



*Posted 1/25/2019*

## PROPOSED ISSUANCE OF REGIONAL GENERAL PERMIT (RGP) SAJ-82

### MINOR WORK IN MONROE COUNTY, FLORIDA

SAJ-2007-01590 (RGP-MIB)

The Jacksonville District is proposing reissuance and updates to RGP SAJ-82 (minor work in Monroe County, Florida). Updates to the permit special conditions for this RGP will address protection of threatened and endangered species as well as other regulatory program requirements.

**PROPOSED WORK:** Activities for single-family and multi-family residential, government, and commercial projects including: A. Lot fills (for single-family and multi-family residences only); B. Construction of minor structures, docking facilities and other recreational structures, including repair or replacement of said structures; C. Boat ramps; D. Riprap revetments, bulkheads/seawalls and backfill; and E. Minor and maintenance dredging. Activities will be located in waters of the United States within Monroe County, Florida excluding federally maintained navigation channels, and flood control projects.

**AUTHORITY:** Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. § 403), and Section 404 of the Clean Water Act (33 U.S.C. § 1344)

**WATERWAY AND LOCATION:** All waters of the United States, including wetlands, located throughout the Florida Keys in Monroe County, Florida, unless otherwise excluded by condition(s) of this RGP.

**PURPOSE AND NEED:** The District receives a significant volume of permit applications for minor work throughout Monroe County in the State of Florida. Reissuance of RGP SAJ-82 will serve to improve permitting efficiencies and reduce timeframes for authorization of various work in Monroe County, Florida.

**BACKGROUND:** This regional general permit was initially authorized in 2003 and has been reviewed and reissued every five years since then. Most recently, the Corps reissued RGP SAJ-82 (SAJ-2007-01590) on September 10, 2014. According to the Corps' database (ORM2), during the timeframe from September 10, 2014 to present, RGP SAJ-82 has been utilized 763 times. A copy of the current SAJ-82 is posted on the Jacksonville District Regulatory Division internet web page under the General Permits section of the Sourcebook:

<http://www.saj.usace.army.mil/Missions/Regulatory/Source-Book/>

The term “general permit” means a Department of the Army authorization that is issued on a nationwide or regional (District) basis for a category of activities when: those activities are substantially similar in nature and cause only minimal individual and cumulative impacts. General permits are a way to reduce the burden of the regulatory program on the public and ensure timely issuance of permits while effectively administering the laws and regulations which establish and govern the program. General permits are reviewed every five years. After five years general permits may be re-issued, suspended, or revoked. To improve efficiencies and further streamline our regulatory process, the District is proposing to reissue the RGP SAJ-82.

**PROPOSED PERMIT CONDITIONS:** The following special conditions are proposed to be made part of this RGP:

**A. SPECIAL CONDITIONS FOR ALL WORK:**

1. **Verification Required:** Conformance with the descriptions and quantities contained herein does not necessarily guarantee authorization under this RGP.
2. **Verification Requirement:** The most recent ENG 4345 form and complete legible drawings shall be submitted. Applications must provide real estate numbers and latitude and longitude central coordinates for the lot/project site.
3. **Verification Requirement:** No work shall be performed until the applicant submits satisfactory plans for the proposed work and receives written authorization from the District Engineer.
4. **Discretionary Authority:** The District Engineer reserves the right to require that any request for authorization under this RGP be processed under as an Individual Permit.
5. **Permit Authority:** This RPG permit is only valid in conjunction with all other Federal, State, and local permits/authorizations which may be required.
6. **Restrictions:** The use of SAJ-82 is not permitted within any Corps of Engineers Civil Works Projects, including Federal navigation channels and flood control projects. The Permittee shall obtain approval from the appropriate state park for projects located within the geographical boundaries or in-holdings of the John Pennekamp Coral Reef State Park, Lignumvitae Key Botanical State Park and Aquatic Preserve, Long Key State Park, Curry Hammock State Park, and Bahia Honda State Park prior to commencing the work verified under this regional general permit.
7. **Florida Keys National Marine Sanctuary (FKNMS):** A Florida Keys National Marine Sanctuary NOAA permit or authorization that signifies the proposed activity is consistent with Title III of the Marine Protection, Research and Sanctuaries Act of 1972, as amended, is required prior to verification under SAJ-82.

