



FLORIDA DEPARTMENT OF Environmental Protection

South District Branch Office
2796 Overseas Highway, Suite 221
Marathon, FL 33050
SouthDistrict@FloridaDEP.gov

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

February 2, 2022

Thurmond Street Partners LLC
c/o David McGraw
2 Thurmond Street
Key Largo, FL 33037
events@keylargolighthouse.com

USA General Serv Adm
USA – Everglades National Park
77 Forsyth St SW
Atlanta, GA 30303
Jonathan_E_Taylor@nps.gov

David Rice
Monroe County – Mayor
1100 Simonton St
Key West, FL 33040
boccdis2@monroecounty-fl.gov

Re: Consent Order OGC Case No. 21-0546
Site No. 368553 / Project No. 380451
Vacant Land owned by USA General Services Adm.
Monroe County Parcel ID: 00087920-000000
Florida Bay, Class III Outstanding Florida Waters
Monroe County - SLERC

Dear Mr. McGraw, Mr. Rice, and USA Everglades National Park,

Enclosed is the signed and entered Consent Order, OGC No. 21-0546, to resolve this case. This copy is for your records. Please note that all compliance dates for the Consent Order begin on the date of entry, which is February 2, 2022. Upon satisfactory completion of all conditions of the Order, we will close this case and place it in our inactive file.

Please review the items required by the Consent Order and the corresponding deadline for completion, which is based on the date of entry of the order.

If you have any questions, please contact Mckenzie Fraley by email at Mckenzie.Fraley@FloridaDEP.gov or by phone at (305) 289-7079. Your cooperation in resolving this case is appreciated.

Sincerely,



Jon M. Iglehart
Director of District Management
South District
Florida Department of Environmental Protection

JMI/mf

Enclosures: Consent Order
Attachment I (Corrective Actions)
Attachment II
Exhibit A (Restoration Plan)

cc: Lea Crandall, Agency Clerk, agency_clerk@dep.state.fl.us
Johnathan Pempek, USACE, Jonathan.C.Pempek@usace.army.mil
Jay Barenzweig, Monroe County, Berenzweig-Jay@MonroeCounty-FL.Gov
Brandon Moore, Everglades National Park, Brandon_Moore@nps.gov
Jonathan Taylor, NPS, Jonathan_E_Taylor@nps.gov
Michael Michener, NPS, michael_michener@nps.gov
Anthony Terry, NPS, Tony_Terry@nps.gov
Tylan Dean, NPS, tylan_dean@nps.gov
Robert Johnson, NPS, Robert_Johnson@nps.gov
Joanne Delaney, NOAA, joanne.delaney@noaa.gov
Stephen Werndli, NOAA, Stephen.Werndli@noaa.gov
Peter Morris, Monroe County, Morris-Peter@MonroeCounty-FL.Gov
Cynthia Guerra, Monroe County, Guerra-Cynthia@MonroeCounty-FL.Gov
Judith Clarke, Monroe County, Clarke-Judith@monroecounty-fl.gov
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davemcgraw123@gmail.com
SAJ-RD-Enforcement@usace.army.mil

BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION,)	IN THE OFFICE OF THE SOUTH DISTRICT
)	
Complainant)	
)	
vs.)	
)	
THURMOND STREET PARTNERS LLC, USA - EVERGLADES NATIONAL PARK, AND MONROE COUNTY)	OGC FILE NO. 21-0546
)	
Respondents.		

CONSENT ORDER

This Consent Order is entered into between the State of Florida Department of Environmental Protection (“Department”), Thurmond Street Partners LLC, Monroe County and the USA - Everglades National Park (“Respondents”) to reach settlement of certain matters at issue between the Department and Respondents.

The Department finds and the Respondents admit the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce Chapter 373, Part IV, and Chapter 403, Florida Statutes (F.S.), and the rules promulgated and authorized thereunder, Title 62, Florida Administrative Code (F.A.C.). The Department has jurisdiction over the matters addressed in this Consent Order.
2. The Respondents are the persons within the meaning of Sections 373.019(15) and 403.131(5), F.S.
3. Respondent USA - Everglades National Park (“USA ENP”) is the owner of property located at Monroe County Parcel ID No. 00087920-000000, Section 32, Township 61 South, Range 39 East, Monroe County, Florida (“USA ENP Property”).
4. Respondent Thurmond Street Partners LLC (“Thurmond”) is the owner of the adjacent parcel located at 98990 Overseas Highway, Key Largo, FL 33037, Monroe County Parcel ID No.

00088170-000000, Section 32, Township 61 South, Range 39 East, Monroe County, Florida (“Thurmond Property”).

5. Respondent Monroe County (“Monroe County”) owns the right of way between the Thurmond property and the USA ENP property (“ROW”). Figure 1 of Exhibit A shows the above referenced Properties and the Monroe County ROW.

6. Respondent Thurmond conducted the activities described in paragraph 7 below.

7. An inspection by Department personnel on August 23, and December 19, 2018, revealed approximately 3,276 square feet of wetlands and surface waters were dredged and filled, and approximately 200 square feet of mangroves were altered, without a valid permit from the Department. These activities were conducted on Respondent Thurmond, Respondent USA ENP, and Respondent Monroe County Properties within mangrove wetlands and Florida Bay, Class III Outstanding Florida Waters.

Having reached a resolution of the matter Respondents and the Department mutually agree and it is,

ORDERED:

8. **Within 30 days of the effective date of this Consent Order**, Respondent Thurmond shall pay the Department \$5,000.00 in settlement of the **regulatory** matters addressed in this Consent Order. This amount includes \$4,500.00 for the violations outlined in this Order and \$500.00 in costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Consent Order. Respondent Thurmond shall make all payments required by this Consent Order by cashier’s check, money order or online payment. Cashier’s check or money order shall be made payable to the *Department of Environmental Protection*, mailed to Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549, and shall include both the OGC number assigned to this Consent Order, which is OGC No. 21-0546, and the notation “Water Quality Assurance Trust Fund.” Online e-check payment can be made by going to the DEP Business Portal at <http://www.fldepportal.com/go/pay/>. It will take several days after this order becomes final and effective filed with the Clerk of the Department before ability to make online payment is available.

