERAGE

1) extensive throughout basin, marsh-like
2) over most of basin (> 75 %)
3) scattered and local in basin (approx 25-74%)
4) limited to basin edge
5) sparse
6) none

POND CANOPY SPECIES COMPOSITION
(place asterisk adjacent to visually dominant species)

1) *Taxodium ascendens*
2) *Nyssa biflora*
3) *Pinus elliottii*
4) *Ilex myrtifolia*
5) other: _____

POND CANOPY COVERAGE

1) <25% 2) 26-50% 3) 51-75% 4) >75%

POND SUBSTRATE

1) relatively firm mud/sand with little to no leaf/needle litter
2) relatively firm mud/sand with abundant leaf/needle litter
3) soft and peaty (thick leaf/needle litter)

APPROXIMATE WATER DEPTH (_____ m)

If site dry, estimate using high water stains on trees: ____ m

WATER COLOR

1) clear to light stain 2) moderate stain (ice tea) 3) dark stain (coffee) 4) no water

SURROUNDING UPLANDS
(circle every applicable number and indicate relative percentage of area around pond)

1) undisturbed graminaceous (*Aristida stricta, Sporobolus*) dominated, few to no shrubs _____%
2) disturbed graminaceous (*Aristida stricta, Sporobolus*) dominated, few to no shrubs _____%
3) approximately 50/50 undisturbed graminaceous (*Aristida stricta, Sporobolus*)/shrubs _____%

4) approximately 50/50 disturbed graminaceous (*Aristida stricta, Sporobolus*)/shrubs ____%
5) disturbed with sparse vegetation (i.e., principally pine straw) ____%

6) shrub dominated (shrubs knee high or less), sparse graminaceous (*Aristida stricta, Sporobolus*) ____%

7) shrub dominated (shrubs between knee and head high), sparse graminaceous (*Aristida stricta, Sporobolus*) ____%
8) shrub dominated (shrubs head high or more), sparse graminaceous (*Aristida stricta, Sporobolus*) ____%
9) weedy graminaceous (e.g., *Andropogon*), few to no shrubs ____%
10) shrub dominated (shrubs knee high or less), sparse weedy graminaceous (*Andropogon*, etc.) ____%
11) shrub dominated (shrubs knee to head high), sparse weedy graminaceous (*Andropogon*, etc.) ____%
12) shrub dominated (shrubs head high or more), sparse weedy graminaceous (*Andropogon*, etc.) ____%
13) other _____ ____%

UPLANDS SPECIES PRESENT
(circle number and place asterisk by visually dominant species)

1) *Andropogon*
2) *Aristida stricta*
3) *Conradina canescens*
4) *Cyrilla racemiflora*
5) *Ilex glabra*
6) *Kalmia hirsuta*
7) *Licania michauxii*
8) *Lyonia lucida*
9) *Myrica cerifera*
10) *Pteridium aquilinum*
11) *Quercus minima/pumila*
12) *Serenoa repens*
13) *Vaccinium darrowi/myrsinites*
14) _____

General Notes: _____

SKETCH WETLAND/UPLAND (North ↑)
(delineate locations of vegetational differences in ecotone and in wetland and uplands)
(**photograph** the ecotone and pond noting the location of the most graminaceous portion of ecotone and wetland ground cover, note photo points)

Step 4: Expert Review of Field Results

When Steps 2 and 3 have been completed, the completed field data sheets and photographs should be sent to a recognized flatwoods salamander expert. In addition, the current and historical aerials, soil data, and a map of the

project site should also be forwarded to the expert. The expert will review all the information to determine whether the pond might be a potential flatwoods salamander pond.
The field data sheet used in Step 3 has been organized so that the descriptors under each category of interest are ordered from best to worst conditions for flatwoods salamanders. For example, under the category Ecotone Vegetation Description, the first descriptor [1) undisturbed graminaceous... few to no shrubs...] describes the best conditions for flatwoods salamanders and the last two descriptors [9) thick shrubs... and 10) no ecotone] describe the worst conditions.

The expert will evaluate the descriptors selected for each category of interest to determine whether the pond might be a potential flatwoods salamander breeding pond. If mostly low number descriptors were selected on the field data sheet, then the pond is more likely to be considered a potential breeding pond; conversely, if primarily high number descriptors were selected on the field data sheet, then the pond is less likely to be considered a potential breeding pond. However, no formula presently exists that encompasses all the possibilities that might eliminate or elect a pond for further consideration as a potential breeding pond.

If the expert cannot determine whether or not the pond should be considered a potential flatwoods salamander breeding pond, s/he may request additional information from the ecologist/biologist who visited the pond and/or the project applicant. If the request for additional information is not fulfilled within a reasonable time period or the response is not sufficiently helpful, the expert may also elect to visit the pond himself at the expense of the project applicant.

The expert will provide a written determination as to whether the surveyed pond(s) is likely to be a potential flatwoods salamander breeding pond.

Review Time Frames:

- Provide field data sheets to expert;
- Expert reviews field data sheets within 10 working days of receipt, and
    - Requests additional information, or
    - Provides[2] written determination;
- Project applicant or their consultant provides additional information to expert;
- Expert provides written determination to project applicant within 5 working days of receipt of sufficient additional information;
- Project applicant provides the expert's written determination and background documentation (prepared map of ponds, aerials, soil data, field data sheets, and photographs) to the agencies as part of the pre-application Item #8.

2 "Provides" implies postmarked, emailed or faxed.

Step 5: Flatwoods Salamander Findings

	Yes	No
1. The project site contains or is within 450 meters (1,476 feet) one or more of the data points indicated in Figure 4 of the biological opinion. **If yes, re-initiation of consultation is required.**	____	____ of
2. The project site contains or is within 450 meters of potential habitat not evaluated in the biological opinion.	____	____
3. Field evaluations and expert review were necessary for additional habitat.	____	____
4. Expert review indicates that suitable habitat is located within the project action area. Name of flatwoods salamander expert _____. **If yes, re-initiation of consultation is required.**	____	____
5. Appropriate documentation is included to support these findings.	____	____

Signature _____ Date _____

Ecologist/Biologist who Performed the Evaluation

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Florida Ecological Services Field Office

November 5, 2025

Lisa S. Lovvorn
Chief, Panama City Permits Section
U.S. Army Corps of Engineers, Jacksonville District
415 Richard Jackson Boulevard, Suite 411
Panama City Beach, Florida 32407

Service Consultation Code:	4-P-04-054
Date Received:	October 31, 2025
Consultation Initiation Date:	October 31, 2025
Project:	Regional General Permit SAJ-86
County:	Bay, Walton

Dear Ms. Lovvorn:

The U.S. Fish and Wildlife Service (Service) has received the Corps of Engineers request for consultation on October 31, 2025. The COE intends to reissue its Regional General Permit (RGP) SAJ-86. This document is submitted in accordance with Section 7 of the Endangered Species Act of 1973, as amended in 1998 (Act) (87 Stat. 884; 16 U.S.C. 1631 *et seq*.).

This letter addresses the reinitiation of consultation for the U.S. Army Corps of Engineers (Corps) RGP SAJ-86, and responds to your request. This correspondence is provided in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.). The original biological opinion (BO) for this project was transmitted to the Corps on May 19, 2004, revised on March 3, 2005, and more recently on May 19, 2009. The RGP SAJ-86 was issued by the Corps on June 30, 2004, et seq.

Proposed Reissuance of Permit. The Corps of Engineers proposes to authorize the discharge of fill and dredged material into non-tidal waters of the United States, including wetlands, for residential, commercial, recreational, and institutional development in portions of the Choctawhatchee Bay, Lake Powell, and West Bay basins pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344), to include special conditions. This RGP has been functioning well.

Individual project approval requires an evaluation to determine if an individual project conforms to the requirements and criteria of this RGP, including an interagency pre-application meeting. Explicit requirements are noted for Reticulated flatwoods salamander (*Ambystoma bishop*), Bald eagle (*Haliaeetus leucocephalus*), Telephus spurge (*Euphorbia telephioides*), Eastern indigo

snake (*Drymarchon corais coupen*), as well as coordination with the FWC regarding any needed fish and wildlife surveys or measures needed to avoid, minimize, or mitigate adverse impacts to state listed/protected fish and wildlife species and their habitats.

The reissued SAJ-86 is a regional permit, limited to non-navigable and non-tidal waters, including wetlands, which are located within: 1)The Lake Powell watershed, 2) Various drainage basins of the Choctawhatchee Bay watershed, 3) Various drainage basins of the West Bay watershed, and 4) Two small areas which drain either directly to the Gulf of Mexico, or via the Camp Creek Lake watershed into the Gulf of Mexico, all within an area encompassing approximately 48,150 acres in southeastern Walton County and southwestern Bay County, Florida. The basic principles of RGP-86 are that a maximum 20 percent of a watershed's low quality wetlands can be impacted; these wetland impacts must be fully compensated within the larger watershed; less than one percent of high quality wetlands will be impacted and fully compensated; the Lake Powell watershed wetland functions will not be diminished by any amount; large areas of wetlands and uplands (Conservation Units) will be set aside from future development; and compensatory mitigation will be consolidated in two large mitigation banks.

Table 1. Species Not Likely To Be Adversely Affected By The Proposed Action		**Status**
Eastern Black Rail	*Laterallus jamaicensis ssp. jamaicensis*	Threatened
Godfrey's Butterwort	*Pinguicula ionantha*	Threatened
Telephus Spurge	*Euphorbia telephioides*	Threatened
White Birds-in-a-nest	*Macbridea alba*	Threatened
Monarch Butterfly	*Danaus plexippus*	Proposed T
Tricolored Bat	*Perimyotis subflavus*	Proposed T
Alligator Snapping Turtle	*Macrochelys temminckii*	Proposed T
Southern Hognose Snake	*Heterodon simus*	Proposed T
No Effect to these species		
Reticulated Flatwoods Salamander	*Ambystoma bishopi*	Endangered
Eastern indigo snake	*Drymarchon couperi*	Threatened
Gulf Sturgeon	*Acipenser oxyrinchus (=oxyrhynchus) desotoi*	Threatened
West Indian Manatee	*Trichechus manatus*	Threatened
Red-cockaded Woodpecker	*Dryobates borealis*	Threatened
Piping Plover	*Charadrius melodus*	Threatened

Response. We have taken a fresh look at the proposed reissuance of the RGP SAJ-86, considered its performance during prior 15+ years, as well as measures included in its implementation specific to endangered species and their habitats. The RGP would authorize activities within the geographic range of those species in Table 1. Based on the information

provided, each application to use the RGP will consider these species, along with implementation of standard protection measures. We concur with the proposed Telephus spurge mitigation site, and hereby amend the BO to include that site. The Service concurs with your determinations for potential effects of the RGP as described.

Recommendations. Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. The Service does not have any recommendations. In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefitting listed species or their habitats, the Service requests notification of any conservation recommendation carried out.

On September 14, 2022, the Service published a proposal to list the tricolored bat as endangered under the ESA. The range for the tricolored bat covers the entire state of Florida and known and potentially suitable habitat is present within proposed project area. Potentially suitable monarch butterfly habitat occurs statewide and may be present; a Section 7 conference is not warranted. Based on the scope of the action compared to the range and distribution of this species, the action, as proposed, is not likely to jeopardize the continued existence of the monarch butterfly and will be completed before a final listing decision.

Obligations of section 7(a)(2) of the Act have been satisfied, and formal consultation is not required. However, obligations under the Act must be reconsidered if: (1) the project is modified in a manner not considered by this assessment; (2) a new species is listed or critical habitat is determined that may be affected by the project; or (3) new information indicates that the project may affect listed species or critical habitat in a manner not previously considered.

If you have any questions or require further information, please contact staff biologist Mark Cantrell at 850/328-2307.

Sincerely yours,

MARK CANTRELL Digitally signed by MARK CANTRELL
Date: 2025.11.05 13:02:40 -06'00'

For Jose Rivera
Division of Environmental Review
Florida Ecological Services Office

Exhibit
25

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Field Office
1601 Balboa Avenue
Panama City, FL 32405-3721

IN REPLY REFER TO:

Tel: (850) 769-0552
Fax: (850) 763-2177

May 19, 2009

RECEIVED
MAY 20 2009
JACKSONVILLE DISTRICT
USACE

Colonel Paul L. Grosskruger, District Engineer
Department of the Army
Jacksonville District, Corps of Engineers
Panama City Regulatory Office
475 Harrison Avenue, Suite 202
Panama City, Florida 32401-2731

Attn: Don Hambrick

Re: FWS Log No. 4-P-04-054
Reissued Biological Opinion Letter
West Bay to East Walton Counties, FL
Regional General Permit SAJ-86
SAJ-2004-01861

Dear Colonel Grosskruger:

This letter addresses the reinitiation of consultation for the U.S. Army Corps of Engineers (Corps) RGP SAJ-86 and responds to the Corps April 15 and April 28, 2009 letters. This correspondence is provided in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

The original biological opinion (BO) for this project was transmitted to the Corps on May 19, 2004 and revised on March 3, 2005. The RGP SAJ-86 was issued by the Corps on June 30, 2004. Since that time, the western population of flatwoods salamander (reticulated flatwoods salamander *Ambystoma bishopi*) has been recognized as a new and separate endangered species. The bald eagle (*Haliaeetus leucocephalus*) was delisted (August 8, 2007), and the telephus spurge (*Euphorbia telephioides*) *RGP-86 Telephus Spurge Pre-Application Evaluation* form has been updated.

The *RGP-86 Flatwoods Salamander Pre-Application Evaluation* and *RGP-86 Telephus Spurge Pre-Application Evaluation* are still required in order to make a determination of impact within and minimize potential take of these species in the action area. If the pre-application evaluation process indicates suitable habitat for flatwoods salamanders within a proposed project area, the Corps is required to re-initiate consultation with the Service.

Our review of the effects of the action indicate the effects to flatwoods salamanders remain the same as those described in the original BO; however, the western population (*Ambystoma bishopi*) has been designated as a distinct species within the action area. No critical habitat is within the boundaries of the RGP. There are no changes to the Terms and Conditions to minimize the potential for incidental take of the reticulated flatwoods salamander. Implementation of these Terms and Conditions are non-discretionary in order to be exempt from the prohibitions of section 9 of the Act. The extent of take to date is 24.83 acres. Therefore 85.15 acres remain under the provisions of the Incidental Take Statement.

Since delisting, the Act no longer protects the bald eagle. However, the MBTA and BGPA do.

- Technical Assistance: The RGP conditions regarding the bald eagle should be revised to read: "if a bald eagle's nest occurs within 660 feet of a project, the applicant should follow the Service's May 2007 National Bald Eagle Management Guidelines. The applicant should also contact the Florida Fish and Wildlife Conservation Commission (FWC) for recommendations relative to Florida's Bald Eagle Management Plan and Permitting Guidelines."

The telephus spurge (*Euphorbia telephioides*) *RGP-86 Telephus Spurge Pre-Application Evaluation* form has been updated to reflect the following:

- BO Appendix III, Step 3: See www.plantatlas.usf.edu, www.fws.gov/panamacity/species/plants.html for photo reference collections.
- BO Appendix III, Step 3: Ideal survey months are May through August.

According to the Act, Terms and Conditions are not applicable to plants; therefore, actions that avoid and minimize take for plants are listed only in the Conservation Measures section of the BO for the telephus spurge. Additionally, the telephus spurge March 3, 2005 Revised BO included Conservation Recommendations, item number 1, which should be updated by the addition of the following paragraph:

- It is well accepted that there is no exact number below which plant populations are lost or above which they are safe (Matthies et al. 2004; Menges 1990); that is studies have demonstrated variation among the number of plants necessary for a population to survive risks of extinction. As a general rule, authors suggest an effective population size of 50-500 to maintain sufficient genetic variation for adaptation to environmental changes (i.e., viable population). In order to maintain a viable population with an effective size, each population should have between 357 and 3,571 individuals. Studies on 379 populations of eight threatened species in northern Germany demonstrated that very small populations face a considerable risk of extinction, while the risk for populations with more than 1,000 individuals was very small (Matthies et al. 2004). Therefore, in order to consider an experimental translocated population as having the potential for recovery, we recommend a minimum population size of at least 1,000 individuals.

The Service continues to concur with the determination in the Biological Assessment (BA) of "not likely to adversely affect" for red-cockaded woodpecker (*Picoides borealis*), manatee (*Trichechus manatus latirostris*), Gulf sturgeon (*Acipenser oxyrinchus desotoi*) (including its critical habitat), eastern indigo snake (*Drymarchon couperi*), and Godfrey's butterwort (*Pinguicula ionantha*). This concurrence is based upon implementation of the avoidance and minimization measures identified in the final BA and supplemental information provided on December 22, 2003. No additional information that is pertinent to our conclusion has been collected since that time. If these protective, avoidance and minimization measures as identified in your plan or the Terms and Conditions in the BO cannot be implemented, re-initiation of consultation may be required. Additional information on re-initiation of consultation is provided in the Re-initiation Notice within the BO.

After reviewing the current status of the Service's revised BO, the environmental baseline for the action area, the effects and cumulative effects of the RGP SAJ-86, the Corps' information on implementation of the Terms and Conditions to date, and information on file, it is the Service's biological opinion that the Corps RGP SAJ-86 is not likely to jeopardize the continued existence of the species addressed in the Service's revised BO, and it is not likely to destroy or adversely modify designated critical habitat.

This concludes RGP SAJ-86 BO reissuance consultation. If you have any questions about this RGP SAJ-86 BO consultation, please contact staff ecologist Ted Martin of our Panama City Field Office at (850) 769-0552, extension 239.

Sincerely,

Janet Mizzi
Deputy Field Supervisor

Enclosures:
Revised Appendix II, RGP-86 Flatwoods Salamander Pre-Application Evaluation
Revised Appendix II RGP-86 Potential Flatwoods Salamander Pond Description Data Sheet
Revised Appendix III, RGP-86 Telephus Spurge Pre-Application Evaluation

References:
Menges, E. 1990. Population viability analysis for an endangered plant. Conservation Biology. 4: 52-62.
Matthies, D., I. Bräuer, W. Maibom, and T. Tscharntke. 2004. Population size and the risk of local extinction: empirical evidence from rare plants.

cc:
St. Joe Company, WaterSound, FL (Thomas Estes)
USFWS, Atlanta, GA (ARD-ES)
USFWS, ES, Jackson, MS (Linda LaClaire)
USFWS, Habitat Conservation/section 7, Atlanta, GA (e-mail copy to Joe Johnston)
NMFS, Habitat Conservation, Panama City, FL (Mark Thompson)
NWFWMD, Havana, FL (Ron Bartel)
FWC, Office of Environmental Services, Tallahassee, FL (Ted Hoehn)
COE, Jacksonville, FL (Osvaldo Collazo)
USEPA, Atlanta, GA (Cecelia Harper)
FDEP, Pensacola, FL (Larry O'Donnell)

Tel: (850) 769-0552
Fax: (850) 763-2177

March 3, 2005

Colonel Robert Carpenter, District Engineer
U.S. Army Corps of Engineers
Jacksonville District Office
475 Harrison Avenue, Suite 202
Panama City, Florida 32401

Attn: Don Hambrick

Re: FWS Log No. 4-P-04-054
Revised Biological Opinion
Regional General Permit 86 (RGP-86)
West Bay to East Walton Counties, Florida

Dear Colonel Carpenter:

Enclosed is the Fish and Wildlife Service's (Service) revised biological opinion (BO) for the U.S. Army Corps of Engineers (Corps) Regional General Permit 86 (RGP-86). This opinion is provided in accordance with section 7 of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

The original BO for this project was transmitted to the Corps on May 19, 2004. RGP-86 was issued by the Corps on June 30, 2004. Since that time, we have received new information regarding actions that may affect listed species in a manner not considered in the original opinion. Specifically, a newly proposed construction project would impact the listed plant telephus spurge *(Euphorbia telephioides)*, and a new location for the plant has been documented within the RGP boundary. The original BO determined that RGP-86 may affect, but was not likely to adversely affect telephus spurge based on the stipulation that all impacts to known plant locations would be avoided. The new information reveals a more realistic scenario in that permit authorizations under RGP-86 will likely result in adverse effects to telephus spurge. The Service has determined in the revised biological opinion analysis that the permit would not jeopardize the continued existence of this species.

The analysis of impacts to flatwoods salamanders remains the same as the original BO with one minor modification to the salamander "checklist" as noted. There are no other changes to the Terms and Conditions to minimize the potential for incidental take of the flatwoods salamander. Implementation of these Terms and Conditions are non-discretionary in order to be exempt from

the prohibitions of Section 9 of the Act. According to the Act, Terms and Conditions are not applicable to plants; therefore, actions that avoid and minimize take are listed only in the Conservation Measures section of the BO for the telephus spurge.

The Service continues to concur with the previous determination in the Biological Assessment (BA) of "not likely to adversely affect" for red-cockaded woodpecker, bald eagle, manatee, Gulf sturgeon (including its critical habitat), eastern indigo snake, and Godfrey's butterwort. This concurrence is based upon implementation of the avoidance and minimization measures identified in the final BA and supplemental information provided on December 22, 2003. We have included the avoidance and minimization measures in the Conservation Measures section of the BO. If these protective, avoidance, and minimization measures as identified in your plan or the Terms and Conditions cannot be implemented, re-initiation of consultation may be required. Additional information on re-initiation is provided in the Re-initiation Notice of the biological opinion.

We have also provided Conservation Recommendations for each species that are actions that could be taken by the Corps to further the recovery of federally listed species and to help conserve other species that occur within the RGP area. While they are voluntary actions, we feel that many of the recommendations we have provided will help the Corps meet their responsibilities under Section 7(a)(1) of the Act and will also serve to improve future consultations under the RGP-86.

The following findings and recommendations constitute the report of the Department of the Interior. This concludes formal consultation. If you have any questions about this opinion or consultation, please contact staff biologist Hildreth Cooper of our Panama City Field Office at (850) 769-0552, extension 221.

Sincerely yours,

Gail A. Carmody

Gail A. Carmody
Project Leader

Enclosure:
Revised Biological Opinion

cc:
St. Joe Company, Jacksonville, FL (Dave Tillis)
USFWS, Atlanta, GA (ARD-ES)
USFWS, ES, Jackson, MS (Linda LaClaire)
USFWS, Habitat Conservation/section 7, Atlanta, GA (e-mail copy to Joe Johnston)
NMFS, Protected Species, St. Petersburg, FL
NMFS, Habitat Conservation, Panama City, FL (Mark Thompson)
NWFWMD, Havana, FL (Ron Bartel)
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U.S. Army Corps of Engineers
Regional General Permit 86
West Bay to East Walton Counties, Florida

Revised Biological Opinion
March 3, 2005

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INTRODUCTION

This document transmits the Fish and Wildlife Service's (Service) revised biological opinion (BO) for the U.S. Army Corps of Engineers (Corps) issuance of Regional General Permit (RGP-86). RGP-86 authorizes certain dredge and fill activities in non-navigable waters of the U.S. which are located in three large watersheds, including the Lake Powell watershed and various drainage basins of the Choctawhatchee Bay and West Bay watersheds within southeastern Walton County and southwestern Bay County, Florida. This opinion is in accordance with Section 7 of the Endangered Species Act of 1973, as amended (Act), (16 U.S.C. 1531 *et seq.*).

This biological opinion is based on information provided in the December 22, 2003, Biological Assessment (BA) and draft permit advertised on August 29, 2003. A complete administrative record of this consultation is on file in the Service's Panama City, Florida Field Office.

CONSULTATION HISTORY

May 1999	An interagency group met to review cumulative impacts to wetlands in the project area. The focus was primarily on specific projects being proposed by the St. Joe Company in the vicinity of Panama City Beach.
May 1999 through October 2001	The interagency group continued to meet with varying representatives of agencies, applicants, and consultants involved in development projects in the area. The group addressed ways to improve coordination and review of specific projects and approaches to evaluating cumulative impacts. On April 20, 2001, the group met at Disney Wilderness Preserve to learn more about the mitigation approach used by the Orlando Airport Authority and others.
October 2001	The Service presented a potential landscape approach of addressing build-out of the area and assessing impact and conservation needs to the group. The study area at that time was the southwestern quadrant of West Bay.
Winter 2002	The interagency group further explored regulatory mechanisms for assessing cumulative impacts and implementing a comprehensive conservation plan for the watersheds of southern West Bay, Lake Powell, and southeastern Choctawhatchee Bay.

Winter 2002 to present	The interagency teams continue to meet regularly to develop the "West Bay to East Walton Regional General Permit" (RGP-86) and the State equivalent regulatory mechanism, an "Ecosystem Management Agreement."
July 16, 2003	The interagency team discussed the consultation requirements. The consultant requested that the Service identify the species that should be addressed in the project analysis. The Service noted that this is the purpose of the BA, which should be prepared in conjunction with the Federal action agency, the Corps of Engineers. Species lists for the counties would be provided by the Service.
August 1, 2003	The Service provided a species list only for Walton County since a current list for Bay County was provided in 2001 before the project area was expanded.
August 22, 2003	All parties teleconferenced to discuss the BA.
August 26, 2003	The consultant provided a draft species list and proposed determinations of effects.
August 29, 2003	The Corps issues a public notice for RGP-86.
September 24, 2003	The Service participated in a Corps public workshop to discuss RGP-86.
September 29 – October 3, 2003	The St. Joe Company enlisted consulting herpetologist, John Palis, to evaluate potential flatwoods salamander habitat within the project area.
October 23, 2003	The Service provided written concurrence of the species lists used in the BA.
October 30, 2003	A draft BA was transmitted by the consultant to the Corps and to the Service.
November 13-14, 2003	The interagency team provided verbal comments on the BA.

December 4 and 9, 2003	The Service assisted the consultant and John Palis with field evaluations of potential flatwoods salamander habitat.
December 11, 2003	Another draft BA was transmitted to the Service.
December 16-17, 2003	The interagency team met to discuss the BA and other items related to RGP-86.
December 22, 2003	The consultant transmitted the final BA to the Service.
December 23, 2003	In a letter to the Service, the Corps concurs with the findings of the BA and requests initiation of formal consultation.
December 24, 2003	The Service transmitted an electronic copy of the draft BO to the Corps with copies as requested to WilsonMiller and the St. Joe Company.
January 12, 2004	The Service participated in a public workshop regarding DEP's Ecosystem Management Agreement.
January 27, 2004	WilsonMiller provided comments on the draft BO to the Service and to the Corps.
January 30, 2004	A revised draft of the BO was transmitted to the Corps.
February 5, 2004	At the request of the agencies, WilsonMiller provided a "salamander checklist" as an addition to the BA.
February 25, 2004	The Service and Corps met to discuss suggested revisions to the BO.
March 18, 2004	The Service faxed a memorandum to the Corps and WilsonMiller regarding telephus spurge conservation.
April 21, 2004	WilsonMiller conducted a survey for telephus spurge north of Highway 98.