**8. Notification of Utilities:** No work shall be performed until after the Permittee provides notification to the owner(s) and/or operator(s) of any utilities in the work area.

**9. 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, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work in the vicinity and notify the Corps. The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.

c. A cultural resources assessment may be required of the permit area, if deemed necessary by the SHPO, THPO(s), 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 and 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 in the vicinity shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist. The Corps shall then notify the appropriate SHPO and THPO(s). 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 State Archeologist, SHPO and the Corps.

e. In the unlikely event that human remains are encountered on federal or tribal lands, or in situations where Archaeological Resources Protection Act of 1979, or Native American Graves Protection Repatriation Act of 1990 applies, all work in the vicinity shall immediately cease and the Permittee immediately notify the Corps. The Corps shall then notify the appropriate THPO(s) and 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. After such notification, project activities on federal lands shall not resume without written authorization from the Corps, and/or appropriate THPO(s), SHPO, and federal manager. After such notification, project activities on tribal lands shall not resume without written authorization from the appropriate THPO(s) and the Corps.

**10. Manatee Effect Determination Key:** Prior to issuance of authorization, the dichotomous key entitled “The Corps of Engineers, Jacksonville District, and the State of Florida Effect Determination Key for the Manatee in Florida, 2013” (See <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>) will be used to determine potential manatee impacts. Projects evaluated under the manatee key with a "may affect" or a “may affect, not likely to adversely affect,” requiring additional correspondence with the U.S. Fish and Wildlife Service to the manatee must be coordinated with the U.S. Fish and Wildlife Service in accordance with the Endangered Species Act and are not authorized under this regional general permit. *Note: The manatee key may be subject to revision at any time. It is our intention that the most recent version of this technical tool will be utilized during the evaluation of the permit application.*

**11. Standard Manatee Construction Conditions:** The Permittee shall comply with the Standard Manatee Construction Conditions (see <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>).

**12. Sea Turtle and Smalltooth Sawfish Construction Conditions:** The Permittee shall comply with the Sea Turtle and Smalltooth Sawfish Construction Conditions (see <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>).

**13. Eastern Indigo Snake Effect Determination Key:** Prior to issuance of authorization, the dichotomous key entitled “Eastern Indigo Snake Programmatic Effect Determination Key, Revised August 1, 2017” (See <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>) will be used to determine potential Eastern indigo snake impacts. Projects evaluated under the species key with a "may affect" requiring additional correspondence with the U.S. Fish and Wildlife Service to the Eastern indigo snake must be coordinated with the U.S. Fish and Wildlife Service in accordance with the Endangered Species Act and are not authorized under this regional general permit. *Note: The species key may be subject to revision at any time. It is our intention that the most recent version of this technical tool will be utilized during the evaluation of the permit application.*

**14. Standard Protection Measures of the Eastern Indigo Snake:** The Permittee shall comply with the Standard Protection Measures of the Eastern Indigo Snake (see <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>).

**15. American Crocodile Effect Determination Key:** Prior to issuance of authorization, the dichotomous key entitled “Florida Keys Programmatic Concurrence” dated October 28, 2014, for the American crocodile (*Crocodylus acutus*) and its critical habitat” (attached) will be used to determine potential American crocodile impacts. Projects evaluated under the species key with a "may affect" requiring additional correspondence with the U.S. Fish and Wildlife Service to the American crocodile must be coordinated with the U.S. Fish and Wildlife Service in accordance with the Endangered Species Act and are not authorized under this general permit. *Note: The species key may be subject to revision at any time. It is our intention that the most*

*recent version of this technical tool will be utilized during the evaluation of the permit application.*

**16. Wood Stork Effect Determination Key:** Prior to issuance of authorization, the dichotomous key entitled "South Florida Programmatic Concurrent" dated May 18, 2010" (See <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>) will be used to determine potential manatee impacts. Projects evaluated under the manatee key with a "may affect" or a "may affect, not likely to adversely affect," requiring additional correspondence with the U.S. Fish and Wildlife Service to the manatee must be coordinated with the U.S. Fish and Wildlife Service in accordance with the Endangered Species Act and are not authorized under this regional general permit. *Note: The manatee key may be subject to revision at any time. It is our intention that the most recent version of this technical tool will be utilized during the evaluation of the permit application.*