9. Respondent Thurmond shall implement the Corrective Actions attached hereto and incorporated herein as Attachment I in the manner and within the time frames specified therein.

Respondent Thurmond shall also implement the USA ENP's requirements for conducting the Corrective Actions on USA ENP Property ("Letter of Compliance Completion – PEPC Project 104410") attached hereto and incorporated herein as Attachment II in the manner and within the time frames specified therein.

10. Respondent USA ENP and Respondent Monroe County shall allow Respondent Thurmond access to Respondent USA ENP Property and Respondent Monroe County Property to comply with the requirements of paragraph 9 of this Consent Order. Respondent USA ENP and Respondent Monroe County's obligation under this paragraph is limited to providing access to Respondent Thurmond only to the extent necessary to implement the requirements of paragraph 9 and in a manner that complies with the Corrective Actions contained in Attachment I. Further, Respondent USA ENP and Respondent Monroe County's obligation to provide access to Respondent Thurmond under this paragraph will terminate upon determination by the Department that the success criteria contained in Attachment I have been met.

11. With the exception of the activities described in the Corrective Actions, effective immediately and henceforth, Respondent Thurmond shall not conduct any dredging, filling, mangrove trimming, mangrove alteration, mangrove removal, or construction activities on or within the landward extent of waters of the state without first obtaining a valid Department permit or written notification from the Department that the activities appear to be exempt as proposed from Department permitting requirements.

12. Respondent Thurmond agrees to pay the Department stipulated penalties in the of \$100.00 per day for each and everyday Respondent Thurmond fails to timely comply with any of the requirements of paragraph 9 of this Consent Order. A separate stipulated penalty shall be assessed for each violation of this Consent Order. **Within 30 days** of written demand from the Department, Respondent Thurmond shall make payment of the appropriate stipulated penalties to the *Department of Environmental Protection* by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order, which is OGC No. 21-0546, and the notation "Water Quality Assurance Trust Fund." The Department may make demands for payment at any time after violations occur. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. Any penalties assessed under this paragraph shall be in addition to the settlement sum agreed to in paragraph 8 of this Consent Order.

13. If any event, including administrative or judicial challenges by third parties unrelated to the Respondent Thurmond, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent Thurmond shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent Thurmond and could not have been or cannot be overcome by Respondent Thurmond's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent Thurmond, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as 'contractor') to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent Thurmond, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent Thurmond shall notify the Department orally within 24 hours or by the next working day and shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent Thurmond intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent Thurmond, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent Thurmond to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of Respondent Thurmond's rights to request an extension of time for compliance with the requirements of this Consent Order.

14. Respondent Thurmond, Respondent USA ENP and Respondent Monroe County shall allow all authorized representatives of the Department access to the Property at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules and statutes of the Department.

15. Entry of this Consent Order does not relieve Respondent Thurmond of the need to comply with applicable federal, state or local laws, regulations or ordinances.

16. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69, 373.129, Florida Statutes. Failure to comply

with the terms of this Consent Order shall constitute a violation of Section 373.430, Florida Statutes.

17. Respondent Thurmond is fully aware that a violation of the terms of this Consent Order may subject Respondent Thurmond to judicial imposition of damages, civil penalties of up to \$10,000 per day per violation and criminal penalties.

18. Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this Notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

- (a) The Department's Consent Order identification number and the county in which the subject matter or activity is located;
- (b) The name, address and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the proceeding;
- (c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- (d) A statement of when and how the petitioner received notice of the Consent Order;
- (e) A statement of all material facts disputed by petitioner, if any;
- (f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;
- (g) A statement of which rules or statutes the petitioner contends require reversal or modification of the Consent Order; and
- (h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate

agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this Notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondents, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- (a) The names, addresses and telephone numbers of any persons who may attend the mediation;
- (b) The name, address and telephone number of the mediator selected by the parties, or a provision for selecting a mediator within a specified time;
- (c) The agreed allocation of the costs and fees associated with the mediation;

- (d) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (e) The date, time and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- (f) The name of each party's representative who shall have authority to settle or recommend settlement; and
- (g) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that each party has already filed and incorporating it by reference.
- (h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all Parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this Notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the Notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

19. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes, or the rules promulgated thereunder that are not specifically addressed by the terms of this Consent Order.

20. The Department, for and in consideration of the complete and timely performance by Respondent Thurmond of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations addressed in this Consent Order.

21. Respondent Thurmond acknowledges and waives his right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this Consent Order. Respondent Thurmond acknowledges his right to appeal the terms of this Consent Order pursuant to Section 120.68, Florida Statutes, and waive that right upon signing this Consent Order.

22. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals. No modifications of the terms of this Consent Order shall be effective until reduced to writing and executed by both Respondent Thurmond and the Department.

23. All submittals and payments required by this Consent Order to be submitted to the Department shall be sent to the Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549. Online e-check payment can be made by going to the DEP Business Portal at <http://www.fldeportal.com/go/pay/>.

24. In the event of a sale or conveyance of the Property, if all of the requirements of this Consent Order have not been fully satisfied, Respondent USA ENP shall, at least 30 days prior to the sale or conveyance of the Property, (1) notify the Department of such sale or conveyance and (2) provide a copy of this Consent Order with all attachments to the new owner. The sale or conveyance of the Property shall not relieve the Respondent Thurmond of the obligations imposed in this Consent Order.

25. This Consent Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Consent Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law.

26. This Consent Order is a final order of the Department pursuant to Section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, Florida Statutes. Upon the timely filing of a petition, this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:
THURMOND STREET PARTNERS LLC

1-4-2022
DATE

David McGraw
David McGraw, Manager and Registered Agent

FOR THE RESPONDENT:
USA - EVERGLADES NATIONAL PARK

DATE

SABRINA
DIAZ
for _____
Pedro M. Ramos, Superintendent

Digitally signed by
SABRINA DIAZ
Date: 2022.01.06 14:52:29
-05'00'

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FOR THE RESPONDENT:
MONROE COUNTY

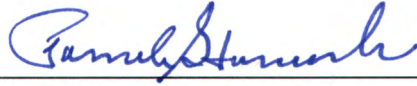
January 28, 2022
DATE

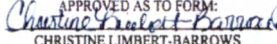

David Rice, Mayor



January 28, 2022
DATE

Attest: KEVIN MADOK, Clerk


As Deputy Clerk

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

CHRISTINE LIMBERT-BARROWS
ASSISTANT COUNTY ATTORNEY
DATE: 1/21/22

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Please do not write below this line. For DEP use only.