April 30, 2004	WilsonMiller provided details of the telephus spurge survey and a memorandum describing revised Conservation Measures.
May 6, 2004	The Corps concurred with the Service that the additional information was sufficient to proceed with the final biological opinion.
May 19, 2004	The final BO was delivered to the Corps.
May 27, 2004	The Service and other agencies received preliminary materials describing the North Glades Development project.
June 9, 2004	The first RGP pre-application meeting and site visit to a newly documented telephus spurge location. The Service advised the North Glades applicant that more information would be needed regarding telephus spurge locations, impacts, and conservation.
June 18, 2004	The Service received a copy of a draft dredge and fill permit application for "North Glades Development." The packet included an evaluation of telephus spurge for the project.
June 30, 2004	RGP-86 was issued by the Corps.
July 28, 2004	An interagency meeting was convened to discuss pending projects for authorization under RGP-86, including North Glades and potential re-initiation for telephus spurge effects. The applicant was advised that additional information would be needed.
July 28, 2004	The Service received an e-mail from the Corps requesting re-initiation for the North Glades project.
August 3, 2004	The Service transmitted a draft list of additional information to the North Glades consultant and to the Corps.
August 10, 2004	The Service advised the North Glades consultant that the list of additional information should be considered final.

August 11, 2004	The Service and the consultant conducted a teleconference to discuss the technical details of the analysis.
September 9, 2004	The Service attended an interagency pre-application meeting for the Waterfall project within the RGP boundary. The meeting illustrated the need to modify the flatwoods salamander checklist for clarification. (Appendix 1)
October 18, 2004	The Service sent a reminder to the North Glades applicant that the consultation information has not been received.
October 29, 2004	The Service received via e-mail from the consultant the information necessary to proceed with consultation.
November 3, 2004	The Service proposed to the interagency group a modification to the flatwoods salamander checklist as suggested at the September 9, 2004, meeting regarding the Waterfall project.
December 2, 2004	The Service attended an interagency "RGP Team" meeting and clarified the consultation process. There was also discussion about the availability of "negative" survey data for the telephus spurge.
December 23, 2004	The Service again requested the "negative" survey data from the St. Joe Company.
December 29, 2004	The Service requested from the St. Joe Company additional telephus spurge survey information related to plants documented south of the Breakfast Point Mitigation Bank.
January 5, 2005	The consultant for the St. Joe Company responded with three documents that clarified survey information for the telephus spurge.
February 25, 2005	The Corps concurred with the draft BO which was delivered on February 11, 2005.

BIOLOGICAL OPINION

DESCRIPTION OF THE PROPOSED ACTION

Regional General Permit #86 (RGP-86) was cooperatively developed by several State and Federal agencies to address the cumulative effects of existing and anticipated development pressures within a fast growing region of the Florida panhandle. A public notice for the permit was published on August 29, 2003. The area addressed by the permit is approximately 47,480 acres in southwest Bay County and southeast Walton County (Figure 1, page 8). Approximately 90 percent of the property is presently in silviculture (forestry) management and is owned by the St. Joe Company. However, as recent trends near the coastline indicate, forestry is giving way to more lucrative residential and commercial development. In addition, just outside the RGP area is the location for a proposed new regional airport, which is undergoing separate review by the Federal Aviation Administration (FAA).

Wetland regulatory agencies have been inundated with permit applications in the area, particularly along U.S. Highway 98 and in the vicinity of Lake Powell. These agencies, along with other Federal and State natural resource agencies, have recognized the need to develop an ecosystem approach to reviewing these permits and assessing the adequacy of mitigation sequencing. RGP-86 provides a mechanism for addressing the cumulative effects of many potential dredge and fill permits by influencing the extent and intensity of development across the landscape. It is accompanied by a State regulatory mechanism, which is known as an Ecosystem Management Agreement (EMA) and is administered by the Florida Department of Environmental Protection (FDEP).

RGP-86 does not directly control development in the area, but it provides an incentive for landowners to participate in the watershed plan that was developed by the agencies. Landowners may continue to submit applications for routine individual permits; however, it is recognized that agency review will require more time and may not be favorable unless ecosystem benefits similar to the principles of RGP-86 can be achieved. The basic principles of RGP-86 are that a maximum 20 percent of a watershed's low quality wetlands can be impacted; these wetland impacts must be fully compensated within the larger watershed; less than one percent of high quality wetlands will be impacted and fully compensated; the Lake Powell watershed wetland functions will not be diminished by any amount; large areas of wetlands and uplands (Conservation Units) will be set aside from future development; and compensatory mitigation will be consolidated in two large mitigation banks.

One recently proposed construction project within the RGP boundary is the cause for Section 7 re-initiation. This project, known as North Glades, will be constructed within the only previously known location of a federally listed plant, telephus spurge (*Euphorbia telephioides)* within the RGP boundary. The permit applicant has indicated that impacts to some of the plants cannot be avoided. In addition, a new location for the plant has been recently discovered nearby on other property owned by the applicant. This information will be discussed in more detail in the telephus spurge section of the BO.

Conservation Measures

The interagency working group developed the following Conservation Measures that will be incorporated within RGP-86. These measures will further the recovery of the species under review.

1. A maximum of 20 percent of low quality wetlands on a project site or within a watershed sub-basin can be impacted. Impacts will be compensated in a mitigation bank, on site, or within identified Conservation Units. The interagency team defined low quality wetlands as those planted for pine silviculture and ditches.

2. Impacts to high quality wetlands (wetlands not in silviculture) will be limited to necessary, minimized road crossings. Total fill of high quality wetlands in the entire 47,480-acre project area cannot exceed 125 acres.

3. Avoidance of impacts to wetlands could assist in the recovery of the flatwoods salamander, indigo snake, bald eagle, and Godfrey's butterwort, if these areas are managed appropriately.

4. Restoration and management of two mitigation banks will secure for conservation two large, strategically placed parcels totaling approximately 7,700 acres. These banks are currently used for industrial forestry, and without RGP-86 could be partially converted to development sites in the future. The mitigation banks could assist in the recovery of the flatwoods salamander, red-cockaded woodpecker, indigo snake, bald eagle, Godfrey's butterwort, telephus spurge, Gulf sturgeon, and manatee.

5. Approximately 10,665 acres of uplands and wetlands (27 percent of the project area) will be designated as Conservation Units (CU's). These areas will be removed from development potential and industrial forestry practices. They will eventually be restored in amounts relative to parcel sizes of future development projects. The interagency working group developed specific prescriptions for wildlife management that focus on listed species. The CU's include significant amounts of uplands, which do not normally receive direct attention in wetland regulatory programs. The CU's could eventually assist in the recovery of the flatwoods salamander, red-cockaded woodpecker, indigo snake, bald eagle, Godfrey's butterwort, telephus spurge, Gulf sturgeon, and manatee.



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Figure 1

RGP Boundary Biological Opinion

West Bay to East Walton RGP

Legend

Conservation Units

- Project Area (Including Tidal Soils)
- Devil's Swamp Mitigation Bank
- Breakfast Point Mitigation Bank

Disclaimer:
This exhibit was prepared utilizing GIS data provided by various sources that may include but not limited to federal, state, district and local agencies. Data provided by other sources are not warranted by WilsonMiller for accuracy or for any particular use that may require accurate information. This map is for informational purposes only and should not be substituted for a wetland jurisdictional determination, true title search, property appraisal, survey, or for zoning verification.

Map Date:
02/04/04

0 0.5 1 2 3 4 Miles

WilsonMiller

New Directions in Planning, Design & Engineering

6. In general, low quality wetlands provide somewhat of a buffer to high quality wetlands in the project area. For specific projects, buffers to high quality wetlands will be comprised of uplands and/or low quality wetlands, and will be on average not less than 50 feet with a minimum of 30 feet in some locations. The buffers will remain in a natural condition with no application of fertilizers and herbicides. Providing buffers where they are not currently required could assist in the recovery of the flatwoods salamander, red-cockaded woodpecker, indigo snake, bald eagle, Godfrey's butterwort, telephus spurge, Gulf sturgeon, and manatee.

7. A sub-basin watershed approach to wetlands avoidance is a priority over the larger watershed approach. Protection of sub-basins should provide better protection of water quality and quantity functions. This could assist in the recovery of species such as Gulf sturgeon and manatees, which may occur in receiving water bodies.

8. Environmental Resource Permitting (ERP) stormwater attenuation standards will be applied to all development projects. This is a higher standard than currently exists in the Northwest District of the Florida Department of Environmental Protection (FDEP). The increased protection could assist in the recovery of species such as Gulf sturgeon and manatees, which may occur in receiving water bodies.

9. Corps jurisdictional determinations (JD) will be applied to all development projects. The Corps JD is generally more encompassing than the FDEP method.

10. No fill in wetlands will be allowed for septic tanks or drainfields.

11. *Habitat Management Guidelines for the Bald Eagles in the Southeast Region* (USFWS, 1987) will be applied to all development sites, mitigation banks, and CU's.

12. Road construction at WaterSound North, a proposed project under RGP-86, will include wildlife crossings as identified in the project plans dated January 30, 2004.

13. The North Glades applicant has conducted additional surveys for telephus spurge within the RGP-86 Conservation Units (CU) in Bay County, Florida, and within the Breakfast Point mitigation bank (BPMB) (Appendix I). As a result, one new population of telephus spurge containing over 200 plants was located in the Breakfast Point mitigation area and adjacent lands to the south that have no conservation designation. The portion of the population within the BPMB will be managed and monitored in conjunction with the existing management requirements within the RGP-86 permit. [US. Fish and Wildlife Service (USFWS) recovery plan tasks 1.33, 3.1, 3.2, 3.3].

14. The North Glades applicant has agreed to place 2.33 acres (containing approximately 6,825 plants) of 6.43 acres (containing approximately 17,250 plants) of the telephus spurge population of the North Glades development parcel into a conservation easement to protect and manage into perpetuity. The applicant has provided a monitoring plan for the North Glades conservation easement area to assess success of restoration activities (Appendix II). [USFWS recovery plan tasks 3.1, 3.2, 3.3].

15. The North Glades applicant has agreed to transfer 500 plants of telephus spurge to an as yet undetermined location within the BPMB. These plants would otherwise be destroyed by the proposed development plan. The applicant will set up 5 monitoring plots with 100 plants transplanted within each plot. Each plot will be quantitatively monitored for 5 years to assess their overall survival and viability (ERC, 2004). [USFWS recovery plan task 5.0].

16. All proposed project sites within the RGP will be surveyed for presence or absence of telephus spurge according to the survey protocol (Appendix III).

Action area

For purposes of the Endangered Species Act, action area is defined as all areas affected directly or indirectly by a Federal action, including interdependent and interrelated actions and proposed Conservation Measures. Although each potentially affected species will define a separate action area, the most inclusive geographic area is referenced for simplicity.

The action area for this analysis is generally described as the proposed boundary of the RGP, including the mitigation banks. Receiving waters under consideration for aquatic or water-dependent species are West Bay, Lake Powell, the intracoastal waterway, and extreme southeast Choctawhatchee Bay. Adjacent wetlands and uplands were considered where development or conservation actions could potentially affect non-aquatic species.

Determination of effects

Based on the proposed protective, avoidance, and minimization measures and the analysis provided in the BA, the Service concurs with the following determinations of effects. More detail regarding these species and potential effects of the project is found in the BA.

-Piping plover (*Charadrius melodus*) – No Effect

- Only one historical record occurs near the project. The site is not within listed critical habitat for the species. There are no direct effects to the site, and indirect effects would be difficult to measure.

-Sea turtles – No Effect

- Beachfront habitat is located near the project site at Lake Powell inlet, but not within the RGP boundary. Almost all beachfront that is not presently developed at Lake Powell is within Camp Helen State Recreation Area. Based on the project description and location, the Service concurs with the determination that no effects to sea turtles will occur as a result of the proposed action.

-Wood storks (*Mycteria americana*) – No Effect

- No documented occurrences in vicinity.

-American alligator (*Alligator mississippiensis*) – No Effect

- Alligators were listed due to similarity of appearance with crocodiles; however, the project is not located within the range of the crocodile.

-Eastern indigo snake (Drymarchon corais couperi) - No Effect

- No documented occurrences in the vicinity.

-Plants (federally listed) – Six federally listed plant species were considered in the BA. These were selected from the Service's lists of plants that have the potential to occur in Bay and Walton counties. Additional plant surveys were conducted, although they were limited considering the size of the project area and the timeframe for RGP development. No federally listed plant species were observed within the project area during the initial surveys that were conducted as part of this project; however, subsequent surveys verified and expanded known locations of one plant, telephus spurge, in the project area.

1. Cooley's meadow rue (*Thalictrum cooleyi*) – No Effect
   - Only one known population of Cooley's meadow rue occurs in Florida, and it appears that suitable soils may not be present in the project area. This species does not tolerate disturbance, and most impacts of the permit would be in areas that are highly disturbed.

2. Crystal Lake nailwort (*Paronychia chartacea* ssp. *minima)* – No Effect
   - There are no recorded observations of this species within the project area; there is no suitable habitat (sandhill upland lakes and karst ponds); and the known species range is well northeast of the project area.

3. Florida skullcap (*Scutellaria floridana*) – No Effect
   - There are no recorded observations of this species within the project area. The only known record in Bay County occurs approximately 17 miles from the project, and all other records in its range are in counties even farther to the east. This species does not tolerate disturbance, and most impacts of the permit would be in areas that are highly disturbed.

4. White birds-in-a-nest (*Macbridea alba*) – No Effect
   - Within the project area, potentially suitable habitat for white birds-in-a-nest may be present in cleared or recently planted areas, in roadside ditches, or along the edges of pine plantations. However, this species has not been observed in the project area, and the nearest observations are in eastern Bay County in the vicinity of Sandy Creek and East Bay, approximately 17 miles from the project site.

5. Godfrey's butterwort (*Pinguicula ionantha*) – May Affect, Not Likely to Adversely Affect
    - There are no recorded observations of this species within the project area, but there are records in the vicinity to the southeast of the project. Suitable habitat may be present in small pockets within pine plantations that could be affected by the developments within the project area. The species could also be found in herbaceous ecotones of the more high quality wetlands that will be protected. Beneficial effects of the project include the following: protection of high quality wetlands and high quality ecotone habitat that may be adjacent to them; establishment of buffers around preserved wetlands; and protection of uplands and wetlands within conservation units and two mitigation banks. Without RGP-86, most of the suitable habitat would continue to be negatively affected by intense silviculture.

6. Telephus spurge (*Euphorbia telephioides*) - Likely to Adversely Affect
    - The Service concurs with the determination for this species.

-Manatees (*Trichechus manatus latirostris*) – May Affect, Not Likely to Adversely Affect
    - There are few documented records of occurrence in the action area. The species is considered transitory in this area.

    - Project could indirectly affect seagrass through hydrologic alterations and increased sediment, nutrient, and chemical loading. However, effects are expected to be of a scale that will not measurably alter the system's ecological balance due to the expanse of the receiving waterbody. Conservation Measures address water quality issues to the extent currently practicable by adopting ERP stormwater criteria.

    - Note that the manatee key also leads to a May Affect, Not Likely to Adversely Affect determination, even though the project is not located in Section 10 waters. This determination is based on the fact that the potential indirect effects related to water quality are insignificant in consideration of the large geographic area covered by RGP-86, including extensive shoreline areas.

-Gulf sturgeon (*Acipenser oxyrinchus desotoi*) – May Affect, Not Likely to Adversely Affect
    - The project could indirectly affect Gulf sturgeon habitat due to increased stormwater associated with development. The Service received concurrence from National Marine Fisheries Service (NMFS) that we should be the lead agency in this case because potential impacts are related to water quality (Bolton, August 2003). NMFS would be the lead agency only if there were proposed direct impacts to sturgeon habitat. There are few documented records of species occurrences in West Bay, where the species is transitory. Critical habitat is located near the action area in Choctawhatchee Bay; however, only a small portion of the Choctawhatchee Bay watershed occurs in the action area. Indirect

effects are expected to be of a scale that will not measurably alter the system's ecological balance due to the expanse of the receiving waterbody and the Conservation Measures provided that address water quality issues to the extent currently practicable. These measures are described in the BA. Furthermore, the influence of these hydrologic alterations and increased sediment, nutrient, and chemical loadings would be minor in comparison to large influence of nutrient and sediment inputs currently stemming from the Choctawhatchee River. However, if measurable impacts on any of the primary constituent elements essential for the conservation of the Gulf sturgeon are documented, re-initiation of consultation with the Service should occur. The primary constituent elements are those habitat components that support feeding, resting, sheltering, reproduction, migration, and physical features necessary for maintaining the natural processes that support these habitat components. Relevant to this project, any impacts that alter the abundance of prey items, disrupt aggregation areas, decrease water quality, or increase sediment quality would potentially affect the Gulf sturgeon. The added stormwater provisions of RGP-86 minimize adverse effects.

-Red-cockaded woodpeckers (*Picoides boralis*) – May Affect, Not Likely to Adversely Affect

- The action area has been surveyed on numerous occasions. No active cavities were recorded, including an evaluation of two historical cavity trees within the action area. Almost all upland habitats have been converted to silviculture, and most remaining unplanted wetlands are cypress/bayhead communities with dense shrub and mid-story layers. Wildlife surveys for projects will be conducted as they come into the planning stages. If active cavities are found, the landowner will notify the Corps, which will re-initiate consultation with the Service. Additional information on re-initiation is provided in the Re-initiation Notice of this BO.

-Bald eagles (Haliaeetus leicocephalus) – May Affect, Not Likely to Adversely Affect

- One documented bald eagle nest is located in the action area. The nest is located within the proposed Breakfast Point mitigation bank. The management plan for the bank incorporates the *Habitat Management Guidelines for the Bald Eagles in the Southeast Region* (USFWS, 1987). Other areas have been surveyed, but will be surveyed again when each proposed large project goes into the planning stages. If new nests are found, the *Habitat Management Guidelines for Bald Eagles* will be incorporated into the project. If the guidelines cannot be implemented, initiation of consultation for the bald eagle may be required.

-Flatwoods salamander (*Ambystoma cingulatum*) – Likely to Adversely Affect

- The Service concurs with the determination for this species.

Based on the information provided in the project BA and supplemental information, and with the implementation of the protective, avoidance, and minimization measures, we concur that

RGP-86 would likely adversely affect telephus spurge and flatwoods salamanders. These two species will be addressed further in the biological opinion.

FLATWOODS SALAMANDER

STATUS OF THE SPECIES/CRITICAL HABITAT

This section summarizes the biology and ecology of the flatwoods salamander. The Service uses this information to assess whether a Federal action is likely to jeopardize the continued existence of this species. The Environmental Baseline section summarizes information on status and trends of the species specifically within the action area. These summaries provide the foundation for the Service's assessment of the effects of the proposed action, as presented in the Effects of Action section, and to make the Conservation Recommendations listed at the end of this opinion.

The flatwoods salamander (*Ambystoma cingulatum*) is listed as a threatened species under the authority of the Endangered Species Act of 1973, as amended (Act). The flatwoods salamander was designated as threatened in the Federal Register, April 1, 1999 (64 FR 15691), and became effective on May 3, 1999. No critical habitat has been designated for this species. Recovery planning is underway, but no recovery plan has been adopted.

Species description

The flatwoods salamander is a slender, small-headed mole salamander that is seldom greater than 5 inches in length. Adult dorsal color ranges from black to chocolate-black with highly variable, fine, light gray lines forming a net-like or cross-banded pattern across the back. Undersurface is plain gray to black with a few creamy or pearl gray blotches or spots. Flatwoods salamander larvae are long and slender, broad-headed and bushy-gilled, with white bellies and striped sides (Ashton, 1992; Palis, 1995). Flatwoods salamanders are known to occur in isolated populations across the lower southeastern Coastal Plain, with the majority of the remaining known populations located in Florida.

Life history

Adult and sub-adult flatwoods salamanders live in underground burrows. Adult flatwoods salamanders move above ground to their wetland breeding sites during rainy weather, in association with cold fronts, from October to December (Palis, 1997). Typical breeding sites are isolated pond cypress (*Taxodium ascendens*), blackgum (*Nyssa sylvatica* var. *biflora*), or slash pine (*Pinus elliottii*) dominated depressions which dry completely on a cyclic basis. They are generally shallow and relatively small, and have a marsh-like appearance with sedges often growing throughout, and wiregrass (*Aristida* sp.), panic grasses (*Panicum* spp.), and other herbaceous species concentrated in the shallow water edges. After breeding, adult flatwoods salamanders leave the pond.

Optimum adult habitat for the flatwoods salamander is an open, mesic (moderate moisture) woodland of longleaf/slash pine (*Pinus palustris/P. elliottii*) flatwoods maintained by frequent fires, with a dominant ground cover of wiregrass (*Aristida spp.*). The ground cover supports a rich herbivorous invertebrate community that serves as a food source for the species (64 FR 15692).

In a study by Ashton (1992), flatwoods salamanders were found greater than 1,859 yards from their breeding pond. However, based on more recent data (Semlitsch, 1998) and additional peer review, the final listing rule recommends a 1,476-feet "buffer" around breeding ponds to protect the majority of a flatwoods salamander population from the adverse effect of certain specified, silvicultural practices. This buffer extends 1,476 feet out from the wetland edge.

Since they may disperse long distances from their breeding ponds to upland sites, desiccation can be a limiting factor. Thus, it is important that areas connecting their wetland and terrestrial habitats are conserved in order to provide cover and appropriate moisture regimes during their migration. High quality habitat for the flatwoods salamander includes a number of isolated wetland breeding sites within a fire maintained landscape of longleaf pine/slash pine flatwoods having an abundant herbaceous ground cover (Sekerak, 1994). In Florida, Palis (1997) found that 70 percent of the active breeding sites were surrounded by second-growth longleaf or slash pine flatwoods with nearly undisturbed wiregrass ground cover.

Population dynamics

A flatwoods salamander population has been defined as those salamanders using breeding sites within 2 miles of each other, barring an impassable barrier such as a perennial stream (Palis, 1997). Since temporary ponds are not likely permanent fixtures of the landscape due to succession, there would be inevitable extinctions of local populations (Semlitsch, 1998). By maintaining a mosaic of ponds with varying hydrologies, and by providing terrestrial habitats for adult life stages and colonization corridors, some prevention of local population extinction can be achieved. A mosaic of ponds would ensure that appropriate breeding conditions would be achieved under different climate regimes. Colonization corridors would allow movement of salamanders to new breeding sites or previously occupied ones (Semlitsch, 1998).

Fire is needed to maintain the natural pine flatwoods community. The disruption of the natural fire cycle has led to an increase of slash pine on areas previously dominated by longleaf pine, increases in hardwood understory and canopy, and subsequent decreases in herbaceous ground cover (64 FR 15701). Isolated ponds that are surrounded with pine plantations and are protected from fire may become unsuitable breeding sites for the flatwoods salamander. This is a result of canopy closure and the reduction in herbaceous vegetation necessary for egg deposition and larval development (Palis, 1993).

Status and distribution

Historical records for the flatwoods salamanders in its range are limited. Longleaf pine/slash pine flatwoods historically occurred in a broad band across the lower southeastern Coastal Plain. The flatwoods salamander likely occurred in appropriate habitat throughout this area (64 FR

15691). Range-wide surveys in Alabama, Florida, Georgia, and South Carolina have been ongoing since 1990 in an effort to locate new populations. Most surveys were searches for the presence of larvae in the grassy edges of ponds.

The combined data from the surveys completed since 1990 indicate that 59 populations of flatwoods salamanders are known from across the historical range. Most of these occur in Florida (47 populations or 80 percent). Eight populations have been found in Georgia, four in South Carolina, and none have been found in Alabama. Some of these populations are inferred from the capture of a single individual. Slightly more than half the known populations for the flatwoods salamander occur on public land (40 of 59, or 68 percent).

ENVIRONMENTAL BASELINE

Status of the species within the action area

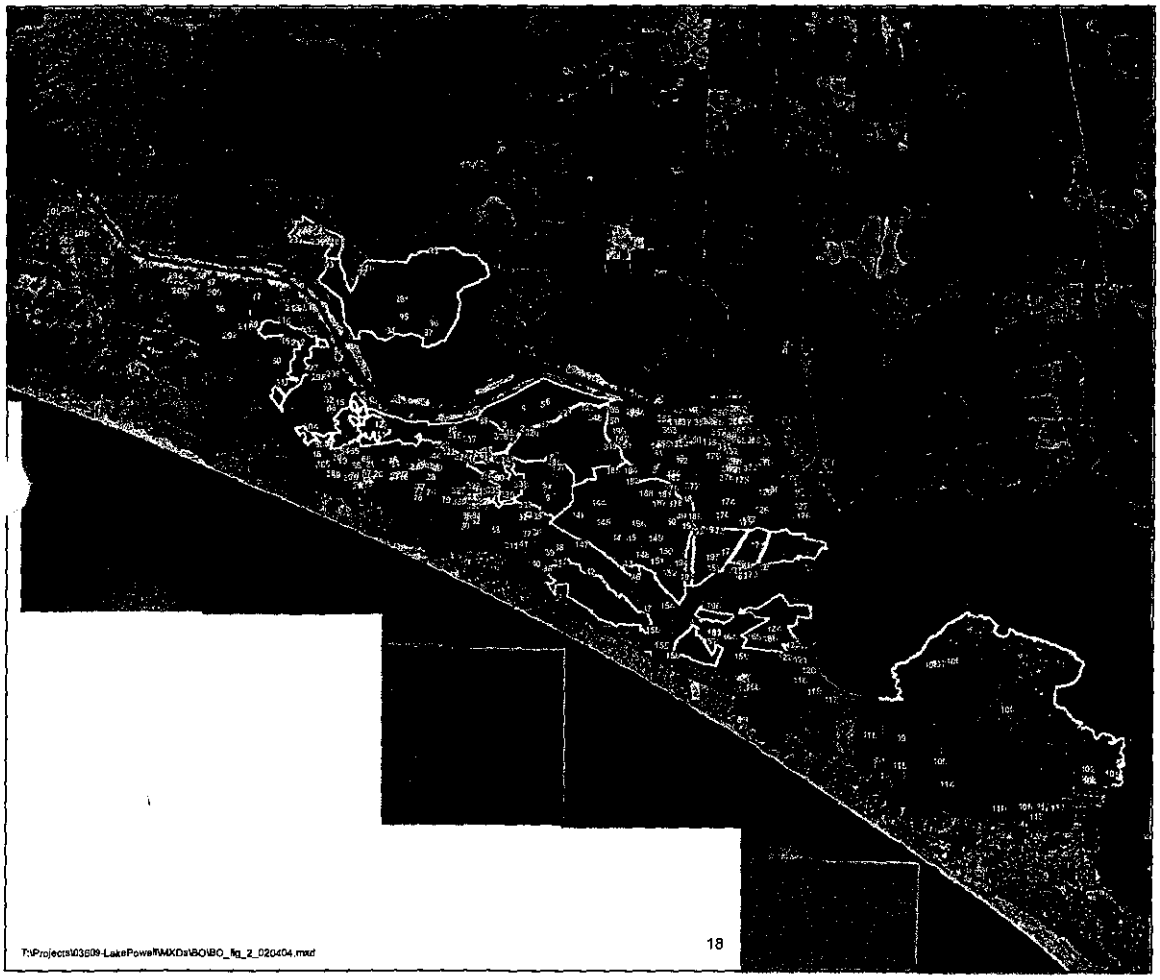
Historical data on flatwoods salamanders in the action area is limited. Most of the area is privately owned and has been intensively managed for silviculture for many years. Little remains of the natural terrestrial landscape. Almost all uplands and most wetlands were converted to pine plantations with site preparation that included clearcutting, roller chopping, herbicide application, and bedding. In addition, pine flatwoods are not considered wetlands under State of Florida best management practices for silviculture; therefore, this habitat type receives no special consideration when converted and managed for industrial forestry.

