

December 15, 2021

**STATE 404 PROGRAM  
PUBLIC NOTICE**

OGC Case No. 21-1105

TO WHOM IT MAY CONCERN: The Department of Environmental Protection is providing notice of a proposed settlement addressing violation(s) of the State 404 Program implemented in Chapter 62-331, Florida Administrative Code, as described below:

RESPONDENT(S): Halley Engineering Contractors, Inc.  
Daniel Halley  
13901 Northwest 118th Avenue, Medley, Florida 33178, United States  
(305) 883-0055

Florida Department of Transportation  
Maria Connolly  
Post Office Box 9828, Ft. Lauderdale, FL 33310-9828  
(954) 934-1113

LOCATION: Within the Snapper Creek Extension Canal, adjacent to the NW 12<sup>th</sup> Street's Northbound On-ramp to the Florida Turnpike, Miami (Township 53S, Range 39E, Section 36), in Miami-Dade County.

APPROXIMATE CENTRAL COORDINATES:  
Latitude 25° 47' 11.71" Longitude -80° 23' 5.19"

PROJECT PURPOSE: Homestead Extension of Florida's Turnpike ("HEFT") Widening Project - Turnpike C-2 Ramp, Bridge to Culvert Replacement

ALLEGED VIOLATIONS: On March 15, 2019, the U.S. Army Corps of Engineers ("USACE") verified a permit under file number SAJ-2018-00925 submitted by the Florida Department of Transportation (FDOT), authorizing the discharge of fill into 3.46 acres of wetlands and 0.73 acres of secondary impacts to wetlands in order to widen the existing "HEFT" with an additional travel lane and express lanes in each direction from just south of State Road ("SR") 836 to 106th Street, as well as drainage infrastructure improvements and multiple interchange reconfigurations. The project included a piling supported on ramp from NW 12<sup>th</sup>. Subsequently, the Corps re-verified the permit on Sept. 20, 2019, to authorize filling of an additional 0.59 acres in jurisdictional surface waters (SW-20B-existing mine borrow pit) and 1.03 acres of non-jurisdictional surface waters (SW-60A-permitted stormwater management pond).

On March 9, 2021, the Department received FDOT's notice of intent to use a State 404 Program General Permit ("GP") (File No.: 13-400214-001-SFG), pursuant to Rule 62-331.248, Fla. Admin. Code, to

modify the design of the originally permitted piling supported on ramp to a culverted on ramp consisting of a 193 ft. long, 18-foot diameter structural plate culvert, increasing the area of filled State Assumed Waters by 0.3 acres.

Prior to granting the permit modification, an inspection by Department personnel was conducted on May 6, 2021 where it was discovered that FDOT's contractor Halley Engineering had already commenced the construction of the culverted bridge, filling approximately 0.18 acres of State Assumed Waters without a valid permit, in violation of Section 373.430, Florida Statutes (F.S.) and Rule 62-331.020, Florida Administrative Code (F.A.C.).

The unauthorized activity was conducted on the above described property within the landward extent of the Snapper Creek Extension Canal, State Assumed Waters, as defined by Federal Law and State regulation. Clean fill was utilized for the project in accordance with Section 307 of the Clean Water Act. The community composition at the site consists of a manmade canal and class III surface water that is surrounded by highway right of ways.

**PROPOSED SETTLEMENT:** The Department is proposing to resolve the violation by entering into a Consent Order (CO) with Respondents Halley Engineering and the Florida Department of Transportation to assess \$2,000.00 in civil penalties and Department costs and require the completion of corrective actions. The following corrective actions are a part of the CO:

- Within 45 days of the effective date of the CO, Respondent FDOT shall submit a complete application for a post-enforcement individual State 404 Program permit, pursuant to Rule 62-331.050, F.A.C. The post-enforcement permit shall be obtained no later than 8 months from the date the application is received by the Department.
- Respondents shall not conduct any dredging, filling, or construction activities on or within the landward extent of State Assumed Waters without first obtaining a valid Department permit or written notification from the Department that the activities appear to be exempt as proposed from Department permitting requirements; nor shall Respondents conduct any activities on state owned lands below the ordinary or mean high water lines without first obtaining a lease, easement, or other consent of use from the Department.
- If a valid individual State 404 Program post enforcement permit to fill State Assumed Waters is not obtained from the Department for this project within 8 months of the effective date of the CO, Respondent shall implement the Restoration Actions outlined in Attachment I of the Order.

COMMENTS regarding the proposed settlement and penalty assessment should be submitted in writing to Luciano Guidoni at 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406, or by electronic mail at [Luciano.Guidoni@FloridaDEP.gov](mailto:Luciano.Guidoni@FloridaDEP.gov), within 30 days from the date of this notice. Written comments will be made part of the record and should reference OGC Case No. 21-1105. Any comments received will be considered by the Department in determining whether to proceed with the settlement as proposed.

The Department is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties. Comments are considered in the assessment of impacts to endangered species, historic properties, water quality, general environmental effects, and other public interest factors.

FOR FURTHER INFORMATION regarding this proposed settlement, contact the project manager, Luciano Guidoni, in writing at 3301 Gun Club Road, MSC 7210-1, West Palm Beach, FL 33406; by electronic mail at [Luciano.Guidoni@FloridaDEP.gov](mailto:Luciano.Guidoni@FloridaDEP.gov); or by telephone at 561-681-6683.

**Attachments:**

**Draft Long Form Consent Order:**

[https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&\[guid=45.35145.1\]&\[profile=Enforcement\\_Legal](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&[guid=45.35145.1]&[profile=Enforcement_Legal)

**Warning Letter and Inspection Report:**

[https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&\[guid=45.20525.1\]&\[profile=Enforcement\\_Legal](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&[guid=45.20525.1]&[profile=Enforcement_Legal)

**62-340 F.A.C. Data Forms:**

Point 1 -

[https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&\[guid=45.35043.1\]&\[profile=Discovery\\_Compliance](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&[guid=45.35043.1]&[profile=Discovery_Compliance)

Point 2 -

[https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&\[guid=45.35045.1\]&\[profile=Discovery\\_Compliance](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&[guid=45.35045.1]&[profile=Discovery_Compliance)

**Technical Staff Report:**

[https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&\[guid=45.35148.1\]&\[profile=Enforcement\\_Legal](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&[guid=45.35148.1]&[profile=Enforcement_Legal)

**Peer Review Memo:**

[https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&\[guid=45.35284.1\]&\[profile=Enforcement\\_Legal](https://depedms.dep.state.fl.us:443/Oculus/servlet/shell?command=getEntity&[guid=45.35284.1]&[profile=Enforcement_Legal)