**17. Species Assessment Guides (SAGs):** Prior to verification of authorization, the 2013 species assessment guides for the Key deer (*Odocoileus virginianus clavium*), Key Largo woodrat (*Neotoma floridana smalli*), the Key Largo cottonmouse (*Peromyscus gossypinus allapaticola*), Keys tree cactus (*Pilosocereus robinii*), Lower Keys marsh rabbit (*Sylvilagus palustris hefneri*), Schaus swallowtail butterfly (*Heraclides aristodemus ponceanus*), Stock Island tree snail (*Orthalicus reses*, not incl. *nesodryas*), and silver rice rat (*Oryzomys palustris natator* [= *O. argentatus*]) and its critical habitat, and their respective dichotomous keys, (see <http://www.fws.gov/verobeach/ConservationintheKeys.html>) shall be used to determine potential impacts. Projects evaluated under the SAGs with a "may affect" or a "may affect, not likely to adversely affect," requiring additional correspondence with the U.S. Fish and Wildlife Service to the specific species must be coordinated with the U.S. Fish and Wildlife Service in accordance with the Endangered Species Act and are not authorized under this regional general permit. *Note: These species assessment guides may be subject to revision at any time. It is our intention that the most recent version of this technical tool will be utilized during the evaluation of the permit application.*

**18. Threatened and Endangered Species:** No activity is authorized under this RGP permit which is likely to adversely affect a federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat.

**19. Compliance with the Jacksonville District Programmatic Biological Opinion, National Marine Fisheries Service, November 2017 (JAXBO):** No activity shall be authorized under this RGP which by its size or location may adversely affect water quality, fish and wildlife habitat, wetlands, or emergent or submerged aquatic vegetation. Adverse impacts to aquatic vegetation from minor structures may be ameliorated by strict adherence to the attached JAXBO (see <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>). Unless otherwise specifically approved by the National Marine Fisheries Service, minor structures authorized under this RGP must comply with the above. *Note: The JAXBO*

*may be subject to revision at any time. It is our intention that the most recent version of this technical tool will be utilized during the evaluation of the permit application.*

**20. Compliance with the Jacksonville District's Programmatic Biological Opinion Project Design Criteria, National Marine Fisheries Service (JAXBO):**

Structures authorized under this RGP must satisfy the Project Design Criteria (PDCs) provided for all activities and pile-supported structures as stated in the U.S. Army Corps of Engineers Jacksonville District's Programmatic Biological Opinion, November 2017 (JAXBO). Please note that failure to comply with the attached PDCs, where a take of listed species occurs, would constitute an unauthorized take, and noncompliance with this regional general permit. The NMFS is the appropriate authority to enforce the terms and conditions of JAXBO. The most current version of JAXBO can be accessed at the Jacksonville District Regulatory Division internet webpage in the Endangered Species section of the Sourcebook located at:

<http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>

*Note: JAXBO may be subject to revision at any time. It is our intention that the most recent version of these conditions will be utilized during the evaluation of the permit application.*

**21. Red Mangrove Restriction:** This permit does not authorize dredging or removal of red mangroves (*Rhizophora mangle* L.).

**22. Restriction in *Acropora* Critical Habitat:** This RGP does not authorize work in *Acropora* critical habitat if the essential features are present.

**23. Water Quality Certification:** Prior to the initiation of any construction, projects qualifying for the SAJ-82 must be authorized under Part IV of Chapter 373 by the Department of Environmental Protection, a water management district under s. 373.069, F.S., or a local government with delegated authority under s. 373.441, F.S. and receive Water Quality Certification (WQC) and Coastal Zone Consistency Concurrence (CZCC) or waiver thereto, as well as any authorizations required for the use of sovereignty submerged lands that must be obtained as part of the associated WQC or CZCC.

**24. Turbidity Controls:** Turbidity control measures shall be required, and the work must be conducted so as to prevent violations of State Water Quality Standards as established in section 62-4.242 and 62-4.244 or the Florida Administrative Code and Chapters 62-302, 62-520, 62-522, and 62-550 of the Florida Administrative Code.