There are no documented occurrences of flatwoods salamanders in Bay County and only one recent record in Walton County. The Walton County record is for one individual at one location in Point Washington State Forest, which is adjacent to the RGP-86 boundary but separated to a great extent by a four-lane highway. One large parcel of the State Forest bisects the RGP area at the western end, and other parcels are adjacent to the RGP boundary north of the highway in that vicinity. The known record for the flatwoods salamander at the State Forest is located south of the four-lane highway. Further field investigations were recommended for the RGP area due to the proximity to the known location and the absence of surveys across this vast expanse of private lands in the project area. There is also one other known occurrence approximately seven miles north of the project area in Pine Log State Forest in Washington County.

The St. Joe Company (St. Joe) owns the majority of lands in the action area. St. Joe has received assistance from the Service in recent years in an effort to develop a habitat suitability model for flatwoods salamanders. Such a model would provide useful information for salamander management and recovery, particularly in the Florida panhandle where St. Joe has much of its lands. Unusually dry conditions in recent years delayed progress on the model, but a fair amount of background data collection was conducted in the project area. The area also has been visited on several occasions by one of the foremost flatwoods salamander experts, John Palis. Mr. Palis was first contracted by St. Joe to visit the project area on March 8, 2000. This cursory visit identified potential habitat and that "flatwoods salamanders may occur at this site" (Palis, 2000). Subsequent field inspections were conducted by John Palis in the action area related to the habitat model and to Camp Creek Golf Course Phase II.

Mr. Palis was again contracted to evaluate potential flatwoods salamander habitat specifically in the RGP area. Details of his survey methods are described in the biological assessment. Approximately 300 potential sites were initially selected using aerial photography and GIS data. These sites were throughout the RGP area, not just on St. Joe Company lands (Figure 2, page 18). Upon further review of high resolution photography, historical photography, and soils maps, Palis selected 83 of the 300 sites "that merited a field visit to determine their potential as flatwoods salamander habitat" (WilsonMiller, 2003) (Figure 3, page 19). A team including Palis, the applicant, and consultants for the applicant inspected these sites, and any others that were noted in the field. Each site that was deemed to have at least a "small potential" for suitable habitat was re-visited by Palis. The final analysis concluded that only nine wetlands appeared to be suitable habitat (Figure 4, page 20).

There is no set protocol at this time for providing reasonable assurance that salamanders do not occur at a particular location. However, the consensus among herpetologists is that a reasonable effort would consist of drift fence surveys surrounding a potential breeding pond to be conducted in two consecutive "normal" weather years. There has not been an opportunity to adequately survey for the presence or absence of flatwoods salamanders in any of the potentially suitable habitats due to a recent drought. However, based on the remote sensing analysis, site inspections, and the proximity to at least two known locations, the Corps and the St. Joe Company have agreed to presume presence of flatwoods salamanders at the nine potential locations. This appears to be a reasonable approach given the size of the project area and the limited time frame to conduct surveys. Positive results from any future surveys would require re-initiation of Section 7 consultation if there is a potential to affect suitable habitat not addressed in the incidental take section of this opinion.



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Figure 2

300+ Sites Selected for Analysis Biological Opinion

West Bay to East Walton RGP

Legend

Conservation Units
- RGP Area (including Tidal Soils)
- Devil's Swamp Mitigation Bank
- Breakfast Point Mitigation Bank

● Ponds Reviewed Prior to Field Surveys for Potential Flatwoods Salamander Habitat

203 Pond Identification Number

Disclaimer:
This exhibit was prepared utilizing GIS data provided by various sources that may include but not limited to federal, state, district and local agencies. Data provided by other sources are not warranted by WilsonMiller for accuracy or for any particular use that may require accurate information. This map is for informational purposes only and should not be substituted for a wetland jurisdictional determination, true title search, property appraisal, survey, or for zoning verification.

Map Date:
02/04/04

N

0 0.5 1 2 3 4 Miles

WilsonMiller
New Directions in Planning, Design & Engineering



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Figure 3

83 Sites Selected from 300+

West Bay to East Walton RGP

Legend

- Conservation Units
- RGP Area (including Tidal Soils)
- Devil's Swamp Mitigation Bank
- Breakfast Point Mitigation Bank
- Ponds Surveyed for Potential Flatwoods Salamander Habitat
- 203 Pond Identification

Disclaimer:
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Map Date:
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New Directions in Planning, Design & Engineering



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Figure 4

Nine Potential Salamander Locations

West Bay to East Walton RGP

Legend

Conservation Units
- GP Area (Including Tidal Soils)
- Devils Swamp
- Breakfast Point

- Ponds Considered Potential Habitat Based on Field Survey Results
- 46 Pond Identification

Disclaimer:
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Map Date:
02/04/04

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WilsonMiller

New Directions in Planning, Design & Engineering

Factors affecting species environment within the action area

West Bay Sector Plan - Bay County officials recently conducted a special planning effort for a portion of the RGP and additional adjacent areas totaling approximately 75,000 acres. The "West Bay Sector Plan" identifies potential development and conservation strategies for the area, and is predicated on re-location of the Panama City/Bay County International Airport. Although the Sector Plan may encourage and accelerate development, it could reduce adverse effects in comparison to existing land use regulations. There are no known flatwoods salamander records within the sector planning area. Potential habitat occurs in a proposed sector conservation area that coincides with the Breakfast Point mitigation bank. It is likely that other habitat could be found in the approximately 30,000 acres identified as the West Bay Preservation Area.

Camp Creek Golf Course, Medallist, and Highway 98 - These three projects are within the RGP boundary. Each project required Corps permits and formal consultations for flatwoods salamanders. Similar to the approach agreed upon for the RGP, each project area was presumed to have salamanders based on the presence of suitable habitat and the proximity to known locations. The amount of presumed take from these three projects totals 606 acres of buffer habitat. There was no direct take of breeding pond habitat.

Public Lands - Point Washington State Forest occurs within the RGP boundary. There is one known location of a flatwoods salamander breeding pond in the forest, but it is a considerable distance from any potential development that could occur in the RGP. The forest is actively managed in a manner that should improve salamander populations. Pine Log State Forest is in proximity to the RGP boundary, but not located within the project area. As with Point Washington, there is one documented occurrence of flatwoods salamanders, and the forest is managed to improve habitat for the species. The Northwest Florida Water Management District (WMD) also owns large parcels adjacent to the project area. There are no known occurrences of flatwoods salamanders on WMD land, but there is good potential that active management will improve habitat. The RGP conservation units blend with the State forest and WMD lands to provide an opportunity for habitat improvement and connectivity across a large area of Bay and Walton counties.

EFFECTS OF THE ACTION

RGP-86 is designed to manage the cumulative effects of numerous potential Section 404 dredge and fill permits. The RGP guides development to specific areas allowing no more than 20 percent of low quality silviculture wetlands to be impacted within each sub-watershed in the RGP area. More than 99 percent of high quality, unplanted wetlands will remain. Two mitigation banks of 7,700 acres will compensate for the loss of wetland functional values to both low and high quality wetlands. Conservation units of 13,200 acres will be removed from development potential as a condition of the permit, but will be encumbered by conservation easements concurrently as future development projects receive permit authorization. The conservation units and mitigation banks establish large, contiguous blocks of manageable lands, wildlife corridors, and provide for reduction of potential stormwater and hydrological impacts. Effects of the project on salamander habitat are based on two important premises: 1) best available methods were used to identify potential habitat, and 2) presence of salamanders is presumed for these areas although none have been documented.

Direct effects

The BA identifies specific direct effects of the project to include development projects within two potential habitats identified as Ponds 64 and 46. Pond 64 is the only potential breeding habitat that is not located within a conservation unit or one of the two mitigation banks. Pond 46 was added to a conservation unit following its discovery and evaluation; however, some of the surrounding buffer habitat of Pond 46 falls outside the conservation unit and is therefore subject to future development plans. All other identified suitable habitat, including buffers, is located either within a conservation unit or a mitigation bank. Direct effects could occur in other locations if suitable habitat is discovered at a later time; however, this situation would constitute new information that would trigger re-initiation of consultation.

The BA describes the method by which John Palis and the consultants quantified the amount of suitable habitat that could be affected at Ponds 64 and 46. This is based on a draft project design for a residential/golf course development adjacent to Pond 64 and presumed future development within suitable buffer habitat of Pond 46 that is outside the conservation unit. The BA indicates that approximately 57 acres of fair to fairly good buffer habitat will be affected at Pond 64. Approximately 53.6 acres of potential buffer habitat will be affected at Pond 46.

Management of the conservation units and the mitigation banks should ultimately benefit flatwoods salamander habitat. The conservation units will be managed according to *Principles for Forest and Wildlife Management for Conservation Units Within the Regional General Permit Area* that is part of RGP-86. The banks will be managed according to their mitigation banking instruments. The ultimate goal in both conservation units and banks is to restore the habitat to historical natural condition.

Indirect effects

Flatwoods salamanders are thought to be sensitive to soil and groundcover disturbing activities, especially when that disturbance creates an impediment to movement from upland habitat to the ephemeral wetlands they use for breeding and larval development. Soil disturbance can also result in potential sedimentation and erosion affecting nearby wetlands habitat. However, construction that could occur within proximity to suitable habitat is limited by the boundaries of the conservation units and mitigation banks and by the proposed buffers. In addition, a proposed road near Pond 64 has been re-designed to include underpasses for reptiles, amphibians, and small mammals. This would maintain a connection between the pond and an area to the north that will be placed in a conservation easement within the development and which connects to a large conservation unit.

CUMULATIVE EFFECTS

Cumulative effects include the effects of future State, tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed project are not considered in this opinion because they require separate consultation pursuant to section 7 of the Endangered Species Act.

RGP-86 was specifically designed through 3 years of interagency coordination to address cumulative effects that could be expected from increased development pressure in the area. The Service has evaluated numerous development projects in the area in recent years, and has conducted formal consultation for flatwoods salamanders for three of these projects. The general permit provides a more coordinated ecosystem approach for implementation of the current dredge and fill program in the area. The cooperation of the largest landowner in the area has been instrumental in the process. Additional evaluation of flatwoods salamander habitat will occur on a project-by-project basis using the procedures described in Appendix IV.

CONCLUSION

After reviewing the current status of the flatwoods salamander, the environmental baseline for the RGP-86 action area, the effects of the proposed activities, proposed protective, avoidance, and minimization measures, and the cumulative effects, it is the Service's biological opinion that the project, as proposed, is not likely to jeopardize the continued existence of the flatwoods salamander. Within the RGP project area, nine wetlands were identified as potential suitable habitat for the flatwoods salamander. No known breeding habitat for flatwoods salamander will be affected. As conditions of issuing the permit for the project, mitigation banks totaling 7,692 acres will be established to compensate for loss of wetland values and conservation units totaling 13,200 acres will be removed from development potential. Seven of the nine potential flatwoods salamander ponds are located completely within a conservation unit or mitigation bank. Of the two ponds not included, only one is completely outside a conservation unit or mitigation bank. The combined acreage of affected buffer habitat in both ponds totals 110.6 acres. This acreage, which has been established as the amount of take for the affected potentially occupied habitat, is

very small when compared to the amount of suitable upland and wetland habitat (18,357 acres) that will be restored and managed in perpetuity within the conservation units and mitigation banks. Loss of 110.6 acres of potential suitable habitat will not appreciably reduce the survival and recovery of the flatwoods salamander. No potential breeding pond habitat will be affected. Less than 2.4 percent of the buffer habitat surrounding these ponds will be taken. The RGP project area will allow for protection and expansion of populations if any are eventually located at the site. The existing and future land uses without the RGP (silviculture and haphazard development) would be more of a threat to recovery of the species than issuance of the permit. No critical habitat has been designated for the flatwoods salamander; therefore, none would be affected.

There are approximately 160 ponds in Florida with a conservative estimate of 376,000 acres of pond and buffer habitat in the State (average 5-acre pond size plus 1,476-ft. buffer). Therefore, the amount of take could be viewed as 0.0003 of the amount of known habitat in the State of Florida. As a reminder, it should be pointed out that all effects are for habitat that is **presumed** to support flatwoods salamanders, and that a majority of the buffer habitat around the two affected ponds will remain and be improved.

INCIDENTAL TAKE STATEMENT

Section 9 of the Endangered Species Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered or threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harm is further defined by the Service to include major habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by the Service as intentional or negligent actions that create the likelihood of injury to listed species to such an extent as to noticeably disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited under the Act provided that such taking is in compliance with the Terms and Conditions of this incidental take statement.

The measures described below are non-discretionary, and must be implemented by the Corps of Engineers for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity covered by this incidental take statement. If the Corps (1) fails to assume and assure implementation of the Terms and Conditions, or (2) fails to require applicants to adhere to the Terms and Conditions of the incidental take statement through enforceable terms, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the Corps must report the progress of the project and its impacts on the species to the Service as specified in the incidental take statement [50 CFR §402.14(I)(3)].

Amount or extent of take

The Service has determined that incidental take of individual flatwoods salamanders is difficult to detect for the following reasons: (1) adult flatwoods salamanders are difficult to locate and observe. Individuals killed during construction would likely be buried under dirt and debris, and/or, (2) losses may be masked by natural fluctuations in numbers of individuals. Although mortality of individuals is difficult to document, the level of take of this species was determined as follows: An estimated 110.6 acres of potential buffer habitat is presumed to be taken by development activities allowed under RGP-86.

Effect of the take

In the accompanying biological opinion, the Service determined that the level of anticipated take is not likely to result in jeopardy to the species. The amount of take is for **presumed occupied** habitat and is small when compared to potential habitat that will remain in conservation units and mitigation banks, both of which will eventually be restored to more suitable habitat and managed in perpetuity. The amount of take is also for buffer habitat only; no take is given for potential breeding ponds themselves. No critical habitat has been designated for the flatwoods salamander; therefore none will be affected.

Reasonable and prudent measures

The Service believes the following reasonable and prudent measures (RPMs) are necessary and appropriate to minimize take of flatwoods salamanders.

1. All applicants for development projects will receive information about flatwoods salamander habitat.

2. Future development proposals will include a verification that the ponds on the site have been evaluated for their suitability as flatwoods salamander breeding ponds, as described in the Terms and Conditions.

3. Future owners of the conservation units will receive information about the flatwoods salamander Conservation Measures of RGP-86.

Terms and conditions

In order to be exempt from the prohibitions of section 9 of the Endangered Species Act, the Corps and applicants for RGP-86 must comply with the following Terms and Conditions, which implement the reasonable and prudent measures, described above. These Terms and Conditions are non-discretionary.

1. The Conservation Measures as described in the BA and in the proposed action section of this BO will be implemented.

2. The 5-year review and renewal process will provide an evaluation of salamander effects and conservation.

3. As part of the pre-application process for RGP-86, project sites will be assessed using the *Flatwoods Salamander Pre-Application Evaluation* (Appendix IV). This requirement is addressed in Special Condition 19.a (8) of the permit.

4. As Special Condition 13.d of RGP-86, sale or transfer of conservation units requires that a copy of RGP-86 and this biological opinion be provided to the new owner.

CONSERVATION RECOMMENDATIONS FOR FLATWOODS SALAMANDERS

Section 7(a)(1) of the Endangered Species Act (Act) directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. The following conservation recommendations will be implemented if possible:

1. The Corps recognizes that a joint effort is underway to develop a predictive model to determine habitat suitability for flatwoods salamander. The research to develop the model has been ongoing for 2 years and requires another year for completion. To the extent it is available for use, the Corps and the St. Joe Company should apply the model to the project area.

2. The Corps and the St. Joe Company should participate in conservation planning for telephus spurge in the RGP action area.

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

TELEPHUS SPURGE

STATUS OF THE SPECIES/CRITICAL HABITAT

This section summarizes the biology and ecology of telephus spurge. The Service uses this information to assess whether a Federal action is likely to jeopardize the continued existence of the species. The Environmental Baseline summarizes information on status and trends of the species specifically within the action area. These summaries provide a foundation for the Service's assessment of the effects of the proposed action, as presented in the Effects of Action section, and to make the Conservation Recommendations listed at the end of this opinion.

Telephus spurge was listed as a threatened species under the authority of the Endangered Species Act of 1973, as amended (Act). The telephus spurge was designated as threatened in the Federal Register, May 8, 1992 (57 FR 19813-19819) and became effective on June 8, 1992. No critical habitat has been designated for this species. This species is endemic to Bay, Franklin, and Gulf counties, Florida. It is threatened by habitat degradation due to conversion of habitat to pine plantations with accompanying mechanical destruction and eventual shading, as well as real estate development within its habitat. Use of herbicides within powerline right-of-ways may also adversely affect telephus spurge. A recovery plan was approved on June 22, 1994 (USFWS 1994).

Species description

Telephus spurge is a perennial herb with a stout storage root and numerous, erect stems to 1 foot tall. Stems and leaves are smooth and fleshy with milky sap. The leaves are alternate, 1-2 inches long, without leaf stalks, obovate to oblanceolate, usually over 1 cm wide at the widest part, with maroon midribs and margins. The species flowers from April through July with flowers that are reddish-green cyanthia (cup-like structures). It produces one female flower and several male flowers on short stalks, surrounded by 4-5 minute, petal-like glands. The fruit is a 3-lobed capsule. Naturally occurring telephus spurge is found in a variety of habitat types including pine savannas and wet prairies to sandhills, scrubby and mesic flatwoods, and coastal scrub on low sand ridges within 4 miles of the Gulf of Mexico (Chafin 2000, WilsonMiller 2004). Biologists from Florida Natural Areas Inventory (FNAI) and WilsonMiller have documented populations of telephus spurge persisting under powerlines, pine plantations, and remnant pine flatwoods and coastal scrub (WilsonMiller 2004). Botanists at Historic Bok Sanctuary have had minimal success with greenhouse propagation by transplanting individual plants (Cheryl Peterson, personal communication, September 21, 2004).

Status and distribution

When the USFWS listed telephus spurge, there were 22 known locations of this species. Since listing, the number of known extant telephus spurge locations increased from 22 to approximately 42 known locations due to additional survey work (Moranz, et.al., 2001; ERC 2004). However, several locations may now be extirpated.

There are currently 41 occurrences of telephus spurge documented in the Florida Natural Areas Inventory database (Sept 2004). Thirty sites (FNAI 1, 3, 4, 6, 10-19, 23-25, 27-34, 36-39, 41) are concentrated in a 28 square mile area east and south of the town of Port St. Joe in Gulf County; however, FNAI 1, 10, and 17 are believed to be extirpated. Outside the main concentration area, three sites (FNAI 7, 8, and 9) are found 40 miles west in Bay County. FNAI 9 is believed extirpated also. Two sites (FNAI 26, 35) were documented 20 miles east in Franklin County but are both now believed extirpated due to development. Six sites (FNAI 2, 5, 20, 21, 22, 40) were scattered to the east of the main concentration, but FNAI 2 is now believed to be extirpated. Twelve occurrences (FNAI 3, 18, 24, 25, 28, 29, 30, 31, 32, 33, 36, and 41) within the main area of concentration are protected on the St. Joseph State Buffer Preserve

(SJBP). The SJBP sites range mostly from 3-30 in plant numbers with a few ranging from 30-100 and one with numbers in the 1000's. The remaining sites are on private lands with most having from 0-50 plants, a few having 50-300 plants, and 4 sites having plant numbers in the 1000's. Plant numbers from most sites in the 2001 survey have been reduced compared to 1988 survey data. This is attributed mostly to conversion to pine plantations or development as well as the exclusion of fire. No plants were found at seven sites during recent surveys, but it is difficult to say whether the plants are actually extirpated or were simply not visible due to the absence of recent fire or other disturbance.

Appropriate management is occurring on the SJBP and has created a positive stimulus for telephus spurge. Cursory surveys from a recent site visit (August 2004) by USFWS biologists as well as discussions with staff from SJBP lead us to believe that the SJBP houses the largest and best managed populations of telephus spurge to date.

The telephus spurge occurrence records in the proposed North Glades project area are documented as FNAI 7 and 8. Originally located in 1988, surveyors documented approximately 200 plants at each site. Upon more specific surveys, the applicant's contractors located approximately 17,250 plants within a 6.43 acre area. Based on individual plant count data, this is the second largest population documented to date and is located in the western most extent of the species range since FNAI 9 is believed extirpated.

The North Glades applicant has conducted additional surveys within the RGP-86 Conservation Units in Bay County, Florida, and within the BPMB. As a result, one new population of telephus spurge containing over 200 plants was located in the BPMB and on adjacent lands that have no conservation designation. These 200 plants within BPMP will be managed and monitored in conjunction with the existing management requirements of the RGP-86 permit. We refer to this site as FNAI 42, the designation it will be given once data is entered.

The Service's recovery plan for telephus spurge states a goal of 15 populations of telephus spurge that are distributed throughout the species' historical range and that are adequately managed and protected before the species can be delisted (USFWS 1994). To apply this criterion, we would have to determine how many populations exist. The number of occurrences is greater than the number of populations because more than one occurrence may be part of the same population. We estimate that St. Joe Buffer Preserve's 12 locations equate to 3 populations. Bay County sites located on Panama City Beach (FNAI 7 and 8) are one population, and FNAI 42 will be a separate population (once there is a complete build out within the RGP-86 permitted area). Due to the extensive area covered by the RGP-86 permit and associated mitigation bank areas, not all suitable habitat has been surveyed throughout the RGP-86 area nor the mitigation bank areas, but the potential for locating additional telephus spurge sites seems fairly high.

ENVIRONMENTAL BASELINE

Under Section 7(a)(2) of the Act, when considering the effects of the action on federally listed species, we are required to take into consideration the environmental baseline. The

environmental baseline includes past and ongoing natural factors and past and present impacts from all Federal, State, or private actions and other activities in the action area (50 CFR 402.02), including Federal actions in the area that have already undergone Section 7 consultation and the impacts from State and private actions that are contemporaneous with the consultation in progress.

Status of the Species Within the Action Area

This revision of the original BO focuses specifically on the North Glades development. The original BO identified several federally listed species known or presumed to occur within the project boundary. At the time it was determined that plant surveys within the RGP-86 project area were limited considering the size of the project area. A conservation measure incorporated into the permit stipulated that all impacts to telephus spurge would be avoided and that consultation would be re-initiated if impacts could be avoided. Since completion of the original BO, additional surveys for telephus spurge have occurred within the RGP-86 permit boundaries. This resulted in the location of one additional site of telephus spurge referred to above as FNAI 42. Also during that time, a landowner proposed the North Glades development project that would impact telephus spurge at FNAI 7 and 8. Upon realization that the North Glades development would adversely impact the telephus spurge, the Corps re-initiated consultation with the Service and will continue to do so should additional sites containing telephus spurge be located and impacted by future development plans within the RGP-86 permit area.

The proposed North Glades project area consists of 66.96 acres. Of this, 6.43 acres contains approximately 17,250 telephus spurge plants. The applicant estimates that 4.10 acres and approximately 10,425 plants will be adversely impacted by the proposed development. The remaining 2.33 acres with approximately 6,825 plants will be managed and conserved through a perpetual conservation easement. It is unlikely that if the population were left without management in its current location that it would persist over time due to habitat loss and degradation. There are no other Federal actions ongoing or proposed for the action area at the present time.

Factors Affecting Species Environment Within the Action Area

This analysis describes factors affecting the environment of the species in the action area. The baseline includes State, local, Tribal, and private actions within the action area already affecting the species or that will occur contemporaneously with the proposed action and would affect the environment of the telephus spurge. Unrelated Federal actions affecting the telephus spurge that have completed formal or informal consultation are also part of the environmental baseline, as are Federal and other actions within the action area that benefit the telephus spurge.

RGP-86 was cooperatively developed by several State and Federal agencies to address the cumulative effects of existing and anticipated development pressures within a fast growing region of the Florida panhandle. The area addressed by the permit is approximately 47,480 acres in southwest Bay County and southeast Walton County. Approximately 90 percent of the property is presently in silviculture (forestry) management and is owned by the St. Joe Company.

Current forestry practices are now giving way to more lucrative residential and commercial developments for which the RGP-86 permit was intended.

Several development projects have occurred or are proposed in the vicinity of telephus spurge sites FNAI 7 and 8. These include Hombre Golf Club, Wingate Motel, Bay Medical Center, Sonny's Bar-B-Q, Beckrich Office Complex, "Alf Coleman," Highlands West, and Home Depot. One of these sites, Wingate Motel, is known to have telephus spurge that will likely be impacted by the proposed project. Another project, Home Depot, was recently completed prior to telephus spurge being documented on the periphery. It is likely that plants were destroyed by the construction of businesses and access roads associated with Home Depot.

Within the RGP area, approximately 10,665 acres of uplands and wetlands will be designated as Conservation Units. These areas will be removed from development potential and industrial forestry practices. They will eventually be restored in accordance with specific prescriptions for wildlife management that focus on listed species. Restoration and management of two wetland mitigation banks will secure for conservation two large, strategically placed parcels totaling approximately 7,700 acres. The previous land use of the banks is industrial forestry. It was intended for these mitigation banks to assist in the recovery of several federally listed species, including telephus spurge. The majority of the BPMB is of the soil types suitable to telephus spurge.

Telephus spurge sites FNAI 7 and 8 occur in an area proposed for a development project that would be permitted under RGP-86. FNAI site 42 is located in the BPMB and adjacent lands to the south of the bank boundary. Surveys for telephus spurge were conducted in 15 different locations within the Conservation Unit areas of the RGP (ERC, 2004). No additional populations have been located but due to the amount of habitat covered under the RGP-86 permit and the availability of suitable habitat, we believe that additional telephus spurge locations may exist. The Corps will continue to re-initiate consultation if the species is located prior to development. Active management within the mitigation banks and the Conservation Unit areas will improve the habitat for telephus spurge.

EFFECTS OF THE ACTION

Direct Effects

An estimated count of 10,425 plants of telephus spurge will be lost due to the proposed project, with a corresponding loss of habitat (4.10 acres). However, viability of the remaining North Glades telephus spurge population (6,825 plants over 2.33 acres) in the action area will be maintained and managed.

Indirect Effects

The applicant owns the remaining portion of the population and has agreed to place it into a conservation easement and manage it, so the population is not subject to direct impacts from future development projects. However, given the location of the population and the proposed development, this population will be isolated from any other natural habitat thereby reducing the

chance for natural expansion or rescue effect should this population be inadvertently disturbed. This site will be managed in as natural a state as possible given that the location will become completely surrounded by urban development (highways, restaurants, commercial stores, etc.).

Private activities in the action area that may adversely impact the species indirectly include human trampling, increased exotic species invasion and competition, increased edge effect (i.e., increased sunlight, increased temperature), contaminant impacts from parking lot and highway runoff, as well as the proposed management attempts such as mowing and exotic species control.

CUMULATIVE EFFECTS

Cumulative effects include the effects of future State, tribal, local, or private actions that are reasonably certain to occur in the action area considered in this Opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require a separate consultation pursuant to section 7 of the Act.

