



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, JACKSONVILLE DISTRICT
1520 ROYAL PALM BLVD., SUITE 310
FORT MYERS, FLORIDA 33919

February 14, 2019

Regulatory Division
West Branch
Fort Myers Permits Section

PUBLIC NOTICE

Permit Application No. SAJ-2006-00242 (SP-SJF)

TO WHOM IT MAY CONCERN: The Jacksonville District of the U.S. Army Corps of Engineers (Corps) has received an application for a Department of the Army permit pursuant to Section 404 of the Clean Water Act (33 U.S.C. §1344) as described below:

APPLICANT: JFK Ventures, LLP
C/o Chaim J. Margolin
14631 Safe Landing Court
Fort Myers, Florida 33908

WATERWAY AND LOCATION: The project site is a 4.94-acre parcel along the west side of Shire Lane in Fort Myers located in the Estero Drainage Basin. The surrounding land use is a combination of undeveloped land, commercial and industrial developments, a church, a road and a drainage ditch. The project is located at 14631 Shire Lane in Section 21, Township 45 South, Range 25 East, Lee County, Florida.

Directions to the site are as follows: From I-75 take Daniels Parkway east to Shire Lane (approximately 0.20 miles past Fiddlesticks Road), turn north on Shire Lane. The project site is located on the east side of Shire Lane approximately 375 feet north of the intersection of Shire Lane and Daniels Parkway.

APPROXIMATE CENTRAL COORDINATES: Latitude 26°35'54" North
Longitude -81°49'4" West

PROJECT PURPOSE:

Basic: To construct an open storage facility

Overall: To construct an open storage facility in central Lee County.

EXISTING CONDITIONS: The existing site consists of 4.3 acres of freshwater wetlands and 0.6 acres of uplands. The wetlands consist of 3.9 acres of hydric disturbed land that is comprised mainly of grasses that are routinely mowed and 0.4 acres of cypress-pine invaded with nuisance and exotic vegetation. The uplands consist of 0.6 acres of disturbed land. The surrounding land use is a combination of undeveloped land, commercial and industrial developments, a church, a road and a drainage ditch.

BACKGROUND: An ACOE permit for the work described in the Public Notice was originally issued on 30 November 2009. A subsequent Modifications was issued on 05 May 2015 for a time extension request through 06 May 2017. A second request for time extension was received by the Corps on 10 April 2017 prior to expiration of the permit.

PROPOSED WORK: The applicant seeks authorization to construct an open storage facility. The proposed project would require the discharge of fill into 3.9 acres of the freshwater wetlands. The applicant has requested a time extension to the construction window.

AVOIDANCE AND MINIMIZATION INFORMATION – The applicant has provided the following information in support of efforts to avoid and/or minimize impacts to the aquatic environment:

The Consultant has reviewed the site plan to determine if plan modifications could be made to preserve wetlands on the property. The applicant has implemented practical design modifications to reduce adverse impacts to the wetland functions provided by the higher quality wetlands and focusing unavoidable impacts to lower quality wetlands.

COMPENSATORY MITIGATION – The applicant has offered the following compensatory mitigation plan to offset unavoidable functional loss to the aquatic environment:

To offset anticipated impacts to 3.9 acres of wetlands, the applicant has proposed on-site wetland enhancement combined with the purchase of the appropriate number of mitigation bank credits from a Federally-approved mitigation bank within the service area of the proposed project.

CULTURAL RESOURCES:

The Corps is not aware of any known historic properties within the permit area. By copy of this public notice, the Corps is providing information 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.

ENDANGERED SPECIES:

The Corps has determined the proposed project may affect, but is not likely to adversely affect the Wood stork (*Mycteria Americana*) or its designated critical habitat. The Corps has determined the project may affect, but is not likely to adversely the wood stork (*Mycteria americana*). Based upon review of the Wood Stork Key for South Florida dated May 18, 2010, the proposed project resulted in the following sequential determination: A > B > C > E = “NLAA” the wood stork. The applicant will provide the required short/long hydroperiod compensation through the purchase of federal credits at

a mitigation bank within the service area. The Corps has U.S. Fish and Wildlife Service concurrence for this determination through use of the aforementioned determination keys.