DONE AND ORDERED this 2nd day of February, 2022, in Lee
County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Jon M. Iglehart
Director of District Management
South Florida District
P.O. Box 2549
Fort Myers, Florida 33902-2549
Telephone: (239) 344-5600

FILED, on this date, pursuant to Section 120.52, Florida Statutes, with the designated
Department Clerk, receipt of which is hereby acknowledged.


CLERK

February 2, 2022
DATE

cc: Lea Crandall, Agency Clerk (Mail Station 35)

ATTACHMENT I
OGC Case No. 21-0546
CORRECTIVE ACTIONS

MITIGATION

1. **Within 30 days of the effective date of this Consent Order**, Respondent Thurmond shall mitigate for approximately 200 square feet of unauthorized mangrove alterations and approximately 2,269 square feet of unauthorized dredging and filling of wetlands with the **purchase of 0.02 credits of saltwater forested wetlands from Everglades Mitigation Bank:**
Mitigation Bank Contact Information:
Joseph Sicbaldi, CRE/JB Manager
Everglades Mitigation Bank
Florida Power & Light
700 Universe Blvd.
Juno Beach, FL 33408
O - 561-694-6388 C - 561-222-4111
Joseph.Sicbaldi@fpl.com
2. **Within 15 days of credit purchase**, Respondent Thurmond shall provide the Department with documentation that 0.02 credits of saltwater forested wetland credits have been deducted from the credit ledger of the bank. This documentation shall be submitted to the Florida Department of Environmental Protection, South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549 ('South District Office'), by facsimile to (850)412-0590, or via email to FTMERP_Compliance@dep.state.fl.us. This payment confirmation shall include the Respondent's name and the OGC number associated with this Consent Order, which is **21-0546**.

RESTORATION OF MANGROVE ALTERATION AREAS

3. Mangroves that have recruited into, or are currently growing, in the area where mangroves were previously altered shall be allowed to grow.
4. **Within 90 days of the effective date of this Consent Order**, Respondent Thurmond shall complete the restoration on the USA - EVERGLADES NATIONAL PARK Property and Monroe County Right of Way in accordance with the plans and specifics detailed Exhibit A (Restoration Plan), attached and incorporated by reference.
5. Should the terms in the attached Exhibit A (Restoration Plan) conflict with any terms of the Consent Order and Attachment I, the terms within the Consent Order and Attachment I shall prevail.

MONITORING & SUCCESS CRITERIA:

6. **A "Baseline" Monitoring Report shall be submitted within 120 days of the effective date of this Consent Order** and shall include the following:
 - a. The "OGC Case No. 21-0546" and name of Respondent exactly as it appears on the first page of this Order;
 - b. Dates of all work completed;
 - c. Color photographs to provide an accurate representation of the mangrove alteration areas. The photographs shall be taken from fixed reference points and directions which are shown on a scaled plan-view of the Property; and

- d. A table depicting numbers, spacing, and sizes (including tree height) of each species planted.
7. **Until the success criteria are achieved as described in Paragraph 9**, the Respondent shall inspect the mangrove alteration areas annually. The purpose of the monitoring shall be to determine the success of the restoration. During each inspection, Respondent Thurmond shall remove all exotic and nuisance vegetation without disturbing the other existing vegetation in the mangrove alteration areas. Exotic and nuisance vegetation shall include vegetation is listed in the most recent published list of invasive species by the Florida Exotic Pest Plant Council (FLEPPC). Internet website for FLEPPC is <http://www.fleppc.org/list/list.htm>. Exotic and nuisance vegetation shall include, but not be limited to, vines, Brazilian Pepper (*Schinus terebinthifolius*), Punk tree (*Melaleuca quinquenervia*), and Australian pine (*Casuarina equisetifolia*).
8. **Within 30 days after the completion of each inspection in the monitoring schedule**, Respondent Thurmond shall complete a monitoring report and submit it to the Department. The monitoring reports shall also include the following information:
 - a. The “OGC Case No. 21-0546” and name of Respondent exactly as it appears on the first page of this Order;
 - b. Dates of inspection;
 - c. Plant species composition with estimates of the contribution of each species to percent cover; and
 - d. Plan view depicting the locations of any specimens replanted (indicate numbers of each species replanted).
9. Restoration of the mangrove alteration areas shall be deemed successful when the following criteria has been met for a period of at least one (1) year, without intervention in the form of irrigation, removal of undesirable vegetation, or replanting of desirable vegetation:
 - a. Planted species have achieved a minimum 80% survival;
 - b. Planted species and naturally recruited native wetland species have achieved a minimum 80% cover;
 - c. Total contribution to percent cover by exotic, non-native wetland species, and species not listed in 62-340, F.A.C. shall be maintained below 5%;
 - d. The planted mangrove species have achieved an average height of at least 6 feet and all are exhibiting natural, vigorous growth consistent with the species and target plant community;
 - e. The mangrove alteration areas have been inspected by the Department and the Department has informed the Respondents in writing that the mangrove alteration areas have achieved the described success criteria.
10. If it is determined by the Department, based on visual inspection and/or review of the monitoring reports, that the mangrove alteration areas are not meeting the success criteria (described in paragraph 9 above) after three years, Respondent Thurmond shall submit an alternative Restoration Plan to the Department for review and approval, which shall meet the following requirements:
 - a. Respondents shall submit the plan within 30 days of notification by the Department of failure to meet the performance criteria;
 - b. The Revised Restoration Plan shall include a plan, including time schedule for planting the Restoration Area with enough plants representative of the naturally occurring habitat

approved by the Department in advance to meet the success criteria. The revised plan shall also include maintenance and monitoring schedule to ensure that the replanting is successful.

- c. The Respondent(s) shall implement the alternative restoration plan, including any changes required by the Department, no later than 90 days after receiving Department approval.

