



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

September 21, 2020

Regulatory Division

PUBLIC NOTICE

PROGRAMMATIC GENERAL PERMIT SAJ-83 SAJ-2004-03931(PGP-KDS)

BIG CYPRESS SEMINOLE INDIAN RESERVATION (BCSIR)

PROPOSAL: To simplify and streamline permitting of Department of Army (DA) permits, the Jacksonville District, U.S. Army Corps of Engineers (Corps) is proposing to update and re-issue the above-listed Programmatic General Permit (PGP). A draft of the proposed general permit conditions is provided, below.

BACKGROUND: On March 15, 2015, the Corps reissued the above referenced general permit for minor activities located within Big Cypress Seminole Indian Reservation (BCSIR). During the time period March 15, 2015 through March 15, 2020, the SAJ-83 has been utilized a total of 43 times.

AUTHORITY: Pursuant to Section 404 of the Clean Water Act (U.S.C. 1344), the Corps proposes to re-issue PGP SAJ-83 for minor activities located within BCSIR, in accordance with the following Special Conditions.

SPECIAL CONDITIONS:

1. This permit is limited to filling waters of the United States for the following minor activities: single family home sites, utility lines, recreational facilities, boating, agricultural use, commercial use, government facilities, water control activities, ditch maintenance, and road construction. Acreage thresholds and conditions for use are contained in **Attachment 1**.
2. Specific use is limited to the areas shown in **Attachments 2 and 3**, located within the BCSIR.
3. This PGP authorizes minor activities involving the permanent placement of fill material in up to 50 acres of federally jurisdictional wetlands and waters per year, not to exceed a total of 100 acres of jurisdictional wetlands at the BCSIR over a five-year period, beginning on the effective date of this PGP.
4. **Compensatory Mitigation:** Mitigation requirements will be satisfied by functional capacity credit generated under the Advanced Mitigation Program, previously

authorized by Nationwide Permit 27 (SAJ-2004-03931(NW-JSC)). No additional compensatory mitigation credit, to also include Panther Habitat Units, will be added to the Big Cypress Reservation Programmatic General Permit (SAJ-83) Ledger without prior approval by the Corps.

5. **Pre-construction Notification:** Before any activities may be conducted pursuant to this authorization, the applicant must submit a pre-construction notification to the Seminole Tribe of Florida (Tribe). The Tribe will adhere to the review procedures outlined in the Coordination Agreement. The Tribe will forward a copy of all PCN's to the Corps, with the Tribe's determination of compliance with this authorization, as a part of the quarterly reporting requirements prescribed by the associated Coordination Agreement. All PCN submittals shall include the following information, at a minimum:

a. ENG FORM 4345 (signed by an authorized representative of the Tribe).

b. Maps will identify federally jurisdictional wetlands and waters consistent with the 1987 Corps of Engineers Wetland Delineation Manual, as modified by the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region (Version 2.0, November 2010, or most recent version). A minimum of two sets of data sheets per wetland shall be submitted. The total number of data sheets will vary with each site, depending on the number of wetlands.

c. Provide a clear description (including maps) of the proposed work and wetland impact areas; analysis of impacts to Federally listed wildlife species; Wetland Rapid Assessment Procedure analysis of direct and secondary wetland impacts; and an updated version of the Big Cypress Reservation Programmatic General Permit (SAJ-83) Ledger.

6. **Erosion Control:** Prior to the initiation of any work authorized by this PGP, the permittee shall install erosion control measures along the perimeter of all work areas to prevent the displacement of fill material. Immediately after completion of the final grading of the land surface, all slopes, land surfaces, and filled areas adjacent to wetlands shall be stabilized using sod, degradable mats, or a combination of similar stabilizing materials to prevent erosion. For dredging activities, all dredged or excavated materials will be deposited and retained in an area that is not a water of the United States unless specifically approved by the Corps under a separate authorization and proper siltation controls must be used. The erosion and siltation control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

7. **Cultural Resources/Historic Properties:** If cultural resources, as defined by the Seminole Tribe of Florida's Cultural Resource Ordinance (Ordinance # C-02-14; which includes but is not limited to places and items of special cultural importance, historic properties, archaeological sites/materials, and burial resources) are encountered, then the Applicant shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the THPO within the same business day

(8 hours). After such notification, work authorized by this PGP may not resume without written authorization from the THPO. The Corps may (based on the circumstances of the discovery, equity to all parties, and considerations of the public interest) modify, suspend or revoke authorization under this PGP for Applicant's failure to obtain such written authorization from THPO and/or appropriately notifying THPO of any inadvertent discoveries.

