



# Preliminary Draft

**PROJECT PURPOSE:**

This application is a request for Construction and Operation Authorization for a surface water management system serving a 6,283.1 acre project, part of a 22,363.1 acre mixed use development known as Babcock Ranch Community, and Conceptual Authorization for the surface water management system serving the remaining 16,080.0 acres of the development with discharge to the Caloosahatchee via Owl Creek, Trout Creek, and Telegraph Creek via direct discharge, on-site wetlands, and on-site conveyance systems.

**PROJECT EVALUATION:****PROJECT SITE DESCRIPTION:**

The 22,363.1 acre proposed mixed use development is located immediately east of State Road (SR) 31 in both Charlotte and Lee Counties, north of County Road (CR) 78 in Lee County, west of Telegraph Swamp and south of primarily undeveloped lands located south of CR 74 in Charlotte County. Approximately 4,054.5 acres of the project lie within Lee County and 18,308.6 acres within Charlotte County. Exhibit 1.0 depicts the property location. This project site is known as the Babcock Ranch Community (BRC).

BRC lies within three watersheds; Owl Creek, Trout Creek, and Telegraph Creek. Based on the site characteristics Trout Creek and its tributaries bisect the property and the Trout Creek watershed receives the majority of overland flow and runoff from the property. The southwest portion of the property is within the Owl Creek watershed and the eastern portion of the property is within the Telegraph Creek watershed. Additional information related to current site runoff and discharge is contained within the Proposed Project and Discharge sections of this staff report.

BRC is comprised of 16,523.0 acres under the ownership of Babcock Property Holdings, LLC (16,460.7 acres) and MSKP Town and Country Utility, LLC (62.3 acres) as well as 5,840.1 acres under the ownership of the State of Florida - Board of Trustees of the Internal Improvement Trust Fund, which is a portion of the state owned area depicted on Exhibit 1.1, as discussed further below. The 5,840.1 acres of state-owned lands are part of the mitigation area for the development and comprise Mitigation Areas B, C, and D. These areas will be discussed further in the Mitigation section. Existing habitats within the state-owned 5,840.1 acres are a portion of Telegraph Swamp, various native upland and wetland habitats, and some scattered pasture areas and farm fields. Current land use activities include cattle grazing/pasture, hunting, small vegetable farming and selective timbering.

The BRC contains a significant amount of lands that have been converted for agricultural or mining operations. Converted lands within the development site comprise approximately 42% of the land area proposed for development. Wetlands within the BRC comprise approximately 2,700 acres, or roughly 16% of the area. Wetland communities within the BRC have been affected over the years by ditching and intensive cattle grazing in addition to the farming and mining activities. Mitigation efforts, to be discussed later in this staff report, include structures in canal systems throughout the site to improve wetland hydroperiods.

The development site contains 13,695.06 acres of uplands. Upland land uses onsite include an agricultural processing plant, existing and active mine (Earthsource Mine), improved pasture, unimproved pasture, field crops, herbaceous (dry prairie), shrub and brushland, palmetto prairie, other shrubs and brush, mixed range land, pine flatwoods, pine-oak-cabbage palm, pine flatwoods with graminoid understory, live oak, cabbage palm, eucalyptus plantation, disturbed lands, spoil areas, existing roads and hardwood-conifer mix. The largest habitat types for uplands are pine flatwoods at over 5,000 acres, improved pasture at over 4,000 acres, and field crops and mining activities at almost 1,000 acres each. Exhibit 1.2 depicts the existing farm fields located within the project area.

The development site contains 92.31 acres of other surface waters. These surface waters onsite include cattle ponds, ditches and streams. The site contains 2,735.63 acres of wetlands. Wetland habitats include cypress, cypress-pine-cabbage palm, hydric pine, wetland forested mix, wetland shrubs, freshwater marsh and wet prairie. The most significant wetland habitat types are freshwater marsh at over 800 acres, wetland shrub habitat at over 400 acres, and cypress and wet prairie at over 300 acres each. A Specific Purpose Survey was conducted to locate wetland limits and was signed and sealed by a licensed surveyor. This survey is incorporated by reference as Exhibit No. 7.0. The wetland boundaries identified on the Specific Purpose Survey are binding (see Special Condition #56)

Habitat quality of wetlands and uplands varies throughout the site, particularly depending on proximity of canals, roads and farming and/or mining activities. Ongoing land stewardship activities throughout the

site, however, have contributed to a significant portion of the onsite native habitats maintaining a fair to good quality ecological value. Existing conditions maps depicting wetland types and acreages, project limits and locations of established biological indicators of wet season water levels are attached as Exhibit 4.0A pages 1-6 of 11.

The entire 22,363.1 acre project area is within the previously permitted surface water management system as described in the Project Background section of this staff report.

In addition, the applicant-owned area includes 1,059.3 acres which are not part of this application. These areas are located in the northern portion of the project in the vicinity of Tract I and are identified as outparcels on Exhibits 1, 3, and 4.

### **PROJECT BACKGROUND:**

The proposed BRC lies within the southwestern portion of a historically larger tract (91,360 acres) of land known as Babcock Ranch. Babcock Ranch has historically been used for agriculture (i.e. farming, cattle grazing, selective timbering, etc.), mining, eco-tourism and hunting while the land use within the 22,363.1 area covered within this permit have historically been used for agricultural purposes including cattle grazing, fruits/vegetable farming, sod, hunting, mining and timber. The farm fields are farmed on a rotating basis. Fields located north of Hercules Grade have pumped discharges that convey water to Curry Lake and Telegraph Cypress Swamp where runoff is attenuated. The fields south of Hercules Grade operate either under South Florida Water Management District (SFWMD) temporary agriculture permits or the existing SFWMD permit, discussed below. The fields operated under SFWMD temporary agriculture permits either convey runoff only by gravity or discharge via pump into temporary reservoirs.

Areas within Babcock Ranch where mine operations occur (Earthsources Mine) have been permitted under the jurisdiction of the Florida Department of Environmental Protection (FDEP). The existing Earthsources Mine is permitted under FDEP permit application number 184047-003 which supersedes previous application number 18047-002. The boundaries of this mining permit are depicted on both the engineering plans (Exhibit 3.1, page 2 of 18) and Exhibit 4.0A, page 8 of 11.

The overall 91,360 acre property was part of the Telegraph Cypress Water Management District (TCWMD) permit (SFWMD Permit Number 08-00004-S referred to hereafter as District Permit). The District Permit was issued on March 13, 1980, and authorized operation of a surface water management system serving approximately 89,120 acres of agricultural lands known as the Babcock Ranch. On November 8, 1984, the permit was modified to include construction and operation authorization of a surface water management system serving 3,559 acres of agricultural activities located in Charlotte County and to transfer SFWMD Permit Number 08-00010-S to the District Permit.

On October 13, 1986 TCWMD submitted a permit modification application (Application No. 10136-F) to address SFWMD compliance issues and enforcement actions resulting from concerns of potential agricultural operations occurring without attenuation or water quality treatment. To address these issues TCWMD maintained flows to their historic basins but provided attenuation and water quality treatment for southerly flows by installing retention/detention areas and gravity discharge structures for fields with pumped discharges (1,777 acres of farm fields within the previously authorized project). This application was scheduled for the SFWMD's January 1988 regulatory Governing Board meeting after receiving staff recommendation for approval. A Petition for Formal Administrative Hearing was filed so jurisdiction over the permitting was transferred to the Division of Administrative Hearings. On October 26, 1988 the petitioners filed a Voluntary Dismissal and the Hearing officer remanded jurisdiction back to the SFWMD. Subsequent to those actions, this modification was issued on January 12, 1989.

On February 14, 1991, the surface water management system was modified under District Permit / Application No. 890522-7 to incorporate a 3,407 acre agriculture area located in Charlotte County just north of the Charlotte County Line and just east of the Telegraph Swamp. District Permit / Application No.

920207-3 was issued on March 24, 1992, authorizing changes to proposed farm road alignments along the southern property line lying between Trout and Telegraph Creeks to avoid wetland impacts of previously permitted activities. On July 15, 1993, Application No. 930304-10 was issued modifying District Permit to authorize the construction of a surface water management system serving an 11 acre Trap & Skeet Sporting Facility located in the Telegraph North Basin of Babcock Ranch and included unimproved trails, ranges, a recreational building and lodge, and parking facilities.

On February 8, 1991 TCWMD submitted a permit modification application (Application No. 910208-14) to reactivate farm fields within the Telegraph North, Telegraph Swamp, and Curry Lake drainage basins, which are located in the northwest section of the TCWMD within Charlotte County. After review SFWMD proposed to grant the permit modification. Petitions for Formal Administrative Hearings were filed so jurisdiction over the permitting was transferred to the Division of Administrative Hearings. The cases were consolidated and a hearing conducted in January 1994 with a Recommended Order issued in April 1994. On May 12, 1994, District Permit / Application No. 910208-14 was issued authorizing the operation of a surface water management system serving 51,478 acres of agricultural lands discharging via Trout Creek, Telegraph Creek, and Cypress Creek to the Caloosahatchee.

On October 8, 1996, a modification (Application No. 960924-6) to District Permit was issued authorizing the reactivation of farm field #45 located east of Curry Lake Canal and south of South Pasture Grade, within the Trout Creek Basin. This permit authorized replacing the existing riser and culvert structure with one of the same size.

On July 31, 2006, Babcock Florida Company, which owned the 91,360 acres, was acquired by Kitson Partners. Immediately thereafter, 67,619 acres were purchased by the State of Florida as The Trustees of the Internal Improvement Trust Fund, and 5,620 acres were purchased by Lee County. Based on this separate ownership, the State of Florida and Lee County each requested separate permits for their individual land holdings under Permit No. 08-0004-S-04 / Application No. 080211-27 and Permit No. 08-0004-S-03 / Application No. 080211-25, respectively. Exhibit 1.1 depicts the location of these public land holdings, which are collectively known as the Babcock Ranch Preserve (BRP). Petitions for Formal Administrative Hearing were filed by third parties related to those two applications.

Babcock Property Holdings, LLC submitted Permit No. 08-00004-S-02 / Application No. 070212-17 for authorization for a surface water management system for a project known as The Babcock Ranch Community - Utility Site. The project site is 62.3 acres in size. Petitions for Formal Administrative Hearing were filed by third parties related to that application. The applicant has revised the utility site and surface water management system as discussed below and is including it as part of the current application as described in Proposed Project section of this staff report.

On June 19, 2009, a modification to the District Permit was issued authorizing the construction of a proposed Check Station at the Babcock Ranch Preserve to TCWMD.

