PUBLIC NOTICE

Permit Application Number SAJ-2017-02142 (SP-KNA)

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: Mr. Stanley Beard, Jr.
Buc-ee’s Ltd.
327 F.M. 2004
Lake Jackson, Texas 77566

WATERWAY AND LOCATION: The proposed project would affect waters of the United States associated with the Orange Creek-Whiskey Creek watershed and the Tenmile Canal watershed. The proposed project site is located in Sections 22, 27, and 28, Township 44 South, Range 25 East, Lee County, Florida.

Directions to the site are as follows: From Interstate 75 South take exit 138 towards Dr. Martin Luther King Jr. Boulevard (State Route 82). Travel west on Dr. Martin Luther King Jr. Boulevard and proceed for approximately 0.1 mile. The proposed project site is located on the south side of Dr. Martin Luther King Jr Boulevard adjacent to Interstate 75.

APPROXIMATE CENTRAL COORDINATES: Latitude 26.627577°
Longitude -81.808117°

PROJECT PURPOSE:

Basic: Commercial Development

Overall: To construct a multi-use commercial development, including a convenience store, travel center, associated infrastructure, and stormwater management system, near the Interstate 75 corridor in Fort Myers, Lee County, Florida.

EXISTING CONDITIONS: The approximately 159 acres site includes 100.75 acres of wetland that consists of a forested freshwater system. The on-site vegetation consists of Bald Cypress (Taxodium distichum), Slash Pine (Pinus elliotti), Melaleuca (Melaleuca quinquenervia), and Brazilian pepper (Schinus terebinthifolius). The existing area surrounding the project site includes the Lee County Emergency Complex and the Lee
County Jail to the west, various commercial developments to the south, and Interstate 75 and Dr. Martin Luther King Jr Boulevard corridors to the north and east.

PROPOSED WORK: The applicant seeks authorization to discharge approximately 348,115 cubic yards of fill material into 52.67 acres of freshwater forested wetlands for the construction of the multi-use commercial development. Additionally, the applicant seeks authorization to excavate approximately 71,115 cubic yards of fill material from 3.7 acres of freshwater forested wetlands for the construction of an on-site stormwater management system.

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 applicant has determined that no other practicable alternative sites are available and capable of being developed with less adverse impact to the aquatic ecosystem after taking into consideration cost, existing technology, and logistics. The applicant has implemented design modifications to reduce impacts to the wetlands by focusing the unavoidable impacts to the lower quality wetlands on-site.

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

In order to compensate for the unavoidable impact to 56.37 acres of freshwater forested wetlands, the applicant proposes to complete on-site permittee responsible mitigation, including wetland enhancement and preservation activities. To offset any remaining deficit of compensatory wetland mitigation credits, the applicant proposes to purchase freshwater forested wetland mitigation credits from the Little Pine Island Mitigation Bank and the Corkscrew Regional Mitigation Bank.

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 Eastern Indigo Snake (Drymarchon couperi), Florida Bonneted Bat (Eumops floridanus), and the Red-cockaded Woodpecker (Picoides borealis). The Corps will request U.S. Fish and Wildlife concurrence with this determination pursuant to Section 7 of the Endangered Species Act.
The Corps has determined the proposal may affect the Florida Panther (Felis concolor coryi) and the Wood Stork (Mycteria americana). The Corps will request initiation of formal consultation with the Fish and Wildlife Service pursuant to Section 7 of the Endangered Species Act by separate letter.

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 determination is that the proposed action would have no adverse impact on EFH or Federally managed fisheries in the Gulf of Mexico since the proposed project site would be located approximately 3 miles inland of the closest major tributary, the Caloosahatchee River.

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 South Florida Water Management District. The proposed project is currently under review, File No. 170517-15.

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, Fort Myers, FL 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.

QUESTIONS concerning this application should be directed to the project manager, Allison C. Murphy, in writing at the Fort Myers Permits Section, 1520 Royal Palm Square Blvd., Fort Myers, Florida, 33919; by electronic mail at Allison.C.Murphy@usace.army.mil; by facsimile transmission at (239) 334-0797; or, by telephone at (239) 334-1975 ext. 0008.

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 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. The proposed project is currently under review by the South Florida Water Management District, File No. 170517-15.