8. Biological Opinion: This Corps permit does not authorize the Tribe to take an endangered species, in particular the Florida panther (*Puma concolor coryi*). In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a BO under ESA Section 7, with "incidental take" provisions with which you must comply). The Tribe's Programmatic Biological Opinion, dated December 19, 2014 and subsequent modifications, for the Wildlife Conservation Plan (WCP), Fire Management Plan, and Forest Management Plan (Service CPA Code: 2013-CPA-0222) contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this PGP 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 by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with your PGP. The Service is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA.

a. The Tribe shall monitor the number of SAJ-83 verifications and provide quarterly reports to the Corps and Service regarding the number of permits issued under this PGP. The Tribe shall provide information on Corps project number, permit date, total project acreage, project wetland acreage, latitude and longitude in decimal degrees, and PHU values per project, per year, and the PGP impact and mitigation totals (wetland and PHUs) be sent to the Service annually. This information may be incorporated into the AMP credit/debit ledger and the annual compensatory mitigation report. Wetland impact PHUs shall not exceed the amount of PHUs available on the ledger.

b. Upon locating a dead, injured, or sick threatened or endangered species, initial notification must be made to the nearest Service Law Enforcement Office; Fish and Wildlife Service; 9549 Koger Boulevard, Suite 111; St. Petersburg, Florida 33702; 727-570-5398. Secondary notification should be made to the FWC; South Region; 3900 Drane Field Road; Lakeland, Florida; 33811-1299; 1-800-282-8002.

c. Care should be taken in handling sick or injured specimens to ensure effective treatment and care or in the handling of dead specimens to preserve biological material in the best possible state for later analysis as to the cause of death. In conjunction with the care of sick or injured panthers or preservation of biological materials from a dead animal, the finder has the responsibility to carry out instructions provided by Law

Enforcement to ensure that evidence intrinsic to the specimen is not unnecessarily disturbed.

9. **Water Quality Certification:** The Tribe issued 401 Water Quality Certification, dated May 5, 2020, for this PGP.

10. **Fill Material:** The Tribe 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.

11. **Self-Certification:** Within 60 days of completion of the authorized work, and any mitigation required, a *Self-Certification Statement of Compliance* must be completed and submitted to the Tribe. The form must reference the site-specific Department of the Army permit number associated with the work.

12. **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.

The Permittee shall reference this permit number, SAJ-2004-03931, on all submittals.

13. **Activities Affecting Structures or Works Built by the United States.** Activities included in this PGP may also require permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"). An activity that requires section 408 permission is not authorized by this RGP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written PGP verification. The terms and conditions of the Section 408 approval will be incorporated into the verification letter.

14. This PGP shall be valid for a period of five years from the date of issuance, unless suspended or revoked by issuance of a public notice by the District Engineer. A review will be conducted to determine if continuance of the permit is in the public interest after the 5-year expiration date. If this permit 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 this permit will remain in effect provided the activity is completed within 12 months of the date this permit expired or was revoked.

AGENCY COORDINATION: This proposed PGP is being coordinated via separate letter with the U.S. Fish and Wildlife Service as required under Section 7 of the Endangered Species Act, and with the National Marine Fisheries Service – Habitat Conservation Division for Essential Fish Habitat as required under the Magnuson-Stevens Fishery Conservation and Management Act.