As stated previously, mining activities have occurred historically on the property. These activities have been occurring on the property for over 20 years. Most recently FDEP issued Permit No. 0184047-003 covering 552.97 acres of mining activities within the western portion of the property. In accordance with that permit the mine retains all runoff in areas of active mining operations with no surface water discharge occurring from these areas up to and including the 100 year - 3 day storm event. In accordance with Special Condition 43 of this application, concurrent with receiving District Approval for construction and operation for Tract A - Basin A300, the mining lakes currently included in the FDEP Permit authorization for Earthsource Mine must be reclaimed per the requirements of that permit.

An additional area approximately 300-feet wide on the east side of the existing SR 31 right-of-way (ROW) is held by Babcock Property Holdings LLC for the planned future SR 31 ROW. The SR 31 ROW not included as part of this application is currently under review in District Application No. 081217-1 for the SR 31 widening project.

**PROPOSED PROJECT:**

The proposed project area of 22,363.1 acres consists of a 16,523.0 acre mixed use development (including 6,864.56 acres of onsite mitigation) and 5,840.13 acres of wetland mitigation on State of Florida-owned lands. At full build-out, the BRC is proposed to contain approximately 19,500 homes and 6,000,000 square feet of non-residential space. Proposed land uses include residential, retail, office, light industrial, schools, hospitals, other government support facilities (university research station, etc.), native plant nurseries, utilities (i.e., power, water, wastewater treatment, reuse, etc.), golf courses and recreational uses in the onsite preserves. The development will radiate from a Town Center with connected outlying villages and hamlets. A detailed land use breakdown is provided in Exhibit 2.0 and Exhibit 3.0 depicts the proposed project details. Construction and operation authorization is requested for a total of 6,283.1 acres comprised of:

- (1) 299 acres of on-site mitigation within a 302-acre conservation easement within Mitigation Area E,
- (2) 5,840.13 acres of native habitat enhancement within the State-owned lands in Mitigation Areas B, C, and D,
- (3) 0.2 acres for constructing three structures within Curry Lake Canal,
- (4) 62.3 acres for a surface water management system for the Utility Site,
- (5) 29.95 acres related to the raw water main and water well locations, and
- (6) 51.5 acres for a conveyance system along the east side of SR 31.

Exhibits 3.11 through 3.13 and Exhibit 4.5 depicts the improvements for which construction authorization is requested.

Conceptual authorization is requested for:

- (1) the surface water management systems within the remainder of the proposed development tracts, which total 10,416.1 acres,
- (2) two additional structures in Curry Lake Canal, two structures in Big Island Canal, and one structure in Stricklin Gully for future wetland hydrologic restoration, and
- (3) the remaining on-site mitigation areas, which total 6,562.23 acres.

Exhibits 3.0 through 3.10 depict the improvements in each tract for which conceptual authorization is requested.

The project includes ten development tracts (Tracts A through J), a proposed utility site, and nine controlled storage areas. Related to surface water management, each tract is then divided into individual basins, with each basin consisting of interconnected lakes, catch basins, collection culverts, preserve areas and control structures. The proposed tracts discharge into the Owl Creek, Trout Creek, and/or Telegraph Creek sub-basins. A detailed description is provided later in this section of this staff report. In addition, this application proposes no changes to the farm fields, which will continue under their current permitted use unless specified within this staff report, see Special Condition 40.

**PROPOSED DEVELOPMENT TRACTS**

As previously stated, the ten development tracts, one utility site, and nine controlled storage areas total 10,478.4 acres. Within the development area there are a total of 62 controlled basins. Exhibit 2.0 contains a detailed breakdown of each basin's proposed land use. Within each basin there is a proposed system of interconnected wet detention areas. Stormwater runoff within each basin will be collected and directed to the interconnected wet detention area systems. The wet detention areas are controlled by a series of control structures that ultimately discharge into Owl Creek, Curry Lake Canal, Stricklin Gully, Telegraph Creek West Branch, Telegraph Creek West Branch Tributary, Big Island Canal, and the Telegraph Swamp.

In addition to the wet detention area, the surface water management system includes external storage areas, created wetland areas and treatment marshes within the controlled basin areas. External storage areas consist of natural wetland and upland areas while the created wetland areas and treatment marshes consist of created wetland areas. Mitigation areas, as described in the wetland section of this staff report, include the created wetland areas but not the treatment marshes. All three of these elements (external storage areas, created wetland areas and treatment marshes) are outside of the development tracts but within the controlled discharge areas of the proposed project boundaries. All three elements provide attenuation volume during the design storm event. However, the created wetland areas and treatment marshes and the external storage areas also provide unquantified nutrient removal. Additional information related to each element's relationship to each development tract is provided below, while the Water Quality and Discharge sections of this staff report provide additional information related to these functions.

Exhibit 3.0 contains the overall design of the development tracts and typical sections used within each development tract. Exhibits 3.1 through 3.10 and 3.12 provide the proposed development plans within each of the tracts.

#### Tract A

Tract A consists of 3,474.6 acres of residential, commercial, educational, park, and preserve area in the western portion of the property. Tract A consists of nine basins, four wetland creation areas, one storage basin, and 23 control structures. Control structures for Tract A are identified as CS-A1A through CS-AM4 and also include CS-3A. Exhibit 3.1 provides the conceptual plans for this tract. The basins are interconnected by means of a cascading system. Stormwater runoff within this tract will be directed towards the wet detention areas within each basin prior to discharge through the control structures. Only 8 control structures discharge to areas outside of Tract A. Control Structures CS-A1A, CS-3A, CS-A4D, and CS-AM4 all discharge into the Curry Lake Canal within the Trout Creek Watershed. Control structures CS-A7A, CS-A4C, CS-A5A, and CS-AM3 all discharge to wetlands located within the Trout Creek Watershed, and ultimately discharge into Trout Creek.

#### Tract B

Tract B consists of 571.6 acres of residential, commercial and farm areas in the southwestern portion of the property. Tract B consists of six basins, four wetland creation areas, and one external storage area. This tract includes 15 control structures. Control structures in this tract are identified as CS-B1A through CS-BM4 and also include CS-9A. Exhibit 3.2 provides the conceptual plans for this tract. Basins within Tract B are interconnected by means of a cascading system. Stormwater runoff within this tract will be directed towards the wet detention areas within each sub-basin prior to discharging through the control structures. Several control structures discharge into other basins within tract B. Five control structures discharge offsite. Control Structures CS-B2A, CS-B5A, CS-B6A, CS-BM, and CS-B1A discharge into wetlands within the Owl Creek watershed. These outfalls are into the current location of the Owl Creek East Branch tributary and do not discharge to the west of the development into the SR 31 conveyance system.

#### Tract C

Tract C consists of 1,169.3 acres of residential, commercial, educational, golf, and farm areas and is located in the central portion of the property. Tract C consists of two basins and one external storage area. This tract includes 11 control structures. Control structures for this tract are identified as CS-C1A through CS-C2D and also include control structure CS-1A. Exhibit 3.3 provides the conceptual plans for this tract. Basins within tract C are interconnected by means of a cascading system, which also connects to Tract D. Stormwater runoff within this tract will be directed towards the wet detention areas within each sub-basin prior to discharging through the control structures. Runoff is treated prior to discharge offsite, to other basins, or to the storage areas. Several control structures discharge into other basins within BRC, including basins within Tracts C and D. Four control structures discharge offsite. Control structures CS-C1A and CS C1D discharge into the Telegraph Swamp. Control Structures CS-C1B and CS-C1E discharge into wetlands located within the Trout Creek Watershed.

#### Tract D

Tract D consists of 1,914.9 acres of residential, commercial, educational, park, and farm lands and is located in the central portion of the property south of Tract C. Tract D consists of two basins, two filter marshes, one wetland creation area, and two external storage areas. This tract includes 14 control structures. Control structures for this tract are identified as CS-D1A through CS-DM2 and also include control structures CS-4A, CS-5A, and CS-5B. Exhibit 3.4 provides the conceptual plans for this tract. Basins within tract D are interconnected by means of a cascading system that receives treated flow from Tract C and discharges to Tract E, and off-site. Stormwater runoff within this tract will be directed towards the wet detention areas within each sub-basin prior to discharging through the control structures.

Runoff is treated prior to discharge offsite, to other basins, or to the storage areas. Four control structures discharge offsite. Control structures CS-D2X and CS-DM1 discharge into Curry Lake Canal within the Trout Creek Watershed. Control structure CS-5B discharges into Stricklin Gully within the Trout Creek Watershed. Control structure CS-5A discharge into Telegraph Creek West Branch Tributary within the Telegraph Creek Watershed.

#### Tract E

Tract E consists of 712.8 acres of residential and commercial areas and is located in the south central portion of the property, south of Tract D. Tract E consists of four basins, one filter marsh, one wetland creation area, and one external storage area. This tract has 15 control structures. Control structures for this tract are identified as CS-E1A through CS-EM2B and also include control structure CS-6A. Exhibit 3.5 provides the conceptual plans for this tract. Basins within Tract E are interconnected by means of a cascading system which receives treated flow from Tract D and discharges to Basin 5 and offsite. Stormwater runoff within this tract will be directed towards the wet detention ponds within each sub-basin prior to discharging though the control structures. Runoff is treated prior to discharge offsite, to other basins, or to external storage areas. Six control structures discharge offsite. Control structure CS-EM1A discharges into Curry Lake Canal within the Trout Creek Watershed. Control structures CS-E4A, CS-6A and CS-EM2B discharge into Stricklin Gully within the Trout Creek Watershed. Control structures CS-E3A and CS-EM2A discharge into wetlands within the Trout Creek Watershed.

#### Tract F

Tract F consists of 733.8 acres of residential and commercial land and is located in the southern portion of the property. Tract F consists of five basins, one wetland creation area, and two external storage areas. This tract has 13 control structures. Control structures for this tract are identified as CS-F1A through CS-FM and also include CS-7A and CS-8A. Exhibit 3.6 provides the conceptual plans for this tract. Basins within Tract F are interconnected by means of a cascading system in which basins discharge to one another as well as offsite. Stormwater runoff within this tract will be directed towards the wet detention areas within each sub-basin prior to discharging though the control structures. Runoff is treated prior to discharge offsite, to other basins, or to external storage areas. Five control structures discharge offsite. Control structures CS-7A, CS-F3B, and CS-F5A discharge into Telegraph Creek West Branch within the Telegraph Creek Watershed. Control structures CS-FM and CS-8A discharge to Stricklin Gully within the Trout Creek Watershed.