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.
PROJECT: MLK-75
LOCATION: MLK - 75 SUBDIVISION

A PARCEL OF LAND IN SEC. 22, 27 & 29 T. 44 S., R.25 E., LEE COUNTY, FLORIDA

CLIENT: BUC-EE'S LTD, 327 F.M. 2004 LAKE JACKSON, FLORIDA

CONSULTANT: MORRIS DEPEW INC. - ENGINEERS & ARCHITECTS

PROJECT MANAGER: RMS
DRAWING BY: DAL
JURISDICTION: LEE COUNTY
DATE: 4/12/2017

SHEET TITLE: AERIAL EXHIBIT
SHEET NUMBER: 1 OF 1
JOB FILE NUMBER: 16078-00
Notes:
2. Property boundary and surveyed limits of jurisdictional wetlands were provided by Morris-Deese Engineering, Inc.
3. Limits of jurisdictional wetlands were field verified by Ms. Krista Gentile (SFWMD) on April 1, 2004.

Exhibit C.19 - Vegetation Map

MLK-75 Subdivision

PERMIT USE ONLY, NOT FOR CONSTRUCTION

May 04, 2017 1:30:38 p.m.
Drawing: BUCE1PLAN

W. DEXTER BENDER & ASSOCIATES, INC.
ENVIRONMENTAL & MARINE CONSULTING
FORT MYERS 239-334-3600
Notes:
2. Property boundary, site plan, and surveyed limits of jurisdictional wetlands were provided by Morris-Depew Engineering, Inc.
3. Limits of jurisdictional wetlands were field verified by Ms. Krista Gentile (SFWMD) on April 1, 2004.
5. Basin boundary obtained from the SFWMD.

Wetland and OSW Impacts by Basin

MLK-75 Subdivision

PERMIT USE ONLY, NOT FOR CONSTRUCTION

October 27, 2017 3:20:14 p.m.
Drawing: NLECBEAM_MEP-MIT400

ENVIRONMENTAL CONSULTING
FORT MYERS 239-334-3680
Mitigation by Basin

MLK-75 Subdivision

Tidal Caloosahatchee Basin
- Wetland Enhancement and Preservation - Mechanical Removal of melaleuca and Plant Native Vegetation (18.84 ac.)
- Upland Enhancement and Preservation - Removal of melaleuca and Plant Native Vegetation (0.94 ac.)
- Wetland Enhancement and Preservation - Hand Treatment (0.24 ac.)
*Includes 1.80 acres of secondary impacts not considered mitigation (total mitigation 20.61 ac.)

Estero Bay Basin
- Wetland Enhancement and Preservation - Mechanical Removal of melaleuca and Plant Native Vegetation (23.19 ac.)
- Upland Enhancement and Preservation - Removal of melaleuca and Plant Native Vegetation (7.17 ac.)
- Wetland Enhancement - Remove Exotic Vegetation Powerline Easement/Billboard and Access - Not Part of Mitigation Plan (2.21 ac.)
*Includes 0.42 acres of secondary impacts and 2.21 acres of powerline/billboard access not considered mitigation (total mitigation 27.44 ac.)

Total Area Under Conservation Easement = 56.45 ac.

Notes:
2. Property boundary, site plan, and surveyed limits of jurisdictional wetlands were provided by Morris-Depew Engineering, Inc.
3. Limits of jurisdictional wetlands were field verified by Ms. Krista Gentile (SFWMD) on April 1, 2004.
5. Basin boundary obtained from the SFWMD.

SFWMD Cumulative Impact Basin Boundary

Notes:
1. Mitigation by Basin:
   - Palmetto Prairies 0.95 ac.
   - Pine Flatwoods 13.13 ac.
   - Wetlands 9.65 ac.
   - Cypress 0.34 ac.
   - Hydric Pine Flatwoods 4.52 ac.
   - Hydric Electrical Power Transmission Lines 1.61 ac.
   - Total 34.66 ac.

PERMIT USE ONLY, NOT FOR CONSTRUCTION

October 27, 2017 3:25:14 p.m.  
Drawing: BLCEEBASH_BWP-001.MXD
CONCEPTUAL SFWMD DRAINAGE PLANS FOR
MLK-75 SUBDIVISION
A PARCEL OF LAND IN SEC. 22, 27 & 29
SECTION 22, 27 & 29, TOWNSHIP 44 S, RANGE 25 E
LEE COUNTY, FLORIDA