By letter dated 14 October 2014 to the FWS, the Corps requested formal consultation for the Florida bonneted bat (*Eumops floridanus*). By email dated 02 April 2015, the FWS stated if the Corps changes its determination to “may affect, not likely to adversely affect” (MANLAA), the FWS could provide concurrence and conclude consultation. By email dated 06 April 2015, the Corps changed its determination to MANLAA. By Sticker/email dated 15 April 2015, the FWS provided concurrence and no further consultation is required.

The Corps has determined the proposed project may affect, but is not likely to adversely affect the Eastern indigo snake (*Drymarchon corais couperi*). Based on the Eastern Indigo Snake Effect Determination Key (dated August 1, 2017), the Corps determination sequence resulted in A > B > C > D > E > NLAA. The Permittee agrees to use the Standard Protection Measures for the Eastern Indigo Snake (dated August 12, 2013). The Corps has FWS Service concurrence for the proposed activities through use of the aforementioned determination keys.

ESSENTIAL FISH HABITAT (EFH): This notice initiates consultation with the National Marine Fisheries Service on EFH as required by the Magnuson-Stevens Fishery Conservation and Management Act 1996. Our initial determination is that the proposed action would not have a substantial adverse impact on EFH or Federally managed fisheries in the Estero drainage basin. Our final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with the National Marine Fisheries Service.

NOTE: This public notice is being issued based on information furnished by the applicant. This information has not been verified or evaluated to ensure compliance with laws and regulation governing the regulatory program. The jurisdictional line has not been verified by Corps personnel.

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

COMMENTS regarding the potential authorization of the work proposed should be submitted in writing to the attention of the District Engineer through the Fort Myers Permits Section, 1520 Royal Palm Square Blvd., Suite 310, Fort Myers, Florida 33919 within 21 days from the date of this notice.

The decision whether to issue or deny this permit application will be based on the information received from this public notice and the evaluation of the probable impact to the associated wetlands. This is based on an analysis of the applicant's avoidance and minimization efforts for the project, as well as the compensatory mitigation proposed.

QUESTIONS concerning this application should be directed to the project manager, Stephen J. Fleming, in writing at the Fort Myers Permits Section, 1520 Royal Palm Square Blvd., Suite 310, Fort Myers, FL 33919; by electronic mail at Stephen.J.Fleming@usace.army.mil; by facsimile transmission at (239) 334-0797; or, by telephone at (239) 334-1975.

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.

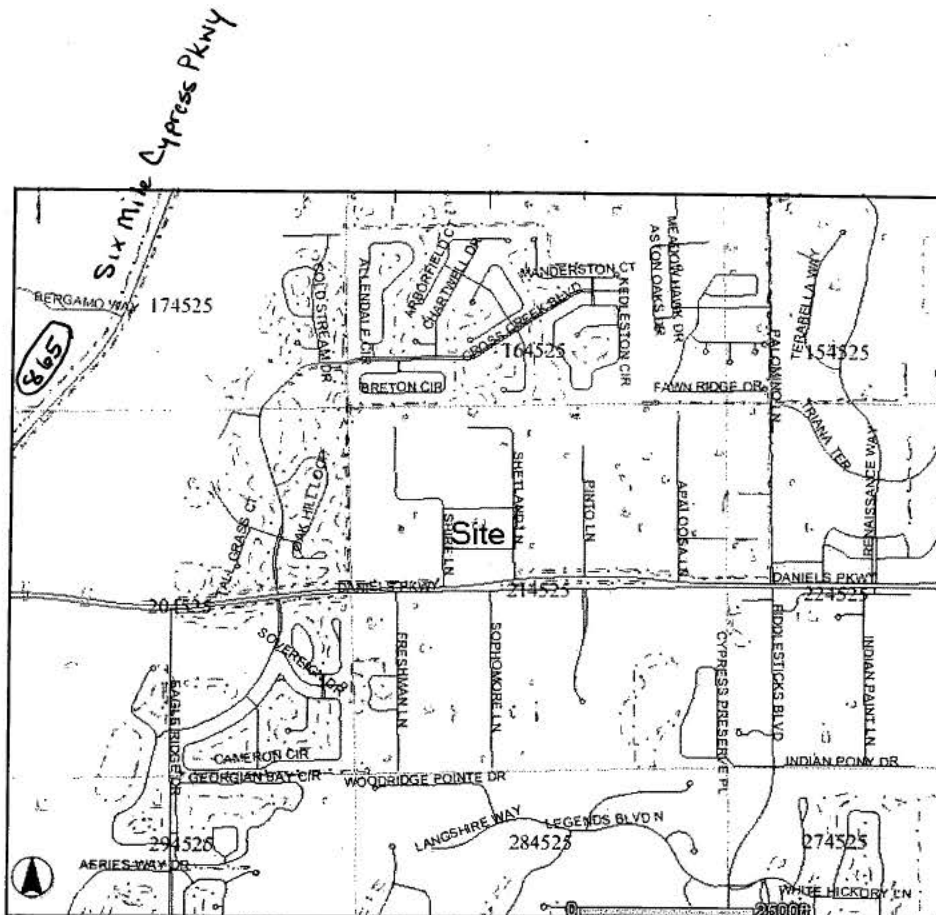
EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits, 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.