Specifically for the North Glades project, the 6,825 plants located on the remaining 2.33 acres within the conservation easement area could potentially be impacted by future development plans. The applicant has agreed to protect and manage appropriately this remaining 2.33 acres of the telephus spurge habitat and population into perpetuity, therefore no other State, tribal, local, or private actions are reasonably certain to occur at this particular site that would affect the telephus spurge.

Future actions within the RGP boundary will include industrial, commercial, and private residential development, which in turn could lead to further fragmentation, fire suppression and/or direct impacts to unknown, yet existing, populations of telephus spurge. Additional evaluation of telephus spurge habitat will occur on a project-by project basis using the procedures described in Appendix III.

CONCLUSION

Transplanting endangered or threatened plant species from project impact areas, while minimizing impacts to individuals, is generally not recommended. The intent of the Act is to protect the ecosystems upon which these federally listed species depend. Thus, protecting habitat is considered to be a key factor for ensuring conservation of listed species. In this case, even if the entire plant population on North Glades was protected from direct impacts, the long-term plans for the surrounding area will eventually see this population further fragmented and eventually isolated from all natural corridors. This project will involve transplanting of telephus spurge individuals to a protected site that has yet to be identified, and will also include the long-term commitment of active management and monitoring of the parent population within the North Glades conservation easement. At a minimum, we will learn whether transplanting telephus spurge is a viable option to be used for future unavoidable impacts to the species. At

most, we will create a new population that resides in a more natural setting conducive for long-term protection, management and viability.

The USFWS has set a goal of 15 populations of telephus spurge that are distributed throughout the species' historical range and that are adequately managed and protected before the species can be delisted (USFWS 1994). Currently three centrally located populations are protected in the St. Joe Buffer Preserve. The total number of locations of this plant is not considered a limiting factor toward recovery of the species; rather, it is the protection of populations that is limiting the species' recovery. The Conservation Measures provided by the applicant will increase the number of protected populations from three to five or possibly, six. This includes the three on the SJBP, the North Glades population (FNAI 7 and 8), the BPMB population (FNAI 42) and possibly an additional population depending on placement and the results from the translocation efforts. The location of the transplanted plants will determine whether they will be considered a new population.

After reviewing the current status of telephus spurge, the environmental baseline for the action area, the effects of the proposed development, the cumulative effects, and the proposed conservation measures, it is our biological opinion that the proposed development is not likely to jeopardize the continued existence of telephus spurge. No critical habitat has been designated for this species; therefore none will be affected.

CONSERVATION RECOMMENDATIONS FOR TELEPHUS SPURGE

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretional agency activities to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. We request that the following conservation recommendations be implemented.

1. Place the translocation study area more than 3 kilometers from other known populations if connected by natural habitat or about 1 kilometer if permanently unsuitable habitat is in between the populations. If the translocation is deemed successful, the transplanted population would count as an additional protected population and will aid in reaching the recovery goal of 15 protected populations.

2. Develop in cooperation with USFWS a long-term conservation strategy for telephus spurge on St. Joe Company lands in Bay and Gulf counties.

In order for us to be kept informed about actions that minimize or avoid adverse effects or that benefit listed species or their habitats, we request notification of the implementation of any conservation recommendations.

REINITIATION NOTICE

This concludes formal consultation on the action outlined in this biological opinion. As provided in 50 CFR 402.16, re-initiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending re-initiation.

HC/hc/kh/c:BO kathy'sfinal.doc

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Appendix I - Memo Dated April 30, 2004 from WilsonMiller, Inc.

WilsonMiller

TO: Hildreth Cooper, USFWS
Gail Carmody, USFWS
Don Hambrick, USACE

FROM: Ann Redmond and Trina Mitchell

CC: Dave Tillis, Thomas Estes, St. Joe Company

SUBJECT: *Euphorbia telephioides* (Telephus Spurge) Populations in the Action and Project Area

DATE: April 30, 2004

On March 18, Hildreth Cooper informed WilsonMiller that the Service is concerned about the presence of telephus spurge populations in the Action and Project Areas. Patty Kelly, U.S. Fish and Wildlife Service (USFWS), had raised some questions about the impacts of the RGP on the species. Following the Biological Assessment of January 2004, a more detailed discussion of the telephus spurge has occurred. The content is related below.

The Telephus spurge was first listed in 1992 (USFWS 1994). Based on vouchered specimens, this plant is an endemic species that occurs in Bay, Gulf, and Franklin Counties, Florida (Institute for Systematic Botany 2002). The plant occurs from Panama City Beach east to the Ochlockonee River (USFWS 1994). It has been recorded in 41 locations, nearly half of which are on public land (Map 1).

All known occurrences of Telephus spurge are on sites within 4 miles of the Gulf of Mexico (USFWS 1994). Numerous populations are protected on St. Joseph Bay State Buffer Preserve and adjacent tracts of land (SJBBP); many occurrences are on private timberlands and utility right-of-ways (Chafin 2000, FNAI 2003, Hilsenbeck 2004, Willson 2004). Ed and Lisa Keppner have searched for the telephus spurge in Bay County and have found none (Keppner 2004). Hilsenbeck (2004) believes that the spurge's listing as a G1/S1 plant should be downgraded based on the abundance of the species in the SJBBP area.

Populations in Action Area

Two populations of Telephus spurge (*Euphorbia telephioides*) have been documented outside the Action Area, but near the Project Area, and one has been documented within the Project Area (FNAI 2003, 2004; Chafin 2004; Kindell 2004; WilsonMiller 2004)(Map 2). FNAI (2003) element occurrence (EO) data indicate that during the 2001 survey, no plants were observed in population EUPHTELE*0009 outside the Project Area (Table 1). The other two populations were re-confirmed in 2001 (Table 1), including the one within the Project Area.

WilsonMiller, Inc., resurveyed for the population within the Project Area (EUPHTELE*0007) on April 21, 2004, and found numerous individuals along US 98 within an area approximately 0.5 mile long (Map 3). Individuals were observed within the "beauty strip," a narrow strip (about 20 feet wide) of longleaf pine-false rosemary-saw palmetto habitat located on the north side of US 98, between the highway and the slash pine plantation.

Table 1. Recorded Locations of Telephus Spurge in Bay County, Florida

Location	Last Observation	EO Data	EO Data	FNAI Map Label
Project Area	2004-04-21	2004-04-21. In a ~0.5-mile-long, 20-ft-wide strip along the north side of U.S.98. 2001-08-01. Now only on north side of road (PNDKIN02FLUS). 1988-08-08: 1.9 MI W OF JCT US98 AND US98 BYP; BOTH SIDES OF ROAD.	2004-04-21. More than 600 plants observed by WilsonMiller ecologists in the "beauty strip" of longleaf pine, wiregrass, false rosemary, saw palmetto, and Sporobolus floridana. 2003-09-26: no plants seen in survey of north side of road - habitat intact; narrow strip of flatwoods between US98 to south and titi/baygall to north; mostly shrubby (Ilex glabra, I. coriacea) with a few patches of wiregrass (PNDJOH01FLUS); 2001-08-01: 100+ plants seen. Etiolating in dense duff, about 10% of them in fruit or flower. Most plants are small, with only a few leaves. (PNDKIN02FLUS). 1988-08-08:200+, FLOWERING, FRUITING IN LEAF; NICE POPULATION.	EUPHTELE*0007
Outside Project Area, South side of US Highway 98	2001-08-01	2001-08-01: Directions given in this field in 1988 do not match where EO is mapped in GIS database. 1988-08-08: 0.7 MI E OF 30D ON ALT 30, S SIDE OF ROAD.	2001-08-01: Approximately 30 plants seen only within road right-of way, at edge of the flatwoods. All plants were small, and about 10 of them had fruits and flowers, (PNDKIN02FLUS) 1988-08-08: 200, FLOWERING AND FRUITING.	EUPHTELE*0008
Outside Project Area, south of US Highway 98 on CR30H	1988-08-23	1988-08-23: 0.2 MI S OF US 98 BYP ON CR 30H, E SIDE.	2001-08-01: no plants seen, possibly due to very dense vegetation. (PNDKIN02FLUS). 1988-08-23: 200+ COMMON IN OPEN AREAS, IN LEAF, FRUIT, FLOWER	EUPHTELE*0009

Source: WilsonMiller 2004; FNAI 2003, 2004.

Additional populations of Telephus spurge may be located within the Project Area west of the area indicated on Map 2, in cleared or recently planted areas, along roads, or along the edges of pine plantations.

Species Habitat Requirements

This species occurs in dry habitats along the Gulf coast on both sides of the Apalachicola River (USFWS 1994). This species occurs in longleaf pine savannas, scrubby and mesic flatwoods, and coastal scrub on low sand ridges near the Gulf of Mexico (Chafin 2000). The habitats for the population reconfirmed by WilsonMiller and for those recorded in the FNAI 2003 data are under power lines, in natural pinelands, and in remnant longleaf pine-saw palmetto-rosemary/wiregrass flatwoods. Hilsenbeck (2004) has observed the Telephus spurge in a wider variety of habitats in the SJBBP area than have been previously noted, from seasonally wet prairies to sandhills. In the wet prairies it co-occurred with *Rhynchospora oligantha* and a variety of sedges.

Habitat Conditions within the Project Area

Suitable habitat for Telephus spurge within the Project Area is almost entirely in planted pine and thus is typically in poor to very poor condition. However, the habitat in which the EUPHTELE*0007 population occurs is remnant longleaf pine-saw palmetto-rosemary/wiregrass flatwoods in a long, narrow strip along the north side of U.S. 98 (Map 2). This area is poor to good quality, lower quality resulting primarily from fire suppression.

Soils for the easternmost two populations are mapped as Leon Sand surrounded by Pottsburg Sand. Soils in the western population are mapped as Pamlico-Dorovan and Pottsburg Sand, although it occurs next to Leon Sand and it is unlikely that the spurge would occur in the wet Pamlico-Dorovan soils. These same types of soils complexes occur in the Breakfast Point Peninsula Conservation Unit and the Breakfast Point Mitigation Bank (Map 4; NRCS 1984).

Silviculture-associated activities that have been detrimental to this species include bedding, dense shading, and fire suppression (USFWS 1994). Coastal real estate and road development in the vicinity of Panama City Beach are known to have destroyed Telephus spurge habitat (USFWS 1994). Suitable habitat may already be protected where it occurs under power lines; however, herbicide use in these areas is a concern. Cooper (2004b) indicated that USFWS staff thought the EUPHTELE*0009 population may have been destroyed by the recent Pier Park development, but this site is 2.9 miles east of the Pier Park site and has not yet been cleared or developed.

Effects of the Proposed Action

A "may affect, not likely to adversely affect" determination was made for Telephus spurge in the Biological Assessment.

Where suitable habitat occurs under planted pine, it probably has been substantially degraded; where habitat occurs in the "beauty strip" and in power line and road right-of-ways, it likely has been somewhat protected and maintained. Power line right-of-ways and, to a lesser extent, road right-of-ways will continue to be somewhat protected and

maintained as suitable habitat under the Proposed Action. One of the two populations verified in 2001 occurred in road right-of way; the other two populations (one verified and one not verified in 2001) occurred in longleaf-palmetto flatwoods.

Direct and indirect beneficial effects associated with the Proposed Action on potentially suitable habitat within the Project Area include the immediate preservation and eventual restoration of uplands within the conservation units and immediate protection and beginning restoration within the Devil's Swamp and Breakfast Point Mitigation Banks.

Potentially suitable habitat may be negatively affected by eventual construction of roads, residential communities, and other developments. Negative effects would likely include loss of potential habitat within the Project Area, outside the conservation units.

General Conservation Measures of RGP 86

The Applicant will implement methods recommended by USFWS (1994) in suitable habitat in the conservation units and in the mitigation banks. Suitable habitats include sandhills, scrubby and mesic flatwoods, and powerline right-of-ways through these habitats.

- Reduction of canopy without compacting, mixing, and/or rutting soils or destroying ground cover;
- Burning appropriately, primarily during the growing season (generally April through September) and depending on habitat. For instance, natural fire regime in sandhills is more frequent than in scrub (2 to 5 years in sandhills; catastrophic fire every 20 to 80 years in scrub [FNAI and FDNR 1990]);
- Substituting mowing for use of herbicides;
- Preventing vehicles from driving through easily damaged scrub habitats.

Specific Conservation Measures for Telephus Spurge

Further discussion with Hildreth Cooper of the USFWS about the Telephus spurge population resulted in the drafting of this memorandum, which is intended to provide draft language for a conservation measure to be added to the biological opinion. Proposed language for this conservation measure follows:

> If the Applicant proposes a project that would impact the telephus spurge population indicated on Map 3 (WilsonMiller Observations of Telephus Spurge), impacts to this population should be avoided. If the proposed project cannot avoid impacts to this telephus spurge population, then re-initiation of consultation may be required. Consultation will take into consideration potential transplanting of individuals that would be impacted by a proposed project. Those individuals may be transplanted to appropriate areas of the Breakfast Point Mitigation Bank.
>
> To support this process, the specific location of this population (WilsonMiller Observations) is provided on Map 3 and on Figure 5 of the

Biological Opinion (attached), and will also be recorded in the St. Joe Company's internal real estate database no later than May 1, 2004.

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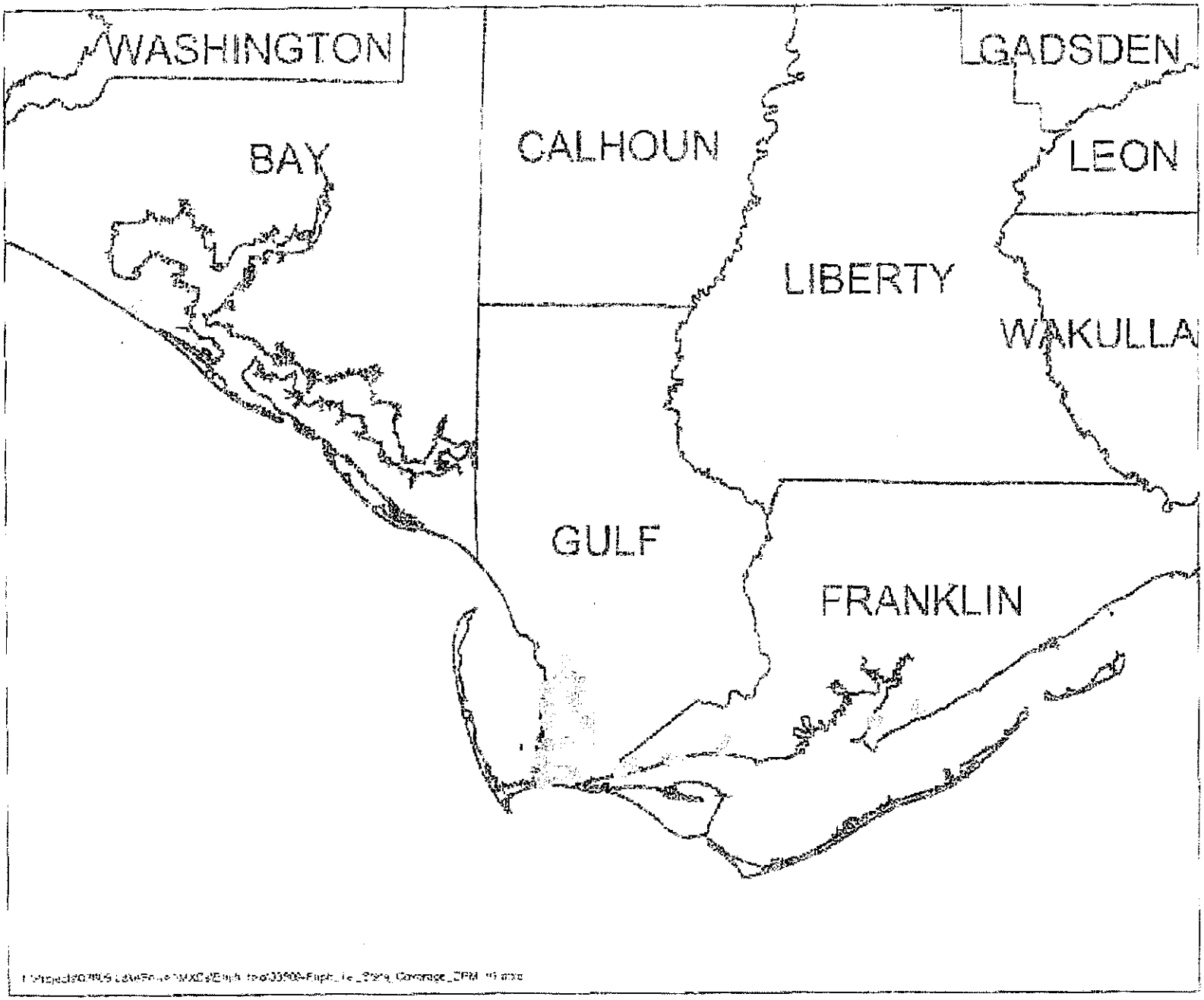
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Map 1

Locations of
Recorded Population of
Telephus Spurge
(Euphorbia telephioides)

Legend

FNAI Species Points

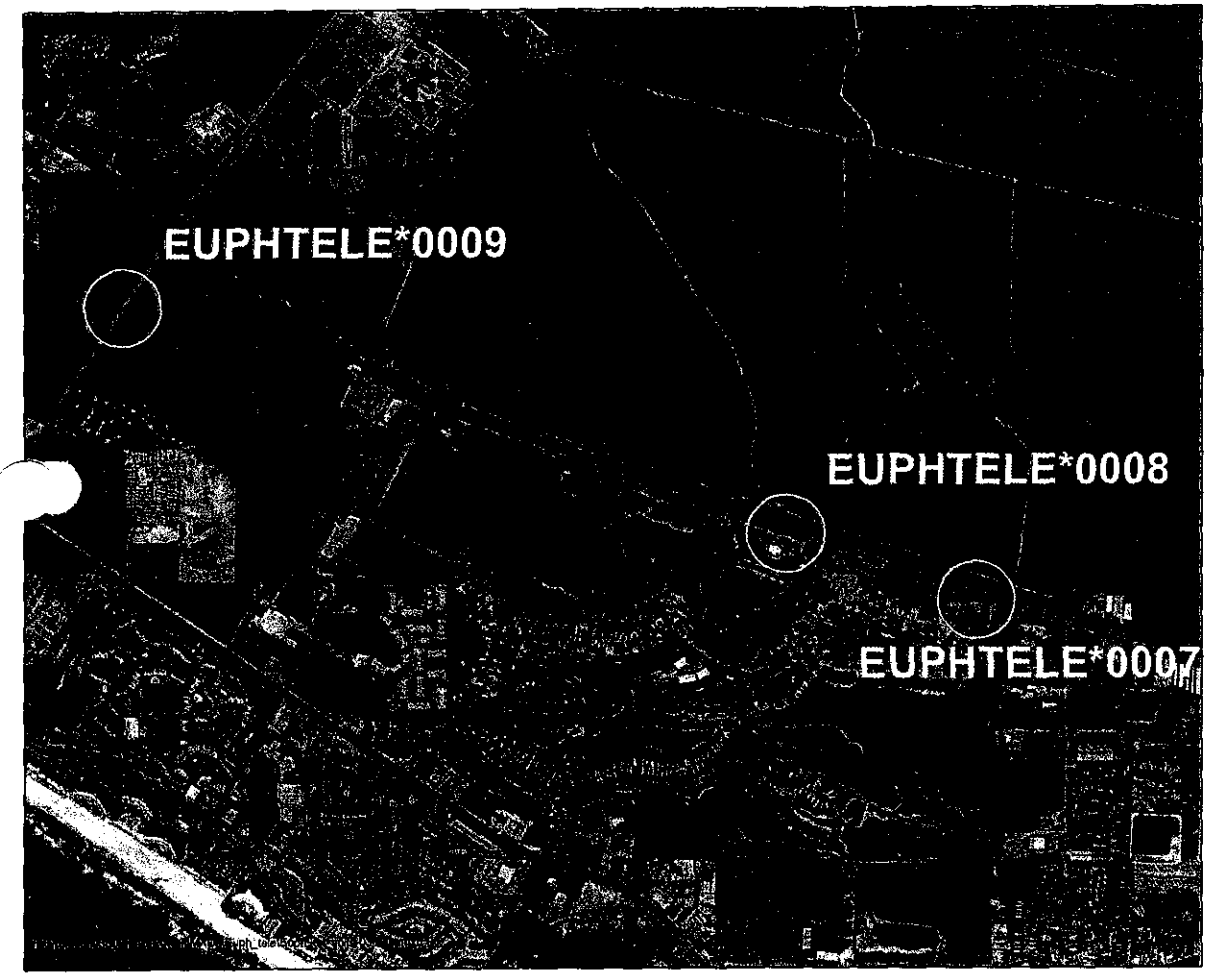
Disclaimer
This product was created using GIS data provided by various sources that may include but not limited to federal, state and local agencies. Data provided by other sources are not warranted by ANS and for accuracy or for any particular use. Although accurate information this map is for planning and purposes only and should not be substituted for a professional determination, field survey, precisely applied to for on-the-ground verification.

Map Date
1/31/2014

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Miles

Wilson Miller

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Map 2

Locations of Recorded Populations of Telephus Spurge *(Euphorbia telephioides)* within the West Bay to East Walton RGP (on 2003 FDOT Aerials)

Legend

- RGP Area (Including Tidal Soils)
- Breakfast Point
- FNAI Points for Euphorbia telephioides

EUPHTELE*0007 FNAI Map Label for Occurrence Record

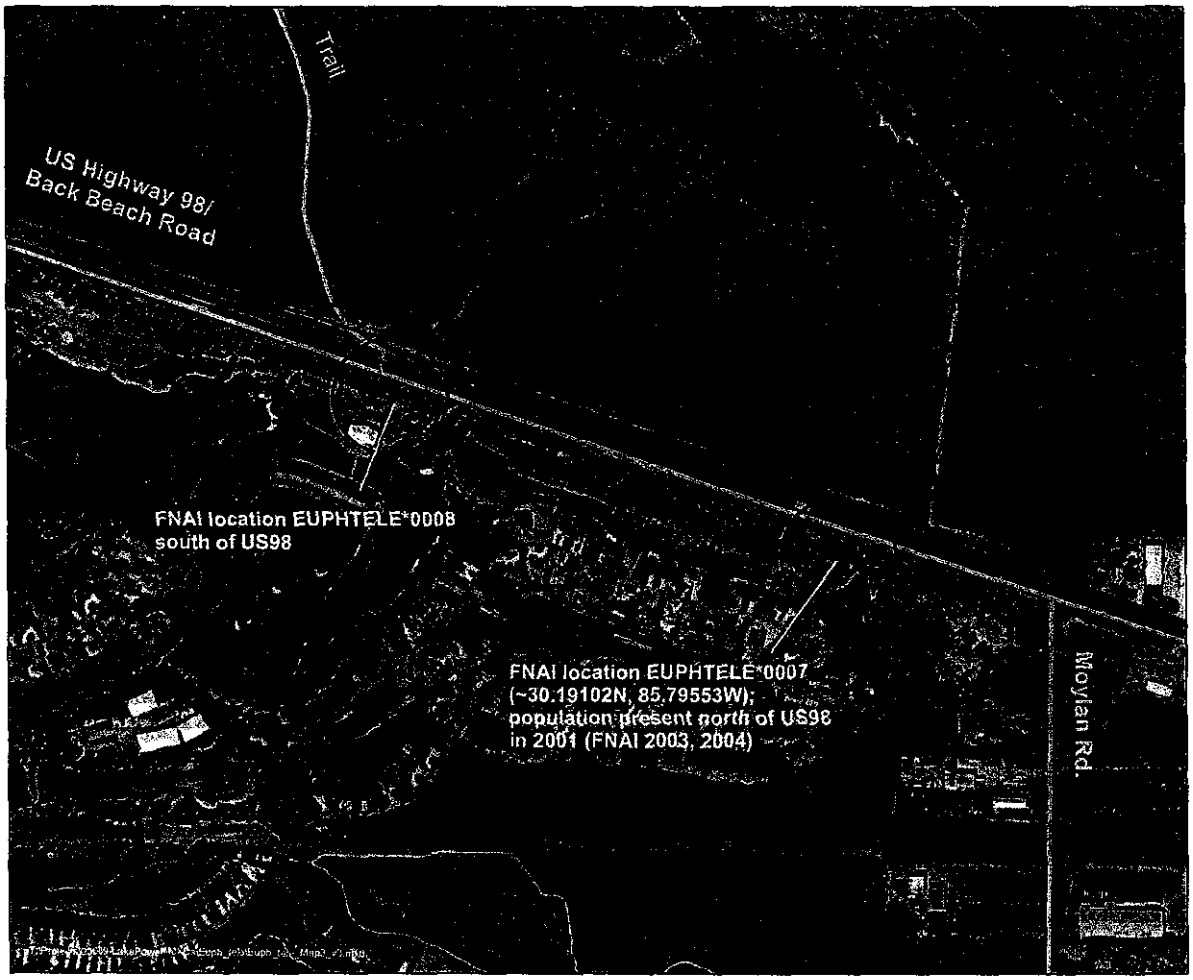
Disclaimer:
This exhibit was prepared utilizing GIS data provided by various sources that may include but not limited to federal, state, district and local agencies. Data provided by other sources are not warranted by WilsonMiller for accuracy or for any particular use that may require accurate information. This map is for informational purposes only and should not be substituted for a wetland jurisdictional determination, true title search, property appraisal, survey, or for zoning verification.