GENERAL CONDITIONS:

11. This Consent Order or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the ordered activity. The complete Consent Order shall be available for review at the work site upon request by the Department staff. The Respondent shall require the contractor to review the complete Consent Order prior to commencement of the activity authorized by this Consent Order.
12. Activities approved by this Consent Order shall be conducted in a manner, which does not cause violations of state water quality standards. The Respondent shall implement best management practices for erosion and pollution control to prevent violations of state water quality standards. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the ordered work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in the State of Florida Erosion and Sedimentation Control Inspectors Manual, FDEP (2008), available on the Department's website at <http://www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf> unless a project-specific erosion and sediment control plan is approved as part of this Order. Thereafter the Respondent shall be responsible for the removal of the barriers. The Respondent shall correct any erosion or shoaling that causes adverse impacts to the water resources.
13. Should any other regulatory agency require changes to the herein authorized act, the Respondent shall notify the Department in writing of the changes prior to implementation so that a determination can be made whether a Consent Order modification is required.
14. This Consent Order does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this Consent Order. This Consent Order does not convey to the Respondent or create in the Respondent any property right or any interest in real property, nor does it authorize any entrance upon or activities on property, which is not owned or controlled by the Respondent, or convey any rights or privileges other than those specified in the Consent Order and Chapter 62-330, F.A.C.
15. The Respondent shall hold and save the Department harmless from any and all damages, claims, or liabilities, which may arise by reason of the ordered activities, authorized by this Consent Order.
16. If historical or archaeological artifacts are discovered at any time on the project site, the Respondent shall immediately notify the Department's South District Office, P.O. Box 2549, Fort Myers, FL 33902-2549.

17. The Respondent shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.
18. The Respondent is hereby advised that Department authorization is required for all dredging and filling activities in wetlands or surface waters and for mangrove trimming, alteration and/or removal, pursuant to Chapters 403 and 373, Florida Statutes (F.S.). In addition, water quality standards, as stipulated in Chapter 62-302, F.A.C., shall be upheld. Respondent shall not commence any excavation, construction, or other activity within any wetland areas until Respondent has received from the Department (or the appropriate Water Management District) the required permit authorizing the activity. Pursuant to Chapter 373.129 and 403.141, if such work is done without authorization, the Department may levy civil penalties of up to \$10,000 per offense. Each date during which such violation occurs may constitute a separate offense.
19. The project shall comply with applicable State Water Quality Standards, namely:
 - a. Rule 62-302.500, F.A.C. - Surface Waters: Minimum Criteria, General Criteria;
 - b. Rule 62-302.530, F.A.C. - Table: Surface Water Quality Criteria – Class III Waters;
 - c. Rule 62-302.700, F.A.C. - Special Protection, Outstanding Florida Waters, Outstanding National Resource Waters; and
 - d. Rule 62-4.242, F.A.C. - Antidegradation Permitting Requirements; Outstanding Florida Waters; Outstanding National Resource Waters.



United States Department of the Interior
NATIONAL PARK SERVICE

Everglades and Dry Tortugas National Parks
40001 State Road 9336
Homestead, Florida 33034



In Reply Refer to:

11/03/2021

Thurmond Street Partners LLC
c/o David McGraw
2 Thurmond Street
Key Largo, FL 33037

OGC No. 21-0546
Attachment II
pg 1 of 10

Re: Consent Decree and Restoration Plan

Dear Mr. David McGraw:

Pursuant to the Consent Order OGC Case No. 21-0546, Site No. 368553 / Project No. 380451 this letter serves to identify that there are requirements for implementing the restoration plan on those portions that are performed within Everglades National Park.

Attached please find the Letter of Compliance Completion – PEPC Project 10441. This letter details the required mitigations, conditions and stipulations for conducting work in Everglades National Park. These terms shall be adhered to by you upon your signature of the Consent Decree.

Should you have any questions, please feel free to contact Everglades National Park's Deputy Superintendent Sabrina Diaz (Sabrina_Diaz@nps.gov), or Restoration Program Manager, Jonathan Taylor (Jonathan_e_taylor@nps.gov).

Sincerely,

**SABRINA
DIAZ** Digitally signed by
SABRINA DIAZ
Date: 2021.11.04
14:51:16 -04'00'

for Pedro Ramos, Superintendent
Everglades and Dry Tortugas National Parks

cc. John M. Eglehart
Florida Department of Environmental Protection
Director of District Management
South District Branch Office
2796 Overseas Highway, Suite 221
Marathon, FL 33050



Letter of Compliance Completion

OGC No. 21-0546
Attachment II
pg 2 of 10

To: Tylan Dean, Biological Resources Branch Chief (EVER)
Jonathan Taylor, Restoration Program Manager (EVER)

From: Astrid Santini, Environmental Protection Specialist (BISC and EVER)

Subject: NEPA and NHPA Clearance: Thurmond Street Restoration - Key Largo (PEPC: 104441)

NEPA and NHPA Compliance Complete. For complete compliance information see PEPC Project 104441.

The Superintendent and Interdisciplinary team have reviewed the scope of work and supporting documentation provided in the Planning, Environment, and Public Comment (PEPC) system, and all applicable associated compliance documentation and consultation (e.g. National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, Clean Water Act, Clean Air Act, Wilderness Act, Tribal consultation under EO13175, and other related laws and policies).

The subject proposed project/action(s), therefore, is/are now cleared for all compliance requirements. Project plans and specifications are approved, project funds may be released, and construction and/or project implementation can commence with the following mitigations and conditions/stipulations.

Required Mitigations - For the proposed project actions to be within compliance requirements during construction and/or project implementation, the following mitigations must be adhered to:

- Boulders or rip rap and native plantings described in the mitigation plan to be placed between properties will not be placed within Everglades National Park boundary.
- If wildlife is observed within the work area, all activities must stop until individuals leave the area on their own.
- To the extent possible, work should not be carried out between March 1 and September 30 to avoid crocodile nesting season. If work must be carried out during the nest season, activities must be coordinated with SFNRC Biological Resources staff and consultation with US Fish and Wildlife Service may be required.
- Determination of permit requirements and obtaining required permits is the responsibility of Thurmond Street LLC. Any required permits (USACE 404, FDEP ERP, etc.) must be obtained prior to implementing this work.
- Material used for planting at site must be free from weeds and other pests. All material proposed to be planted at site must be made available for inspection by National Park Service prior to installing.