COASTAL ZONE MANAGEMENT CONSISTENCY: In Florida, the State approval constitutes compliance with the approved Coastal Zone Management Plan. In Puerto Rico, a Coastal Zone Management Consistency Concurrence is required from the Puerto Rico Planning Board. In the Virgin Islands, the Department of Planning and

Natural Resources permit constitutes compliance with the Coastal Zone Management Plan.

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.



Shire Lane Site Location Map

SHIREMITTALL
Shirelane
SAJ-2006-242 (IP-MJD)
February 13, 2006
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LWC SL

APPLICATION NUMBER
051219-6

VEGETATION MAP

Notes:

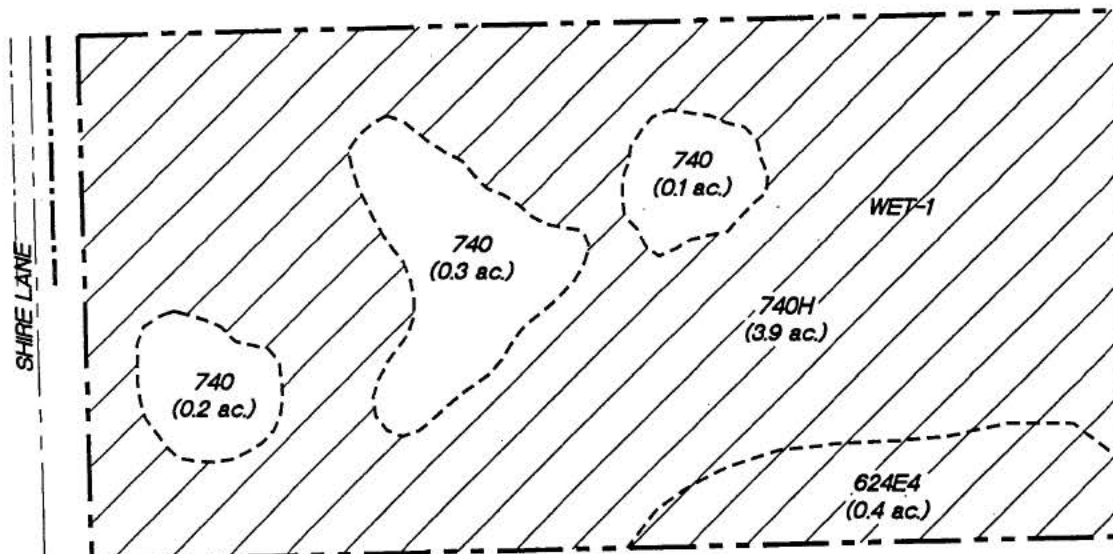
1. Mapping based on photointerpretation of 1" = 100' scale 2002 aerial photography and ground truthing in July 2004.
2. Property boundary has been obtained from Banks Engineering, Inc.
3. Delineation of jurisdictional wetlands is preliminary and subject to field review/approval by applicable regulatory agencies.