#### Tract G

Tract G consists of 447.0 acres of residential and commercial land and is located in the southern portion of the property east of Tract F. Tract G has four basins and one wetland creation area. Tract G has nine control structures. Control structures for this tract are identified as CS-G1A through CS-GM. Exhibit 3.7 provides the conceptual plans for this tract. Basins within Tract G are interconnected by means of a cascading system in which basins discharge to one another as well as offsite. Stormwater runoff within this tract will be directed towards the wet detention areas within each sub-basin prior to discharging through the control structures. Runoff is treated prior to discharge offsite or to other basins. Five control structures discharge offsite. Control structures CS-G3B, CS-G2B, CS-G4A, CS-G4B and CS-GM discharge into Telegraph Creek West Branch within the Telegraph Creek Watershed. The lake-wetland separation requirements of Section 6.1.2 of the Basis of Review will apply to the lakes within Basin G100 and the wetlands to the northwest of this basin, as well as the lakes within Basin G300 and the wetlands

to the east of this basin. Please see Special Condition 28.

#### Tract H

Tract H consists of 957.0 acres of residential and commercial land as well as an area designated as a golf course. This tract is located in the eastern portion of the property, north of Tract G. Tract H has two basins, and one external storage area. Tract H has 11 control structures. Control structures for this tract are identified as CS-H1A through CS-H2G and also include CS-2A. Exhibit 3.8 provides the conceptual plans for this tract. Basins within Tract H are interconnected by means of a cascading system in which basins discharge to one another as well as to external storage area 5 and offsite. Stormwater runoff within this tract will be directed towards the wet detention areas in each sub-basin prior to discharging through the control structures. Runoff is treated prior to discharge offsite or to other basins. Six control structures discharge offsite. Control structures CS-H2E, CS-H2D, CS-H2C, CS-H2B, and CS-H2F discharge to the Big Island Canal Tributary within the Telegraph Creek Watershed. Control structure CS-2A discharges into the Telegraph Swamp.

#### Tract I

Tract I consists of 349.7 acres of recreational, educational, and preserve lands in the north portion of the property. Tract I has two basins with one control structures each, CS-11A and CS-12A. Exhibit 3.9 provides the conceptual plans for this tract. Both basins within this tract are designed with a series of interconnected wet detention areas. Each basin discharges directly offsite. Stormwater runoff within this tract will be directed towards the individual wet detention ponds within each sub-basin prior to discharging through the control structures. Runoff is treated in the wet detention lakes prior to discharge offsite. Both control structures, CS-11A and CS-12A, discharge into the Telegraph Swamp. Construction of Tract I shall occur either concurrent with or following construction of Storage Basin 2 (part of Tract H), see Special Condition 42.

#### Tract J

Tract J consists of 42.1 acres of mixed use commercial development. The surface water management system for Tract J is designed with two interconnected wet detention areas that discharge through control structure CS-J1A into a wetland within the Trout Creek Watershed. Exhibit 3.10 provides the conceptual plans for this tract. Stormwater runoff within this tract will be directed towards the wet detention areas within each sub-basin prior to discharging through the control structure.

#### Utility Site

The utility site is 62.3 acres and will include open drainage swales, culverts, inlets, control structures, berms, and a combination of dry and wet detention systems as part of the surface water management system design. The dry detention for this basin will provide 0.5 inches of pre-treatment prior to discharging into the wet detention area. The wet detention area provides 1.5 times the required 1-inch of water quality treatment over the whole basin. Stormwater runoff within this basin will be directed to the dry detention pond by means of open drainage swales and inlets. The utility site has four control structures. This basin within BRC is receiving Construction and Operation authorization. Therefore, the surface water management system was evaluated for attenuation and water quality treatment volumes based on the allowable discharge rate for this area of the property. The surface water management system contains four discharge structures, DCS-1 - between the dry pretreatment area and the wet detention area, SCS-4 between the wet detention area to the wetland system on the east side of basin which connects to Curry Lake Canal, SCS-2 between the wet detention area and a wetland within the perimeter berm, and SCS-3 from this wetland to offsite wetland located south of the basin. In the ultimate buildout, (1) discharge from SCS-3 will enter Tract A as this wetland will be incorporated into that tract while (2) discharge from SCS-4 will continue to discharge into the on-site wetland which connects to Curry Lake Canal. Exhibit 3.12 provides the construction plans for the Utility Site. This development area will include a 1 million-gallon potable water storage tank and a 1 million-gallon reclaimed water storage tank along with a deep injection well.

Related to the Utility Site, Construction and Operation authorization is being requested for the well pads

and an 8-inch raw water transmission line for potable water wells for BRC along Hercules Grade and the northern side of Tract C. The water main will be constructed 5 feet from the edge of the existing dirt road.

A future 24-inch raw water main is conceptually planned to be constructed south of the 8-inch water main. The utility easement is a 17-foot ROW within a 50-foot roadway/utility combined easement. The footprint of the well pads/generators and transformer pads are 22-foot by 30-foot and 7-foot by 7-foot, respectively. Directional drilling will be conducted in areas near wetlands to eliminate the potential for wetland impacts during construction. Exhibit 3.13 provides the construction plans for this element of the project.

To develop the overall BRC project including the development tracts, the hydrologic restoration components, and the SR 31 conveyance existing flows within the Owl Creek, Trout Creek, and Telegraph Creek watersheds were evaluated using Hydrologic Engineering Centers Hydrologic Modeling System model (HEC-HMS). Based on these results the Hydrologic Engineering Centers - River Analysis System (HEC-RAS) model was used to determine existing stages.

To develop the HEC-HMS model each watershed was divided into sub-basins. Individual sub-basins characteristics were identified and model parameters chosen. These parameters included area, topography, land use characteristics (i.e. vegetative cover, imperviousness, etc.), soil properties related to surficial geology, surface water runoff characteristics, meteorological variables, and groundwater elevations. The HEC-HMS model was then calibrated using stream flow monitoring stages from June 2006 through October 2008 in Trout Creek. Following this calibration, models were prepared for the ungaged portions of Trout Creek, Owl Creek and Telegraph Creek. Parameters within these models are based on subbasin parameters determined by calibration for similar subbasins with the gaged Trout Creek watershed.

Following calibration, the HEC-HMS model was used to simulate flows for the 5 year-1 day, 25 year-3 day, and 100 year-3 day storm events for each sub-basin in each watershed. The model evaluated these storm events based on an antecedent condition for the average wet season elevation for water table or other water surfaces. The antecedent condition was determined using long-term surficial monitoring well data that was checked for consistency with the biological indicators combined with time-stage data collected by the applicant. Based on this analysis predevelopment peak discharge rates were established for each sub-basin in each watershed, Exhibit 2.1.

The predevelopment discharge rates were then used in Hydrologic Engineering Centers River Analysis System (HEC-RAS) models to simulate peak elevations for Owl Creek, Trout Creek, Telegraph Creek, and their tributaries during the 5 year-1 day, 25 year-3 day, and 100 year-3 day storm events. The HEC-RAS model representing the existing condition of all creeks was developed using cross-sections surveyed in 2006 and supplemented with cross-sections from the Lee County Master Plan for offsite data. The model was calibrated to measured flows and stages obtained during 2008.

The HEC-RAS models were then revised to reflect (A) the proposed project, including development tracts, (B) improvements to extend the hydroperiod of wetland systems, and (C) the SR 31 conveyance. Details of each item follow:

- (A) The post-development models were developed using the pre-development model. Modifications were made to the cross-sections to reflect the post-development fill and excavation conditions within each reach.
- (B) To extend the hydroperiod in the proposed condition, a series of weir structures were designed. Two structures were included for Big Island Canal, one structure was included for Stricklin Gully, and five structures were included for Curry Lake Canal. These structures hold back low flows thereby extending wetland hydroperiods while allowing higher flows to pass without increasing stages during larger storm events, i.e. 25 year -3 day.
- (C) To provide an outfall of the Owl Creek basin north of Cook-Brown Road (1,026 acres) and maintain existing connections south of this point a conveyance along the east side of SR 31 was designed. The conveyance contains a weir structure at the north end of the project.

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The invert of the weir is set at the average wet season water table for that location. The weir was sized to limit the peak flow to less than the 25 year-3 day event allowable discharge rate. In addition to the northern weir structure within the conveyance, there are several additional weir structures to maintain the existing average wet season water tables throughout the length of the conveyance.

The revised HEC-RAS models identify peak elevations for Owl Creek, Trout Creek, Telegraph Creek, and their tributaries during the 5 year-1 day, 25 year-3 day, and 100 year-3 day storm events. The results from the analysis show the stages during the 5-year 1-day, 25-year 3-day, and 100-year 3-day events will be equal to or less than the existing conditions at all property boundaries, Exhibits 2.2 and 2.7. Based on this analysis the total discharge from the natural areas plus the discharge from the developed area will be less than the existing discharge through the overall outfall locations from the project area. Exhibit 2.3 summarizes these reduced discharges.

As identified above, the construction authorization includes a hydrologic restoration component within Curry Lake. To complete this element of the project, three weir structures (CL1, CL2, and CL3) located at Stations 302+12, 261+00, and 226+18, respectively, are proposed as part of this construction and operation authorization within Curry Lake Canal. To predict the anticipated water elevations within Curry Lake an Interconnected Channel and Pond Routing Model (ICPR) analysis was completed for these elements.

## LAND USE:

The land use table below provides the overall summary land use for the entire 22,363.1 acre project and a detailed land use breakdown for those elements which are being requested for construction authorization. Exhibit 2.0 contains a detailed land use breakdown for the entire 22,363.1 acre project and a detailed land use breakdown by tract for the entire project.

LAKE in the table below and within Exhibit 2.0 represents both wet detention areas and other surface waters.

PERVIOUS in the table below and within Exhibit 2.0 represents pervious areas within the development tracts, pervious areas outside of the development tracts, including upland preserve areas which will be within conservation easements.

WETLAND in the table below and within Exhibit 2.0 represents the wetlands that are associated with Phase 1 mitigation (This Phase column) as well as all wetlands currently existing onsite and within Mitigation Areas B, C, and D (Total Project Column.)