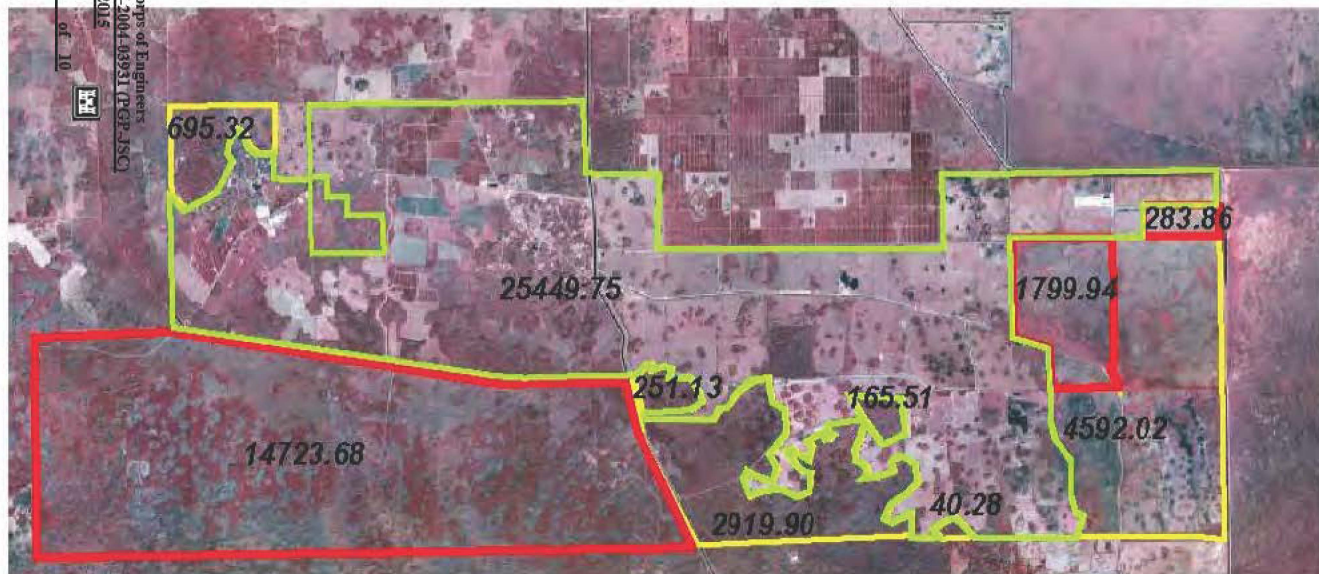
RESPONSE: Comments regarding this proposed reissuance of Programmatic General Permit SAJ-83 should be submitted in writing to Ms. Krista Sabin at the letterhead address or electronic mail at Krista.D.Sabin@usace.army.mil within **30 days** from the date of this notice. If no adverse comments are received, evaluation may continue without further notice.

ATTACHMENT 1

Activity Descriptions and Acreage Limitations Programmatic General Permit SAJ-83 BIG CYPRESS SEMINOLE INDIAN RESERVATION February 19, 2013

PROPOSED ACTIVITY	ACRE LIMIT	DESCRIPTION OF ACTIVITIES & CONDITIONS FOR USE OF PGP
1. SINGLE FAMILY HOME SITES	1.0	<p>Discharges of dredged or fill material in non-tidal waters of the U.S. including non-tidal wetlands, for the construction or expansion of traditional home sites that would include houses, access roads, driveways, chickees for various practices (sewing, cooking, religious practices, and other similar practices), bathhouses, and septic systems with drain fields with applicable setbacks.</p> <p><u>COMMENTS/CONSIDERATIONS:</u></p> <p>The applicant must have taken all practicable actions to minimize the on-site impacts. The discharge is part of a single and complete project; the discharges authorized under this PGP may not exceed an aggregate total loss of waters of the U.S. of 1.0 acre. This authorization is valid only for a single-family home for a personal residence.</p>
2. UTILITY LINES	1.0	<p>The construction, maintenance or repair of utility lines, including intake/outfall structures, and the associated excavation, backfilling or bedding, utility line substations, foundations for overhead utility line towers, cell towers, poles, and anchors; Access roads for the construction and maintenance of utility lines, including overhead power lines and utility line substations.</p> <p><u>COMMENTS/CONSIDERATIONS:</u></p> <p>The term "utility line" is defined as any pipe or pipeline for the transportation of any gaseous, liquid, liquescent, or slurry substance, for any purpose, and any cable, line, or wire for the transmission for the purpose of electrical energy, telephone, data communication, and telegraph messages, and computer, radio and television communication.</p> <p>The term "utility line" does not include activities which drain a water of the U.S. such as drainage tile, or French drains; however it does apply to pipes conveying drainage from another area. Temporary impacts from filling, flooding, excavation, or drainage, where the project area is restored to pre-construction contours and elevation, are not included in the calculation of permanent loss of waters of the U.S.</p> <p>This includes temporary construction mats (e.g., timber, steel, geotextile) used during construction and removed upon completion of the work. Where certain functions and values of waters of the U.S. are permanently adversely affected, such as the conversion of a forested wetland to a herbaceous wetland in the permanently maintained utility line right-of-way these will be captured as permanent impacts. The applicant must have taken all practicable actions to minimize the onsite impacts.</p>
3. RECREATIONAL FACILITIES	1.5	<p>Discharges of dredged or fill material in non-tidal waters of the U.S. including non-tidal wetlands for both passive and non-passive recreation use to include, but not limited to, campgrounds, swimming pools, playing fields (baseball, soccer or football), basketball and tennis courts. Also authorized are small support facilities, such as maintenance and storage buildings, restrooms and associated parking areas that are directly related to the recreational activity.</p> <p><u>COMMENTS/CONSIDERATIONS:</u></p> <p>Hotels, motels, restaurants, and other similar facilities are not authorized under this PGP. The applicant must have taken all practicable actions to minimize the onsite impacts.</p>
4. BOATING	0.25	<p>Noncommercial boat launching facility (ramps), parking for vehicles/trailers, associated structures-bulkheads, rub-rails, tie-up piers, and walkways.</p> <p><u>COMMENTS/CONSIDERATIONS:</u></p> <p>All practicable actions to minimize the on-site impacts must be taken. The acreage limitation</p>