Map Date:
03/22/04

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0 0.1 0.2 0.4 Miles

WilsonMiller
Your Direction in Planning, Design & Engineering



Map 3

Observed Population of Telephus Spurge *(Euphorbia telephioides)* within the West Bay to East Walton RGP

Legend

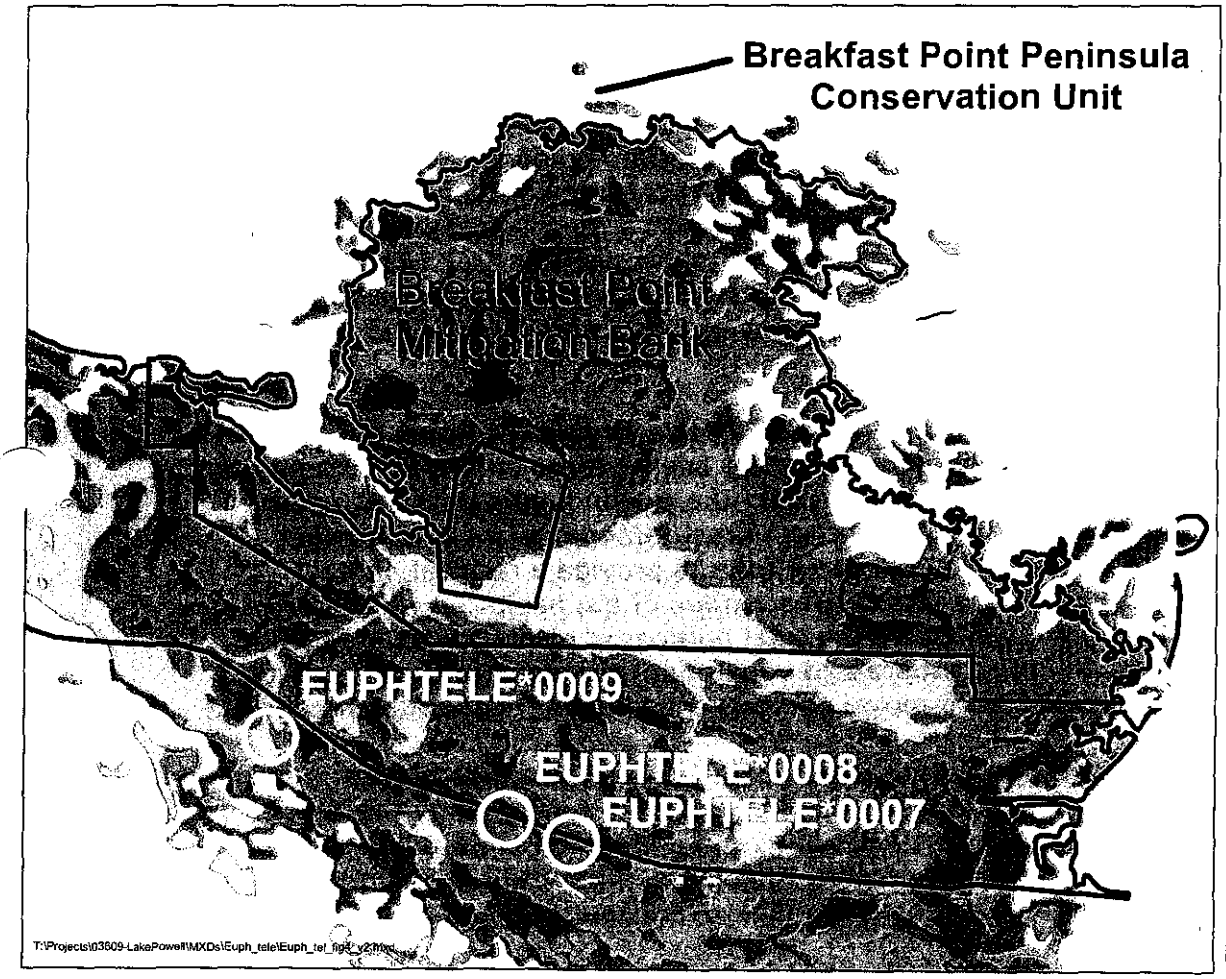
- WilsonMiller Observations of Telephus Spurge
- FNAI Telephus Spurge location EUPHTELE*0007
- RGP Area
- Roads

Disclaimer:
This exhibit was prepared utilizing GIS data provided by various sources that may include but not limited to federal, state, district and local agencies. Data provided by other sources are not warranted by WilsonMiller for accuracy or for any particular use that may require accurate information. This map is for informational purposes only and should not be substituted for a wetland jurisdictional determination, true title search, property appraisal, survey, or for zoning verification.

Map Date:
04/21/04

0 150 300 600 Feet

WilsonMiller
New Directions in Planning, Design & Engineering



Map 4

Locations of Recorded Populations of Telephus Spurge on NRCS Soils Data

Legend

FNAI Points for Telephus Spurge

EUPHTELE*0007 Map Label ID for FNAI Points

RGP Area

Breakfast Point Mitigation Bank

Breakfast Point Peninsula Conservation Unit

NRCS Soil Types

- LEON SAND
- PAMLICO-DOROVAN COMPLEX
- POTTSBURG SAND
- RUTLEGE SAND

Disclaimer:
This exhibit was prepared utilizing GIS data provided by various sources that may include but not limited to federal, state, district and local agencies. Data provided by other sources are not warranted by WilsonMiller for accuracy or for any particular use that may require accurate information. This map is for informational purposes only and should not be substituted for a wetland jurisdictional determination, true title search, property appraisal, survey, or for zoning verification.

Map Date:
05/06/04

0 0.3 0.6 1.2 Miles

WilsonMiller
New Directions in Planning, Design & Engineering

Appendix II

Recommendations for the necessary actions regarding E. telephioides At the Glades North site Bay County, Florida

The following is a summary of the actions ERC Tallahassee has completed to satisfy the components of the USFWS document titled ***Guidance on completion of consultation for*** *E. telephioides* (ET), provided by Hildreth Cooper (see Attachment A). The structure of the summary below follows that found in the USFWS document.

1) Brief description of proposed action:

Preserve and restore ET habitat in the conservation easement of the Glades North site. A large, viable population has been located in the proposed conservation easement associated with Glades North, this will afford long term protection of ET and provide a monitoring plan to assess successful restoration and appropriate response of ET to restoration activities. This is an experimental restoration that will combine knowledge of natural history with a mechanical woody vegetation removal schedule that is designed to mimic periodic fires. This is the most pragmatic approach to preservation of an existing population in situ near the Glades North development and urban build out. (See Attachment B1)

Preserve and restore ET habitat in the Breakfast Point Mitigation Bank. A large, viable population has been located on the BPMB lands and will be managed in conjunction with the existing mitigation instrument with an emphasis for the successful restoration of plant communities known to contain ET. With our efforts to provide a restoration and monitoring plan to assess the restoration of the habitat in which the ET is currently found, we expect the total number of plants to increase (with the reduction in fire suppressed vegetation) through the use of selective logging - vegetation removal and prescribed burns. (See Attachment B2)

Limited transplantation study of no more than 500 plants. A plan to locate and transfer ET that will be negatively affected by the impact sites on the Glades North site has been created. 5 plots will be set up in the BPMB and each will receive 100 plants. These will be quantitatively monitored for 5 years to assess their overall survival and viability. (See Attachment C)

2) Description of direct impact area should include: (most already provided in "Attachment L" of the permit application package)

- **Acreage of project area**
- **Acreage of plant population**
- **Acreage of plant population to be impacted**
- **Approx. number of plants found within project**
- **Approx. number of plants to be "taken" from site**

- **GIS layer with points of occurrence documenting plant locations**

Acreage of project area*:	66.96 acres
Acreage of plant population*:	6.43 acres
Acreage of plant population to be impacted:**	4.10 acres
Approx. number of plants found in project area*:**	17,250
Approx. number of plants to be "taken" from project area*:**	10,425

(* See Figure 1)
(** See Figure 2)
(*** See Figure 3)

3) Proposed actions to minimize effects to *Euphorbia telephioides*:

- **Management plan for remaining population, including area to east of North Glades (i.e. burning/mowing commitments, invasive control, keep natural, etc)**
  - **Long term protection commitment of population (conservation easement, Bay County Conservancy, St. Joe conservation unit, etc)**
  - **Monitoring plan—set up plots beginning prior to construction for pre-impact comparison, number of years client will monitor plots with justification of timeline, annual report on monitoring results with caveat to adjust management should the population decline below an acceptable % (support % with available literature if possible) over documented timeframe (support with literature if possible).**
- **Monitoring plan for translocation site to include the following:**
  - **# of plots to be monitored;**
  - **number of years client will monitor plots with justification of timeline;**
  - **annual report on monitoring results with caveat to adjust management should the population decline below an acceptable % (support with available literature if possible) over documented timeframe (support with literature if possible);**
  - **Description/supporting info for introduction site, i.e. similar habitat community type, same**

soil type, distance from parent population (FWS prefers site to be 1 km or > from known populations), map, acreage of site (needs to be sufficient size to support a viable population (200+ plants, unless better literature available to support);

- **Plan for movement of plants, time of year, when to complete movement, who to move;**
- **GIS layer/map with location of translocated site and specific plant locations;**
- **How/when will movement of population to introduced site be deemed a success?**

Management plan(s) for remaining populations, two separate reports detail how the population in the conservation easement will be restored, monitored and managed (Attachment B1) and the other report details the restoration, monitoring and management of the population within BPMB (Attachment B2). Finally, a Monitoring plan for the translocation of E. telephioides is included in a report called: Guidelines for transplantation methodology and long-term monitoring of relocated *Euphorbia telephioides* (Attachment C).

4) Provide (include map/GIS layer) survey data results (positive or negative) from other locations throughout the RGP boundary and the species range which are not reported by common data sources such as Florida Natural Areas Inventory (FNAI) data source:

Gis data for other locations of Euphorbia telephioides not reported by common data sources are included as separate electronic attachments to this document labeled:

Etelephiodes_GN.shp
Etelephiodes_BPMA.shp

5) If possible, discuss proposed projects which might impact other documented *Euphorbia telephioides* sites (impact meaning management, development, etc):

Projects along the Highway 98 corridor may inadvertently effect existing *Euphorbia telephioides* populations, however we believe we have crafted a regional solution to maintaining a population in Bay County through protection and management of the North Glades and Breakfast Point Mitigation Bank populations



Figure 1 - Acreage of Glades North project area, Proposed Conservation Easement and E. telephioides population within project area

Legend

- Proposed Site Plan
- Project Area - 66.86 acres
- Plant Population Area - 6.43 acres
- Conservation Easement - 2.19 acres
- 2003 B&W Aerial DOQQ

N

1:3,600

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Ecological Resource Consultants, Inc.



Figure 2 - Acreage of Glades North project area, Proposed Conservation Easement, proposed impacts/no impacts to E. telephioides population within project area

Legend

- Proposed Site Plan
- Project Area - 66.96 acres
- Plant Impact Area - 4.10 acres
- Plant No Impact Area - 2.33 acres
- Conservation Easement - 2.19 acres
- 2003 B&W Aerial DOQQ

N

1:3,600

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Figure 3 - Acreage of Glades North project area, Proposed Conservation Easement, with proposed impacts/no impacts to E. telephioides population within project area

Legend

- Proposed Site Plan
- Project Area - 66.96 acres
- Consevation Easement - 2.19 acres
- Impacted Plants ~10,433 plants
- Impacted Plants
- Non-Impacted Plants ~6618 plants
- Non-Impacted Plants
- 2003 B&W Aerial DOQQ

N

1:3,600

JPB 092804

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Attachment A

USFWS document titled ***Guidance on completion of consultation for*** *E. telephioides* (ET), provided by Hildreth Cooper

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DRAFT FWS PCFO 8-3-04

Guidance on completion of consultation for *Euphorbia telephioides* at North Glades:

COE provides letter to FWS requesting initiation of formal section 7 consultation
Provide to FWS a Biological Evaluation including the following components:

1) Brief description of proposed action
2) Description of direct impact area should include: (most already provided in "Attachment L" of the permit application package)
    - Acreage of project area
    - Acreage of plant population
    - Acreage of plant population to be impacted
    - Approx. number of plants found within project
    - Approx. number of plants to be "taken" from site
    - GIS layer with points of occurrence documenting plant locations
3) Proposed actions to minimize effects to *Euphorbia telephioides*:
    - Management plan for remaining population, including area to east of North Glades (i.e. burning/mowing commitments, invasive control, keep natural, etc)
        - Long term protection commitment of population (conservation easement, Bay County Conservancy, St. Joe conservation unit, etc)
        - Monitoring plan—set up plots beginning prior to construction for pre-impact comparison, number of years client will monitor plots with justification of timeline, annual report on monitoring results with caveat to adjust management should the population decline below an acceptable % (support % with available literature if possible) over documented timeframe (support with literature if possible).
    - Monitoring plan for translocation site to include the following:
        - # of plots to be monitored;
        - number of years client will monitor plots with justification of timeline;
        - annual report on monitoring results with caveat to adjust management should the population decline below an acceptable % (support with available literature if possible) over documented timeframe (support with literature if possible);
        - Description/supporting info for introduction site, i.e. similar habitat community type, same soil type, distance from parent population (FWS prefers site to be 1 km or > from known populations), map, acreage of site (needs to be sufficient size to support a viable population (200+ plants, unless better literature available to support);
        - Plan for movement of plants, time of year, when to complete movement, who to move;
        - GIS layer/map with location of translocated site and specific plant locations;
        - How/when will movement of population to introduced site be deemed a success?
4) Provide (include map/GIS layer) survey data results (positive or negative) from other locations throughout the RGP boundary and the species range which are not reported by common data sources such as Florida Natural Areas Inventory (FNAI) data source.
5) If possible, discuss proposed projects which might impact other documented *Euphorbia telephioides* sites (impact meaning management, development, etc).

Attachment B

B1: Monitoring Plan for the Conservation Easement Population

***As per* guidance on completion of consultation for *Euphorbia telephioides* at North Glades, USFSW document.**

3. Proposed actions to minimize effects to *Euphorbia telephioides*.

a. Long term Management plan for existing (in situ) population inside of North Glades site on lands to be designated as a conservation easement. Includes Long term protection commitment of population on conservation lands and monitoring plan. This population is located at least 1 kilometer (0.62 miles) from the existing population on the Breakfast Point Mitigatioon Bank site.

1. Monitoring Plan for *Euphorbia telephioides* to be used at the reference site and the restoration site of the conservation easement at the North Glades site, Bay county, Florida.

Introduction

Why develop monitoring procedures?
Monitoring procedures or protocols are detailed study plans that explain how the methodology is to be carried out and how the data are to be collected, managed, analyzed and reported, and are very important components of quality assurance for natural resource restoration and monitoring programs. Protocols are necessary to ensure that changes detected by monitoring are actually occurring in nature and not simply a result of measurements taken by different people or in slightly different ways.

Developing a monitoring procedure requires that the life history of the organism in question is known. In general, little is known about the biology of *Euphorbia telephioides* (ET) but we are beginning to understand more about the distribution and populations of this plant. For example, we know that ET is an herbaceous perennial that sprouts each year from underground stems and produces flowers in late spring and has ripened fruit (capsules) by mid summer. ET continue to flower throughout the growing season. A measurement of plants toward the end of the growing season will give an indication as to their ability to reproduce, i.e. count individuals in flower and fruit. Plants begin to turn yellow and senesce by later summer/early fall. Plants were observed with leaves and stems in late October of 2004. All known populations are found in a relatively small area of Florida and in some locations the populations could be described as locally abundant. We also know that this species grows in a range of primarily upland plant communities, all of which would have historically burned with a 2-5 year fire frequency and all of which are dominated by a canopy of *Pinus palustris* (longleaf pine) and/or *P. elliottii* (slash pine) with a groundcover that contains wiregrass (Clewell, 1997). ET grows in variety of dry to mesic sites, all with sandy soils and all sites are located within a few miles of the coastline of the Gulf of Mexico. These general factors will guide the restoration strategy and guide our selection of reference sites.

It's important to get consensus on the scope and design since changing these is time consuming and costly once you begin the field work and measurements.
Designing natural resource monitoring of rare plants is something you want to get right the first time, since it's difficult and costly to make major changes after you collected the data as per a particular methodology. Monitoring involves systematic data collection that provides information on the progress of the restoration project

and allows the monitoring practitioners to determine if the project goals have been met. A restoration project involving ET should be monitored until it appears to be healthy with appropriate reproduction and viability. Ideally a reference site should be used for collection of base-line data but due to the lack of management in areas where this plant is currently known to occur, it may not be possible to locate an ideal reference site. The reference site should be similar to restoration site in terms of soils, plant community composition, fire regime, topographic and physiographic location, hydrology, etc. (*fid*e Hildreth Cooper, USFWS, personal communication, August 11, 2004).

What are the measurements of success?
From the results of monitoring it can be determined if the restored population is successfully growing in similar conditions to those of the reference site. For this particular study, success would entail a restored, healthy ET populations in appropriate habitat. A healthy population for the purpose of this study is one in which the plants within the restoration site are determined to be viable and self-perpetuating. Excellent viability according to USFWS would mean a population of 200+ individuals in a natural, appropriate landscape (site has been well managed and burned, i.e. no fire suppression), with indication of sexual reproduction, and with intact associated native vegetation that displays appropriate growth form (*fid*e Hildreth Cooper, USFWS, personal communication, August 11, 2004).

This is not an outline for the study of population dynamics since a study of this magnitude would take decades of intensive quantitative measurements of the following: germination rates, seed and seedling survival, pollination biology, herbivory, individual survivorship, mortality, and reproductive success of individual plants using molecular techniques. This study seeks to measure the long term prognosis/success of a restored TE site through the use of quantitative measurements in quadrats over a five (5) year period and comparison to a reference site.

Monitoring
Ecologic restoration of plant communities is dynamic and is expected to go through various series or successional stages until a particular ecologic target is achieved. As such, periodic evaluation regarding the attainment of target conditions requires monitoring of sample areas to measure the effectiveness of the restoration techniques and the appropriate response of ET to the changes in its immediate environment. The annual monitoring will provide quantitative and qualitative information that can be objectively analyzed. The results of this analysis will allow for interpretation and conclusions from the data. These results will then be reported and if it is deemed that the current methodology is not producing the appropriate ecological response and the population is in decline, the methodology will be rethought and adaptive management can be applied as needed.

Ecological monitoring or sampling techniques described in this attachment will allow for the objective measure of species composition, species richness, as well as the proportional distribution (frequency, density and coverage) of lifeforms (groundcover, shrubs and trees). The experimental design for sampling of populations that allows for objective conclusions is derived from widespread and generally accepted procedures/protocol found in Field and Laboratory Methods for General Ecology (Brower, et.al.,1990; Barbour, Burk and Pitts, 1980). The

distribution, fecundity and overall health of the vegetation on this site is expected to respond favorable to the physical removal of primarily woody/fire suppressed vegetation by mechanical means. In order to track the changes in community structure, species composition and species diversity, we propose to use a transect along which plots will be sampled for the cover, density and frequency of groundcover/shrubs and trees. In areas where trees display a random distribution, i.e. outside of planted pine areas, point quarter sampling will be used to measure the canopy.

Plants will be identified using vascular plant identification manuals appropriate for this area of Florida (Clewell, 1985; Godfrey, 1988; Hall, 1978; Tobe, et. al. 1995 and Wunderlin 1998).

Extensive observations of similar ecosystems and studies were utilized in the development of the protocols (Burks, K.C. 1982; Burks, K.C. 1995; Clewell, 1985a; Ewel, 1990; FNAI, 1990; Frost, et. al. 1986; Glitzenstein, et. al., 1995; Harper, 1914; Anglin, 2004 personal communication; Burks, 2004 personal communication). In addition to using quantitative methods through such means as transects and plots, qualitative observations on the overall health and succession of plant assemblages will be noted by photography and notes during quantitative measurements. Invasive exotics will also be noted during all sampling on site. All vegetative sampling will be done once annually in summer (July-September) to ensure that ET can be measured in flower and in fruit.

Protocols

Vegetative monitoring will be carried out pre-restoration in August of 2004 and once annually thereafter for five (5) years. Two types of monitoring will be carried out, quantitative and qualitative. The quantitative monitoring/sampling will be through the use of transects, plots and point quarter method. The proposed location of quantitative transect are shown on a forthcoming map. The qualitative monitoring will record the overall health and notes on lifeforms of associated vegetation as well as any sightings of invasive exotics in the quadrats and in the immediate surrounding area.

An annual report will include the results of the quantitative and qualitative measurements/observations. This summary will include interpretation and drawing conclusions from the data and how these findings are instructive of the overall progress toward the restoration goals for ET. This critical thinking will allow for evaluation, readjustment and interpretation of the restoration methodology and techniques. Adaptive management will be used to adjust and revise management activities accordingly. Photographs taken during the sampling will visually support written observations and overall trends toward restoration goals.

Quantitative Plant Sampling

1. Groundcover, shrubs and subcanopy.

Definitions of vegetation lifeforms.

a. **Groundcover** is the herbaceous or weakly woody plant layer closest to the ground, typically less than 1.5 m tall and if weakly woody the plants have a diameter of less than 2.54 cm (1 in) at 1.5 m height.

b. **Shrub layer** are woody plants typically less than 1.5 meter tall but could grow as tall as 3 m. Stems are always woody and plants may have several stems from a common root system. No stem diameter requirement, although typically will be less than 2.54 cm (1 in) in diameter at 1.5 m.
c. **Subcanopy layer** are woody plants 3 m tall or taller with a stem 10 cm (4 in) diameter or less at breast height (1.5 m). Typically subcanopy plants have a single stem. Young trees or saplings with slender stems are often included in this layer.

If space allows, the quantitative sampling will be designed along a 50 meter transect that will be placed in a polygon of a particular plant assemblage that is known to contain ET. If the site cannot accommodate a single, linear, unbroken 50 meter transect, a modification to the standard transect approach will be used by breaking up the transect such so as to create several short transects that when combined would equal 50 meters. If transect will not yield a representative sample of the ET population then the location of each plot will be determined either by a systematic method such as a grid or by a standard random procedure such as using a randomly selected point as the center of the plot. The overall goal being to sample a transect that could be described as a representative sample within a known population of ET. These representative samples will measure the proportional distribution of groundcover, shrub, subcanopy and tree species. Trees are not the subject of this sampling technique but will be noted if they occur in the plots described below. Tree samping is a separate measurement, see trees sampling below. Each sample plot will be located along five points/locations, with each point distributed every ten meters (these will be georeferenced and marked by insertion of an iron piece at each point) along the transect. At each point three, 1 m x 1 m plots or square quadrats will be measured and sampled. These permanent plots will be georeferenced and marked by insertion of an iron piece at each corner for future location with a metal detector. The plots will be distributed in a linear fashion perpendicular to the 50 meter transect. Each transect will thus have five groups of three 1m x 1m plots for a total of 15 separate plots. All groundcover coverage will be measured using the following scale: 3%, 6%, 12%, 25%, 50%, 75%, 100%. This scale was developed for use with a square, 1 m x 1 m plot. Beginning with the total area of each plot, i.e.100% coverage, the proportional relationship of each successive subdivision of the square is calculated by simply halving each portion, such that you end up with areas of the following percentage: 50, 25, 12.5, 6.23, 3.1, etc. These subdivisions can be estimated and consistently applied by training field botanists to visualize each species as it relates to the overall plot and fitting its coverage into the coverage classes above.
The cover, density, frequency and shrub (if any) height will be recorded in each plot. Shrub height measure will use the following scale:1 less than 0.5m; 2=0.5-2m; 3=2-5m; 4=5-10m; 5=10m or greater.

2. Trees. Trees in this sampling technique include all woody plants with a main trunk greater than 10 cm (4 in) diameter at breast height (breast height =1.5 m) and have a stem at least 3 m tall. Basal areas of trees are determined from trunk circumference measured 1.5 m above the ground, generally a flexible tapeline is used with circumference units converted into diameter units for ease of use. A direct measurement of foliage coverage is difficult in trees, but the basal area generally is accepted by the scientific community as proportional to coverage.

This site consists of a relatively natural stand of upland pine forest. Point quarter sampling will be used, five points along the 50 m transect (each 10 m apart) will be used as the center for four compass directions (N, S, E, W), which divide the sampling site into four quarters or quadrants. Every 10 m of the transect will be georeferenced and marked with a metal piece to aid in relocation for annual monitoring. In each quadrant, the distance in meters to the center point of the nearest individual tree, regardless of species will be measured. Only one tree per quadrant is measured so that a total of four plants per point are measured. The tree is identified and the dbh is recorded as diameter expressed in cm.

Photography

The photographic specifications used in conjunction with the quantitative plant sampling protocol will include photographing the sampling site at either end of the 50 meter transect line. The photographs will include as much view as is typical for a standard 35 mm digital camera. Close up photos of important features may also be collected along the transects. All labeling of photographs in final reports will include the date of photo, photographer, location and figure or photo number. Electronic storage of photographs should be backed up for future reference.

Baseline Monitoring

Before ecological restoration activities are begun, the monitoring plots will be sampled. This data will be used for future comparison and will include the following information for each plot or quadrant.

1. General site conditions on, around and in the vicinity of the transects and plots.
2. Evidence of past land use activities will be noted, especially those that might effect plant distribution, composition and abundance.
3. The proportional distribution of groundcover, shrub and tree species using the protocol of sampling outlined in quantitative plant sampling, above.
4. Presence of invasive exotics in or adjacent to plots.

Analyzing the Data

The annual monitoring will provide quantitative and qualitative information that can be objectively analyzed. The results of this analysis will allow for interpretation and conclusions from the data. These results will then be reported and evaluated. If it is determined that the restoration methodology is not producing the appropriate ecological response as this relates to the success for this species, the methodology will be re-evaluated.

Reports and Record Keeping

Reports including all observations, raw and processed data, digital photographs will be compiled into a report this will be available to agency staff by the end of November of each year. Annual monitoring will in July of each year. A copy of all records, in addition to those submitted, will be maintained at the offices of Ecological Resource Consultants, ERC.

Success

This restoration project is expected to be successful in restoring the pre-existing plant communities and increasing the health of the ET population or at least show a strong trend toward this effect on the site. The measurement for increased health of ET will be quantitative, i.e. measuring coverage of various life forms of associated

speices, measuring coverage and numbers of individuals, with notes on those that display increased flowering, fruiting inside the plots, overall species richness and invasive exotic coverage; and subjective, general appearance of plants and general aspect of the population overall, evidence of invasive exotic encroachment. A complete list of plants species (species richness) typical for each sampling area (restoration site and possibly a reference site) will be included in the report and new plants added to as they are discovered in the sample sites.

Reference Site

If it can be located, an appropriate reference community will be selected from well managed public lands that contain a healthy, viable population of ET. The same sampling technique as described in the quantitative plant sampling above, will be used to collect relevant data that will be used for comparison. Target conditions of the restoration site may be modified in lieu of new information collected from reference communities. Target community type and realistic goals for this may need revision with the approval by the authorizing agencies.

Restoration of the ET site within the North Glades conservation easement site

The procedure for restoration at the North Glades conservation easement (NGCE) is unique as it is designed to mimic fire. It is our understanding that the use of fire will not be an option at the NGCE site. Because of this, an experimental approach has been developed that involves using fire ecology principles without the direct use of fire which can be unpredictable and would not be a pragmatic choice for use in the proposed urban buildout. We propose that mowing of the site at least once a year in March be carried out within the NGCE. By mechanically removing annual growth a simulation of fire may be achieved. The longleaf pines would be maintained in what would look to that average observer as a "park like" aspect, i.e. groundcover should be generally kept under 0.5 meter, including woody species such as gallberry (*Ilex glabra*) and fetterbush (*Lyonia* spp.).

From our understanding of ET natural history we have observed that this species is found in areas that would have burned at least once every 2-5 years. In addition, by examination of historic aerials, ET typically grew in fire created, open landscapes with widely scattered trees. At the NGCE site, the judicious use of mechanical means to reduce woody growth would mimic the effects of fire on woody growth found in the groundcover/low shrub layer and subcanopy. Mechanical means would not mimic all aspects of fire but it would provide part of the physical environment that will enhance ET growth and reproduction. We have observed that the easement along highway 98 has been mowed for many years, inhibiting the formation of unnaturally dense vegetation that is typically found in fire suppressed pine dominated communities. This mechanical removal of groundcover and shrub vegetation (basically all woody vegetation except for the existing canopy) has unintentionally enhanced the ET population on the Glades North site. It is hoped that the proposed restoration involving the removal of woody vegetation will ultimately result to the same or similar success in regard to the enhancement of the ET population in the NGCE area. Because there is always the chance for colonization by unwanted species, all invasive exotics will be removed/controlled as per the permit.