## Construction:

### Project:

	This Phase	Total Project	
Building Coverage	5.10	1415.70	acres
Dry Detention Areas	4.50	4.50	acres
Impervious	3.80	1636.60	acres
Lake	24.20	1873.50	acres
Pervious	3460.19	11992.73	acres
Wetland	2785.31	5440.07	acres
<b>Total:</b>	<b>6283.10</b>	<b>22363.10</b>	

**WATER QUANTITY :****Discharge Rate :**

The proposed surface water management system for the development tracts is designed to discharge to the Trout Creek, Owl Creek, and Telegraph Creek watersheds less than the allowable discharge rates identified in Exhibit 2.1, based on the existing design storm (25 year-3 day storm event) discharge rates developed for BRC as part of the HEC-HMS analysis. This analysis represents a detailed evaluation of the existing discharge rates within the three watersheds (Owl, Trout, Telegraph). The results of the analysis were also compared with other studies completed for these basins and adjacent basins. Based on that comparison the discharge rates determined as part of this study are within the range of discharge rates identified within the other studies for not only the 25 year storm event but also the 5 year and 100 year storm events.

Exhibit 2.5 provides both an overall summary of discharges from each tract by sub-basin and a detailed list of discharges by control structure for each sub-basin. In addition, Exhibit 2.3 provides an overall summary of the design discharge rate from BRC at the property boundaries, which is also less than the existing discharge rates.

Each tract's portion of the surface water management system was analyzed using ICPR to determine minimum required design elevations for finished floors, perimeter berms, and roads. The control elevation within each sub-basin was based on the average wet season water table elevation as determined by wetland indicators, monitoring well data, and topography. Exhibit 2.4 contains the design summary for each of the basins within the development area, including the control elevation, 100 year - 3 day zero discharge storm event for finished floors, 25 year-3 day storm event for perimeter berms, and 5 year - 1 day storm event for road design. Exhibit 2.6 provides a detailed description of each outfall structure's design elements.

As stated previously the SR 31 conveyance was designed to discharge less than the 25 year-3 day event allowable discharge rate for the upstream 1,026 acres while designing weir structures to maintain the existing average wet season water tables throughout the length of the conveyance.

**Flood Plain/Compensating Storage:**

The project site falls within flood zones A and X, as shown on the current FEMA Maps provided as part of the application. Zone A areas have no base flood elevations determined, and Zone X areas are other flood areas. An evaluation of BRC's potential impacts to the flood plain and historical storage was conducted using both hydrologic and hydraulic modeling. The HEC-HMS model was used to simulate existing discharges from the project area for the 100 year-3 day storm event. Based on these discharges the HEC-RAS model was used to determine existing stages for this storm event. Post development conditions were modeled using ICPR to simulate proposed discharges from the developed tracts, and the existing conditions HEC-HMS model was used to simulate flows from areas that will remain undisturbed by the development. Flows from HEC-HMS and ICPR were combined to develop a post condition HEC-RAS model, and the stages were evaluated in comparison to the existing conditions HEC-RAS model. The results from the analysis ensure that both stages and flows during all three storm events in all offsite watersheds will not stage higher than existing conditions, as depicted in Exhibits 2.2 and 2.7.

**Offsite Flows:**

Offsite flows enter BRC as both sheet and channelized flow in the upper portion of the Trout Creek Watershed, Big Island Canal and Owl Creek. The location of the development tracts were designed to not adversely affect the existing conveyance or impede offsite flows. Within the Trout Creek watershed both Stricklin Gulley and Curry Lake Canal contain proposed weir structures while in the Telegraph Creek watershed Big Island Canal contains proposed weir structures. These structures are designed to restore hydrologic function in wetland systems upstream of these features while not resulting in adverse upstream offsite impacts. HEC-RAS analysis were completed in each of these conveyances to

demonstrate no increase in stages at offsite locations in the 5 year-1 day event, 25 year-3 day event, and 100 year-3 day event.

The BRC project includes the SR 31 conveyance to provide an outfall for the upper portions of the Owl Creek watershed. In particular, the project provides an outfall for the approximate 1,026 acres of the Owl Creek watershed located north of Cook-Brown Road. Historically, this area flowed south on the west side of SR 31 but development located on the west side of SR 31 and south of Cook-Brown road has limited the conveyance capacity for this 1,026 acre area. The SR 31 conveyance provides an outfall to restore flows for this area with water entering the conveyance via a weir structure at the north end of the project. The invert of the weir is set at the average wet season water table for that location. The weir was sized to limit the peak flow from this basin. In addition to the northern weir structure within the conveyance, there are several additional weir structures to maintain the existing average wet season water tables throughout the length of the conveyance. In addition, the existing connections between the west and east sides of SR 31 south of Cook-Brown Road are being maintained. The conveyance will connect to Owl Creek at its outfall near the southwestern property boundary. The HEC-RAS analysis identified this conveyance would not result in any increase in stages either downstream or upstream of the BRC property in Owl Creek.

#### **WATER QUALITY :**

The surface water management system design within each basin in each tract is based on either the greater of 1-inch or 2.5 times the impervious coverage plus an additional 50% water quality treatment volume, as shown in Exhibit 2.8. The project also includes recreational use lakes in Basins A300, D1, D2, and E-1. Basin A300 is within the proposed development areas while the remainder are within the created wetland areas. Any development within Basin A300 which discharges to Lakes A300-01 or A300-02 will provide full water quality treatment prior to discharge into these elements, see Special Condition 41. The wetland creation areas, treatment marshes, and external storage areas provide additional unquantified treatment within the controlled basin areas while on-site wetlands provide additional unquantified treatment outside the controlled basin areas. The applicant also completed a nutrient loading analysis which demonstrated the postdevelopment nutrient loadings will be less than the predevelopment nutrient loadings. This analysis did not include additional nutrient removal which will occur in the external treatment areas.

In addition to the required water quality treatment volumes, the project includes a Stormwater Pollution Prevention Plan (SWPPP), Exhibit 2.9, to be utilized during construction activities, and an Urban Stormwater Management Plan (USWMP), Exhibit 2.10, to be utilized during long term operations for water quality considerations, see Special Conditions 38 and 39. The USWMP includes elements related to nutrient management, pesticide management, irrigation best management practices, vegetation management, street sweeping, solid waste management, both the internal and external surface water management system, inspection requirements, rainwater catchment devices, bio retention systems, community education, equestrian pasture and manure management, and recreational lake use, created wetlands. The applicant also provided a Deep Lake Management Plan, Exhibit 2.11, to be followed during the operational phase of the development.

One-half inch dry pretreatment shall be required for all commercial/industrial land uses in the proposed development, Special Condition 35. The proposed commercial/industrial land area proposed within each basin is provided on Page 2 of Exhibits 3.1 through 3.10. In addition, the surface water management system has been designed based on an impervious coverage of 75% for these land uses.

No adverse water quality impacts are anticipated as a result of the proposed project.

#### **WETLANDS:**

The BRC project site contains approximately 226 wetlands totaling 2735.63 acres and approximately 35 other surface waters (OSW) totaling 92.31 acres. Wetlands onsite are either isolated by farming and mining activities or are surrounded by significant supporting native upland habitat. Many of the wetlands

and surface waters onsite extend offsite at all the property boundaries. Wetlands on the east side of the project connect offsite to Telegraph Swamp through wetland and upland habitats and the Big Island Canal. Most of the Big Island Canal is located offsite. This drainage feature begins in the vicinity of South Pasture Grade at its northern end and eventually outfalls to the south into Telegraph Creek. There are also several wetland systems associated with the headwaters of the East Branch of Trout Creek and Stricklin Gully. The Curry Lake Canal begins to the north in Curry Lake Preserve (state-owned lands) and runs south, eventually discharging to Trout Creek. The majority of Curry Lake Canal is located onsite. Stricklin Gully, with headwaters (including wetlands) located onsite, also converges with Trout Creek. The majority of Stricklin Gully is located offsite.

Control elevations for the project were determined utilizing topography, soils information, monitoring well data and wetland biological indicators. These indicators are depicted on both the engineering plans (Exhibit 3, elevations) and the environmental drawings (Exhibit 4.0A, location and name). Indicators included adventitious rooting, wetland/upland edge elevations, moss collars, stain lines, lichen lines where applicable, and tree buttressing where appropriate.

### **Wetland Impacts:**

Total direct wetland and other surface water impacts for the project are 413.03 acres and 16.55 acres, respectively. Wetland impacts are depicted on Exhibit 4.0A, pages 7-11 of 11. Wetland impacts are limited to about 15% of the total wetland area within the BRC. Phase I construction impacts involve other surface water impacts (0.18 acres) due to the installation of three control structures (CS-CL1, CS-CL2 and CS-CL3) in the Curry Lake Canal and wetland impacts associated with the SR 31 conveyance (9.67 acres of direct wetland impacts and 2.35 acres of secondary impacts). No wetland impacts will occur during construction of the 8" water main that is part of the Phase I construction authorization via directional drilling/boring underneath any wetland areas in or adjacent to the existing utility easement. Notes regarding directional boring are located on the water main construction plans (Exhibit 3.13) as well as on Sheet E-8 of the Environmental Permit Drawings plan set (Exhibit 4.0A, Page 8 of 11). Wetland impacts resulting from the creation of the nine controlled storage areas onsite have been minimized to the extent practicable, utilizing the footprint of existing trails, roads and berms where feasible to construct the new surface water management berms to contain the design storm event. Proposed trails, where feasible, are also co-located on top of these water containment berms that traverse some of the natural systems preserved onsite.

As depicted on Sheet E-8 of the Environmental Permit Drawings (Exhibit 4.0A, Page 8 of 11, 4.72 acres of wetland impacts (all of Wetland 134) were previously permitted and the mitigation provided for as part of the Earthsource Mine expansion pursuant to FDEP Permit No. 184-047-003. This 4.72-acre impact is included within the impact acreage for this project to account for all wetlands onsite. The boundaries of the mining permit are depicted on this drawing for reference purposes. Mitigation for this 4.72-acre impact is being conducted pursuant to SFWMD application number 060426-13 on a 75.9 acre farm field restoration area within Curry Lake Preserve on the western edge of Mitigation Area C and on the east side of SR31. The permit for this 75.9-acre mitigation area was transferred in February 2009 to Babcock Property Holdings, LLC and the Babcock Ranch Community Independent Special District (operating entity) as co-permittees. This existing 75.9-acre mitigation area is not receiving additional mitigation credit under this application and therefore is not part of Mitigation Area C. All other wetlands depicted within this FDEP mining permit boundary are to be preserved in their current condition, although some of them are proposed for future impacts under this conceptual permit authorization for BRC. All conceptually proposed impacts within this mining permit boundary are addressed in the mitigation plan for this project.