PROPOSED ACTIVITY	ACRE LIMIT	DESCRIPTION OF ACTIVITIES & CONDITIONS FOR USE OF PGP
		includes the filled area and excavated area plus special aquatic sites and surface waters that are adversely affected.
5. AGRICULTURAL USE	1.0	<p>Land clearing, building pads, new ditches and/or dikes, side casting from ditch construction, associated with agricultural uses. Ditches will be constructed to control both surface and ground water. Any direct, cumulative or secondary impacts will not exceed the 1.0-acre threshold.</p> <p><u>COMMENTS/CONSIDERATIONS:</u></p> <p>All practicable actions to minimize the on-site impacts must be taken.</p>
6. COMMERCIAL USE	1.5	<p>Small business development. However, when associated with an existing single-family homesite both the existing and proposed fill impacts will not exceed 1.5 acres. Authorization will include buildings, parking areas, septic systems with drain fields and access roads.</p> <p><u>COMMENTS/CONSIDERATIONS:</u></p> <p>The intent is small business development proposed by tribal members, not development of chain restaurant and retail stores. All practicable actions to minimize the on-site impacts must be taken. The acreage limitation includes the filled area and excavated area plus special aquatic sites that are adversely affected.</p>
7. GOVERNMENT FACILITIES	1.5	<p>Includes new or additions to existing facilities such as schools, government buildings, medical facilities for associated parking areas, public works infrastructure, and other similar facilities.</p> <p><u>COMMENTS/CONSIDERATIONS:</u></p> <p>Existing facilities are those that were existing and/or under construction when this PGP is issued. All practicable actions to minimize the onsite impacts must be taken.</p>
8. WATER CONTROL ACTIVITIES	1.0	<p>For the construction of stormwater management facilities including excavation of stormwater ponds, the installation and maintenance of water control structures, outfall structures, and emergency spillways, including secondary impacts associated with the excavation of stormwater ponds. Also for the construction and maintenance of ditches, which includes re-shaping of existing ditches and modification of the cross-sectional configuration of currently serviceable ditches.</p> <p><u>COMMENTS/CONSIDERATIONS:</u></p> <p>None of these activities will result in an increase of the designed drainage capacity or in the designed drainage area. Any direct, cumulative or secondary impacts will not exceed the 1.0-acre threshold. If a design is not available aerial and/or historic photos will be used.</p>
9. DITCH MAINTENANCE	None	<p>Maintenance of existing functional ditches, limited to pre-existing ditch design and/or historic design. This applies to ditches located on existing farm fields or on existing agriculture lands.</p> <p><u>COMMENTS/CONSIDERATIONS:</u></p> <p>All practicable actions to minimize the on-site impacts must be taken. Best Management Practices will be used. Impacts associated with the maintenance activities described have no acreage or linear restrictions. If a design is not available aerial and/or historic photos will be used.</p>
10. ROADS	1.5	<p>Construction, expansion, modification, or improvement of existing linear transportation crossings (roadways) for safety purposes. Includes the widening of existing road shoulders or construction of new shoulders along existing roadways, using only pervious material.</p> <p><u>COMMENTS/CONSIDERATIONS:</u></p> <p>Existing roadways are those that were existing or under construction when this PGP is issued. All practicable actions to minimize the on-site impacts must be taken.</p>



0 0.5 1 2 3 4 Miles

Numbers in polygons are in acres. Acreage is approximate.

Legend

- Included in GP
- Excluded from GP
- GP with Coordination

Proposed "Community Development Area"