NHPA Recommendations for Conditions or Stipulations:

- Do not remove any soil that is clearly not fill. If soil needs to be removed that is not clearly modern fill, an archeological monitor will be needed for any soil moving/planting efforts.
- According to the 2008 National Park Service Programmatic Agreement Section VI, if previously unidentified cultural resources are discovered during project implementation, all work in that area must stop and the Superintendent, Park Archaeologist or Chief of Cultural Resources must be notified immediately. If items protected by the Native American Graves Protection and Repatriation Act (NAGPRA) are discovered during project implementation, all activity must cease in the area of discovery and immediate notice made to the Superintendent, as well as the appropriate federally recognized Indian Tribes/Organizations and State Historic Preservation Officer (SHPO).

Please let me know if you have any questions.

Astrid Santini



Categorical Exclusion Documentation Form (CE Form)

Project: Thurmond Street Restoration - Key Largo

PEPC Project Number: 104441

Description of Action (Project Description):

OGC 21-0546

Attachment II

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The National Park Service (NPS), South Florida Natural Resources Center (SFNRC) is partnering with the Florida Department of Environmental Protection (FDEP) in an enforcement action to restore wetlands adversely impacted by Thurmond Street Partners LLC on Everglades National Park (EVER) and Monroe County property in Key Largo.

Background: Thurmond Street Partners LLC (here after referred to as TSP) owns property immediately adjacent (to the north) of the EVER Key Largo Ranger Station property. Notice was given to TSP in January 2019 regarding unauthorized wetland filling and shoreline vegetation removal on adjacent NPS lands and Monroe County Right of Way of the never-developed West St. TSP owns adjacent land located at 98990 Overseas Hwy. TSP wishes to bring all lands into compliance and remedy encroachment. FDEP is the enforcing agency.

Land adjacent to the impacted NPS and County lands contain a natural rocky Florida Bayside shoreline with mangrove and buttonwood communities present. Nearshore community consists of mangroves, seagrass and macro algae communities.

SFNRC staff have reviewed and approved the attached restoration and mitigation plan prepared by All Services Environmental LLC on behalf of TSP. The work to be performed includes:

TSP proposes the removal of 1,403 sq. ft. of unauthorized fill (sand) on EVER property, and 834 sq. ft. on Monroe County lands. Total restoration area is 2,237 sq. ft.. The proposed method of removal would be manual via shovels and rakes, as well as mechanical in the form of bobcat, leaf blowers, and standard shop vacuums. Bobcat operations would be restricted to not operate within 10 ft. of mean high water mark.

Sand would be removed to a depth between 2-6 inches to natural soil and grade. Removal of sand would only occur within Federal and County lands above the mean high water mark. Determination of mean high water mark would be via survey provided by TSP on February 10, 2020.

TSP also proposes to plant 300 sq. ft. of red mangrove propagules along the shoreline and 1,905 sq. ft. of native shoreline plants after the fill is removed. Plants would be sourced at nurseries in Miami Dade County as well as through the Florida Association of Native Nurseries. To prevent any further future encroachment, TSP would install a barrier between the parcels. The barrier would consist of rip rap boulders and native planting. Best management practices would be utilized during install and TSP would obtain any necessary permits prior to installation.

All work would be performed by All Services Environmental, LLC personnel on behalf of TSP to guarantee environmental compliance. TSP proposes to complete the work within 8 months of a finalized consent order.

See attached Consent Order and Restoration and Mitigation Plan for complete details and photos.

Project Locations:

Location

County: Monroe

State: FL

Other: Key Largo Ranger Station

Mitigation(s):

- Boulders or rip rap and native plantings described in the mitigation plan to be placed between properties will not be placed within Everglades National Park boundary.
- If wildlife is observed within the work area, all activities must stop until individuals leave the area on their own.
- To the extent possible, work should be not be carried out between March 1 and September 30 to avoid crocodile nesting season. If work must be carried out during the nest season, activities must be coordinated with SFNRC Biological Resources staff, and consultation with US Fish and Wildlife Service may be required.
- Determination of permit requirements and obtaining required permits is the responsibility of Thurmond Street LLC. Any required permits (USACE 404, FDEP ERP, etc.) must be obtained prior to implementing this work.
- Material used for planting at site must be free from weeds and other pests. All material proposed to be planted at the site must be made available for inspection by National Park Service prior to installing.

NHPA Conditions and Stipulations:

- Do not remove any soil that is clearly not fill. If soil needs to be removed that is not clearly modern fill, an on-site archeological monitor will be needed for any soil moving/planting efforts.
- According to the 2008 National Park Service Programmatic Agreement Section VI, if previously unidentified cultural resources are discovered during project implementation, all work in that area must stop and the Superintendent, Park Archaeologist or Chief of Cultural Resources must be notified immediately. If items protected by the Native American Graves Protection and Repatriation Act (NAGPRA) are discovered during project implementation, all activity must cease in the area of discovery and immediate notice made to the Superintendent, as well as the appropriate federally recognized Indian Tribes/Organizations and State Historic Preservation Officer (SHPO).

CE Citation: E.2 Restoration of noncontroversial native species into suitable habitats within their historic range and elimination of exotic species.

CE Justification:

This project addresses activities associated with an enforcement action to restore native plants onto NPS owned wetlands adversely impacted by a neighboring property owner.

Decision: I find that the action fits within the categorical exclusion above. Therefore, I am categorically excluding the described project from further NEPA analysis. No extraordinary circumstances apply.