Secondary impacts for the project total 33.3 acres and were assessed 100' from proposed roads and 50' from proposed development pods that were adjacent to wetland areas. The Phase I construction secondary impacts include 2.35 acres of freshwater marsh with a functional loss of 0.06 units from the

proposed construction of the SR 31 conveyance. Where 25' natural upland buffers could not be provided adjacent to preserve wetlands, structural buffers will be installed. These include native shrub hedges with plantings 3' on center.

The applicant has demonstrated that practicable design modifications have been implemented for the elimination and reduction of wetland impacts pursuant to Section 4.2.1 of the Basis of Review. The design modifications were a combination of changes to the overall boundary of the BRC and refinement of the site development plan. The original boundary for development of the Babcock Ranch was identified as part of the initial efforts by the State of Florida to acquire portions of the Babcock Ranch through simple fee purchase and conservation easements, and was established through a joint effort by members of the FDEP, FWC, Babcock Florida Company and Johnson Engineering, Inc. This boundary was modified as a result of negotiations between Kitson and Partners, LLC, the State of Florida, Lee County, input received from the public visioning charrettes, input received from various regulatory agencies including the SFWMD, the Development of Regional Impact (DRI) process and the Charlotte County Comprehensive Amendment Process. The primary changes were the addition to the Conservation Purchase approximately 2,000 acres of the western portion of Telegraph Swamp, which includes both wetlands and uplands, the Conservation Purchase of two parcels along SR 31 within the Curry Lake Preserve Corridor, and the removal from the Conservation Purchase agricultural lands within the northern portion of the BRC. These adjustments were made to incorporate more agricultural lands into the development area and to provide the State with additional natural lands as part of the Conservation Purchase. The addition of the two parcels along State Road 31 was significant because it increased the size of the linear connection between Conservation Purchase area and the Babcock-Webb Wildlife Management Area from 3,600 feet to 16,300 feet. The final Conservation Purchase resulted in the public acquisition of 73,239 acres. The most significant change in the site plan was the scaling back of the North Babcock Village from 1,714 acres to 350 acres which resulted in a significant reduction in wetland impacts. Not only did this site plan modification reduce wetland impacts, it also expanded the regional wildlife corridor connecting the Babcock Ranch Preserve to Babcock-Webb Wildlife Management Area by 1,364 acres. This connection will be maintained as native habitats and agricultural uses. This will greatly benefit large mammal movement between the preserves, primarily for the Florida black bear and the endangered Florida panther. The site design has concentrated preserve/mitigation areas to provide for long-term habitat connectivity both on and offsite, maintenance of existing flow-ways and significant supporting upland habitat to wetland preserve areas, resulting in a regionally significant mitigation plan. Development tracts have been designed to concentrate high density areas within central portions of the development tracts, with the lowest densities bordering adjacent preserves where feasible. Wetland impacts have been limited to lower quality areas and areas isolated from larger wetland assemblages. More specific descriptions of the elimination and reduction analysis can be found in the Environmental Supplement provided by Johnson Engineering submitted in March 2008, which is located in the District's permit file.

Recreational trails are proposed throughout the mitigation areas and are comprised of dirt, mulch, pervious pavement or gravel. The goal of the applicant is to provide access to the greenway system year round. Trails, where feasible, are proposed to be located on existing berms and farm roads, and a large percentage are at-grade. Above grade trails are an allowable use in the conservation areas and will be designed to include culverts to ensure adequate sheetflow and hydrological connection between preserve areas. Boardwalks will be used to traverse wetland areas and flow-ways. Trail and culvert locations are depicted on the engineering drawings, however the culvert sizes and locations are conceptual in nature at this time until future construction modifications are submitted. The environmental mitigation drawings also depict trail types and locations throughout the various mitigation areas. The trails are not eligible for mitigation credit and where they cross wetlands are considered wetland impacts. Allowable uses on the trails will include biking, hiking, non-motorized vehicles and equestrian uses. The best management practices outlined in the SFWMD guidance document "Good Horse Sense" (Exhibit 6.0) will be utilized to manage water quality where equestrian uses are proposed. Equestrian uses are proposed on trail types 2A, 2B, 3 and 4. Picnic and public restroom facilities will be located inside perimeter berms (in controlled basin) so that water quality treatment could be provided for the impervious area and also to reduce the footprint of impacts in preserves/mitigation areas. Raised rain shelters, however, will be constructed in natural areas and will not impact natural surface flows.

Wetland impacts and mitigation were calculated using the Uniform Mitigation Assessment Method (UMAM). The UMAM analysis for this project is attached as Exhibit 4.4, which is incorporated by reference. The functional loss from the onsite wetland impacts 263.23 units. Preliminary estimated functional loss from external road construction that is required for the development is 115.67 units, for a total project functional loss of 378.90 units.

### **Mitigation Proposal:**

The mitigation and preserve management plan for the BRC is a combination of offsite (within State-owned portion of Babcock Ranch) and onsite mitigation and includes wetland creation, wetland enhancement and preservation, and upland enhancement, restoration, and preservation involving eleven (11) different mitigation areas totaling 12,704.69 acres. Ecological burning appropriate for the various habitat types is an inherent component to the mitigation plan for all of the mitigation areas. All lands proposed for mitigation have been divided into Mitigation Areas A through K.

The offsite mitigation occurs on a portion of the Babcock Ranch Preserve (BRP) purchased by the State. Mitigation Areas B, C, and D form the 5,840 acre offsite mitigation areas and are referred to as Telegraph Swamp Preserve, Curry Lake Preserve, and Telegraph Trail Preserve, respectively. These offsite mitigation areas were established in order to provide mitigation for impacts to Florida panther habitat and to provide mitigation for unavoidable wetland and listed species impacts. As part of the contract purchase for the Babcock Ranch, the State of Florida agreed to allow for the purchaser to offset unavoidable wetland and listed species impacts within State lands. Prior to the State acquisition, a 16,800 acre offsite mitigation study area was established on lands subsequently purchased by the State to provide future potential mitigation for the development of the BRC. The current plan under review focuses on 5,840.1 acres of the total 16,800 acres. In July 2008 the State approved the "Conceptual Management Plan for Babcock Ranch Preserve" which outlines how the State's portion of the Babcock Ranch Preserve is to be managed. All mitigation activities proposed on the Babcock Ranch Preserve will, at a minimum, adhere to the Conceptual Management Plan for Babcock Ranch Preserve.

The remaining Mitigation Areas A and E-K comprise the onsite mitigation areas and total approximately 6,864.56 acres. The location and habitat types of all the mitigation areas as well as typical sections and specific plantings for the wetland creation areas, burn unit maps, and ancillary uses such as trails and the types of trails proposed within each mitigation area are depicted on the mitigation drawings attached as Exhibit 4.5.

Mitigation credit is not applicable to proposed recreational facilities, upland buffers, existing roads or utility easements. Select tree harvesting and limited cattle grazing (maximum of one cow per 20 acres in natural areas and one cow per two acres in pasture areas) may also be utilized as land management tools to meet permit success criteria and also wildlife management plan goals. Mechanical harvesting of nuisance and exotic vegetation may occur in areas with greater than 75% infestation but will otherwise be conducted by hand-removal methods. Exotics/nuisance vegetation species will be maintained at minimal levels (0% after maintenance events and 5% between events), with an allowance for a maximum coverage of 10% torpedo grass in any mitigation area. A feral hog management plan will also be developed for the project mitigation areas.

Restoration of historic farm fields, mining areas and eucalyptus plantation areas will require immediate planting after initial exotic removal pursuant to the planting plan included within the mitigation plan. A wetland supplemental planting plan is also included for areas with greater than 50% nuisance/exotic coverage that do not successfully naturally recruit (80% coverage of desirable species in all strata, densities appropriate for habitat type) within two years.

The overall mitigation plan will be phased concurrently with the mitigation requirements for each future construction permit modification. All wetland impacts and each mitigation area have been assessed for functional loss and mitigation value utilizing the Uniform Mitigation Assessment Method (UMAM). The comprehensive UMAM assessment is attached as Exhibit 4.4. A wetland credit release schedule has also been developed for each mitigation area. Wetland credits for each mitigation area include both

herbaceous and forested credits, and credits will be released according to the schedule for various mitigation tasks that are successfully completed. The total number of credits/functional units available from all the Mitigation Areas totals 3,054.81. The detailed mitigation plan, which includes a description of each mitigation area along with its associated credit release schedule, is attached as Exhibit 4.1. The mitigation credit ledgers for each mitigation area outlining credits released and used are attached as Exhibit 4.3.

The first phase of the mitigation plan will involve the installation of three control structures in Curry Canal (CS-CL1, CS-CL2 and CS-CL3). These control structures are part of the hydrologic improvement plan for Mitigation Areas A and C. In addition, mitigation credit will be received for implementing a prescribed burn and an exotic and nuisance species management plan within the existing 302-acre conservation easement in Mitigation Area E that was required as part of the purchase and sale agreement with the State of Florida to provide a wildlife corridor linking the BRP and Telegraph Swamp through the BRC to Curry Lake Preserve. Phase 1 mitigation activities are depicted on mitigation plan sheets 5, 9, and 12 (Exhibit 4.5). Based on the credit release schedule and UMAM assessment, the three control structures in Curry Canal will provide 26.57 functional units of mitigation. The prescribed burn and maintenance program within the existing 302-acre conservation easement within Mitigation Area E will provide 47.89 credits. The first phase of mitigation also includes the preservation and management of the 3.36 acres of preserve (1.87 acres wetland and 1.49 acres uplands) associated with the utility plant located within Tract A. This 3.36 acre preserve area is part of Mitigation Area A.

Construction authorization is also granted as part of this application to conduct all wetland and upland enhancement activities within Mitigation Areas B, C and D. No mitigation value has been requested for these enhancement activities at this time. These mitigation activities cannot commence until the issuance of a Consent of Use authorization by the FDEP Division of State Lands. (See Special Condition 32).

The SR 31 conveyance portion of the Phase 1 construction involves direct impacts to 9.67 acres of wetlands and 2.35 acres of secondary wetland impacts. Ditch blocks are included in the design of this conveyance to ensure no adverse impacts to adjacent wetland systems. The functional losses equal 6.26 and 0.06 functional units, respectively. The 74.46 credits (26.57 + 47.89) generated from the Phase 1 mitigation plan will be applied to the loss of the 6.32 functional units associated with the SR31 conveyance impacts. These credits will also be applied to the loss of 16.07 functional units as a result of wetland impacts associated with the adjacent SR 31 widening project (Related SFWMD Application No. 081217-1). Approximately 0.18 acres of other surface waters will be impacted due to the installation of the first three control structures in Curry Canal; however no mitigation is required for these surface water impacts. The remaining 52.07 wetland credits will be available for future wetland impacts associated with the project, providing a total of 3,032.42 credits available for future development of the BRC.