SECTION: 21
TOWNSHIP: 45
RANGE: 25

0 50 100
SCALE FEET



Shirelane
SAJ-2006-242 (IP-MJD)
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POTENTIAL JURISDICTIONAL WETLANDS	FLUCCS	Description	Acreage
	624E4	Cypress - Pine invaded by Exotics (76-90%)	0.4 ac.
	740	Disturbed Land	0.6 ac.
	740H	Hydric Disturbed Land	3.9 ac.
		TOTAL	4.9 ac.

PERMIT USE ONLY,
NOT FOR CONSTRUCTION

EXHIBIT III.B

December 02, 2005 1:19:35 p.m.
Drawing: BANK60PLN.DWG (DCS)



W. DEXTER BENDER
AND ASSOCIATES
ENVIRONMENTAL & MARINE CONSULTING
FORT MYERS 239/334-3680
PORT CHARLOTTE 941/255-1462

4.9± ACRE SHIRE LANE
PARCEL

SHEET

Notes:

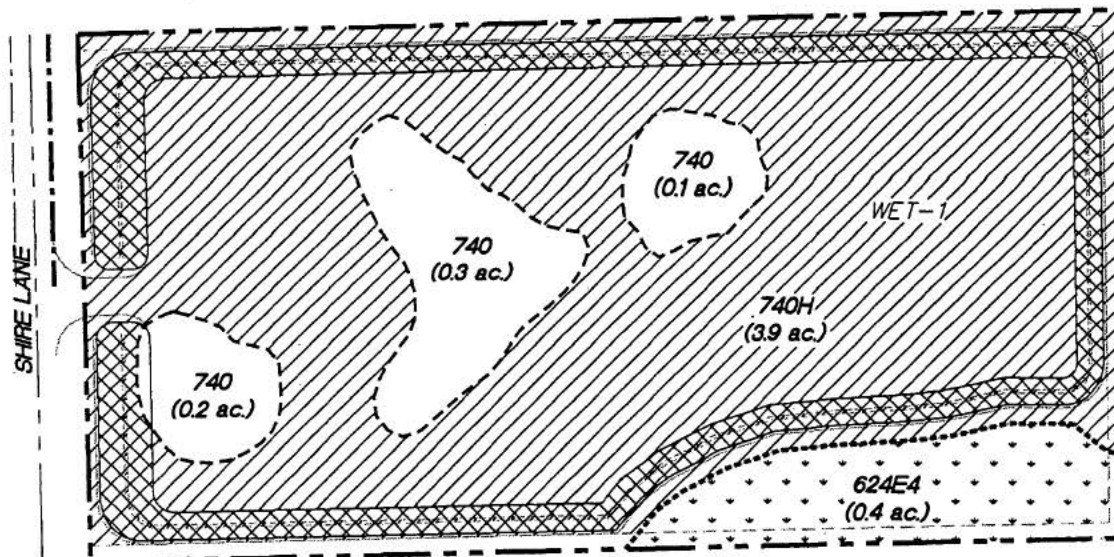
1. Mapping based on photointerpretation of 1" = 100' scale 2002 aerial photography and ground truthing in July 2004.
2. Property boundary and site plan has been obtained from Banks Engineering, Inc.
3. Delineation of jurisdictional wetlands is preliminary and subject to field review/approval by applicable regulatory agencies.

IMPACT MAP

-  Wetland Fill (3.2 ac.)
-  Wetland Excavation (0.7 ac.)
-  Wetland Enhancement (0.4 ac.)
-  Structural Buffer

SECTION: 21
TOWNSHIP: 45
RANGE: 25

0 50 100
SCALE FEET



Shirelane
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PERMIT USE ONLY,
NOT FOR CONSTRUCTION

FLUCCS	Description	Acreage
624E4	Cypress - Pine invaded by Exotics (76-90%)	0.4 ac.
740	Disturbed Land	0.6 ac.
740H	Hydric Disturbed Land	3.9 ac.
TOTAL		4.9 ac.