Removal and maintenance of woody vegetation

As already stated, the definition of trees in this report are those woody vascular plants that include subcanopy and canopy woody plants with a main trunk greater than 10 cm (4 inches) at breast height and have stem greater than 3 meters tall. Lack of appropriate fire or mechanical removal of woody vegetation in the groundcover, shrub and subcanopy layers often results in an artificial landscape of native woody species that would have no historical equivalent reference. In many cases species such as *Ilex glabra, Ilex coriacea, Cyrilla racimiflora, Cliftonia monophylla, Magnolia virginiana* , etc. would only have reached the density and dominance that one encounters in fire suppressed landscapes in ecotones of wetlands and within wetlands in landscapes that would have historically burned once every 2-5 years. To further complicate this picture of the landscape, silvicultural activities have created a landscape of pine monoculture (in this case slash pine) planted on furrows. The restoration of such a landscape depends on many factors such as last site preparation date and age of planted pines, length of time without fire, mechanical thinning or removal of competing woody vegetation. The goal of restoration at the NGCE is to thin the pines to appropriate density and remove all inappropriate woody vegetation. A machine such as a gyrotrac that will not rut and significantly disturb the soils will be used to reduce the fire suppressed woody vegetation to wood chips. Trees and any other vegetation that should not be removed will be designated by appropriate flagging by ERC staff, all other woody vegetation will be maintained by cutting at or within 1-3 inches of the soil or duff surface. The cut woody stems are to be reduced to wood chips or into similarly small fragments. Wood chips should be distributed so as not to make large areas of thick deposits that might inhibit ET growth. If it is feasible removal of all the cut woody stems from the site would be beneficial to the ET.

The timeline for the restoration can be broken down into the following general sequence. After year 5, October of 2008, the woody vegetation will be removed by the current owner every other year in perpetuity, no further monitoring will be required after this time.

	Year				
	2004	**2005**	**2006**	**2007**	**2008**
Baseline Monitoring	August				
Selective Harvesting / Vegetation Removal	Oct.	Oct.	Oct.	Oct.	Oct.
Annual Monitoring		July	July	July	July
Annual Reporting	Nov.	Nov.	Nov.	Nov.	Nov.

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Attachment B

B2: Monitoring Plan for the Breakfast Point Population

***As per* guidance on completion of consultation for *Euphorbia telephioides* at North Glades, USFSW document.**

3. Proposed actions to minimize effects to *Euphorbia telephioides*.

a. Long term Management plan for existing (in situ) population outside of Glades North site. Includes Long term protection commitment of population on conservation lands and monitoring plan. This population is located at least 1 kilometer (0.62 miles) from the existing population on the North Glades site.

1. Monitoring Plan for *Euphorbia telephioides* to be used at the reference site and the restoration site in the Breakfast Point Mitigation Bank, Bay county, Florida.

Introduction

Why develop monitoring procedures?

Monitoring procedures or protocols are detailed study plans that explain how the methodology is to be carried out and how the data are to be collected, managed, analyzed and reported, and are very important components of quality assurance for natural resource restoration and monitoring programs. Protocols are necessary to ensure that changes detected by monitoring are actually occurring in nature and not simply a result of measurements taken by different people or in slightly different ways.

Developing a monitoring procedure requires that the life history of the organism in question is known. In general, little is known about the biology of *Euphorbia telephioides* (ET) but we are beginning to understand more about the distribution and populations of this plant. For example, we know that ET is an herbaceous perennial that sprouts each year from underground stems and produces flowers in late spring (April) and has ripened fruit (capsules) by mid summer (June-July). ET continue to flower throughout the growing season. A measurement of plants toward the end of the growing season (July) will give an indication as to their ability to reproduce, i.e. count individuals in flower and fruit. All known populations are found in a relatively small area of Florida and in some locations the populations could be described as locally abundant. We also know that this species grows in a range of primarily upland plant communities, all of which would have historically burned with a 2-5 year fire frequency and all of which are dominated by a canopy of *Pinus palustris* (longleaf pine) and/or *P. elliottii* (slash pine) with a groundcover that contains wiregrass (Clewell, 1997). ET grows in variety of dry to mesic sites, all with sandy soils and all sites are located within a few miles of the coastline of the Gulf of Mexico. These general factors will guide the restoration strategy and guide our selection of reference sites.

It's important to get consensus on the scope and design since changing these is time consuming and costly once you begin the field work and measurements.

Designing natural resource monitoring of rare plants is something you want to get right the first time, since it's difficult and costly to make major changes after you collected the data as per a particular methodology.

Monitoring involves systematic data collection that provides information on the progress of the restoration project and allows the monitoring practitioners to determine if the project goals have been met. A restoration project involving ET should be monitored until it appears to be healthy with appropriate reproduction and viability. Ideally a reference site should be used for collection of base-line data but due to the lack of management in areas where this plant is currently known to occur, it may not be possible to locate an ideal reference site. The reference site should be similar to restoration site in terms of soils, plant community composition, fire regime, topographic and physiographic location, hydrology, etc. (*fide* Hildreth Cooper, USFWS, personal communication, August 11, 2004).

What are the measurements of success?
From the results of monitoring it can be determined if the restored population is successfully growing in similar conditions to those of the reference site. For this particular study, success would entail restored, healthy ET populations in appropriate habitat. A healthy population for the purpose of this study is one in which the plants within the restoration site are determined to be viable and self-perpetuating. Excellent viability according to Norden and Chafin, FNAI, 2003 and the USFWS (*fide* Hildreth Cooper, August 10, 2004) would mean a population of 200+ individuals in a natural, appropriate landscape (site has been well managed and burned, i.e. no fire suppression), with indication of sexual reproduction, and with intact associated native vegetation .

This is not an outline for the study of population dynamics since a study of this magnitude would take decades of intensive quantitative measurements of the following: germination rates, seed and seedling survival, pollination, herbivory, individual survivorship, mortality, and reproduction for individual plants. This study seeks to measure the long term prognosis/success of a restored TE site through the use of quantitative measurements in quadrats over a ten year period and comparison to a reference site.

Monitoring
Ecologic restoration of plant communities is dynamic and is expected to go through various successional stages until a particular ecologic target is achieved. As such, periodic evaluation regarding the attainment of target conditions requires monitoring of sample areas to measure the effectiveness of the restoration techniques and the appropriate response of ET to the changes in its immediate environment. The annual monitoring will provide quantitative and qualitative information that can be objectively analyzed. The results of this analysis will allow for interpretation and conclusions from the data. These results will then be reported and if it is deemed that the current methodology is not producing the appropriate ecological response and the population is in decline, the methodology will be rethought and adaptive management can be applied as needed.

Ecological monitoring or sampling techniques described in this attachment will allow for the objective measure of species composition, species richness, as well as the proportional distribution (frequency, density and coverage) of lifeforms (groundcover, shrubs and trees). The experimental design for sampling of populations that allows for objective conclusions is derived from widespread and generally accepted procedures/protocol found in Field and Laboratory Methods for General Ecology (Brower, et.al.,1990; Barbour, Burk and Pitts, 1980).

The distribution, fecundity and overall health of the vegetation on this site is expected to respond favorable to the proposed physical removal of primarily woody/fire suppressed vegetation by mechanical means and by prescribed fire. In order to track the changes in community structure, species composition and species diversity, we propose to use a transect along which plots will be sampled for the cover, density and frequency of groundcover/shrubs and trees. In areas where trees display a random distribution, i.e. outside of planted pine areas, point quarter sampling will be used to measure the canopy.

Plants will be identified using vascular plant identification manuals appropriate for this area of Florida (Clewell, 1985; Godfrey, 1988; Hall, 1978; Tobe, et. al. 1995 and Wunderlin 1998).

Extensive observations of similar ecosystems and studies were utilized in the development of the protocols (Burks, K.C. 1982; Burks, K.C. 1995; Clewell, 1985a; Ewel, 1990; FNAI, 1990; Frost, et. al. 1986; Glitzenstein, et. al., 1995; Harper, 1914; Anglin, 2004 personal communication; Burks, 2004 personal communication, Huffman, 2004, personal communication). In addition to using quantitative methods through such means as transects and plots, qualitative observations on the overall health and succession of plant assemblages will be noted by photography and notes during quantitative measurements. Invasive exotics will also be noted during all sampling on site. All vegetative sampling will be done once annually in summer (July-September) to ensure that ET will be reproducing, e.g. in flower or fruit.

Protocols

Vegetative monitoring will be carried out pre-restoration in August of 2004 and biannually thereafter for five (5) years. Two types of monitoring will be carried out, quantitative and qualitative. The quantitative monitoring/sampling will be through the use of transects, plots and point quarter method. The qualitative monitoring will record the species richness as well as any sightings of invasive exotics in the quadrats and in the immediate surrounding area.

An annual report will include the results of the quantitative and qualitative measurements/observations. This summary will include interpretation and drawing conclusions from the data and how these findings are instructive of the overall progress toward the restoration goals for ET. This critical thinking will allow for evaluation, readjustment and interpretation of the restoration methodology and techniques. Adaptive management will be used to adjust and revise management activities accordingly. Photographs taken during the sampling will visually support written observations and overall trends toward restoration goals.

Quantitative Plant Sampling

1. Groundcover, shrubs and subcanopy.

Definitions of vegetation lifeforms.

a. **Groundcover** is the herbaceous or weakly woody plant layer closest to the ground, typically less than 1.5 m tall and if weakly woody the plants have a diameter of less than 2.54 cm (1 in) at 1.5 m height.

b. **Shrub layer** are woody plants typically less than 1.5 meter tall but could grow as tall as 3 m. Stems are always woody and plants may have several stems from a common root system. No stem diameter requirement, although typically will be less than 2.54 cm (1 in) in diameter at 1.5 m.

c. **Subcanopy layer** are woody plants 3 m tall or taller with a stem 10 cm (4 in) diameter or less at breast height (1.5 m). Typically subcanopy plants have a single stem. Young trees or saplings with slender stems are often included in this layer.

If space allows, the quantitative sampling will be designed along a 50 meter transect that will be placed in a polygon of a particular plant assemblage that is known to contain ET. If the site cannot accommodate a single, linear, unbroken 50 meter transect, a modification to the standard transect approach will be used by breaking up the transect such so as to create several short transects that when combined would equal 50 meters. If transect will not yield a representative sample of the ET population then the location of each plot will be determined either by a systematic method such as a grid or by a standard random procedure such as using a randomly selected point as the center of the plot. The overall goal being to sample a transect that could be described as a representative sample within a known population of ET. These representative samples will measure the proportional distribution of groundcover, shrub, subcanopy and tree species. Trees are not the subject of this sampling technique but will be noted if they occur in the plots described below. Tree samping is a separate measurement, see trees sampling below. Each sample plot will be located along five points/locations, with each point distributed every ten meters (these will be georeferenced and marked by insertion of an iron piece at each point) along the transect. At each point three, 1 m x 1 m plots or square quadrats will be measured and sampled. These permanent plots will be georeferenced and marked by insertion of an iron piece at each corner for future location with a metal detector. The plots will be distributed in a linear fashion perpendicular to the 50 meter transect. Each transect will thus have five groups of three 1m x 1m plots for a total of 15 separate plots. All groundcover coverage will be measured using the following scale: 3%, 6%, 12%, 25%, 50%, 75%, 100%. This scale was developed for use with a square, 1 m x 1 m plot. Beginning with the total area of each plot, i.e.100% coverage, the proportional relationship of each successive subdivision of the square is calculated by simply halving each portion, such that you end up with areas of the following percentage: 50, 25, 12.5, 6.23, 3.1, etc. These subdivisions can be estimated and consistently applied by training field botanists to visualize each species as it relates to the overall plot and fitting its coverage into the coverage classes above.
The cover, density, frequency and shrub (if any) height will be recorded in each plot. Shrub height measure will use the following scale:1 less than 0.5m; 2=0.5-2m; 3=2-5m; 4=5-10m; 5=10m or greater.

Plots will be used to measure trees, each will be 10 m x 10 m. One plot will be randomly distributed at one point, chosen from the 5 points used to sample groundcover as described above, along the 50 meter transect. Each 10 m x 10 m plot will be georeferenced and marked by insertion of an iron piece at each corner for future location with a metal detector. The center of the plot will be located at the randomly chosen point along the 50 meter transect. In each plot the trees will be identified and the dbh will be recorded along with an estimate of the tree height using the following scale:1=10m or less; 2=11-20m; 3=21-29m; 4=30m or greater. Density and cover can be calculated from measuring basal area in the methodology described above.

Photography
The photographic specifications used in conjunction with the quantitative plant sampling protocol will include photographing the sampling site at either end of the 50 meter transect line. The photographs will include as much view as is typical for a standard 35 mm digital camera. Close up photos of important features may also be collected along the transects. All labeling of photographs in final reports will include the date of photo, photographer, location and figure or photo number. Electronic storage of photographs should be backed up for future reference.

Baseline Monitoring
Before ecological restoration activities are begun, the monitoring plots will be sampled. This data will be used for future comparison and will include the following information for each plot or quadrant.

5. General site conditions on, around and in the vicinity of the transects and plots.
6. Evidence of past land use activities will be noted, especially those that might effect plant distribution, composition and abundance.
7. The proportional distribution of groundcover, shrub and tree species using the protocol of sampling outlined in quantitative plant sampling, above.
8. Presence of invasive exotics in or adjacent to plots.

Analyzing the Data
The once annual monitoring will provide quantitative and qualitative information that can be objectively analyzed. The results of this analysis will allow for interpretation and conclusions from the data. These results will then be reported and evaluated. If it is determined that the restoration methodology is not producing the appropriate ecological response as this relates to the success for this species, the methodology will be re-evaluated.

Reports and Record Keeping
Reports including all observations, raw and processed data, and digital photographs will be compiled into a report. Annual monitoring will occur in summer (July-September) of each year. A copy of all records, in addition to those submitted, will be maintained at the offices of Ecological Resource Consultants, ERC.

Success
This restoration project is expected to be successful in restoring the pre-existing plant communities and increasing the health of the ET population or at least show a strong trend toward this effect on the site. The measurement for increased health of ET will be quantitative, i.e. measuring coverage of various life forms of associated species, measuring coverage and numbers of ET individuals, with notes on those that display increased flowering, fruiting inside the plots, overall species richness and invasive exotic coverage; and subjective, general appearance of plants and general aspect of the population overall, evidence of invasive exotic encroachment. A complete list of plants species (species richness) typical for each sampling area (restoration site and possibly a reference site) will be included in the report and new plants added to as they are discovered in the sample sites.

Reference Site

If it can be located, an appropriate reference community will be selected from well managed public lands that contain a healthy, viable population of ET. The same sampling technique as described in the quantitative plant sampling above, will be used to collect relevant data that will be used for comparison. Target conditions of the restoration site may be modified in lieu of new information collected from reference communities. Target community type and realistic goals for this may need revision with the approval by the authorizing agencies.

Restoration of the ET site within the BPMB

The procedure for restoration follows that proposed for the regional general permit (RGP) for Breakfast Point Mitigation Bank. See the following for a download of this permit from the U.S. Army Corps of Engineers, Jacksonville, Florida. http://www.saj.usace.army.mil/permit/permitting/general_permits/SAJ_86/SAJ86_TOC.htm

The timeline for the restoration can be broken down into the following general sequence. August 2004 obtain baseline data from restoration site in BPMB and reference site June-August 2005 controlled burn After the 2005 burn cycle, another burn cycle may be initiated after 2 years if appropriate amounts of vegetation/organic fuels have been produced, i.e. enough to carry a fire. This burn regime will be determined by the a qualified St. Joe forester (Kevin Smith) and in consultation with the qualified mitigation supervisor (John Tobe) as per the permit referenced above. All invasive exotics will be removed/controlled as per the permit.

The timeline for the restoration can be broken down into the following general sequence. After 2011 the site will no longer be managed by the mitigation bank sponsor and will most likely be managed in perpetuity by the State of Florida, no further monitoring will be required after November 2013.

	Year							
	2004	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**
Baseline Monitoring	August							
Prescribed Burn		April-July		April-July		April-July		April-July
Exoctic Species Removal		All	All	All	All	All	All	
Annual Monitoring		July	April & June	July	July	July	July	July
Annual Reporting		Jan.	Jan.	Jan.	Jan.	Jan.	Jan.	Jan.

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Figure 1 - E. Telephioides found in the Breakfast Point Mitigation Area (BPMA)

Legend

- Plant populations in BPMA
- Search Area BPMA
- Breakfast Point Mitigation Area
- 2003 B&W Aerial DOQQ

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ERC Ecological Resource Consultants, Inc.

Attachment C

Transplantation Methodology

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As per guidance on completion of consultation for _Euphorbia telephioides_ at North Glades, USFSW document.

3. Proposed actions to minimize effects to _Euphorbia telephioides_.

a. Guidelines for transplantation methodology and long-term monitoring of relocated Telephus Spurge, _Euphorbia telephioides_.

I. Introduction

Why attempt to transplant _Euphorbia telephioides_ (ET) from the Glades North site?

ET is a Florida endemic with a limited distribution in Gulf, Franklin and Bay counties. Because ET has been determined to be a species that is critically imperiled and in Florida it is considered to be imperil worldwide according to the Florida Natural Areas Inventory (see www.fnai.org). In addition, this species is considered threatened by the U. S. Endangered Species Act/U. S. Fish and Wildlife Service (USFWS). According to the link supplied by the USFWS (see www.natureserve.org), ET is known from 40 occurrences with total of fewer than 5,000 plants. Also published as a "natureserve conservation status factors", the global short term trend reports a "total number of plants known on private lands reduced from 1,000's in 1988 to 100's in 2001 survey". After some qualitative measurements of one known FNAI occurrence in Bay county and field inspections of some known and unknown populations in Gulf county, the information endorsed by the USFWS on the naturaserve site (as it pertains to the number of occurrences and total number of plants) is incorrect, see attachment L, A Preliminary Survey for _Euphorbia telephioides_, Telephus Spurge, unpublished report by Tobe, J, et. al., April 2004. It is the opinion of the author that there are currently more that 40 known populations and a greater number of individual plants than were reported in the 2001 survey. This begs the question as to why transplantation should be considered if another known population could be reinvigorated through a rigorous management plan. It is the author's assumption that transplantation is going to be considered for the population of ET in question and thoughts on this topic are the subject of this paper.

Relocation of rare plants (and animals) has always been controversial however most biologists agree that this is a pragmatic solution for populations of rare species that will be otherwise destroyed if not "rescued". In addition, translocation of existing plants is considered to be part of the recovery plan for ET, except that no one published any attempts at relocation of this species (Center for Plant Conservation, Missouri Botanical Garden, 1995; U.S. Fish and Wildlife Service, 1994).

Why develop transplantation methodologies and monitoring procedures?

Transplantation methodologies and monitoring procedures or protocols are detailed study plans that explain how the methodology is to be carried out and how the data are to be collected, managed, analyzed and reported, and are very important components of quality assurance for natural resource relocation and monitoring programs. Protocols are necessary to ensure that changes detected by monitoring are actually occurring in nature and not simply a result of measurements taken by different people or in slightly different ways.

Developing a transplantation methodology requires that a detailed life history of the organism is question is known and can be applied to a strategy for relocation.

In general, little is known about the biology of *Euphorbia telephioides* (ET) but we are beginning to understand more about the distribution and populations of this plant. For example, we know that ET is an herbaceous perennial that sprouts each year from underground stems and produces flowers in late spring and has ripened fruit (capsules) by mid summer. ET continues to flower throughout the growing season. A measurement of plants toward the end of the growing season will give an indication as to their ability to reproduce, i.e. count individuals in flower and fruit. All known populations are found in a relatively small area of Florida and in some locations the populations could be described as locally abundant. We also know that this species grows in a range of primarily upland plant communities, all of which would have historically burned with a 2-5 year fire frequency and all of which are dominated by a canopy of *Pinus palustris* (longleaf pine) and/or *P. elliottii* (slash pine) with a groundcover that contains wiregrass (Clewell, 1997). ET grows in variety of dry to mesic sites, all with sandy soils and all sites are located within a few miles of the coastline of the Gulf of Mexico. These general factors will guide the restoration strategy and guide our selection of reference sites.

It's important to get consensus on the scope and design since changing these is time consuming and costly once you begin the field work and measurements.

Designing natural resource monitoring of rare plants is something you want to get right the first time, since it's difficult and costly to make major changes after you collected the data as per a particular methodology. Monitoring involves systematic data collection that provides information on the progress of the transplantation/translocation project and allows the transplantation monitoring practitioners (e.g. ERC/USFWS staff) to determine if the project goals have been met. A transplantation/translocation project involving ET should be monitored until it appears mature and self-sustaining, which could take years or decades. Assessment of translocated plants will involve a comparison of adult survival and reproductive individuals between translocated plants and plants similarly measured in the reference sit. Thus the monitoring of translocated plants will have to be paired with an "undisturbed" or at least an appropriately managed reference site. Ideally the reference site should be used for collection of base-line data. The reference site should be similar to translocation site in terms of soils, plant community composition, fire regime, topographic and physiographic location, hydrology, etc. (*fide* Hildreth Cooper, USFWS, personal communication, August 11, 2004).

Parameters to be measured in the translocation and reference site.

Quantitative plant monitoring of a both translocation and reference sites will include the following measurements for each vascular plant species identified in the sample quadrat: (1) density, (2) coverage, (3) frequency. The following are specific measurements to be made of ET in the quadrats: (1) number of reproductive plants (flowering or fruiting), (2) if it can be determined, the number of seedlings versus vegetative plants, (3) notes on the number of etiolated or stressed plants, (4) evidence of herbivory or any other gross morphological damage. This data will be collected once annually toward the end of the growth cycle. Sample timing should be worked out as much as is feasible with the burn management cycle. The sampling ranges above are preferred since this plant tends to go dormant in fall and unless a

summer burn or mechanical injury initiates new growth, the plant body is likely to be absent after November. The timing of the sampling will allow for the collection of population related data such as number of sprouts in a given area, how much the translocated population has been able to spread vegetatively and sexually, by measuring the total number of sprouts and seedlings in a given area.

What are the measurements of success?

From the results of monitoring it can be determined if the transplanted population is successfully growing in similar conditions to those of the reference site. For this particular study, success would entail the establishment of new, healthy plant populations in appropriate habitat. A healthy population for the purpose of this study is one in which the translocated plants are determined to be viable and self-perpetuating. Excellent viability according to Norden and Chafin, FNAI, 2003 and the USFWS (*fide* Hildreth Cooper, USFWS, personal communication, August 11, 2004), would mean a population of 200+ individuals in a natural, appropriate landscape (site has been well managed and burned, i.e. no fire suppression), with indication of sexual reproduction, and with intact associated native vegetation.

This is not an outline for the study of population dynamics since a study of this magnitude would take decades of intensive quantitative measurements of, for example, the following: germination rates, seed and seedling survival, pollination biology, herbivory, individual survivorship, mortality, and reproduction for individual plants. This study seeks to create a successful transplantation methodology and a means to measure the survivorship and make an estimate as to the long term prognosis/success of the transplants through the use of quantitative measurements in quadrats over a five (5) year period.

Selection of the site to be used for the transplants, i.e. the translocation site.

The translocation site is to be determined by more field work to locate a site that most closely resembles the Glades North site. Extant ET populations were discovered after a search of Breakfast Point Mitigation Bank (BPMB). Our search strategy was based on overlaying the published soil survey polygons on the 2004 DOQQ's and searching for the best aerial signatures. We have searched the bulk of these CU's and have determined that the ET does not occur in the areas we searched. As of August 11, 2004 we have located a population of over 200 plants within the Breakfast Point Mitigation Bank. This site is currently planted in slash pine and fire suppressed. If plants are to be transplanted, areas adjacent to this population would be appropriate sites as they would be within the 1 kilometer range as recommended by the recovery plans for rare plants.

Site preparation of recipient site prior to transplantation.

The recipient site will be prepared for reception of the donor plant material by removing excessive, fire suppressed woody vegetation mechanically or through a management plan that includes burning. In all cases the recipient site should have a management plan that includes controlled fire in a cycle that occurs every 2-5 years. And if at all possible burning should be done between, May-August.

If the site consists of fire suppressed planted pine, especially those in pine plantations, some thinning will probably be needed to prevent damaging crown fires.

The extent of thinning will be determined in a case by case basis. The intact groundcover should show appropriate response after burning, i.e. woody species may stump sprout but should have been burned to ground level and percent coverage greatly reduced.

II. Transplantation methodology

Selection of the thickened root/rhizome.

ET is an herbaceous perennial with thickened roots/rhizomes that move vertically and horizontally through the soil column and a deep taproot that is generally found vertically in the soil column. In a limited sample we found that the thickened roots could be located within the upper 6-14 inches (16-35 cm) of the soil surface, the tap root can extend to an undetermined depth. The thickened roots/rhizomes act as a storage organ much like the familiar tuber of a potato. These thickened roots/rhizomes are the organ of choice for producing more plants. Standard plant propagation techniques often involve dividing thickened roots as a means of asexual propagation. The deeper taproot might also be used, if it can be readily extracted. As of this time no known published reports are known for specific propagation techniques for ET. Propagation by seed production is another alternative but it is unlikely that the large number of seeds needed for a large scale study would be available. It is our proposal that those plants slated for destruction will be the source material for ET used for transplantation.

Within the development footprint for the Glades North site, we propose to locate and dig the thickened roots-rhizomes in early fall, most of the summer grown, above ground stems, will have disappeared since the plants will have entered fall/winter dormancy. Provisions to identify and relocate sufficient plant material will have to be made in late July-early August. In fall the thickened portions will have accumulated food reserves, typically in the form of starches and will have the greatest chance for transplantation survival as they will have the entire winter to adjust to the new soil environment. The final length of thickened rhizome to use in transplantation/translocation will be determined in the field. At this time we estimate a 6-12 inch (16-30 cm) section of the root can be collected and stored in a bag of moist sand for transport to a new location. Hundreds of root fragments can be stored for several days in a single large zip lock bag kept at 50 °F (10 °C). A large cooler with ice would easily handle up to 20 zip lock bags filled with root fragments. Thus up to 1,000+ root fragments could easily be stored and transported in a large, standard cooler.

Planting the collected roots or donor material.

After the appropriate recipient site has been selected and prepared. The transplantation/recipient sites will be selected and divided to produce a 1m x 1m grid pattern. Each 1m x 1m area will be considered a potential sample site. When a1 m x 1 m plot or square quadrat is selected as a translocation site it will be georeferenced using a GPS and marked by insertion of an iron piece at each corner for future location with a metal detector, **see Figure 1**. From the grid described above, 5 random sample sites will be selected for the donor material. Careful attention to ecotones and microhabitats will be considered and reasonable scientific judgment will be rendered in the placement of all sample sites. Alternate sample sites will be randomly selected if the first choice is deemed inappropriate (i.e. a solid clump of saw palmetto, excessive rutting or a stump hole, etc.). Once the sample site has

been chosen, the 1m x 1m square will be subdivided into four quadrats. Each will receive 25 root/rhizome fragments for 100 root-rhizome sections in each 1m x 1m sample site; **see Figure 1**.

III. Baseline Monitoring

Before restorative and translocation activities that disrupt the landscape are begun, the plots to be monitored will be sampled. This data will be used for future comparison and will include the following information for each plot or quadrant.

9. General site conditions on, around and in the vicinity of the plots.
10. Evidence of past land use activities will be noted, especially those that might effect plant distribution, composition and abundance.
11. The proportional distribution of groundcover, shrub and tree species using the protocol of sampling outlined in quantitative plant sampling, below.
12. Presence of invasive exotics in or adjacent to plots.