**25. Compensatory Mitigation:** Compensatory mitigation for unavoidable wetland and/or seagrass impacts will be determined utilizing an approved functional assessment procedure such as the Uniform Mitigation Assessment Method (attached).  
*Note: All functional assessments may be subject to revision at any time. The most recent version of this technical tool will be utilized during the evaluation of the permit application.*



**26. Credit Purchase:** The prospective Permittee may elect to submit mitigation fees for unavoidable impacts to any federally approved mitigation bank or in-lieu fee program that includes the Florida Keys in their Service Area. Proof of payment will be mailed to the U.S. Army Corps of Engineers, Regulatory Division, Miami Field Office, Enforcement Section, 9900 Southwest 107th Avenue, Suite 203, Miami, Florida 33176, or emailed to SAJ-RD-Enforcement@usace.army.mil. The Permittee shall reference their permit number on all submittals.

If the prospective Permittee elects to purchase compensatory mitigation credits from the Keys Restoration Fund, or perform on-site or off-site permittee responsible mitigation, they must submit a Uniform Mitigation Assessment Method (UMAM), or other Corps approved functional assessment specific to the project area for review of their mitigation proposal. For permittee responsible mitigation (PRM) the Permittee must submit a mitigation plan that addresses the 12 elements associated with the Final Compensatory Mitigation Rule. This information may be viewed at <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx> under the heading Compensatory Mitigation; and, includes a copy of the *Final Compensatory Mitigation Rule* (April 20, 2008) (Rule) and Regulatory Guidance Letter 08-03: *Minimum Monitoring Requirements for Compensatory Mitigation Projects Involving the Restoration, Establishment, and/or Enhancement of Aquatic Resources*.

If the applicant is proposing PRM, the mitigation plan must be approved prior to verification of the SAJ-82. *Note: All functional assessments may be subject to revision at any time. The most recent version of this technical tool will be utilized during the evaluation of the permit application.*

**27. Hold Harmless:** For projects authorized under this RGP in navigable waters of the United States, the Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration. A structure authorized under this RGP must not interfere with general navigation.

**28. Prohibitions on Fuel and Storage Facilities:** No living, fueling, or storage facilities over navigable waters of the United States are authorized under this regional general permit.

**29. Reporting Address:** All reports, documentation and correspondence required by the conditions of this permit shall be submitted to the following address: U.S. Army Corps of Engineers, Regulatory Division, Miami Field Office, Enforcement Section, 9900 Southwest 107<sup>th</sup> Avenue, Suite 203, Miami, Florida 33176, or emailed to

SAJ-RD-Enforcement@usace.army.mil. The Permittee shall reference their permit number on all submittals.

**30. Commencement Notification:** Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.

**31. Agency Changes/Approvals:** Should any other agency require and/or approve changes to the work authorized or obligated by this permit, the Permittee is advised a re-verification to their permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a re-verification of their permit from the Miami Permits Section. The Corps reserves the right to fully evaluate, amend, and approve or deny the request for modification of this permit.

**32. Notice Permit:** Where avoided/preservation areas are present at the subject site, the Permittee shall record a Notice of Permit (attached) with the Clerk of the Circuit Court, Registrar of Deeds or other appropriate official charged with the responsibility of maintaining records of title to or interest in real property within the county of the authorized activity. Within 90 days from the effective date of the letter providing authorization for the project, the Permittee shall provide a copy of the recorded Notice of Permit to the Corps clearly showing a stamp from the appropriate official indicating the book and page at which the Notice of Permit is recorded and the date of recording.

**33. Self-Certification:** Within 60 days of the completion of the work authorized, the Permittee must complete and submit the attached "Self-Certification Statement of Compliance" to the U.S. Army Corps of Engineers.

**34. Posting of Permit:** The Permittee shall ensure that all contractors, sub-contractors, and entities associated with the implementation of the project review, understand, and comply with the approved plans and special conditions made part of this permit. Complete copies of the permit and approved plans shall be available at the construction site at all times. Failure to comply with the approved plans and permit special conditions may subject the Permittee to enforcement action.

**35. Best Management Practices:** Environmental controls and best management practices must be implemented to prevent any materials related to construction activities from entering the surrounding water. Any material removed as well as material applied to accomplish the project must be contained so as to prevent fugitive particulates and/or discharge to surface waters.

**36. Permit Expiration:** This RGP will be valid for a period of five years from the date specified above unless suspended or revoked by the District Engineer prior to that date. If SAJ-82 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 the general permit will remain in effect provided the activity is completed within 12 months of the date a general permit is expired or was revoked.



