Attachment 3.6.



DEPARTMENT OF THE ARMY JACKSONVILLE DISTRICT CORPS OF ENGINEERS 4400 PGA BOULEVARD, SUITE 500 PALM BEACH GARDENS, FLORIDA 33410

December 28, 2022

REPLY TO ATTENTION OF

Regulatory Division West Permits Branch Fort Myers Permits Section SAJ-2022-01559 (NPR-MRS)

Lee County, Facilities Construction & Management c/o Elaine Capps 1500 Monroe Street Fort Myers, Florida 33901 Sent via Email: <u>ECapps@leegov.com</u>

Dear Ms. Capps:

Reference is made to the application received on August 19, 2022, for a Department of the Army permit, to install culvert pipes with fill for berms, identified as numbers 3 through 12 on the project plans, a 150 square-foot overlook tower in the uplands, and 72 pilings for 2,022 square feet of boardwalk over wetlands located adjacent to berms identified as numbers 1 and 2. The proposed project site is located at 10130 Bayshore Road, in Section 26, Township 43 South, Range 25 East, Nort Fort Myers, Lee County, Florida (Latitude: 26.708210°; Longitude: -81.788848°). The application has been assigned the file number SAJ-2022-01559 (NPR-MRS).

Section 10 of the Rivers and Harbors Act of 1899

The project as proposed will not require a Department of the Army permit in accordance with Section 10 of the Rivers and Harbors Act of 1899, as it is not located within the navigable waters of the United States.

Section 404 of the Clean Water Act

Furthermore, a Department of the Army permit will not be required in accordance with Section 404 of the Clean Water Act, as it will not involve the discharge of dredged or fill material into waters of the United States, within the Corps' regulatory authority. Provided the work is done in accordance with the enclosed drawings, Department of the Army authorization will not be required.

This NPR does not address nor include any consideration for geographic jurisdiction on aquatic resources and shall not be interpreted as such.

Additionally, your project site may contain species protected by the Endangered Species Act (ESA) of 1972, as amended. You should contact your local U.S. Fish and Wildlife Service (FWS) office to determine if federally listed species or their habitat are present on your project site. If it is determined that federally listed species may be affected by the proposed project, authorization for "incidental take" may be required. FWS offices can be contacted by the following telephone numbers: Jacksonville at 904-232-2580, Panama City at 850-769-0552, St. Petersburg at 727-570-5398, or Vero Beach at 772-562-3909.

This letter does not obviate the requirement to obtain any other Federal, State, or local permits that may be necessary for your project. Should you have any questions, please contact Michael Strange at the letterhead address, by telephone at 239-334-1975 x0008, or by email at Michael.R.Strange@usace.army.mil.

Thank you for your cooperation with our permit program. The Corps Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit https://regulatory.ops.usace.army.mil/customer-servicesurvey/ and complete our automated Customer Service Survey. Your input is appreciated favorable or otherwise. Please be aware this web address is case sensitive and should be entered as it appears above.

Sincerely,

STRANGE.MICHAE Digitally signed by L.ROBERT.1612389 STRANGE.MICHAEL.ROBERT.1 396

Date: 2022.12.28 13:33:29 -05'00'

Michael Strange **Project Manager**

Enclosures **Project Plans**

Cc:

Chester Young, Hans Wilson & Associates, Inc. (Johanna@hanswilson.com)





