Hydrologic restoration is proposed for portions of the mitigation areas via installation of culverts, control structures and ditch blocks. The goal is to improve hydrologic conditions during smaller storm events without creating adverse impacts for the design storm. Further discussion regarding wetland hydrology onsite and the Curry Lake Canal Hydrologic Improvement Study is included in the wetland monitoring section. Success of the hydrologic restoration efforts will be monitored not only via monitoring wells and vegetation data but also via aquatic faunal sampling and analysis, which will be discussed further in the monitoring section of this staff report. The overall hydrologic improvements include the installation of five (5) structures in Curry Canal, two (2) structures in Big Island Canal (Mitigation Area F), a control structure in Stricklin Gully (Mitigation Area K), and various ditch blocks throughout the mitigation areas.

Mitigation Area E abuts the wellfield easement along its eastern boundary related to the public water supply system for the Town and Country Utility that will serve the development as a whole. The wellfield easement is not included in the acreage of Mitigation Area E. Also, all wetland impacts associated with the adjacent and related SR31 widening project are proposed to be mitigated within the 302-acre portion of Mitigation Area E. The existing Telegraph Trail road (comprising 3 acres within this conservation area) is to remain intact, and therefore mitigation credit is only being counted toward 299 acres of the 302-acre area. Farm fields within or adjacent to Mitigation Area E will continue to be farmed with bahia, sod, and vegetable/row crops with an approximate 3 to 5-year rotation. Cattle grazing/pasture will also be

maintained in these areas.

The mitigation plan includes 265.70 acres of wetland creation. Total acreage for the wetland creation areas is 361.28. This overall acreage includes the transitional pine habitat and berm area within the wetland creation areas. All of these mitigation areas include a mosaic of habitat types from transitional uplands to open water areas. These areas will be over-excavated and backfilled with appropriate native soils to final grade to ensure mitigation success. Wetland Creation Area 1 (45.45 wetland creation) is located in Mitigation Area G and Wetland Creation Areas 7 (10.17 acres of wetland creation), 8 (6.02 acres of wetland creation), 9 (28.72 acres wetland creation), and 10 (46.34 acres wetland creation) are located in Mitigation Area H. Wetland Creation Area 6 (26.65 acres) is located within Mitigation Area I and will serve as a tributary to the east branch of Owl Creek. Wetland Creation Area 2 (19.48 acres) is located within Mitigation Area J. Mitigation Area K will contain Wetland Creation Areas 3, 4 and 5 (82.87 acres of wetland creation). These areas will receive treated runoff from the stormwater system and will provide additional water quality treatment prior to final discharge to the downstream receiving bodies. All mitigation areas are either part of the surface water management system or serve as an outfall point for it. Required water quality treatment is provided prior to surface water entering these areas.

### **Cumulative Impact Assessment:**

The entire Babcock Ranch (91,360 acres) occurs within the Tidal Caloosahatchee, Telegraph Swamp, and West Caloosahatchee drainage basins as defined by the SFWMD. The entire Babcock Ranch is comprised of approximately 26,246.90 acres of wetlands and Other Surface Waters (OSW). Total wetland and OSW area within the lands acquired by the State of Florida and Lee County is approximately 23,392.41 acres. Included within these wetlands are significant flow-ways and creeks. Specifically, Telegraph Swamp and Creek, Jack's Branch, Clay Gully, Cypress Creek, Fichter's Branch, and Hall's Gully as they occur on Babcock Ranch will be preserved as a result of this project. Wetlands within the southeast corner of the ranch contribute flows to Spanish Creek and County Line Drainage Ditch and will also be preserved.

Total wetland and OSW area within the BRC is 2,827.94 acres. Development of the BRC will impact 424.86 acres of wetlands and OSW. Proposed mitigation for the wetland impacts will occur within the same basin as the impacts and will result in no net loss of wetland function. Wetland impacts will occur to approximately 1.53% of the total wetland area on the original Babcock Ranch (91, 360 acres) and to 15% of the wetland area within the BRC. Based on the quality and location of wetlands to be impacted and the proposed mitigation plan, including listed species management plans, the project is not anticipated to result in any adverse unacceptable cumulative impacts.

### **External Roads Analysis:**

The potential direct and secondary impacts resulting from future external roadway improvements required for the development of the Babcock Ranch Community were assessed as part of this application. This analysis was conducted to document reasonably anticipated future wetland impacts associated with external road development to address secondary impacts. Current information on the extent of anticipated roadway widening (number of lanes, width of right-of-way) was included in the analysis. The assessment includes potential future wetland impacts for the following roads:

1. State Road (SR) 31- SR 80 to SR 78, SR 78 to CR 78 (North River Road) , North River Road to the Babcock Ranch Community Entrance, and the Babcock Ranch Community Entrance to CR 74
2. County Road (CR) 78- SR 31 to the CR 78 entrance of the Babcock Ranch Community
3. SR 78- I-75 to SR 31
4. CR 74- US 17 to SR 31
5. East/West Corridor Road- Interchange at I-75 and I-75 to SR 31

Wetlands were evaluated using the Uniform Mitigation Assessment Method (UMAM). For the purposes of this analysis, all potential future wetland impact areas within the right of way will be considered direct impacts, resulting in a loss of all wetland functional value. For wetlands outside the right of way, a degree of partial functional loss was calculated. The amount of functional loss due to habitat fragmentation,

reduction in wetland size and the reduction in natural buffer varies for each wetland system. In general, smaller wetlands were assumed to have less functional value in the post condition, while larger wetlands were assumed to retain more functional value in the post construction scenario. For larger wetland systems extending greater than 500 feet from the right of way, the secondary analysis was limited to the 100 feet beyond the direct impact. Based on concurrency requirements, the BRC is not the sole purpose for the road improvements. The percent required by the BRC development as stated in the DRI is applied to each road section to determine net potential wetland functional loss associated with this project.

Currently there are five (5) main mitigation options available (others could become available at a later date) that were identified for this assessment. It should be noted that the mitigation options are potential options at this time and may or may not be used. A map of the watershed drainage basins in the area in relation to this roadway network is attached as Exhibit 3.6. The most viable mitigation alternatives are as follows:

1. Excess mitigation resulting in the development of the BRC
2. Prairie Pines Preserve Conservation 20/20 Lands
3. Peace River Mitigation Bank
4. Boran Ranch Mitigation Bank
5. Little Pine Island Mitigation Bank

The following analysis relies on Geographic Information System (GIS) Land Use Land Cover mapping for wetland information obtained from the Southwest Florida Water Management District (SWFWMD), and the South Florida Water Management District (SFWMD), aerial photo-interpretation and limited ground-truthing. The analysis relies in large part on a qualitative assessment of potential future wetland impacts and mitigation, which categorizes habitat quality as poor, medium, and high quality. This assessment is not intended to provide a final analysis of wetland impacts or mitigation, but instead, it is intended to provide reasonable assurance that mitigation is available to offset any potential future direct or secondary impacts that may result from future roadway improvements. Roadway improvements depicted are estimates only for determining potential secondary and cumulative impacts. A more detailed and quantitative assessment will be performed for each project at the time of submittal of the joint-Environmental Resource Permit (ERP) applications for each project.

For SR 31 (anticipated 400' right-of-way), the potential direct impacts to wetlands and other surface waters are approximately 125.96 acres with an estimated functional loss of 72.9 units. Secondary impacts were estimated at approximately 123.44 acres of wetlands and other surface waters with an estimated functional loss of 20.01 units. The total anticipated functional loss is 92.91 functional units. The BRC would be responsible for mitigating 92.03 units of this functional loss based on the proportionate share identified in the DRI. This includes 94% from SR 80 to North River Road, 99% from North River Road to BRC entrance, and 100% for the remainder of the segment.

For CR 78 (North River Road), it is anticipated that this road may have to be improved to a four lane divided highway from SR 31 to the entrance of the BRC. Approximately 0.94 acres of wetlands associated with Owl Creek may need to be impacted directly, with an estimated functional loss of 0.50 functional units. Potential secondary wetland impacts include 1.34 acres, with an estimated loss of 0.27 functional units. Of the total 0.77 anticipated functional loss, BRC would be responsible for mitigating 0.71 of the 0.77 functional units lost or 92%.

For State Road (SR) 78, roadway improvements are expected to consist of widening to an ultimate six lane divided highway with a 200' right-of-way. Approximately 5.69 acres of wetlands with a functional value of 2.69 units may be lost. Potential secondary impacts include 14.87 acres with a functional loss of 1.82 functional units. Of the total estimated 4.51 functional units lost, BRC would be responsible for mitigating 4.42 functional units or 98%.

For County Road (CR) 74, it is anticipated that the ultimate roadway design will involve a four lane divided highway within a 200' right-of-way. Direct impacts are approximately 4.43 acres with a functional loss of 2.22 units. 19.84 acres of wetlands are anticipated to be secondarily impacted with a functional loss of

4.11 units. Of the total functional loss of 6.33 units, BRC would be responsible for mitigating 6.27 units or 99%.

A new east-west corridor (four lane divided highway within a 200' right-of-way) is anticipated to be constructed between I-75 and SR 31. Potential direct impacts are 23.29 acres of wetlands and other surface waters with an estimated functional loss of 9.61 units. Potential secondary impacts include 17.02 acres with an estimated loss of 1.52 units. Of the total potential loss of 11.13 units, BRC would be responsible for 50% or 5.56 functional units.

It is anticipated that the majority of these roadway impacts can be mitigated through excess functional units generated by the BRC mitigation plan. As mentioned above, other mitigation options may be more appropriate based on impact wetland types and location within various watersheds. Other options may include Little Pine Island Mitigation Bank, mitigation banks within Charlotte County and Lee County 20/20 parcels as appropriate for the types of wetlands being impacted and the basins in which they are located. Sufficient mitigation exists within the BRC mitigation plan to offset all of these roadway impacts as currently assessed.

#### **Monitoring/Maintenance:**

The proposed wetland mitigation and monitoring plan is included within the attached mitigation plan (Exhibit 4.1). Monitoring will include quantitative vegetation monitoring, photo documentation, qualitative and quantitative wildlife monitoring, hydrologic monitoring and restoration monitoring. Quantitative wildlife monitoring will involve bird counts, fish and aquatic macroinvertebrate sampling, track counts, wildlife camera monitoring, frog sampling and frog call surveys.