EXHIBIT III.G

December 01, 2005 1:22:10 p.m.
Drawing: BANK60IMP.DWG (SAJ)



W. DEXTER BENDER
AND ASSOCIATES
ENVIRONMENTAL & MARINE CONSULTING
FORT MYERS 239/334-3680
PORT CHARLOTTE 941/255-1462

**4.9± ACRE SHIRE LANE
PARCEL**

SHEET

MITIGATION AND MONITORING PLAN

Notes:

1. Mapping based on photointerpretation of 1" = 100' scale 2002 aerial photography and ground truthing in July 2004.
2. Property boundary and site plan has been obtained from Banks Engineering, Inc.
3. Delineation of jurisdictional wetlands is preliminary and subject to field review/approval by applicable regulatory agencies.



Wetland Enhancement (0.4 ac.)



Structural Buffer



Photo Station



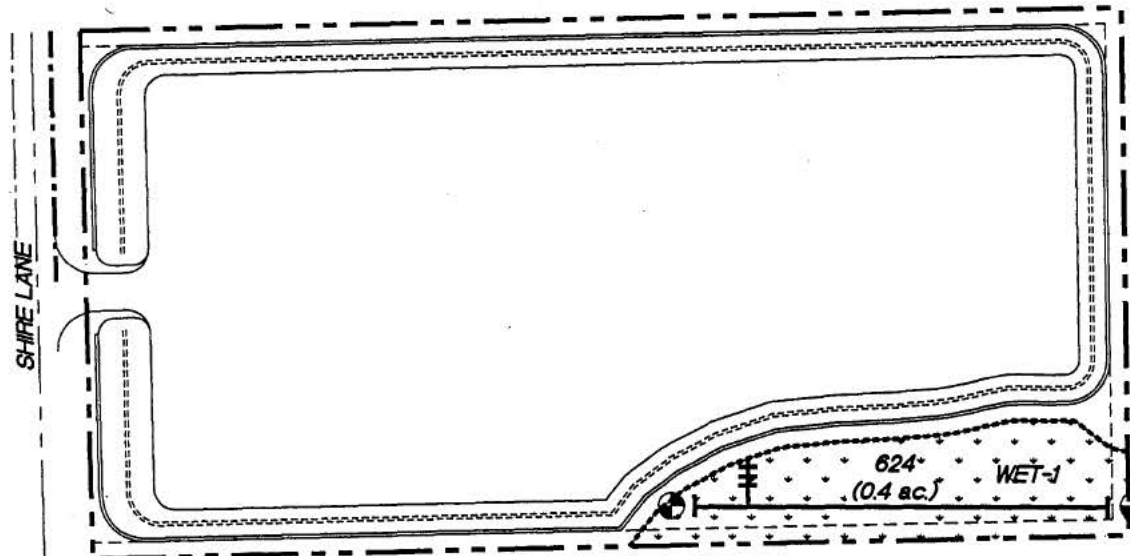
Vegetation Transect



Staff Gauge

SECTION: 21
TOWNSHIP: 45
RANGE: 25

0 50 100
SCALE FEET



Shirelane
SAJ-2006-242 (IP-MJD)
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FLUCCS
624E4

Description
Cypress - Pine Invaded by Exotics (76-90%)

Acreage
0.4 ac.

PERMIT USE ONLY,
NOT FOR CONSTRUCTION

EXHIBIT II.C

December 01, 2005 2:57:57 p.m.
Drawing: BANK60MIT.DWG (SAJ)



W. DEXTER BENDER
AND ASSOCIATES
ENVIRONMENTAL & MARINE CONSULTING
FORT MYERS 239/334-3680
PORT CHARLOTTE 941/255-1462

4.9± ACRE SHIRE LANE
PARCEL

SHEET