Signature

Superintendent:

SARRINA

Digitally signed by
SABRINA DIAZ

DIAZ

Date: 2021.10.29
10:13:27 -0400

Date: _____

for Pedro M. Ramos

Extraordinary Circumstances:

If implemented, would the proposal...	Yes/No	Notes
A. Have significant impacts on public health or safety?	No	
B. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation, or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas?	No	
C. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources (NEPA section 102(2)(E))?	No	
D. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks?	No	
E. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects?	No	
G. Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places, as determined by either the bureau or office?	No	
H. Have significant impacts on species listed or proposed to be listed on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species?	No	
I. Violate a federal, state, local or tribal law or requirement imposed for the protection of the environment?	No	
J. Have a disproportionately high and adverse effect on low income or minority populations (EO 12898)?	No	
K. Limit access to and ceremonial use of Indian sacred sites on federal lands by Indian religious practitioners or adversely affect the physical integrity of such sacred sites (EO 130007)?	No	
L. Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112)?	No	

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ASSESSMENT OF ACTIONS HAVING AN EFFECT ON HISTORIC PROPERTIES

A. DESCRIPTION OF UNDERTAKING

OGC No. 21-0546
Attachment II
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1. **Park:** Everglades National Park

2. **Project Description:**

Project Name: Thurmond Street Restoration - Key Largo

Prepared by: Mark Vadas **Date Prepared:** **Telephone:** 305-242-7012

PEPC Project Number: 104441

Locations:

County, State: Monroe, FL

Other: Key Largo Ranger Station

Describe project:

The National Park Service (NPS), South Florida Natural Resources Center (SFNRC) is partnering with the Florida Department of Environmental Protection (FDEP) in an enforcement action to restore wetlands adversely impacted by Thurmond Street Partners LLC on Everglades National Park (EVER) and Monroe County property in Key Largo.

Background: Thurmond Street Partners LLC (here after referred to as TSP) owns property immediately adjacent (to the north) of the EVER Key Largo Ranger Station property. Notice was given to TSP in January 2019 regarding unauthorized wetland filling and shoreline vegetation removal on adjacent NPS lands and Monroe County ROW of the never-developed West St. TSP owns adjacent land located at 98990 Overseas Hwy. TSP wishes to bring all lands into compliance and remedy encroachment. FDEP is the enforcing agency.

Land adjacent to the impacted NPS and County lands contain a natural rocky Florida Bayside shoreline with mangrove and buttonwood communities present. Nearshore community consists of mangroves, seagrass and macro algae communities.

SFNRC staff have reviewed and approved the attached restoration and mitigation plan prepared by All Services Environmental LLC for TSP. The work to be performed includes:

TSP proposes the removal of 1,403 ft² of unauthorized fill (sand) on EVER property, and 834 ft² on County lands. Total restoration area is 2,237 ft². The proposed method of removal would be manual via shovels and rakes, as well as mechanical in the form of bobcat, leaf blowers, and standard shop vacuums. Bobcat operations would be restricted to not operate within 10ft of mean high water mark.

Sand would be removed to a depth between 2-6 inches depth to natural soil and grade. Removal of sand would only occur within Federal and County lands, above the mean high water mark. Determination of mean high water mark would be via survey provided by TSP on February 10, 2020.

TSP also proposes to plant 300 sq ft of red mangrove propagules along the shoreline and 1905 sq ft of native shoreline plants after the fill is removed. Plants would be sourced at nurseries in Miami Dade County as well as through the Florida Association of Native Nurseries. To prevent any further future encroachment, TSP would install a barrier between the parcels. The barrier would consist of rip rap boulders and native planting. Best management practices would be utilized during install and TSP would obtain any necessary permits prior to

installation.

All work would be performed by All Services Environmental LLC personnel on behalf of TSP to guarantee environmental compliance. TSP proposes to complete the work within 8 months of a finalized consent order.

See attached Consent Order and Restoration and Mitigation Plan for complete details and photos.

Area of potential effects (as defined in 36 CFR 800.16[d])

The APE consists of one 862 square meter polygon and is encompassed by the following coordinates (NAD 83 UTM Zone 17): 00555459E;2774899N, 0555467E;2774880N, 0555491E;2774881N, 0555491E;2774919N, 0555480E;2774912N, 0555475E;2774909N.

No known cultural resources are within the APE. The next closest site is the ineligible Gulf Coast Ranger Station 350m away.

3. Has the area of potential effects been surveyed to identify historic properties?

☒ No
☐ Yes

4. Potentially Affected Resource(s):

Archeological Resources Present: No

Historical Structures/Resources Present: No

Cultural Landscapes Present: No

Ethnographic Resources Present: No

5. The proposed action will: (check as many as apply)

- ☐ No Destroy, remove, or alter features/elements from a historic structure
☐ No Replace historic features/elements in kind
☐ No Add non-historic features/elements to a historic structure
☐ No Alter or remove features/elements of a historic setting or environment (inc. terrain)
☐ No Add non-historic features/elements (inc. visual, audible, or atmospheric) to a historic setting or cultural landscape
☐ No Disturb, destroy, or make archeological resources inaccessible
☐ No Disturb, destroy, or make ethnographic resources inaccessible
☐ No Potentially affect presently unidentified cultural resources
☐ No Begin or contribute to deterioration of historic features, terrain, setting, landscape elements, or archeological or ethnographic resources
☐ No Involve a real property transaction (exchange, sale, or lease of land or structures)
☐ Other (please specify): _____

6. Supporting Study Data:

(Attach if feasible; if action is in a plan, EA or EIS, give name and project or page number.) pg 8 of 10

B. REVIEWS BY CULTURAL RESOURCE SPECIALISTS

The park 106 coordinator requested review by the park's cultural resource specialist/advisors as indicated by check-off boxes or as follows:

[X] 106 Advisor**Name:** Simone Monteleone**Date:** 10/02/2021**Comments:** Please note that through the Standard Review Process, consultation with the SHPO (and any associated Tribes) is required.**Check if project does not involve ground disturbance** []**Assessment of Effect:** ___ No Potential to Cause Effect No Historic Properties Affected X No Adverse Effect Adverse Effect Streamlined Review**Recommendations for conditions or stipulations:****Doc Method:** Standard 4-Step Process

[X] Archeologist**Name:** Mark Vadas**Date:** 09/27/2021**Comments:** Project will be removing modern fill recently placed on top of existing bedrock. The fill is a light tan/white sand that is markedly different from the dark organic marl and dark organic sandy silt that makes up the natural soil layer in the area.**Check if project does not involve ground disturbance** []**Assessment of Effect:** ___ No Potential to Cause Effect No Historic Properties Affected X No Adverse Effect Adverse Effect Streamlined Review**Recommendations for conditions or stipulations:** Do not remove any soil that is clearly not fill. An archeological monitor will be needed for all soil moving/planting efforts.**Doc Method:** Standard 4-Step Process

