

COORDINATION AGREEMENT
BETWEEN
THE U.S. ARMY CORPS OF ENGINEERS
(JACKSONVILLE DISTRICT)
AND THE
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
(OR DULY AUTHORIZED DESIGNEE)
STATE PROGRAMMATIC GENERAL PERMIT

I. PREAMBLE:

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

The State of Florida, Department of Environmental Protection (FDEP), or a duly authorized designee (Designee), has regulatory authority over activities regulated under Part IV of Chapter 373 Florida Statutes, which includes dredging and filling in wetlands and other surface waters.

II. PURPOSE:

The Corps and the Florida Department of Environmental Protection (FDEP) have developed a State Programmatic General Permit (SPGP) for use in the State of Florida. The SPGP has undergone several iterations designated SPGP I, SPGP II, SPGP III, SPGP III-R1, SPGP IV, SPGP IV-R1, and SPGP V. This Coordination Agreement, with referenced materials, will cover the implementation of the SPGP V-R1, and is applicable in all counties within the State of Florida except those areas specifically excluded by conditions of the SPGP V-R1. This Coordination Agreement is required to implement the processing of requests for authorization under the SPGP V-R1.

III. PROCEDURES:

A. FDEP or Designee Procedures:

1. Upon receipt of an application or a request to verify qualification for an entity

to use an exemption or general permit under Part IV of Chapter 373, and Sections 403.813 and 403.814, F.S., the FDEP or Designee will review the project to determine whether the project is a candidate for review under the SPGP V-R1 and, whether the project falls under the "green" or "red" categories:

- a. Green: Projects that are considered "green", as described by paragraph 3.b of the Procedure section of SPGP V-R1, will be processed by the FDEP or Designee.
- b. Red: The FDEP or Designee and the Corps review the project separately

2. The FDEP or Designee will evaluate a project's potential effects to Federally listed threatened or endangered species or designated critical habitat. The FDEP or Designee will categorize the project by applying the definitions of "green" and "red" in the SPGP V-R1 permit instrument, and will implement, as applicable, the Special Conditions in the SPGP V-R1 permit, the restrictions and reporting requirements in the NMFS Biological Opinion, and amendments, if any, of these documents. The latest versions of the various tools referenced in the SPGP V-R1 (including the dichotomous keys, maps, and Geographic Information System data) will be used. Any project not meeting the definition of "green" or not satisfying the Special Conditions in the SPGP V-R1 permit or the Biological Opinion will automatically be placed in the "red" category. In the event additional information indicates that an evaluation of a specific project's effects to Federally listed or endangered species or designated critical habitat was made in error, the NMFS or FWS retain the right to request the Corps to initiate consultation under the Endangered Species Act.

3. For all projects that the FDEP or Designee have determined are "green", the FDEP or Designee will e-mail a copy of the "Project Design Criteria Checklist for the U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion Summary Checklist" and one or more of the individual activity sheets, i.e., "Project Design Criteria Checklist for the U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion Activity 1: Shoreline Stabilization", "Project Design Criteria Checklist for the U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion Activity 2: Pile Supported", , "Project Design Criteria Checklist for the U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion Activity 5: Scientific Survey", "Project Design Criteria Checklist for the U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion Activity 6: Boat Ramps", "Project Design Criteria Checklist for the U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion Activity 7: Aquatic Habitat Enhancement, Establishment, and Restoration", and "Project Design Criteria Checklist for the U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion Activity 9: Marine Debris Removal" (JAXBO Checklists), to NMFS at the following address: nmfs.ser.statewideprogrammatic@noaa.gov, with a copy of the

email furnished to spgp@usace.army.mil.

a. The email to NMFS will be sent no later than the date the FDEP or Designee verifies authorization under SPGP V-R1.

b. The JAXBO Checklists are to be submitted by the applicant to the FDEP or Designee concurrently with their application otherwise the FDEP or Designee will consider the application incomplete for processing under SPGP V-R1. The applicant therein assures the project complies with the Project Design Criteria (PDCs) in the NMFS Jacksonville District's Programmatic Biological Opinion (JAXBO) dated November 20, 2017. This assurance encompasses PDCs that are in JAXBO even though not specifically enumerated on the checklists and/or within the text of SPGP V-R1. The FDEP or Designee will review and confirm the proposed Project meets all the PDCs and that the JAXBO Checklists are complete and accurate.

c. For projects submitted by FDEP's "Self-Certification" web portal, the FDEP cannot provide the federal authorization by the Self-Certification process until FDEP incorporates/implements the following revisions to their web pages and/or automated process: (1) the on-line process includes a screen and button by which the Permittee certifies that the Project authorized via the self-certification meets the PDCs of JAXBO; (2) the Permittee also agrees the FDEP can transmit that statement to the Corps on his/her behalf; and (3) the automated process will include the Applicant's certification as a separate document attached to the email to the Applicant that also transmits FDEP's authorization and sends a copy of that email to the Corps at the following address: spgp@usace.army.mil.

4. For projects that qualify for the "green" category, and are authorized or verified by the FDEP or Designee, the applicant will receive the following.

a. Accompanying the FDEP or Designee authorization or verification will be language noting that the project is also authorized under the SPGP V-R1. Language in the notification shall read as follows:

"Your proposed activity as outlined in your application and attached drawings qualifies for Federal authorization pursuant to the State Programmatic General Permit V-R1, and a SEPARATE permit or authorization will not be required from the Corps. Please note that the Federal authorization expires on July 26, 2021. However, your authorization may remain in effect for up to 1 additional year, if provisions of Special Condition 19 of the SPGP V-R1 permit instrument are met. You, as permittee, are required to adhere to all General Conditions and Special Conditions that may apply to your project. Special conditions required for your project are attached. A copy of the SPGP V-R1 with all terms and conditions and the General Conditions may be found at <https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book>."

b. Where applicable, the FDEP or Designee shall attach the applicable construction or species guidelines to the notification for the verified SPGP V-R1.