37. **Agreement to Terms of Permit:** The Permittee shall perform all work in accordance with the general conditions for permits. The general conditions attached hereto made a part of this permit.

**B. SPECIAL CONDITIONS FOR LOT FILLS (FOR SINGLE AND/OR MULTI-FAMILY RESIDENCES ONLY):**

1. **Description of Work Authorized:** Lot fills in waters of the United States in existing developments having public roads and utilities and may not exceed 6,000 square feet of wetland fill impacts for the development of a single and/or multi-family residence and their appurtenant structures above the mean high water line (MHWL).

2. **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. 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. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

3. **Clean Fill:** The Permittee shall use only clean fill material for this project. The fill material shall be from upland sources and be free of 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.

4. **Protection of Unique Biological or Cultural Features:** Fill in waters of the United States on lots with unique biological or cultural features is not authorized by Regional General Permit SAJ-82. Unique biological features are those which are rare and vital to the life cycle of plants and animals, and include rookeries, etc. Cultural resources include historic structures, grave sites, middens, etc.

5. **Restrictions:** This RGP does not authorize the filling of waters below the MHWL for the development of single and/or multifamily residences and their appurtenant structures.

**C. SPECIAL CONDITIONS FOR CONSTRUCTION OF MINOR STRUCTURES, DOCKING FACILITIES, AND OTHER RECREATIONAL STRUCTURES, INCLUDING REPAIR OR REPLACEMENT OF SAID STRUCTURES:**

**1. Description of Work Authorized:**

a. **New Minor Structures:** Minor structures are defined as the following: mooring piles, dolphin piles (not to exceed a cluster of four), boat lifts, hoists, davits, davit pads, fenders, fender piles, mooring whips, and cleats. Chickee huts, canopies,

and covered boat lifts shall be limited to areas devoid of wetland vegetation, seagrass, corals, and hard bottom communities.

b. **Marginal Docks:** Marginal docks placed parallel to the shoreline, along a seawall, revetment or bulkhead are authorized; however, marginal docks are only permitted when a "T" or "L" style dock is not practicable (i.e. canals with less than 60 feet in open water width). If a mangrove fringe, wetland vegetation and/or submerged aquatic vegetation (SAV) are present, then no overwater portion of the marginal dock facility shall extent into the waterway more than 5 feet from the mean high water line. When located over a semi-mature/mature wetland fringe consisting of, but not limited to black or white mangroves and/or buttonwood species, marginal docks shall be limited to no more than 66 percent of the shoreline length and shall not exceed 40 feet in length. No red mangrove impacts are authorized under this permit. When located over SAV, the wood and/or grated marginal dock shall be elevated to a minimum of 3 feet above the MHWL as measured from the top of decking. Concrete marginal docks may be authorized only within areas devoid of wetland vegetation, seagrass, corals, and hard bottom communities. For the purpose of this RGP, the Corps considers submerged aquatic vegetation to be vascular plants such as seagrasses, not macroalgae.

c. **Floating Docks and Floating Vessel Platforms:** Installation of floating docks and floating vessel platforms shall be limited to areas devoid of wetland vegetation, seagrass, corals, and hard bottom communities.

d. **"T" and "L" Style Docks:** Where a mangrove fringe, wetland vegetation and/or SAV exists along the shoreline, and/or submerged shelf, a dock with a walkway perpendicular to the shoreline, such as a "T" or "L" dock, is permitted if constructed as follows: The "T" or "L" dock terminal platform shall be installed immediately waterward of the root zone, (including emergent and submerged anchored mangrove root system); the portion of the dock parallel to the shoreline may run the entire shoreline length of the parcel and shall not exceed 5 feet in width; a pile supported access walkway shall be located so as to avoid or minimize covering wetland vegetation, mangroves, and/or SAV; the walkway connecting the dock to the shore shall not exceed 4 feet in width. For "T" and "L" style docks on open water shorelines the structure shall not be longer than twice the linear shoreline frontage of the parcel or 200 feet, whichever is less. The dock length is measured from the MHWL out to the waterward terminus of the dock.