[X] Historian**Name:** James Williams**Date:** 09/28/2021**Check if project does not involve ground disturbance** []**Assessment of Effect:** ___ No Potential to Cause Effect No Historic Properties Affected X No Adverse Effect Adverse Effect Streamlined Review**Recommendations for conditions or stipulations:****Doc Method:** Standard 4-Step Process

No Reviews From: Curator, Historical Architect, Other Advisor, Anthropologist, Historical Landscape Architect

C. PARK SECTION 106 COORDINATOR'S REVIEW AND RECOMMENDATIONS

1. Assessment of Effect:

☐ No Potential to Cause Effects
☐ No Historic Properties Affected
☒ No Adverse Effect
☐ Adverse Effect

2. Documentation Method:

☒ A. Standard 36 CFR Part 800 Consultation

Further consultation under 36 CFR Part 800 is needed.

☐ B. Streamlined Review Under the 2008 Servicewide Programmatic Agreement (PA)

The above action meets all conditions for a streamlined review under section III of the 2008 Servicewide PA for Section 106 compliance.

Applicable Streamlined Review Criteria

(Specify 1-16 of the list of streamlined review criteria.)

☐ C. Undertaking Related to Park Specific or Another Agreement

The proposed undertaking is covered for Section 106 purposes under another document such as a park, region or statewide agreement established in accord with 36 CFR 800.7 or 36 CFR 800.14.

☐ D. Combined NEPA/NHPA Process

Process and documentation required for the preparation of an EA/FONSI or an EIS/ROD to comply with Section 106 is in accord with 36 CFR 800.8.c.

☐ E. Memo to Project File

3. Consultation Information

SHPO Required: No

SHPO Sent:

SHPO Received:

THPO Required:

THPO Sent:

THPO Received:

SHPO/THPO Notes: Concur with No Adverse Effect- A cultural resources monitor/archaeologist is required for all work

Advisory Council Participating: No

Advisory Council Notes:

Additional Consulting Parties: No

4. Stipulations and Conditions: Following are listed any stipulations or conditions necessary to ensure that the assessment of effect above is consistent with 36 CFR Part 800 criteria of effect or to avoid or reduce potential adverse effects.

Do not remove any soil that is clearly not fill. If soil needs to be removed that is not clearly modern fill. An archeological monitor will be needed for any soil moving/planting efforts.

5. Mitigations/Treatment Measures: Measures to prevent or minimize loss or impairment of historic/prehistoric properties: (Remember that setting, location, and use may be relevant.)

Required Mitigations - For the proposed project actions to be within compliance requirements during construction and/or project implementation, the following mitigations must be adhered to:

- Boulders or rip rap and native plantings described in the mitigation plan to be placed between properties will not be placed within Everglades National Park boundary.
- If wildlife is observed within the work area, all activities must stop until individuals leave the area on their own.
- To the extent possible, work should be not be carried out between March 1 and September 30 to avoid crocodile nesting season. If work must be carried out during the nest season, activities must be coordinated with SFNRC Biological Resources staff and consultation with US Fish and Wildlife Service may be required.
- Determination of permit requirements and obtaining required permits is the responsibility of Thurmond Street LLC. Any required permits (USACE 404, FDEP ERP, etc) must be obtained prior to implementing this work.
- Material used for planting at site must be free from weeds and other pests. All material proposed to be planted at site must be made available for inspection by National Park Service prior to installing.

6. Assessment of Effect Notes:

Project will be removing modern fill recently placed on top of existing bedrock. The fill is a light tan/ white sand that is markedly different from the dark organic marl and dark organic sandy silt that makes up the natural soil layer in the area.

D. RECOMMENDED BY PARK SECTION 106 COORDINATOR:

Compliance Specialist:

NHPA Specialist

Jaci Wells

JACI WELLS

Digitally signed by JACI WELLS
Date: 2021.10.28 09:55:15
+04'00'

Date: _____

E. SUPERINTENDENT'S APPROVAL

The proposed work conforms to the NPS *Management Policies* and *Cultural Resource Management Guideline*, and I have reviewed and approve the recommendations, stipulations, or conditions noted in Section C of this form.

Signature

Superintendent:

SABRINA
DIAZ

Digitally signed by
SABRINA DIAZ
Date: 2021.10.29 11:10:16
-04'00'

For Pedro Ramos

Date: _____

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July 3, 2019
Revised January 7, 2020
Revised March 10, 2020
Revised July 20, 2021



Restoration and Mitigation Plan

Prepared By: ALL SERVICES ENVIRONMENTAL LLC
1 Beals Hammock Ln Key Largo FL 33037

Prepared For: Thurmond Street Partners LLC
2 Thurmond St Key Largo FL 33037

RE: Florida Department of Environmental Protection
Compliance Assistance Offer
Site No. 368553/ Project No 380451

Restoration & Mitigation Proposal

2 Thurman Street Partners

SUMMARY

Notice was given to Thurmond Street Partners LLC (here after referred to as TSP) in January 2019 of regarding unauthorized wetland filling and shoreline vegetation removal on adjacent federal lands and Monroe County ROW of never developed West St. TSP owns adjacent land located at 98990 Overseas Hwy. Thurmond Street Partners LLC wishes to bring all lands into compliance and remedy encroachment.

Land adjacent to the impacted County and Federal lands contain a natural rocky Florida Bayside shoreline with mangrove and buttonwood communities present. Nearshore community consists of mangroves, seagrass and macro algae communities.

TASK 1: RESTORATION

The following outlines the proposed restoration based on current on-site observations as well as the recommendations for return to compliance by the Florida Department of Environmental Protection (here after referred to as FDEP). All work will be supervised by ASE personnel to guarantee environmental compliance.