The first phase of mitigation is the installation of three control structures in Curry Canal and implementation of the land management program (prescribed burning, exotic and nuisance species maintenance) in the existing 302 acre conservation easement within Mitigation Area E and the 3.36 acres of mitigation associated with the utility site. Approximately 299 acres of the existing 302-acre conservation easement in Mitigation Area E will be managed as the remaining 3 acres are maintained roads. Monitoring for the control structures will include the submittal of the well data for the wells located in Mitigation Area A and C and macroinvertebrate and fish sampling. Macroinvertebrate and fish sampling will be conducted in three (3) select wetlands in Mitigation Area A and two (2) select wetlands in Mitigation Area C (see Mitigation Plan Set for sampling locations). Sampling will be conducted once per year in November. Monitoring for the 302 acre conservation easement and the 3.36 acres associated with the utility plant will include vegetation monitoring, well data and photographic documentation.

Monitoring in Mitigation Areas B, C and D will be required at such time as those enhancement activities commence.

Detailed mitigation success criteria have been developed for this project and are included within the attached mitigation plan. The success criteria involves the establishment of an appropriate reference site for comparison and include four (4) major components which are: overstory/shrub vegetation, ground cover vegetation, wildlife utilization and hydrology. There are three levels of success to be achieved. The reference site will generally be established at the time of construction permitting. Specific success criteria have been developed for RCW management areas, pine flatwoods systems, cypress/mixed forested wetland systems, herbaceous wetlands, long versus short hydroperiod wetlands (hydrologic targets) and forested versus herbaceous wetland creation areas.

Hydrologic enhancement is a significant component of this mitigation plan. Well data and a recently completed first annual "Aquatic Faunal Collections and Data Analysis for Babcock Ranch Community" both document that many of the wetlands onsite suffer from a reduced hydroperiod as a result of past ditching and canal excavation activities. The native fish communities within the BRC appear to be negatively influenced by drainage ditches and associated hydrologic disturbance to wetlands and stream habitats. Diversity of native fishes at all sampling locations is much lower than expected and what is normally found in similar habitats in southwest Florida. The results of the macroinvertebrate sampling

also indicate a lower species richness compared to similar studies conducted in the region.

As part of the UMAM analysis, a quantitative hydroperiod analysis of existing wetlands onsite by sub-basin was conducted onsite based on 2006 well data throughout the site (2006 data was consistent with/representative of long-term monitoring data onsite). The depths and frequency of inundation of onsite wetlands were evaluated based on comparisons with published hydroperiod ranges for the various habitat types. Many of the onsite wetlands are not sustaining either adequate water depths or hydroperiods.

The proposed mitigation plan attempts to remedy this situation where feasible by the installation of several control structures, ditch blocks, culverts, etc. In addition, as the agricultural uses phase out, demand on the surficial aquifer for irrigation will decrease with the proposed mixed-use development, which will be utilizing a deeper aquifer for water supply and irrigation. Onsite wetlands will either be incorporated into the surface water management system or serve as outfall points for it. An in-depth engineering study was completed for the Curry Lake Preserve to determine potential hydrologic benefit to wetlands within Mitigation Areas A and C by the installation of the three structures in Curry Lake Canal. This study determined that deeper hydroperiod wetland systems will benefit from a hydroperiod extension of between approximately 95 and 103 days.

Overall, the proposed site design, intensive monitoring plan (including aquatic faunal sampling) and detailed habitat-specific success criteria will ensure long-term sustainability of the hydrology and function of the onsite wetland mitigation areas. A mitigation and monitoring work schedule is attached as Exhibit 4.1A.

#### **Wetland Inventory:**

Wetlands designated as "preserved" are areas that are being preserved within the wellfield easement areas and the rights-of-ways of both Hercules Grade and SR 78. They are not considered part of the mitigation plan. The Phase 1 construction impacts include 4.72 acres of wet prairie impacts resulting from the Earthsource Mine expansion recently permitted by DEP. These impacts are included in the table to account for all wetland areas on the BRC.

## Preliminary Draft

## Wetland Inventory :

CONCEPTUAL MOD -Babcock Ranch Community- Conceptual Approval

Site Id	Site Type	Pre-Development				Post-Development						
		Pre Fluc cs	AA Type	Acreage (Acres)	Current Wo Pres	With Project	Time Lag (Yrs)	Risk Factor	Pres. Adj. Factor	Post Fluc cs	Adj Delta	Functional Gain / Loss
10	ON	631	Enhancement	471.86								
11	ON	640	Enhancement	37.96								
12	ON	641	Enhancement	676.71								
13	ON	643	Enhancement	335.58								
14	ON	616	Direct	.15							.000	.000
15	ON	621	Direct	33.88							.000	.000
16	ON	624	Direct	1.09							.000	.000
17	ON	625	Direct	8.81							.000	.000
18	ON	630	Direct	.14							.000	.000
19	ON	631	Direct	72.86							.000	.000
2	ON	640	Direct	1.27							.000	.000
20	ON	618	Enhancement	6.32								
21	ON	631	Preservation	.66								
22	ON	641	Preservation	6.54								
23	ON	643	Preservation	.94								
24	ON	621	Preservation	2.01								
25	ON	6AA	Enhancement	16.17								
26	ON	510	Preservation	57.07								
3	ON	641	Direct	181.41							.000	.000
4	ON	643	Direct	99.03							.000	.000
5	ON	616	Enhancement	36.53								
6	ON	621	Enhancement	297.79								
7	ON	624	Enhancement	204.07								
8	ON	625	Enhancement	195.96								
9	ON	630	Enhancement	31.15								
A	ON	400	Enhancement	518.87								
E	ON	400	Enhancement	950.06								
F	ON	400	Enhancement	560.24								
G	ON	400	Enhancement	488.12								
G1	ON	400	Restoration/Creation	58.88						600		
H	ON	400	Enhancement	155.11								
H1	ON	400	Restoration/Creation	133.87						600		
I	ON	400	Enhancement	126.88								
I1	ON	400	Restoration/Creation	34.84						600		
J	ON	400	Enhancement	932.02								
J1	ON	400	Restoration/Creation	24.89						600		
K	ON	400	Enhancement	394.66								
K1	ON	400	Restoration/Creation	108.80						600		
<b>Total:</b>				7263.20								.00

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**Wetland Inventory :**

CONSTRUCTION MOD -Babcock Ranch Community Phase I Construction

Site Id	Site Type	Pre-Development				Post-Development						
		Pre Fluc cs	AA Type	Acreage (Acres)	Current Wo Pres	With Project	Time Lag (Yrs)	Risk Factor	Pres. Adj. Factor	Post Fluc cs	Adj Delta	Functional Gain / Loss
1	ON	641	Direct	8.75							.000	.000
1	ON	510	Direct	.18							.000	.000
32	ON	641	Secondary	2.35							.000	.000
33	ON	643	Direct	.92							.000	.000
34	ON	643	Direct	4.72							.000	.000
<b>Total:</b>				16.92								.00

**Wetland Inventory :**

CONSTRUCTION MOD -Babcock Ranch Preserve (Mit Areas B, C and D)

Site Id	Site Type	Pre-Development				Post-Development						
		Pre Fluc cs	AA Type	Acreage (Acres)	Current Wo Pres	With Project	Time Lag (Yrs)	Risk Factor	Pres. Adj. Factor	Post Fluc cs	Adj Delta	Functional Gain / Loss
B	OFF	600	Enhancement	1113.48								
B	OFF	400	Enhancement	669.97								
C	OFF	600	Enhancement	1013.67								
C	OFF	400	Enhancement	1794.63								
D	OFF	400	Enhancement	672.26								
D	OFF	600	Enhancement	576.12								
<b>Total:</b>				5840.13								

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<u>Flucss Code</u>	<u>Description</u>
400	Upland Forests
510	Streams And Waterways
600	Wetlands
616	Inland Ponds And Sloughs
618	Cabbage Palm Savannahs
621	Cypress
624	Cypress - Pine - Cabbage Palm
625	Hydric Pine Flatwoods
630	Wetland Forested Mixed
631	Wetland Scrub
640	Vegetated Non- Forested Wetlands
641	Freshwater Marshes
643	Wet Prairies
6AA	Hydric Pasture

## **Wildlife Issues:**

Listed species surveys were conducted on the property from April to August 2006. These surveys included fish and macroinvertebrate sampling, migratory bird surveys, Red-Cockaded Woodpecker surveys, Audubon's crested caracara surveys, wading bird surveys, scrub jay surveys, frog call surveys, and Southeastern American kestrel surveys to augment the data collected during normal pedestrian belt transects.

Based on Table 4.2.7-1 in the Basis of Review, the following listed wetland dependent species have been identified within the limits of the BRC: American alligator (*Alligator mississippiensis*), wood stork (*Mycteria americana*), Florida sandhill crane (*Grus canadensis pratensis*), Audubon's crested caracara (*Polyborus plancus audubonii*), roseate spoonbill (*Ajaia ajaia*), limpkin (*Aramus quarauna*), little blue heron (*Egretta caerulea*), snowy egret (*Egretta thula*), tricolored heron (*Egretta tricolor*), white ibis (*Eudocimus albus*), Florida panther (*Felis concolor coryi*), and Florida black bear (*Ursus americanus floridanus*).

Management plans for these wetland dependent species as well as other listed species identified within the BRC have been developed and are included within the permit file. Wetland-dependent species management plans are included via reference as Exhibit 4.8. The proposed wetland mitigation plan will benefit a variety of listed species. For example, designated Red-cockaded Woodpecker (RCW) habitat will be enhanced/created within Mitigation Areas A, B,C, D, F, J and K. Activities which will enhance habitat value for wildlife include implementation of a regular prescribed burn plan, exotic and nuisance species eradication and maintenance, and plantings for created wetlands and portions of farm fields (and in other areas as needed).

The onsite mitigation areas will provide a critical link between major wildlife habitat areas to the west and east. To the east, the lands within the State of Florida and Lee County conservation purchase, now known as the Babcock Ranch Preserve (BRP), are considered some of the most regionally significant and environmentally sensitive lands in the area. These areas are included in one of the largest groupings of Strategic Habitat Conservation Areas (SHCA) in the state. SHCA lands are designated based on the density of flora and fauna of regulatory interest that inhabit the area and are assigned high values in the

# Preliminary Draft

selection process for acquisition. SHCA areas are considered essential to provide rare species and natural communities in the land base that are necessary to sustain populations into the future. Public ownership of these lands, with the proposed connections through the onsite mitigation areas to the west through the Babcock/Webb Wildlife Management Area (WMA) and Charlotte Harbor State Buffer Preserve provide a critical link for a wildlife corridor that stretches from Lake Okeechobee to the Gulf of Mexico.