e. **Water/Swim Access Walkways and Water Observation Platforms (on open water shorelines):** Water access walkways may be permitted, provided such structures do not exceed twice the length of the applicant owned shoreline or 200 feet, whichever is less. Permanent "No mooring" signs and fixed hand rails shall be installed along both sides of the access walkway and entire perimeter of the terminal platform (excluding swim ladder on swim access walkways) to prohibit mooring.

f. **Docking facilities:** New and existing docking facilities are limited to no more than 10 new motorized wet and/or dry slips for multifamily, commercial, and government agencies. Docking facilities are limited to a maximum of 50 total slips (i.e.

combination of existing wet and dry slips plus newly proposed slips). Proposals for an increase in more than 10 slips or docking facilities which would exceed a total of 50 slips as a result of the proposed work are not authorized under this regional general permit.

**g. Repair/replacement of structures:** Repair and/or replacements of currently serviceable structures are authorized within the same footprint, location, and elevation.

**2. Dock Construction Guidelines (DCGs):** All above mentioned structures shall comply with the "Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation, Marsh or Mangrove Habitat – U.S. Army Corps of Engineers/National Marine Fisheries Service – November 2017 (Attached) excluding marginal docks to be built in accordance with guidance described above in Section C.1.b. *Note: The DCGs may be subject to revision at any time. It is our intention that the most recent version of these conditions will be utilized during the evaluation of the permit application.*

**3. Assurance of Navigation:** Structures constructed on canals or adjacent to channels must not extend waterward more than 25% of the original navigable waterway width in order to maintain no less than 50% of the open-water portion of the waterbody for public use. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the Permittee's expense on authorized facilities in navigable waters of the United States.

**4. Restriction:** New structures proposed along ocean beaches are not authorized under this regional general permit.

#### **D. SPECIAL CONDITIONS FOR BOAT RAMPS:**

##### **1. Description of Work Authorized:**

**a. Boat Ramps:** New construction and expansion of existing boat ramps shall be confined to shorelines where no mangrove fringe, SAV, or hard bottom communities are located within the boat ramp footprint. Installation of new and expanding boat ramps for motorized vessels (1) are limited in size to 40 feet wide, (2) can have up to 2 boat lanes, and (3) can be associated with docking facilities limited to a maximum of 50 total slips (i.e. combination of wet and dry slips).

**b. Boat Ramp Abandonment:** The removal of upland cut boat ramps by walling off and filling is allowed. Filling activity shall be limited to the minimum necessary to abandon the boat ramp. See Shoreline Stabilization Section below.

**c. Repair/replacement of existing boat ramps:** Repair/replacements of boat ramps are authorized under this permit within the same footprint.

2. **Construction Methodology:** Construction and/or repair/replacement of a boat ramp will not involve any filling of surface waters except for the minimum amount needed for the actual boat ramp surface, side slopes, or walls. Walls may not exceed 2 feet in width.

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. 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. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

4. **Clean Fill:** The Permittee shall use only clean fill material for this project. The fill material shall be from upland sources and be free of 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. **Restriction:** New construction and expansion of existing boat ramps in areas on or contiguous to ocean beaches are not authorized under this regional general permit.

6. **Red Mangrove Restriction:** This RGP does not authorize dredging or removal of red mangroves.

#### **E. SPECIAL CONDITIONS FOR SHORELINE STABILIZATION STRUCTURES:**

##### **1. Description of Work Authorized:**

a. **New and Repair/replacement for Shoreline Stabilization:** Footers, bulkheads, and/or seawalls with associated backfill shall not extend any further waterward than 18" from the mean high water line measured from the wet-face of the existing shoreline or existing bulkheads in the immediate area along unvegetated wetland shorelines that do not support SAV or hard bottom communities within canal systems and adjacent to artificial channels. New shoreline stabilization is limited to 500 linear feet.

b. **Boat Ramp Abandonment:** The removal of upland cut boat ramps by walling off and filling is allowed given the riprap, bulkheads, and/or seawalls with associated backfill shall not extend any further waterward than the existing bulkheads in the immediate area.

c. **Riprap Revetment:** Installation of a new riprap revetment where none previously existed may not extend more than 10 feet waterward of the MHWL (including

the toe of the riprap). Riprap repair/replacement may occur at its previous location, upland of, or within 1.5 feet waterward of its previous location.