In addition to the randomly selected sample site, eight, 1m x 1m plots will be configured such that each occupies and surrounds each of the sample sites, **see Figure 2.** Each of these 8 plots will have all vascular plants identified with their density, coverage with notes on non-vegetated areas. The reason for establishing these plots is to be able to measure any ET colonization of the immediate surroundings through the five (5) years of sampling. Thus we will be able to provide information on the progress of the transplantation/translocation project and determine if the project goals have been met. A transplantation/translocation project involving ET should be monitored until it appears mature and self-sustaining, which could take years or decades. Assessment of translocated plants will involve a comparison of adult survival, seed production, germination rates, seed survival, seedling survival, and growth rates between translocated plants and plants similarly measured in the reference sit.

For tree measurements, if the site has not been site prepped for silviculture, a standard 20 meter transect can be used to determine tree density. The placement of this transect can begin at the center of each sample site and extend from the center, northward for 10 meters, southward for 10 meters, basically on either side of the center of the plot in a north/south orientation. The point-quarter method can be used to determine tree density at 0 and 10 and 20 meters, **see Figure 3**. If site is currently a pine plantation or trees are evenly spaced a 10m x10m quadrat can be used to measure all trees within. To place this sample quadrat or plot use the center of the original sample plot and create a 10m x 10m quadrat, **see Figure 4**. In this latter case each pine within the quadrat will be measured at breast height to calculate the tree density based on basal diameter. See monitoring methodology below.

IV. Long Term Monitoring

All monitoring will continue for at least five (5) years. The quantitative sampling sites used for reference sites will be randomly selected from an appropriate landscape using the same methodology as described above from a known area of ET occurrence. Each 1m x 1m plots or square quadrat used as a reference will be georeferenced and marked by insertion of an iron piece at each corner for future location with a metal detector, see Figure 1. These representative samples will measure the proportional distribution of groundcover and shrubs. If trees have been planted in rows, simple measurements will determine the planting distances and

density. For additional information about groundcover, shrub and subcanopy monitoring see attachment B.

V. Photography

The photographic specifications used in conjunction with the quantitative plant sampling protocol will include photographing the sampling site by standing over the plot and including the 1mX1m sample area. The photographs will include as much view as is typical for a standard digital camera. Close up photos of important features may also be collected within the quadrats. No editing of photos will be used other than that used to manipulate photos for processing into formats suitable for report writing. All photos will be dated and georeferenced whenever possible. All labeling of photographs in final reports will include the date of photo, photographer, location and figure or photo number. Electronic storage of photographs will be saved for future reference.

VI. Analyzing the Data

The once annual monitoring will provide quantitative and qualitative information that can be objectively analyzed. The results of this analysis will allow for interpretation and conclusions from the data. These results will then be reported and evaluated. If it is determined that the translocation methodology is not producing the appropriate ecological response as this relates to the success of this endeavor, the methodology will be re-evaluated.

Figure 1

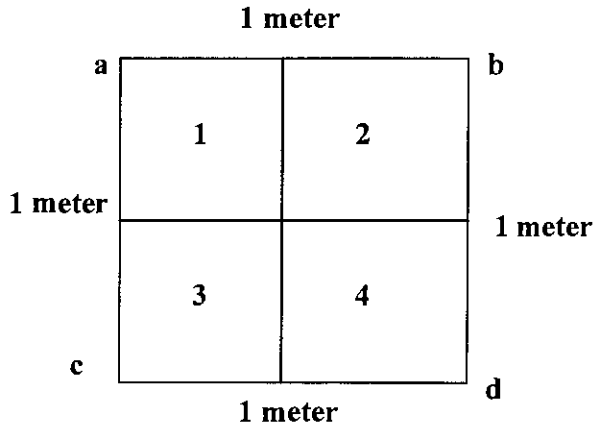


Figure 1. The transplant/recipient site will have the dimensions of 1m x 1m. This is also called a square quadrat. At each corner of the quadrat an iron stake will be inserted to permanently mark the quadrat at points a, b, c and d. The quadrat is divided into four sections labeled 1, 2, 3 and 4. Twenty-five donor plants will be planted in each section for a total of 100 donor plants per quadrat.

Figure 2

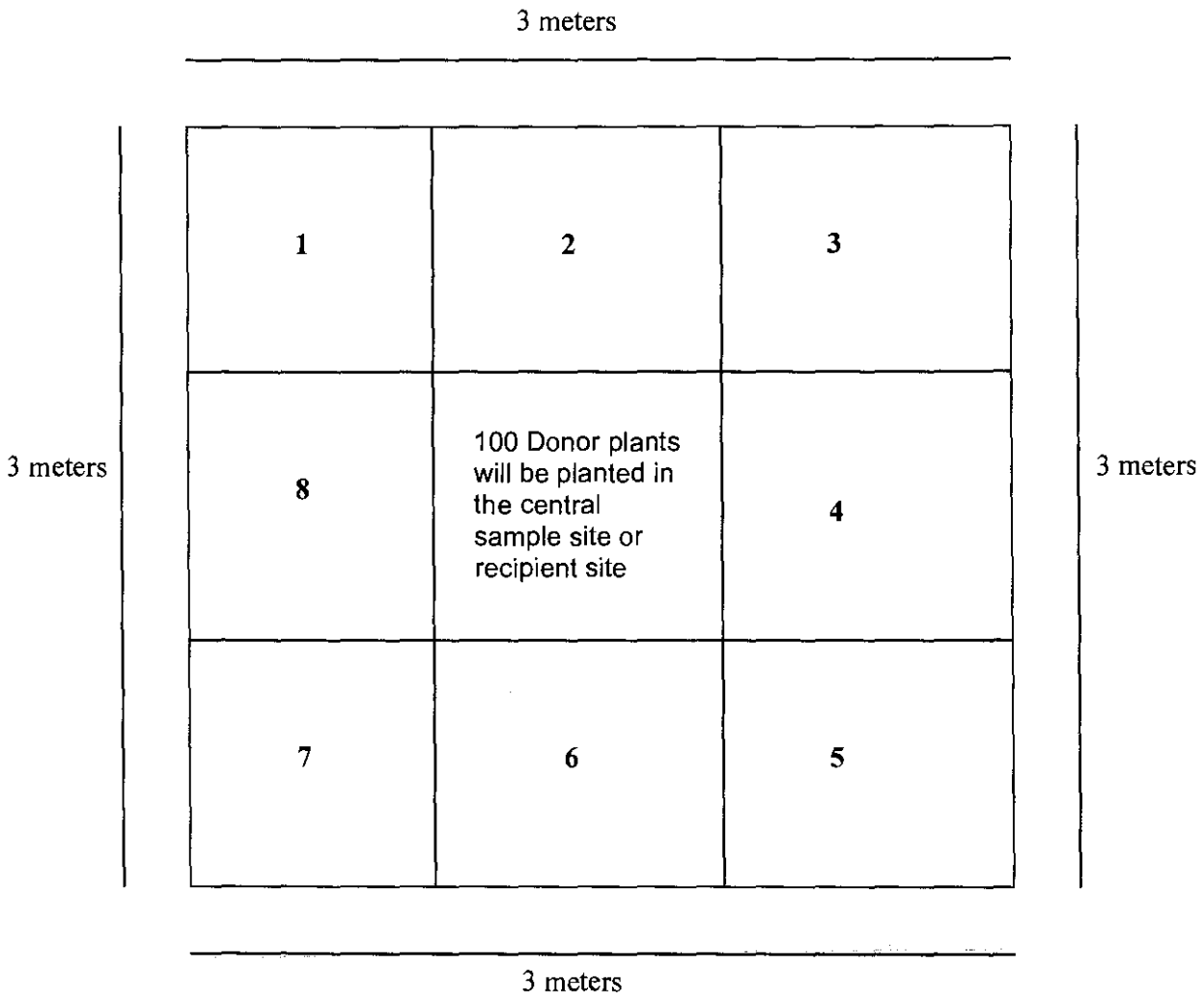


Figure 2. Configuration of eight 1m x 1m plots organized around the central sample site. The central sample site is that depicted in figure 1 it is also called the recipient site. All vascular plants in each of the eight plots will be measured for density and coverage. The central sample site will receive the donor plants. The idea is to measure how successfully the donor plants might move into the surrounding eight plots over time.

Figure 3

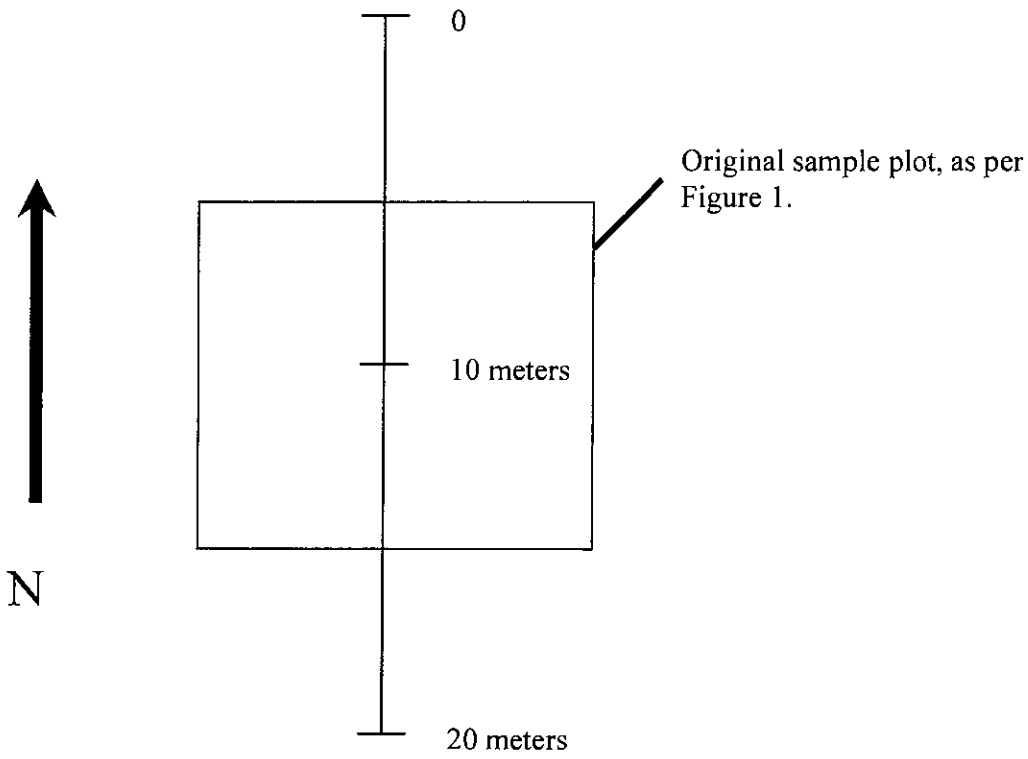


Figure 3. The placement of this transect can begin at the center of each sample site and extend from the center, northward for 10 meters on either side in a north/south orientation. The point-quarter method can be used to determine tree density at 0 and 10 and 20 meters.

Figure 4

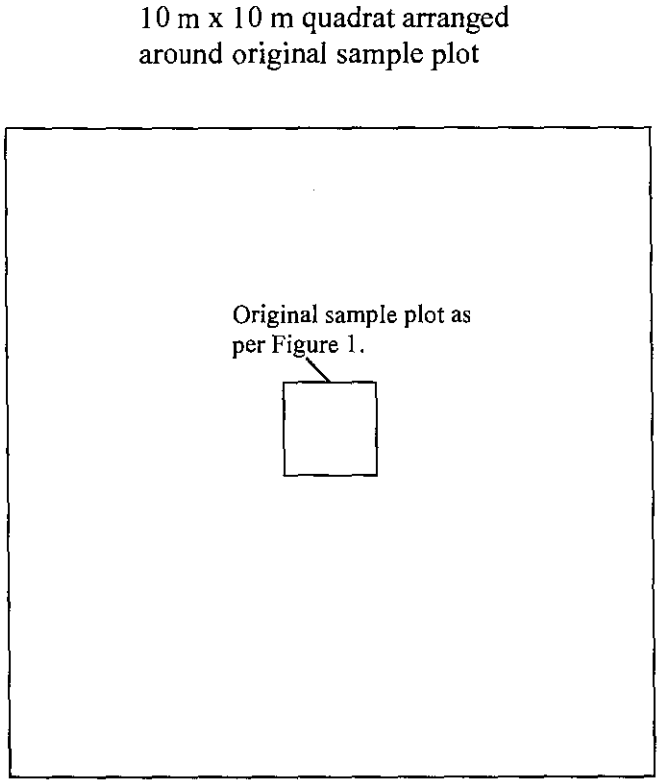


Figure 4. 10m x 10m plot used to sample trees if site is currently a pine plantation or trees are evenly spaced. All trees are measured within this plot. To place this sample plot use the center of the original sample plot and create a 10m x 10m quadrat.

Appendix III

RGP-86 Telephus Spurge Pre-Application Evaluation

Endangered Species Act formal consultation was conducted between the U.S. Fish and Wildlife Service (Service) and the Corps of Engineers as part of the development of the RGP-86. Consultation was based on the presence of telephus spurge (*Euphorbia telephioides)* at three locations in Gulf and Bay counties and the observance of suitable habitat throughout the action area. Best available methods were used to determine potential impacts to telephus spurge that could be expected from implementation of the permit. However, it is reasonable to expect that with a project area covering more than 47,000 acres (about 1/3 of which is potentially developable) undetected habitat could be present. To avoid and minimize potential take of telephus spurge in these situations, the following survey protocol was developed. This evaluation must be completed by all applicants and performed by a qualified plant ecologist/field botanist.

Step 1: Preliminary Project Site Review

Applicants and/or their consultants shall contact the Service for the latest information on the telephus spurge. The proposed project site shall be reviewed to determine if any known occurrences of the telephus spurge are present in the vicinity.

Step 2: Procedures for Reviewing Other Data to Determine Whether Additional Field Surveys Should be Conducted:

The telephus spurge occurs in a variety of soil types and plant communities ranging from sandhill to mesic flatwoods to pine savannahs. Suitable soil types are primarily the drier Leon sand and Pottsburg sand, although the plant is sometimes found in mesic soils, particularly within the ecotone surrounding sandy soils. Most of the known locations have been impacted by silviculture. Telephus spurge has been found in pine plantations with bedding present. Specific project sites must be reviewed using the procedures outlined below to determine the presence or absence of the telephus spurge.

1. Review the project site using NRCS soils data for Bay and Walton Counties, high-resolution infrared and/or true color aerials (scale of 1 inch=400 feet), and historic aerials of your project area.

2. Look for the following positive indicators:

- Suitable soils. Suitable soil types include Leon sand, Pottsburg sand, and Hurricane sand.

- Open canopy. Features to look for on the infrared aerials include the absence of a dense, closed canopy cover. Absence is a positive indicator. Dense canopy cover like titi appears dark red and smooth. The absence of a dense canopy shows up lighter often with patchy red areas throughout.

3. The presence of one or more positive indicators means that the site is potential telephus spurge habitat.

- If yes, then you must conduct field surveys to determine whether telephus spurge is present. **Continue to step 3.**
- If no, then **you are finished with the telephus spurge evaluation. Go to step 4.**

Step 3: Field Assessment of Potential Telephus Spurge (*Euphorbia telephioides*) Habitat

Before beginning any field work, develop a search pattern recognition of *Euphorbia telephioides* by examining photographs or herbarium species or by visiting field locations. See www.plantatlas.usf.edu for a photo reference collection.

Select potential survey polygons based on presence of Leon sand or Pottsburg sand. After reviewing aerial photography and conducting preliminary site inspections, add those areas that have a relatively open canopy and

remnant native groundcover. Be sure to include roadsides, open trails, utility easements, burned areas, and wetland ecotones. Eliminate areas that are densely vegetated with shrubs and trees or are obviously wet most of the year.

Selected polygons should be field surveyed for presence or absence of telephus spurge using a qualitative transect method. The surveys should be supervised by a qualified botanist. Straight line transects at 20-foot intervals should be laid out to cover the entire polygon. Alternate on each side of the transect with 10-foot square quadrants. (Figure 1) The quadrant boundaries can be estimated and visually scanned for telephus spurge. Areas with extremely dense vegetation can be overlooked.

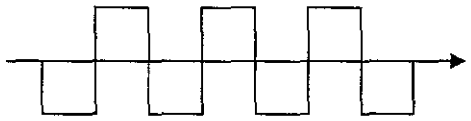


Fig. 1

Surveys can be conducted anytime from April through September. The plant generally dies back at the end of the growing season and does not re-grow to a noticeable height until several weeks after the last frost. Ideal survey months are July through September.

Step 4: Telephus Spurge Findings

	Yes	No
1. Positive indicators were detected in Step 2.	___	___
2. Field surveys detected presence of telephus spurge. **If yes, re-initiation of consultation is required.**	___	___
3. Appropriate documentation is included to support these findings. Negative and positive survey data are provided to USFWS in a GIS format.	___	___

Signature _____ Date_____

Ecologist/Botanist who performed the evaluation

Appendix IV.

RGP-86 Flatwoods Salamander Pre-Application Evaluation

Endangered Species Act formal consultation was conducted between the U.S. Fish and Wildlife Service and the Corps of Engineers as part of the development of RGP-86. Consultation was based on presumed presence of salamanders due to the proximity of two known locations and the observance of suitable habitat in the action area. Best available methods were used to determine potential impacts to flatwoods salamanders that could be expected from implementation of the permit. However, it is reasonable to expect that with a project area covering more than 47,000 acres (about 1/3 of which is potentially developable) undetected habitat could be present. In order to avoid and minimize potential take of salamanders in these situations, the following habitat evaluation was developed. This evaluation must be completed by all applicants and performed by a qualified ecologist/biologist.

Step 1: Preliminary Project Site Review

1. Applicants and consultants shall obtain and review an informational brochure developed by the Florida Fish and Wildlife Conservation Commission. The brochure is available from Florida Fish and Wildlife Conservation Commission, Bureau of Wildlife Diversity Conservation, 620 South Meridian Street, Tallahassee, Florida 32399-1600.

2. Applicants and/or their consultants shall compare aerial photographs of their project site to Figures 2, 3 and 4 of the Biological Opinion. Note all data points located within the project site and within 450 meters (1,476 feet) of the project site or limits of construction.

3. If any data points of Figure 4 are located within the project site or within 450 meters of the project site or limits of construction, **re-initiation of consultation is required. Continue with Step 2.**

4. Other data points of Figures 2 and 3 that are within the project site action area (including 450 meters) do not need further evaluation. Previous work conducted as part of the biological opinion addressed these sites. **Continue with Step 2.**

Step 2: Procedures for Reviewing Other Data to Determine Whether Additional Field Surveys Should be Conducted (based on Palis 2003)

There is a potential that suitable habitat may have been overlooked during the analysis for the biological opinion. Therefore, specific project sites must be reviewed using the procedures outlined below to determine whether they need to be field surveyed.

1. Review project site using high-resolution recent infrared aerials (scale of 1 inch = 400 feet), NRCS soils data for Bay and Walton counties, and historical aerials of your project area that are of as high a resolution as is obtainable. Note any ponds[1] not depicted on Figures 2 or 3 with similarity of appearance to those of Figure 4 in the biological opinion.

2. Features to look for on the infrared aerials are as follows:

- Absence of a dense titi cover completely surrounding ponds. Absence is a positive indicator. Dense titi appears relatively dark red and smooth
- A graminaceous, treeless ecotone along part of the pond edges. Presence is a positive indicator. Wet, herbaceous edges appear as smooth grayish blue, greenish grayish blue, or as a light band along the edge.
- Absence of deep water. Absence of deep water is a positive indicator. Deep water appears dark blue or almost black.

[1] "Ponds" are not traditional open waterbodies, but are ephemeral wetlands that are ponded for a portion of the year.

3. On historical aerials, look for open savannahs or pine flatwoods around ponds. These are positive indicators and appear as smooth, light-colored areas with scattered-to-no-trees.

4. On soil maps, where ponds occur, look for hydric or mesic soils around pond; hydric or mesic soils are positive indicators of flatwoods salamander use.

5. The presence of all of the above positive indicators means that the pond(s) should be field surveyed.

- If yes, then you must conduct field surveys to determine whether the pond(s) is a potential flatwoods salamander pond. **Continue with Step 3.**
- If no here and no to Step 1. 3., then **you are finished with the flatwoods salamander evaluation - Go to Step 5** (Flatwoods Salamander Findings).
- If no here and yes to Step 1. 3., then **re-initiation of consultation is required.**

Step 3: Field Assessment of Potential Flatwoods Salamander (*Ambystoma cingulatum*) Ponds

The Description Data Sheet (next page) may be completed at the same time as other fieldwork, such as wetland delineation. The field data sheet that must be completed at the time of the field survey follows. Photographs must also be taken of the ecotone and pond, particularly noting the location of the most graminaceous portion of ecotone and wetland groundcover.

Potential Flatwoods Salamander *(Ambystoma cingulatum)* Pond Description Data Sheet

Instructions: Circle the number of the most appropriate descriptor in each category. If no description option applies, circle "other" and describe. In some categories, such as ECOTONE VEGETATION DESCRIPTION, SPECIES COMPOSITION, and SURROUNDING UPLANDS, circle the number for all appropriate descriptors.

Pond# _____ Date _____ Observer(s) _____

ECOTONE VEGETATION DESCRIPTION
(If more than one descriptor applies, circle and estimate percentage of pond perimeter.
Also circle appropriate grass and shrub species)

1) undisturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*)[1], few to no shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____ %
2) disturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*; bedded/rutted), few to no shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____ %
3) undisturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*) under thick *Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____ %
4) weedy graminaceous (*Andropogon, Panicum verrucosum*, and/or *weedy Rhynchospora*), few to no shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) _____ %
5) disturbed graminaceous (*Aristida stricta, Calamovilfa curtissii*; bedded/rutted), under thick *Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia* _____ %
8) weedy graminaceous (*Andropogon, Panicum verrucosum*, weedy *Rhynchospora*) under thick *Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia* _____ %
9) thick shrubs (*Clethra, Cliftonia, Cyrilla, Hypericum, Ilex myrtifolia, Lyonia*) over little to no graminaceous (*Aristida stricta, Calamovilfa curtissii, Andropogon, Panicum verrucosum*, weedy *Rhynchospora*) _____ %
10) no ecotone _____ %
11) other:_____ _____ %

GRAMINACEOUS ECOTONE EXTENT DESCRIPTION

1) > 75 % of pond perimeter
2) 51-75% of pond perimeter
3) 26-50 % of pond perimeter
4) <25% of pond perimeter

GRAMINACEOUS ECOTONE WIDTH DESCRIPTION

1) > 0 m wide
2) 6-10 m wide
3) 3-5 m wide
4) 1-2m wide

1 "Undisturbed graminaceous" and "disturbed graminaceous" mean that the appropriate ground cover species are present (*Aristida stricta, Calamovilfa curtissii*, wiry *Rhynchospora* spp., and *Sporobolus*). However, "disturbed graminaceous" indicates that the soil has been disturbed by human activities such as chopping, bedding, ATV or skidder tracks. "Weedy graminaceous" means that not only are the appropriate ground cover species absent, but that the soil has been disturbed.

POND GRAMINACEOUS GROUNDCOVER SPECIES COMPOSITION
(place asterisk adjacent to visually dominant species)

1) *Aristida affinis*
2) *Carex*
3) *Dichanthelium (Panicum) erectifolium*
4) *Eriocaulon compressum*
5) *Panicum rigidulum*
6) *Rhynchospora inundata/corniculata*
7) *Rhynchospora* _____
8) *Sphagnum*
9) *Xyris*
10) other: _____

POND GRAMINACEOUS VEGETATION COVERAGE

1) extensive throughout basin, marsh-like
2) over most of basin (> 75 %)
3) scattered and local in basin (approx 25-74%)
4) limited to basin edge
5) sparse
6) none

POND CANOPY SPECIES COMPOSITION
(place asterisk adjacent to visually dominant species)

1) *Taxodium ascendens*
2) *Nyssa biflora*
3) *Pinus elliottii*
4) *Ilex myrtifolia*
5) other: _____

POND CANOPY COVERAGE

1) <25% 2) 26-50% 3) 51-75% 4) >75%

POND SUBSTRATE

1) relatively firm mud/sand with little to no leaf/needle litter
2) relatively firm mud/sand with abundant leaf/needle litter
3) soft and peaty (thick leaf/needle litter)

APPROXIMATE WATER DEPTH (_____ m)

If site dry, estimate using high water stains on trees: ____ m

WATER COLOR

1) clear to light stain 2) moderate stain (ice tea) 3) dark stain (coffee) 4) no water

SURROUNDING UPLANDS
(circle every applicable number and indicate relative percentage of area around pond)

1) undisturbed graminaceous (*Aristida stricta, Sporobolus*) dominated, few to no shrubs _____%
2) disturbed graminaceous (*Aristida stricta, Sporobolus*) dominated, few to no shrubs _____%
3) approximately 50/50 undisturbed graminaceous (*Aristida stricta, Sporobolus*)/shrubs _____%

4) approximately 50/50 disturbed graminaceous (*Aristida stricta, Sporobolus*)/shrubs ____%
5) disturbed with sparse vegetation (i.e., principally pine straw) ____%

6) shrub dominated (shrubs knee high or less), sparse graminaceous (*Aristida stricta, Sporobolus*) ____%

7) shrub dominated (shrubs between knee and head high), sparse graminaceous (*Aristida stricta, Sporobolus*) ____%
8) shrub dominated (shrubs head high or more), sparse graminaceous (*Aristida stricta, Sporobolus*) ____%
9) weedy graminaceous (e.g., *Andropogon*), few to no shrubs ____%
10) shrub dominated (shrubs knee high or less), sparse weedy graminaceous (*Andropogon*, etc.) ____%
11) shrub dominated (shrubs knee to head high), sparse weedy graminaceous (*Andropogon*, etc.) ____%
12) shrub dominated (shrubs head high or more), sparse weedy graminaceous (*Andropogon*, etc.) ____%
13) other _____ ____%

UPLANDS SPECIES PRESENT
(circle number and place asterisk by visually dominant species)

1) *Andropogon*
2) *Aristida stricta*
3) *Conradina canescens*
4) *Cyrilla racemiflora*
5) *Ilex glabra*
6) *Kalmia hirsuta*
7) *Licania michauxii*
8) *Lyonia lucida*
9) *Myrica cerifera*
10) *Pteridium aquilinum*
11) *Quercus minima/pumila*
12) *Serenoa repens*
13) *Vaccinium darrowi/myrsinites*
14) _____

General Notes: _____

SKETCH WETLAND/UPLAND (North ↑)
(delineate locations of vegetational differences in ecotone and in wetland and uplands)
(**photograph** the ecotone and pond noting the location of the most graminaceous portion of ecotone and wetland ground cover, note photo points)

Step 4: Expert Review of Field Results

When Steps 2 and 3 have been completed, the completed field data sheets and photographs should be sent to a recognized flatwoods salamander expert. In addition, the current and historical aerials, soil data, and a map of the

project site should also be forwarded to the expert. The expert will review all the information to determine whether the pond might be a potential flatwoods salamander pond.
The field data sheet used in Step 3 has been organized so that the descriptors under each category of interest are ordered from best to worst conditions for flatwoods salamanders. For example, under the category Ecotone Vegetation Description, the first descriptor [1) undisturbed graminaceous... few to no shrubs...] describes the best conditions for flatwoods salamanders and the last two descriptors [9) thick shrubs... and 10) no ecotone] describe the worst conditions.