Removal of Unauthorized Fill

TSP is proposing the removal of 1,403ft² of unauthorized fill (sand) on Federal and 834ft² on County lands. Total restoration area is 2,237ft². The proposed method of removal will be manual via shovels rakes, as well as mechanical in the form of bobcat, leaf blowers, and standard shop vacuums. Bobcat operations will be restricted to not operate within 10ft of mean high water mark. Sand will be removed to a depth between 2-6 in depth to natural soil and grade. Removal of sand will only occur within Federal and County lands, above the mean high water mark. Determination of mean high water mark will be via survey provided by TSP on February 10, 2020.

The measurements for sand removal and restoration are based on measurements found in Figure 1 and Figure 2. Field Measurements resulted in 2,205ft², aerial measurements 2,237ft². It is proposed to utilized field measurements, as they suggest real conditions.

Removal of Unauthorized Fill in Submerged Lands:

TSP is proposing and ASE is recommending no action in this areas. Although some leaching of unauthorized fill off the parcel was suggested via initial investigation via the FDEP, recent aerials suggest a healthy seagrass and microalgae community. It is suggested that any removal of minimal sand intrusion into Florida Bay would be more intrusive to natural communities. See figures 2-4. This opinion has been mirrored in conversations and correspondences with the Florida DEP, National Park Service and Florida Keys National Marine Sanctuaries personnel.

Restoration of Mangrove and Shoreline Plant Community

TSP is proposing and ASE is recommending the planting of 300sq ft of red mangrove propagules along the shoreline. Propagules will be placed along shoreline but in a manor to minimize disturbance to substrate of bayside wetland habitat. Planting suggestions are 4 propagules/sq. ft. Additionally TSP is proposing and ASE is recommending the planting of 1905 ft² of native shoreline plants after fill is

removed. ASE is recommended 8 plants be planted every 100sq ft for a total of an approximate 155 additional plants. It is recommended to plant small 1-3 gallon size plants as to not to disturb the sub straight further. Any black mangrove liners (saplings) utilized will be counted as two liners equivalent to 1 gallon pot.

<i>Avicennia germinans</i>	Mangrove, Black
<i>Conocarpus erectus</i>	Green Buttonwood

Plants will be sourced at nurseries in Miami Dade County as well as through the Florida Association of Native Nurseries.

TASK 2: MONITORING

Monitoring of restoration Success

Once Restoration activities are completed. FDEP will be supplied with a report of the work, including a list of all plants installed and photographs. Nursery receipts will be provided upon request. Restoration reports will continue every 6 months provided on the 30th of September and the 31st of March until such time as the FDEP closes the Consent Agreement.

TSP will guarantee that 80% of the planted material will survive 3 years.

CONCLUSION

Thurmond Street Partners LLC wishes to resolve this issue and bring the property into full environmental compliance. Upon entrance into a consent order, if required, by the Florida Department of Environmental Protection, TSP will have all work completed within 8 months of finalized consent order. Work may be completed prior to this time, however TSP recognizes that other permits may be required from federal and local agencies.

In an act of good faith to prevent any further future encroachment TSP will be installing a barrier between the parcels. The barrier will consist of rip rap boulders and native planting. Best management practices will be utilized during install and TSP will obtain any necessary permits prior to installation.



Figure 1: Proposed fill removal area from federal lands (00087920-000000)



Figure 2: Proposed fill removal area from West St ROW



Figure 3: Bay bottom conditions adjacent to 00088170-000000 and West St ROW



Figure 4: Bay bottom conditions adjacent to 00087920-000000

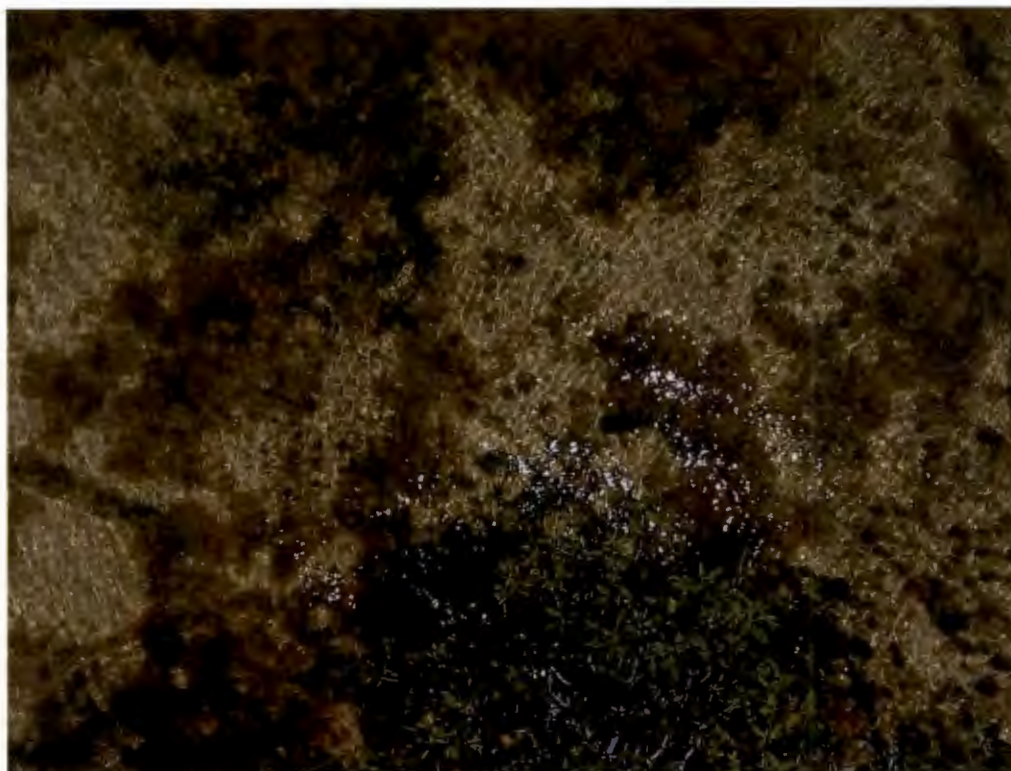


Figure 5: Bay bottom conditions adjacent to 00088170-000000



Figure 6: Areas of fill removal on Federal lands (00087920-000000).



Figure 7: Area of Federal and County lands for mangrove planting along shore.



Figure 8: Area of land for fill removal and restoration planting.