**2. Shoreline Stabilization Material:** Shoreline stabilization materials may consist of concrete/vinyl/aluminum seawall panels, riprap, articulating blocks, or mats, and sand cement, geo/textile/filter fabric and mattresses.

**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. 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. The erosion control measures shall remain in place and be maintained until all authorized work has been completed and the site has been stabilized.

**4. Clean Fill:** The Permittee shall use only clean fill material for this project. The fill material shall be from upland sources and be free of 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. Verification Requirement:** Filling activity shall be limited to the minimum necessary to complete the project purpose.

**6. Verification Restriction:** If the Corps determines that the proposed work may cause a shoreline discontinuity, the project shall be reviewed under a standard permit.

**7. Restriction:** Seawalls, retaining walls, riprap boulders or other hardened vertical structures on unconsolidated shorelines areas on or contiguous to ocean beaches are not authorized under this regional general permit.

**8. Red Mangrove restriction:** This RGP does not authorize dredging or removal of red mangroves. Construction of retaining walls, riprap boulders, or other hardened vertical structures shall be installed landward of the red mangrove root system.

## **F. SPECIAL CONDITION FOR MINOR AND MAINTENANCE DREDGING:**

### **1. Description of Work Authorized:**

a. **Minor Dredging:** Minor dredging includes dredging/excavation to accommodate the placement of shoreline stabilization, marginal docks, and boat ramps. The grading preparation work will not involve any dredging of surface waters except for the minimum amount needed for site preparation. This type of dredging is usually required to embed materials and/or to allow smooth transition of the work to the natural surrounding elevation.

b. **Maintenance Dredging:** Maintenance dredging is not to exceed a total of 5,000 square feet and confined to existing navigable waterways such as canals, channels, boat notches and basins. Maintenance dredging is limited to the depth and width previously authorized by the USACE or other regulatory authority, such as FDEP or water management district. The maximum allowed dredging depth (including over-dredge) cannot exceed the depth of the adjacent navigational channel (i.e. controlling depth) or a maximum depth of -7 ft MLW or caprock, whichever is least.

2. **Dredging Methodology:** Hopper dredging is prohibited. Only mechanical and hydraulic dredging activities are authorized under this verification.

3. **Dewatering and Disposal Methodology:** All dredged material must be placed in an upland disposal site, as identified by the applicant and approved by the Corps. The dewatering area and disposal sites shall employ erosion control measures such as upland erosion control, such as filtration or berms, or in-water turbidity curtains. Handling and storage of dredged material must be completed in a manner that prevents sedimentation, erosion, and turbidity during dewatering, overflow, transferring, and storage of the dredged material.

4. **Hydrologic Connection:** This permit does not authorize the removal of plugs or the connections of any canal to waters of the United States.

5. **Red Mangrove Restriction:** This permit does not authorize dredging or removal of red mangroves.

6. **New Dredging Restriction:** No new dredging is authorized under this permit.

7. **Restriction:** Dredging to create new navigational channels or removal of sediment from channels that have not been historically maintained is not permitted under this permit.

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**AVOIDANCE AND MINIMIZATION:** Fill authorized under this RGP shall be limited to that necessary for the installation, construction, maintenance, replacement, and repair of structures within the Florida Keys. Each request for authorization of work under SAJ-82 would be subject to review by the Corps to ensure that appropriate sequencing, avoidance, and minimization of impacts to aquatic resources authorized by SAJ-82 would have no more than minimal adverse impacts on the aquatic ecosystem, either individually or cumulatively. Adherence to the special and general conditions of SAJ-82 as well as any project-specific conditions deemed necessary will serve to further avoid and minimize impacts.

**COMPENSATORY MITIGATION:** Compensatory mitigation for unavoidable permanent impacts to waters of the United States may be required at the discretion of the Corps.

To offset lost wetland and other aquatic resource functions, appropriate mitigation, including purchase of credits at a federally-approved mitigation bank or in-lieu-fee (ILF) arrangement, may be authorized. Mitigation undertaken at a federally-approved mitigation bank or ILF will be assessed using a minimum ratio of 1:1 (impact acreage: credit) or an appropriate functional assessment method (e.g., Uniform Mitigation Assessment Methodology (UMAM)) in accordance with the most current Compensatory Mitigation Rule (33CFR332):

[www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx](http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx)

**IMPACT ON NATURAL RESOURCES:** Coordination with U.S. Fish and Wildlife Service, Environmental Protection Agency (EPA), the National Marine Fisheries Services, and other Federal, State, and local agencies, environmental groups, and concerned citizens generally yields pertinent environmental information that is instrumental in determining the impact the proposed action will have on the natural resources of the area.