The expert will evaluate the descriptors selected for each category of interest to determine whether the pond might be a potential flatwoods salamander breeding pond. If mostly low number descriptors were selected on the field data sheet, then the pond is more likely to be considered a potential breeding pond; conversely, if primarily high number descriptors were selected on the field data sheet, then the pond is less likely to be considered a potential breeding pond. However, no formula presently exists that encompasses all the possibilities that might eliminate or elect a pond for further consideration as a potential breeding pond.

If the expert cannot determine whether or not the pond should be considered a potential flatwoods salamander breeding pond, s/he may request additional information from the ecologist/biologist who visited the pond and/or the project applicant. If the request for additional information is not fulfilled within a reasonable time period or the response is not sufficiently helpful, the expert may also elect to visit the pond himself at the expense of the project applicant.

The expert will provide a written determination as to whether the surveyed pond(s) is likely to be a potential flatwoods salamander breeding pond.

Review Time Frames:

- Provide field data sheets to expert;
- Expert reviews field data sheets within 10 working days of receipt, and
    - Requests additional information, or
    - Provides[2] written determination;
- Project applicant or their consultant provides additional information to expert;
- Expert provides written determination to project applicant within 5 working days of receipt of sufficient additional information;
- Project applicant provides the expert's written determination and background documentation (prepared map of ponds, aerials, soil data, field data sheets, and photographs) to the agencies as part of the pre-application Item #8.

2 "Provides" implies postmarked, emailed or faxed.

Step 5: Flatwoods Salamander Findings

	Yes	No
1. The project site contains or is within 450 meters (1,476 feet) one or more of the data points indicated in Figure 4 of the biological opinion. **If yes, re-initiation of consultation is required.**	____	____ of
2. The project site contains or is within 450 meters of potential habitat not evaluated in the biological opinion.	____	____
3. Field evaluations and expert review were necessary for additional habitat.	____	____
4. Expert review indicates that suitable habitat is located within the project action area. Name of flatwoods salamander expert _____. **If yes, re-initiation of consultation is required.**	____	____
5. Appropriate documentation is included to support these findings.	____	____

Signature _____ Date _____

Ecologist/Biologist who Performed the Evaluation

Checklist for Department of the Army
Regional General Permit SAJ-86 (2020 Reissuance Version)
for
Residential, Commercial, Recreational, and Institutional Fill in the
Choctawhatchee Bay, Lake Powell, and West Bay Basins
Bay and Walton Counties, Florida

Check appropriate response as to whether the proposed project complies with requirements of RGP SAJ-86. If the question is not applicable, write "N/A" in the box. In order for the proposed project to qualify for RGP SAJ-86, all responses must be in a box.

Yes No

1. ☐ _____ Was a pre-application meeting held pursuant to the requirements of this RGP?
(Date of pre-application meeting:_____)

2. ☐ _____ Was an application to the Corps for this project made using the form *U.S. Army Corps of Engineers ENG Form 4345*?

3. ☐ _____ Were exhibits provided which show the specific location of the proposed project and confirm that the proposed project is located within the RGP area boundaries (1"=200' or other appropriate scale)?

4. ☐ _____ RGP SAJ-86 only authorizes Section 404 activities. Are all regulated activities associated with the proposed project located: (1) in Section 404 waters only, or (2) if there are associated Section 10 activities, will these Section 10 activities be evaluated separately as a NWP, GP, LOP or IP?

5. ☐ _____ Does the application include a written scope of the project, which describes the type of project and confirms that it comports with activities authorized by the RGP (i.e. the proposed project is a type of residential, commercial, recreational, or institutional development)?

6. ☐ _____ Are project wetland delineations in accordance with the with the most recent guidance and wetland delineation manual or manual supplement issued by the Corps. As of the date of reissuance of this RGP, applicants should use the *Interim Regional Supplement to the Corps of Engineers Wetlands Delineation Manual: Atlantic and Gulf Coastal Plain Region (2010)*. (Wetlands may be delineated using aerial photo-interpretation (API) and ground-truthing, and, if necessary, mapped using the Global Positioning System (GPS) and other Geographical Information System (GIS) mapping techniques. In much of the project area, historical aerial photography will be used to obtain pre-pine plantation wetland community signatures)?

7. ☐ _____ In all instances where a construction line falls within 250 feet of a wetland boundary estimated using the method described in 5. above, was a documented field wetland jurisdictional determination (i.e. flagged and flags located either by GPS or survey) performed for that segment of the proposed project?

8. ☐ _____ Have all wetlands on the project site been identified as either altered or high quality wetlands? (NOTE: For sites within the EMA area, the existing high quality/altered wetland map shall be used as a starting point for delineation of onsite wetlands (Exhibit 27). During or after wetland boundaries have been established, the resulting wetland areas will be classified and mapped by quality, and will use a combination of GPS technology, visual inspection of photography, and ground-truthing. Additional data may be used including overlays involving timber stand data.)

9. ☐ _____ Are all wetlands identified as altered wetlands on the proposed project site planted in pines (i.e. hydric pine plantation, pines in rows) or non-Section 10 ditches?

10. ☐ _____ Do proposed direct impacts to altered wetlands comply with the 20% limit as specified in special conditions #5a and #5b of the SAJ-86?

11. ☐ _____ Are high quality wetland impacts limited to road crossings only and meet the following criteria?

☐ _____ a. Were impacts to high quality wetlands limited to road and bridge crossings necessary to support the associated development, and do not exceed a width of 160 feet of combined filling or clearing at each crossing?

☐ _____ b. For fill road crossings through high quality wetlands, was bridging for each individual high quality wetland road crossing judged to be impracticable pursuant to consideration of the following: 1) the degree of water flow within the wetland, 2) the length of the wetland crossing, 3) the topography of the wetland and associated upland, and 4) the degree to which a roadway would adversely affect the movement of wildlife expected to use the wetland?

☐ _____ c. Was first preference for each new high quality wetland road crossing given for existing silviculture road crossings?

☐ _____ d. If road crossings at locations other than existing silviculture road crossings are proposed, was the crossing designed and constructed to minimize wetland impacts?

☐ _____ e. For each road crossing proposed at a point where no previous silviculture road crossing existed, will an existing silviculture road crossing within the same sub-basin be removed and the wetland connection restored? If there are no existing silviculture road crossings through wetlands within the sub-basin, will high quality wetlands be preserved, either onsite or offsite, to compensate for high quality impacts?

12. ☐ _____ Overall, do the application's drawings and other exhibits that document and show the number, type, location, and acreage of all

wetland impacts sufficiently confirm that the proposed project fully complies with this RGP?

13. _____ ☐ Will fill material be placed in wetlands for septic tanks or drainfields?

14. ☐ _____ Will only clean fill and rock material compatible with existing soils (e.g., soil, rock, sand, marl, clay, stone, and/or concrete rubble) be used for wetland fills?

15. _____ ☐ Will wetland fill sever a jurisdictional connection or isolate a jurisdictional area?

16. If the project site borders Lake Powell:

☐ _____ a. Are buffers required and do the buffers meet the following criteria? A 100-foot buffer between the lake from the ordinary high water line (OHWL) and development in Walton County. A 30-foot buffer between the lake from the OHWL and development in Bay County.

☐ _____ b. Will the buffers, whether upland or wetland, be preserved and maintained in a natural condition, except boardwalks for dock access and on-grade trails (buffers may be enhanced or restored to a more natural condition)?

☐ _____ c. Will the application of fertilizers, herbicides, or pesticides be prohibited in the buffers?

17. If the site includes/abuts high quality wetlands:

☐ _____ a. Will all high quality wetlands within the project site, have buffers (except at road crossings), which on an individual impact site basis, are comprised of uplands and/or altered wetlands and are on average 50 feet wide, with a minimum 30-foot width?

☐ _____ b. Will all of the buffers, whether upland or wetland, be preserved, and included under a conservation easement with adjacent high quality wetlands and maintained in a natural condition, except for the construction of boardwalks for dock access and on-grade trails (buffers may be enhanced or restored to a more natural condition)?

☐ _____ c. Will the application of fertilizers, herbicides, or pesticides be prohibited in all buffers?

18. Compensatory Mitigation:

☐ _____ a. Will compensatory mitigation for individual project wetland impacts be satisfied within: 1) the two mitigation banks, 2) Conservation Units, or 3) within the project site. (NOTE: For individual projects, which utilize a mitigation bank, the sum of impact Functional Units (FUs) shall be debited from the appropriate mitigation bank within 30 days of individual project approval under this RGP.)

☐ _____ b. Is all proposed compensatory mitigation located within the same permitting basin (i.e., Breakfast Point, Devils Swamp or Lake Powell basins), as the proposed wetland impacts, for which the compensatory mitigation is offsetting?

☐ _____ c. If the project includes compensatory mitigation located within the conservation units or on individual project sites, does the proposed compensatory mitigation plan comply with the requirements of 33 CFR Part 332, “Compensatory Mitigation for Losses of Aquatic Resources”?

☐ _____ d. Were direct wetland impacts associated with the proposed project and the compensatory mitigation to offset those direct wetland impacts calculated in terms of functional units (FU), as determined using the *Uniform Mitigation Assessment Method (UMAM)* as set forth in Chapter 62-345, Florida Administrative Code, with each acre of impact to

altered wetlands assessed at 0.53 FU and each area of impact to high quality wetlands assessed at 0.87 FU? If a bank does not have a UMAM credit ledger approved by the Corps, was the mitigation determined using *Wetland Rapid Assessment Procedure (WRAP), Technical Publication REG-001, September 1997* with each acre of impact to altered wetlands assessed at 0.65 FU, and each acre of impact to high quality wetlands assessed at 0.92 FU?

☐ _____ e. Will the compensatory mitigation be implemented concurrent with or before proposed project impacts?

19. ☐ _____ Conservation Units (CUs): If the proposed project or a portion of the project is located within the EMA area, and in a sub-basin in which one of the ten CUs is located, will The St. Joe Company place perpetual conservation easements with the DEP as the grantee on portions of CUs equal to the percentage of the total acreage of approved projects in the affected sub-basin per the following calculation: Using the EMA area only, divide the total acreage within an approved project boundary in a sub-basin (including impact and preserved area) by the total acreage of land within the sub-basin minus the area of any conservation units with the same sub-basin?

20. Conservation Easements:

☐ _____ a. Will perpetual conservation easements with the DEP as the grantee, be placed on wetlands not authorized for impact on each project site (including offsite preservation areas to meet the 20% altered wetland requirement) following individual project approval, but prior to commencing any activities authorized by this RGP (or according to the timeframe specified as a special condition in the project specific approval); and does the proposed conservation easement comport with Exhibit 21 of the RGP?

☐ _____ b. For projects that include off-site preservation of altered wetlands, are the boundaries of the off-site preservation area reasonable and include intermixed and adjacent altered and high quality wetlands?

☐ _____ c. For compensatory mitigation conducted outside of a mitigation bank, will a perpetual conservation easement with the DEP as the grantee, be placed on the mitigation area prior to commencing any activities authorized by this RGP on the individual project for which the mitigation is approved(or according to the timeframe specified as a special condition in the project specific approval); and does the proposed conservation easement comport with Exhibit 20 of the RGP?

21. Stormwater management:

☐ _____ a. Has a set of sealed stormwater management system plans been submitted to the DEP for review?

☐ _____ b. Does the application include a signed statement by a Florida licensed engineer that verifies that the project conforms to the *Stormwater System Design and Review Criteria Manual, February 2004* (Exhibit 2)?

22. State Historic Preservation Officer (SHPO):

☐ _____ a. Was documentation for coordination with SHPO provided?

☐ _____ b. If required by the SHPO, THPO(s), or the Corps, did the applicant conduct an archeological and historical survey on the proposed project site?

☐ _____ c. If required, will measures identified to avoid, minimize or mitigate adverse impacts to historic properties listed, or eligible for listing in the *National Register of Historic Places*, or otherwise of archeological or historical, be made special conditions of the RGP authorization for the proposed project?

23. Reticulated Flatwoods salamander (*Ambystoma bishopi*):

☐ _____ a. Was the *RGP-86 Flatwoods Salamander Pre-application Evaluation* (Exhibit 22) provided and completed?

_____ ☐ b. Is re-initiation of consultation for *Ambystoma bishopi* required?

24. Bald Eagle (*Haliaeetus leucocephalus*):

☐ _____ a. Was documentation provided that states whether or not an eagle nest is located on or in the vicinity of the project site.

☐ _____ b. If a bald eagle's nest occurs within 660 feet of a project, has the applicant followed the U.S. Fish and Wildlife Service's May 2007 National Bald Eagle Management Guidelines? Has the applicant contacted the Florida Fish and Wildlife Conservation Commission for recommendations relative to Florida's Bald Eagle Management Plan and Permitting Guidelines to ensure the project is consistent with the provisions of Rule 68A-16.002, Florida Administration Rule? Have appropriate protections been incorporated in the project and documentation provided showing how the appropriate protections will be implemented?

25. Telephus Spurge (*Euphorbia telephioides*):

☐ _____ a. Was the *RGP-86 Telephus Spurge Pre-application Evaluation* (Exhibit 25) provided and completed?

_____ ☐ b. Is re-initiation of consultation for *Euphorbia telephioides* required?

Exhibit 27.

Principles for Forest and Wildlife Management of Conservation Units within the West Bay Ecosystem Management Agreement RGP - SAJ 86



2014 Revision by:

Thomas Estes, Principal
Icarus Ecological Services, Inc.

and

James Moyers,
Wildlife Biologist
The St. Joe Company

Purpose

To provide an outline for forest and wildlife management within the Conservation Units (CUs) of the West Bay Ecosystem Management Agreement (EMA) , Regional General Permit and Ecosystem Management Agreement (RGP/EMA) areas. This document provides the framework that will guide the development of future land management plans for CUs.

Methodology

Using the *Revised Land and Resource Management Plan for National Forests in Florida* and the *Cecil Field Timber Management Plan* as a framework, the guidelines will prescribe forest and wildlife management strategies that enhance conservation, habitat restoration, and ecological functions within the CUs.

History

The primary land management goal for most of the RGP/EMA area historically has been the production of forest products. Intensive silvicultural management of slash pine (*Pinus elliottii*) and sand pine (*P. clausa*) plantations has occurred on the CUs for the past 30 to 40 years. Silvicultural practices implemented on the area include clear-cutting, roller chopping, site-preparation burning, bedding, planting, and fertilization. Most stands within the RGP/EMA area have been through one or more rotations of planted pine. While forest management practices have degraded the natural habitats of many uplands and wetlands, some wetlands within the CUs have experienced little or no silvicultural impacts.

Prescribed Management

The primary forest management objective for this area is to prescribe management activities that will restore and enhance the vegetative communities and function of historic ecosystems. Restoration forestry practices will replace historical intensive silvicultural practices within the CUs. Harvest operations, controlled burning and other restoration prescriptions will be used to convert the existing even-aged pine monoculture to a mosaic of even and uneven-aged management regimes. Proposed objectives, suggested management prescriptions and benefits are summarized below.

I. Forest Management

A. Objective

To implement harvest, planting, and management operations that restore and maintain the vegetative species composition, stem density, basal area, understory, hydrology, wildlife species diversity, and ecological functions of historically naturally occurring ecosystems.

B. Prescription

All forest management operations will adhere to the latest edition of Silviculture Best Management Practices (BMPs) outlined by the Florida Forest Service (FFS), harvests will be conducted by Florida Master Loggers (FML), and forest management will adhere to guidelines set forth by the Sustainable Forest Initiative Program (SFI). Five forest community types impacted by silviculture occur within RGP-EMA conservation areas: xeric planted uplands, mesic planted uplands, hydric planted flatwoods, upland hardwoods, and wetland hardwoods. Goals and

prescriptions of each community are described below.

1. Xeric Planted Uplands Goal
   Open canopy with appropriate canopy species, longleaf pine, herbaceous ground cover, low density mid-story. The long-term goal is restoration of uneven-aged longleaf pine forests.

   a) Contains FDOT FLUCCS habitat types Upland Coniferous Forest (4100), Coniferous Plantations (4410), and Forest Regeneration Areas (4430).
   b) Conforms to FNAI community types Sandhill, Scrub, and Scrubby Pine Flatwoods (FNAI 2010).
   c) Remove existing stands of sand pine and off site slash pine plantations through clear-cutting following SFI standards. Stands will be candidates for conversion to longleaf once they become merchantable. Existing individual longleaf trees will be left where they are found.
   d) Prepare and maintain sites by control burning, mechanical and or chemical means to accomplish successful longleaf stand establishment and restoration or enhancement of herbaceous ground cover.
   e) Plant longleaf seedlings to ensure capture of site (competition) and provide sufficient needle drop for future control burns.
   f) Periodic burning to promote ecological functions.
   g) Once stands are established, uneven aged management will occur. Thinning operations will typically occur every 10-15 years on a continual basis with the introduction of patch clear-cutting during these operations to facilitate uneven aged management (natural regeneration).
   h) Bedding will not be used.

2. Mesic Planted Uplands Goal
   Uneven age, open canopy, longleaf pine or a mix of slash and longleaf pine, more diverse herbaceous groundcover than current condition, low density mid-story. The long-term goal is restoration of uneven-aged longleaf pine and or mixed longleaf/slash pine forests.

   a) Contains FLDOT FLUCCS habitat types Pine Flatwoods (4110), Coniferous Plantations (4410), and Forest Regeneration Areas (4430).
   b) Conforms to FNAI community type Mesic Pine Flatwoods (FNAI 2010).
   c) Existing slash pine plantations will be managed to a 30 year rotation. Stands will be clear-cut following SFI standards. Existing individual longleaf trees will not be harvested.
   d) Prepare and maintain sites by control burning, mechanical (no bedding) and or chemical means to accomplish successful reestablishment of slash and longleaf pine. Planting densities will ensure adequate stocking for tree selection processes and long-term tree density goals.
   e) Once stands are established, pine canopies will be managed to promote

herbaceous ground cover through thinning operations.

f) Periodic burning to promote ecological functions.

g) Bedding will not be used.

3. Hydric Planted Flatwoods Goal

Open canopy with appropriate canopy species, low density slash pine, more diverse ground cover, low density mid-story.

a) Contains FLDOT FLUCCS habitat types Hydric Pine Flatwoods, (6250), Freshwater Marsh (6410), and Wet Prairies (6430).
b) Conforms to FNAI community types Hydric Pine Flatwoods, Seepage Slopes, and Wet Prairies (FNAI 2010).
c) Clear-cut existing slash pine plantations and convert to savannahs.
d) Any existing longleaf pine individuals will not be harvested.
e) Periodic burning will promote restored ecological function.
f) Periodic harvesting of natural regeneration will be utilized, when economically feasible, to promote uneven-aged stand composition and maintain ecosystem integrity.
g) Bedding will not be used.

4. Upland Hardwood Goal

Retain current core conditions and enhance wetland/upland ecotones.

a) Contains FLDOT FLUCCS habitat types: Upland Hardwood Forests (4200), Zeric Oak (4210), Hardwood-Conifer Mixed (4340), and Upland Scrub- Pine and Hardwoods (4360).
b) Conforms to FNAI community types Scrub, Scrubby Flatwoods, and Sandhill (FNAI 2010).
c) Control burns conducted in adjoining areas will be allowed to burn into these stands. Suitable mechanical methods may be used when necessary to promote initial ecotone restoration and maintain restored desirable conditions.
d) Limited use of herbicides targeting undesirable shrub species is permissible.
    i. Herbicides will be prohibited in wetlands identified as potentially supporting federal/state-listed fauna. FNAI GIS point data will be employed to determine restricted areas.
e) Bedding will not be used.

5. Wetland Hardwood Goal

   Retain current conditions except allow for more clearly defined edges.

   a) Contains FLDOT FLUCCS habitat types Wetland Hardwood Forests (6110), Gum Swamps (6130), Mixed Wetland Hardwoods (6170), and Cypress (6210).
   b) Conforms to FNAI community types Mesic Pine Flatwoods, Basin Swamps, Blackwater Stream, and Seepage Stream (FNAI 2010).
   c) Control burns conducted in adjoining areas will be allowed to burn into these stands. Implement mechanical control measures to promote initial ecotone restoration and maintain if necessary.
   d) Limited use of herbicides targeting undesirable shrub species is permissible.
      i. Herbicides will be prohibited in wetlands identified as potentially supporting federal/state-listed fauna. FNAI GIS point data will be employed to determine restricted areas.
   e) Salvage harvests are only permissible following severe storm events, disease/insect events, or wildfires.
   f) Bedding will not be used.
      i. Thinning operations are not economically feasible until stands reach merchantable age. Therefore, harvest prescriptions will not be implemented until stands attain minimum volume specifications.
      ii. Harvest activities in all wet pine flatwoods and other jurisdictional wetlands will adhere to FFS BMPs.
      iii. Silvicultural activities deemed detrimental to ecosystem function (herbicide application, fertilization, bedding, roller-chopping, row planting) will be excluded except where appropriate to meet restoration objectives.
      iv. Clear-cutting combined with longleaf reestablishment will be used to convert even-aged slash and sand pine stands to uneven-aged longleaf stands over time. Clear-cutting will be used only for longleaf restoration and salvage cutting of storm, fire, disease, or insect damaged timber.
      v. Limited use of herbicides also will be used to complement prescribed burning to create uneven-aged slash pine stands.

C. Benefits

1. Reduction in stand density will promote the restoration and establishment of a naturally occurring under-story vegetative community and restoration of natural hydrology.
2. Harvest, planting, and prescribed burning operations will promote and maintain longleaf pine restoration within CUs.
3. Thinning will reduce tree density and promote canopy development, restoration and establishment of a naturally occurring under-story vegetative community and increase the aesthetics and natural beauty of the CUs.
4. Thinning operations also will reduce mid-story fuel levels and improve conditions for the use of prescribed fire.

5. Prescribed fire return intervals of 2-5 years within CUs will maintain desirable herbaceous vegetation at fuel loads that reduce the threat of catastrophic wildfires to surrounding areas.

II. Groundcover Management

A. Objective

To establish a groundcover management regime that restores and maintains the ecological functions of naturally occurring upland and wetland communities in the CUs, through prescribed fire, mechanical, and chemical means.

B. Prescription

Establish fire-lines that minimize impacts to the landscape and maximize inclusion of fire into formerly fire-suppressed areas.

1. Implement dormant-season fire in all fire-dependent upland and wetland ecosystems to reduce fuel loads.
2. Implement growing season fires in CUs whenever practical after fuel reduction is accomplished.
3. Return intervals of 2-4 years for growing-season burns is the desired condition of restored CUs. Dormant-season burns will be utilized when growing-season burns are impractical (due either to location or weather conditions), or when return intervals exceed established growing-season schedules.
4. Use site-preparation fire, where practical before reestablishing longleaf pine.
5. Mechanical and/or chemical prescriptions may be used where fire prescriptions are not feasible.
    a) Herbicide prescriptions will target woody species to conserve herbaceous species present in restoration CUs.

C. Benefits

1. Groundcover treatments in wetlands will reduce woody vegetation and restore and maintain the natural under-story and ground cover plant communities.
2. Dormant-season prescriptions will reduce fuel loads, the risk of catastrophic fire, and prepare sites for implementation of growing-season fire.
3. Growing-season prescriptions will mimic natural fire regimes which will enhance and maintain fire-dependent ecosystems, under-story plant communities, and restored ground cover.
4. Growing-season fire will improve habitat for many species of wildlife and rare plants.
5. Groundcover treatments will promote successful natural regeneration of longleaf pine, prepare sites for restoration planting, and control noxious vegetation.
6. Groundcover treatments will promote and enhance the aesthetic value and outdoor recreational opportunities in CUs.

III. Wildlife Management

A. Objective

To prescribe and implement wildlife habitat and population management strategies that enhances species diversity and population levels.

B. Prescription

1. Where appropriate, determine the presence, location, and population status of threatened, endangered, and other protected species.
2. GIS location data obtained from FNAI for Florida protected species and species of concern will be used to map potential presence within conservation units.
3. When deemed necessary, monitor and evaluate responses of protected species to habitat management activities.
4. Where appropriate, identify and implement habitat and population management measures that improve the recovery and status of protected species.
    a) Promote and develop inter-agency partnerships that will enhance the management of protected species in the CUs, when appropriate.
5. Identify, promote and establish protocol for public recreational consumptive and non-consumptive uses of wildlife species in the CUs.
6. Promote and establish educational and public outreach opportunities related to wildlife species in the CUs.

C. Benefits

1. Species monitoring will help ensure permit compliance, increase public outreach opportunities, and assist in evaluating management efforts.
2. Species-specific management prescriptions and development of partnerships will promote population growth and recovery of protected species, and improve communication and relationships with regulators.
3. Promotion of recreational opportunities will encourage public participation and improve attitudes about and acceptance of land management objectives.
4. Restoration efforts will create and maintain diverse and healthy biotic communities that will serve as keystone ecosystems for evaluating future management decisions.
5. Restoration efforts will enhance CU suitability and value as wildlife corridors within the RGP - SAJ 86 areas and adjacent natural areas.

IV. Exotic Vegetation Management

A. Objective

Promote control and eradication of exotic and nuisance plant and animal species.

B. Prescription

Monitor vegetation and wildlife in the CUs to identify the occurrence, location and severity of exotic plant and animal infestations.

1. Develop and implement an exotic plant control and eradication plan.
2. Implement herbicide, fire, and other management prescriptions to meet eradication objectives.

3. Implement lethal and non-lethal measures to control exotic animals.
4. Monitor infestation sites and evaluate the success of control measures to determine ecological lift.

C. Benefits

1. Control of exotic plants will improve habitat quality and reduce competition with native species.
2. Control of exotic wildlife species will reduce habitat degradation and competition with native wildlife species.

V. Standards Cited in Document

A. **Silviculture Best Management Practices**, Florida Division of Forestry, Florida Department of Agriculture, DACS-P-01284 (provides guidelines for Timber harvesting, access, crossings, site prep and planting.

B. **Florida Master Logger Program**, sponsored by the Florida Forestry Association and the Florida Sustainable Forestry Initiative State Implementation Committee (professional loggers must complete a three day class in safety, timber harvesting, and environmental regulations. Must complete six hours of continuing education yearly to maintain their certification.)

C. **Florida Natural Areas Inventory (FNAI). 2010**, Guide to the Natural Communities of Florida: 2010 Edition. Florida Natural Areas Inventory, Tallahassee, FL.

D. **Florida Exotic Pest Plant Council (FLEPPC). 2013,** List of Invasive Plant Species. Fort Lauderdale, FL.

E. **Sustainable Forestry Initiative (SFI), Inc.,** Independent, charitable organization that is dedicated to promoting sustainable forest management. Principals include measures to protect water quality, biodiversity, wildlife habitat, species at risk and forests with Exceptional Conservation Value. Reviewed and updated every 5 years.