5. For actions that are one of the types of activities authorized by SPGP V-R1, but do not meet the criteria of "green" for the SPGP V-R1, FDEP or Designee will send notification to the applicant, as part of the authorization or verification, that the project is not authorized under the SPGP V-R1 and requires a separate application to the Corps. Language in the notification shall read as follows

"Your proposed activity as outlined on your application and attached drawings does not qualify for Federal authorization pursuant to the State Programmatic General Permit and a SEPARATE permit or authorization shall be required from the Corps. You must apply separately to the Corps using their *APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT*, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at:
<https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book.> "

6. For actions with wetland or surface water impacts that the FDEP or Designee determines does not qualify for SPGP V-R1, the FDEP or Designee will advise the applicant that they may need to apply separately to the Corps for a permit or authorization.

7. If the Corps advises the FDEP or Designee that a particular project is not covered by the SPGP and that permitting for the activities is not required by the Corps, language in the notification shall read as follows:

"Your proposed activity as outlined on your application and attached drawings has been reviewed for compliance with the State Programmatic General Permit V-R1 and it has been determined to not be within the jurisdiction of the Corps. No further permitting for these activities is required by the Corps."

8. If the FDEP or Designee discovers or is advised by the Corps that federal authorization pursuant to SPGP was issued inappropriately or for a project that requires Corps review, the FDEP or Designee shall so notify the applicant as follows:

"Our prior notification included a paragraph stating your proposed activity qualified for Federal authorization pursuant to the State Programmatic General Permit V-R1. We hereby rescind that paragraph either because that was included through an administrative error or because we have received new information from the Corps. A SEPARATE permit or authorization shall be required from the Corps. You must apply separately to the Corps using their *APPLICATION FOR DEPARTMENT OF THE ARMY*

PERMIT, ENG FORM 4345, or alternative as allowed by their regulations. More information on Corps permitting may be found online in the Jacksonville District Regulatory Division Source Book at:
<https://www.saj.usace.army.mil/Missions/Regulatory/Source-Book.>"

B. Corps Procedures:

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

2. The Corps, in conjunction with the Federal resource agencies, will conduct periodic reviews to ensure that continuation of the permit during the period ending July 26, 2021, is not contrary to the public interest. The SPGP V-R1 will not be extended beyond July 26, 2021, but may be replaced by a new SPGP.

IV. MONITORING:

A. The FDEP will furnish to the Jacksonville District office a report of the projects verified under the SPGP V-R1 on a quarterly basis as a spreadsheet that includes the latitude and longitude location, permittee name, address, description of what authorized, date issued and permit number. Where a Designee is the administering entity and the Designee is not entering data directly into the FDEP database, the Designee will furnish the information to the Corps. Copies of the authorizations will either be made available for the Corps to download or will be transmitted to the Corps at time of the authorization.

B. The FDEP will inspect at least 10% of all projects verified under the SPGP V-R1 within one year after verification. FDEP will furnish to the Jacksonville District office a report, including inspection data and summaries of findings, on a quarterly basis as a spreadsheet that includes identification number of the project inspected, date of compliance completed, and the result. Where a Designee is the administering entity and the Designee is not entering data directly into the FDEP database, within ten working days of the end of the quarter, the Designee will furnish the information to the FDEP, and the FDEP will forward it to the Corps as part of the FDEP report. If the project does not appear to fully comply with the terms of the SPGP, the full inspection report for that project will be sent by e-mail to SAJ-RD-Enforcement@usace.army.mil.

V. COORDINATION WITH OTHER FEDERAL AGENCIES:

A. Prior to implementation of this Coordination Agreement, the Corps personnel may meet with FDEP and/or Designee personnel to familiarize them with: the Endangered Species Act; the threatened and endangered species issues within each FDEP district and/or Designee locale; the protocols utilized in contacting the appropriate

personnel concerning threatened and endangered species issues; and issues surrounding essential fish habitat.

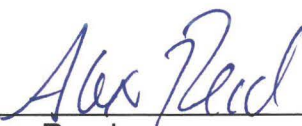
B. During implementation of this Coordination Agreement, the Corps may meet with the FDEP and/or Designee on a regular interval to evaluate whether the issued permits are in compliance with applicable Federal regulations. Initially the meetings will be scheduled as needed, and the interval will be adjusted accordingly as the implementation proceeds. The meetings may be conducted telephonically if the Corps and FDEP and/or its Designee agree.

C. All parties acknowledge that under Condition 4 in the Further Information Section of the General Conditions of the SPGP V-R1, impacts to threatened and endangered species and essential fish habitat are considered in the public interest review. Should any unanticipated threatened and/or endangered species or essential fish habitat impacts arise, it may be necessary to suspend the SPGP V-R1, or specific sections of it, in all or portions of the authorized geographic areas, until they can be resolved.


VI. MODIFICATIONS AND TERMINATION:

A. This Coordination Agreement may be modified in writing at any time as necessary by mutual consent of the Corps and the FDEP. Modifications may be made in whole, by part, or by section; and upon approval shall supersede previous versions of this Coordination Agreement. Approvals of modifications to the language of this Coordination Agreement shall be approved and signed by the District Engineer for the Corps and the Secretary of the FDEP.

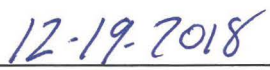
B. Either party may terminate this Coordination Agreement upon 90 days written notice.



Alex Reed
Director
Division of Water Resource Management
Florida Department of
Environmental Protection

 for

Andrew D. Kelly, P.E.
Colonel, U.S. Army
District Engineer



Date

20 December 2018

Date