**ARCHAEOLOGICAL AND CULTURAL RESOURCES:** The activity is of such limited scope there is little likelihood of impact upon a historic property; therefore, the proposed activity would have “No Potential to Cause Effect”. By copy of this public notice, the Corps is providing information to the State and Tribes for review. Our final determination relative to historic resource impacts is subject to review by and coordination with the State Historic Preservation Officer and those federally recognized Tribes with concerns in Florida and the Permit Area.

**ESSENTIAL FISH HABITAT:** This letter serves as a request for consultation with the National Marine Fisheries Service – Habitat Conservation Division on Essential Fish Habitat as required under the Magnuson-Stevens Fishery Conservation and Management Act. The Corps has determined that with adherence to the terms and conditions outlined above, that the list of minor activities covered by this RGP would have only minimal adverse impact on EFH and/or Federally managed fisheries under NMFS’ purview.

**THREATENED AND ENDANGERED SPECIES:** The effects of this RGP on species protected under the ESA will be determined using the most current programmatic keys and/or biological opinions (i.e., JAXBO). Currently, the Corps has programmatic agreements with the FWS and NMFS for the following species: Key deer (*Odocoileus virginianus clavium*), Key Largo woodrat (*Neotoma floridana smalli*), the Key Largo cottonmouse (*Peromyscus gossypinus allapaticola*), Keys tree cactus (*Pilosocereus robinii*), Lower Keys marsh rabbit (*Sylvilagus palustris hefneri*), Schaus swallowtail butterfly (*Heraclides aristodemus ponceanus*), Stock Island tree snail (*Orthalicus reses*, not incl. *nesodryas*), and silver rice rat (*Oryzomys palustris natator* [= *O. argentatus*]), American crocodile (*Crocodylus acutus*), Eastern indigo snake, wood stork, West Indian manatee, all species under purview of the NMFS. It is anticipated the effects of the activities authorized under this RGP will either have no effect or will likely affect, but not adversely affect the aforementioned species with adherence to applicable terms and conditions and/or PDCs. For those species not covered under any existing, applicable



programmatic key or biological opinion, by separate letter, the Corps will coordinate with the FWS on the effects of the activities covered under this RGP on listed species and any designated or proposed critical habitat pursuant to Section 7, ESA. This RGP has been conditioned to include PDCs required by the NMFS and terms and conditions required by the FWS for those species listed, above.

**AUTHORIZATION FROM OTHER AGENCIES:** Water Quality Certification may be required from the State of Florida through either the Department of Environmental Protection and/or one of the state Water Management Districts.

**COASTAL ZONE MANAGEMENT CONSISTENCY:** In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan.

**EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including cumulative impacts thereof; among these are conservation, economics, esthetics, general environmental concerns, wetlands, historical properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food, and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people. Evaluation of the impact of the activity on the public interest will also include application of the guidelines promulgated by the Administrator, EPA, under authority of Section 404(b) of the Clean Water Act or the criteria established under authority of Section 102(a) of the Marine Protection Research and Sanctuaries Act of 1972. A permit will be granted unless its issuance is found to be contrary to the public interest.

The US Army Corps of Engineers (Corps) is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other Interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this determination, comments are used to assess impacts to endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

**REQUEST FOR PUBLIC HEARING:** Any person may request a public hearing. The request must be submitted in writing to the District Engineer within the designated comment period of the notice and must state the specific reasons for requesting the public hearing.

**RESPONSE:** Comments regarding this proposed reissuance of RGP SAJ-82 should be submitted in writing to Maria Bezanilla at the U.S. Army Corps of Engineers, Regulatory Division, South Permits Section, 9900 SW 107<sup>th</sup> Street, Suite 203, Miami, Florida, 33176, or electronic mail at [Maria.I.Bezanilla@usace.army.mil](mailto:Maria.I.Bezanilla@usace.army.mil) within 30 days from the date of this notice. If no adverse comments are received, the permit will be reissued without further notice.