Wildlife crossings have been incorporated into the project design to connect onsite preserve areas and maintain their connection with offsite natural areas. These wildlife crossings are depicted on the wetland mitigation plans via cross-sections and on the engineering drawings for each tract. Design of the crossings (including invert elevations) will be coordinated with the Florida Fish and Wildlife Conservation Commission (FWC) at the time of future construction modifications. An overall map of proposed locations and sizes of wildlife crossings within the development is attached as Exhibit 4.9. This exhibit also includes two (2) future planned crossings under SR 31 when the portion of the roadway next to Curry Lake Preserve gets widened. The BRC will be responsible for funding these wildlife crossings and associated fencing, which will provide an important link between large natural systems to the east and the Babcock/Webb and Yucca Pens Wildlife Management Areas to the west of SR 31.

Written comments regarding this project were received from the FWC on August 31, 2009 and are included as Exhibit 4.10. This letter essentially outlines recommendations to ensure no adverse impacts to listed species. Coordination with FWC will be required for future construction modifications. The applicant has coordinated with FWC to develop the proposed mitigation and wildlife management plans. Please see the Special Conditions for additional information.

The United States Fish and Wildlife Service (FWS) issued a biological opinion on this project on August 21, 2009 relating to effects on the endangered Florida Panther and the endangered wood stork. It is included within the permit file and was also posted to the e-permitting website on September 1, 2009. The FWS concluded that the project is not anticipated to result in "take" of wood storks due to the proposed mitigation plan. For the Florida Panther, the FWS concluded that no direct "take" or mortality would occur, but that incidental take is expected to occur. However, based on the evaluations provided for the project's direct, indirect, and cumulative effects, the status of the species and the compensation proposed by the applicant, the FWS believes that the proposed construction and operation of BRC will not jeopardize the survival and recovery of the species.

This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if, in the future, endangered/threatened species or species of special concern are discovered on the site.

## **LEGAL ISSUES:**

### **Conservation Easement:**

The conservation easement for the BRC will encompass 6,999.94 acres total. The conservation easement will include upland (131.75 acres) and wetland (3.63 acres) trails, which are an allowed use in the passive recreational easement as discussed further below.

The signed deed of conservation easement along with an affidavit of no mortgage and associated signed and sealed sketch and legal description for the wetland preserve area and associated upland buffer for the Utility Site is included as Exhibit 4.11. The Utility Site is part of the Phase 1 construction authorization under this application and the 3.36 acre conservation easement, being granted by MSKP Town and Country Utility LLC, includes 1.87 acres of wetlands and 1.49 acres of upland buffer. This conservation easement will serve as the template and approved language for all other conservation easements submitted in the future as part of additional construction modifications.

The conservation easement for the 302-acres within Mitigation Area E that is part of the Phase 1 mitigation under the construction authorization is included by reference as Exhibit 4.12. This easement was granted to the State of Florida (Board of Trustees of the Internal Improvement Trust Fund) as part of the sale agreement for the state-owned portion of Babcock Ranch and was recorded in the Charlotte County public records in August 2006. The existing 3-acre Telegraph Trail will remain within this preserve

area and conservation easement.

A compact disc (CD) with GIS shapefiles of preserve areas is included within permit file. Sketches, legal descriptions and signed conservation easement forms will be provided at the time of applicable construction modifications. A signed document, Resolution 2009-02, from the Babcock Ranch Community Independent Special District (BRCISD) expresses this commitment to provide the required conservation easement documents during subsequent construction applications (Exhibit 4.13). The BRCISD is the operating entity and a co-applicant on this permit.

The standard conservation easement form was modified for this project to address the complexity of issues involved with the proposed development, existing historic land uses on the property, and ongoing land management activities being conducted by the current owners and Babcock Ranch Management, LLC. The changes to the form were reviewed and approved by the District's Office of Counsel. These changes involve additions/clarification to the permitted uses within the conservation areas, which are:

- (1) Compatible land management activities including select tree harvesting, ecological burning, listed species management plans, restoration activities, etc.
- (2) Gopher tortoise relocation/recipient areas
- (3) Allowance for conservation easements to include existing dirt roads and underground utilities (mitigation credit not received for these areas)
- (4) Mowed, mulched, gravel or pervious paved walking and hiking trails (including for equestrian use), pathways, boardwalks, observation areas, elevated rain shelters and picnic areas over pervious areas, agriculture and other similar uses (mitigation credit not available for these areas)
- (5) Primitive camping and
- (6) Limited cattle grazing as a land management tool.

#### Operating Entity:

The operating entity for this project is the Babcock Ranch Community Independent Special District (BRCISD). This is a Special District established by the Florida Legislature pursuant to Chapter 2007-306 (Laws of Florida). The BRCISD is also co-applicant on this ERP application. The BRCISD has authority to exercise its powers outside of its boundaries, including on State Lands (Mitigation Areas B, C and D). It will be co-applicant with Babcock Property Holdings, LLC on the state Consent of Use authorizations.

Pursuant to the purchase and sale agreement with the State of Florida and Lee County for the Babcock Ranch Preserve, these entities entered into a Management Agreement with Babcock Ranch Management, LLC for the management of the Babcock Ranch Preserve (BRP). The BRP includes mitigation areas B, C and D. The Babcock Ranch Management LLC is a corporation that was formed to manage these public lands that comprise the BRP for up to ten years. Once the agreement ends, the established not-for-profit state appointed corporation, Babcock Ranch Inc. will become the BRP manager in perpetuity. During the period of the management agreement, Babcock Ranch Inc. and the owners of the BRP (State of FL and Lee County) will act in an advisory capacity. Babcock Ranch Management LLC is maintaining the public property (including Mitigation Areas B, C and D) at baseline conditions so that habitats do not degrade over time. As portions of the mitigation plan are implemented for Mitigation Areas B, C, and D, responsibility for the mitigation areas will be turned over to the BRCISD as long-term operating entity for the development.

#### Financial Assurances:

Although costs exceed \$25,000.00 the operating entity and co-permittee is a public entity (Babcock Ranch Community Independent Special District) and therefore not subject to financial assurance requirements pursuant to Section 4.3.7.1.

#### **CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:**

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to

Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4.361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

#### **SOVEREIGN/SUBMERGED LANDS:**

As part of the purchase and sale agreement with the state of Florida, Babcock Property Holdings LLC has the ability to utilize 16,800 acres of state lands within the Babcock Ranch Preserve for wetland and listed species (including panther) mitigation but currently is proposing to use only Mitigation Areas B, C, and D.

A Consent of Use authorization has already been issued for the 75.9 acre farm field restoration under SFWMD ERP Application Number 060426-13 on the State Lands that are a part of Curry Lake Preserve adjacent to SR31, and which serve as wetland mitigation for the Earthsource Mine expansion permitted by FDEP. This permit involved 4.72 acres of wetland impacts. The Consent of Use is dated October 18, 2006 by the Division of State Lands of the DEP (Exhibit 4.16).

A Future Consent of Use for Mitigation Activities on Babcock Ranch was issued by FDEP on May 17, 2006 (Exhibit 4.16). This document grants authorization for the concept of mitigation on state lands for the BRC development. This letter is an intent to issue a Consent of Use for the mitigation activities on state lands contingent on the following four conditions:

- (1) The Acquisition and Restoration Council (ARC) has to approve restoration plan (completed on October 10, 2008. Please see Exhibit 4.15)
- (2) Regulatory Agencies must approve design/permit
- (3) The Office of Environmental Services reviews and works with Bureau of Public Land Administration, which
- (4) issues the Consent of Use authorization to the applicant.

On October 10, 2008 the applicant received conceptual approval for the proposed management of the 5,840.1 acres comprising Mitigation Areas B, C and D by the ARC. This approval was based on the submitted "Restoration Plan for Portions of the Babcock Ranch Preserve." This management plan is included in the online permit file and was posted to the e-permitting website on September 4, 2009. FDEP will review the SFWMD and US Army Corps of Engineer permits after they are issued to verify there are no conflicts with the overall BRP management plan prior to issuing a Consent of Use.

**RELATED CONCERNS:****Water Use Permit Status:**

The applicant has indicated that irrigation is not required for the SR 31 conveyance project for the proposed native plantings along the eastern berm. Water trucks will be utilized to establish new plants as necessary. Any irrigation required at the Utility Site will be provided by reuse water from the onsite wastewater treatment plant.

Dewatering will be required for the SR 31 conveyance project and construction of the proposed Utility Site. The State Road 31 Conveyance dewatering application number is 081009-9, which is being reviewed concurrently with this ERP. Construction of the conveyance involves dewatering into adjacent mining lakes and temporary retention areas adjacent to the SR 31 right-of-way but within BRC-owned property. Dewatering also involves coffer dams and temporary retention areas in disturbed uplands (farming areas) for the three proposed Curry Lake Canal control structures (CL-CS1, CL-CS2 and CL-CS3). All discharge will be retained onsite and will be directed away from wetland areas.

As the site design has changed for the proposed Utility Site, a revised dewatering plan was submitted for the concurrent dewatering permit application number 070212-17, which is being reviewed concurrently with this ERP.

District staff have reviewed and issued the dewatering application associated with the Earthsource Mine expansion recently permitted by FDEP through application number 184047-003. Recharge trenches were required as part of this dewatering application to reduce and eliminate impacts to adjacent wetland areas.

Existing agricultural operations will continue on the BRC until development commences, as depicted in Exhibit 1.2. The existing water use permit for agricultural irrigation and livestock water supply is Permit No. 08-00002-W (Application No. 070725-7). A renewal was issued for this permit on March 15, 2007 (Application No. 050629-45) and will expire on March 15, 2027. The water sources in the application come from a variety of aquifers, including 188 existing and eight proposed wells in the water table aquifer. The public water supply for the state-owned portion of the Babcock Ranch is addressed under Permit No. 08-00123-W.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation, unless the work qualifies for a No-Notice Short-Term Dewatering permit pursuant to Chapter 40E-20.302(3) or is exempt pursuant to Section 40E-2.051, FAC.

**CERP:**

The proposed project is not located within or adjacent to a Comprehensive Everglades Restoration Project component.

**Potable Water Supplier:**

M.S.K.P. Town and Country Utility, LLC

**Background:**

The Town and Country Utility water use permit was issued on October 11, 2007 (Permit No. 08-00122-W) and will expire on October 11, 2027. This permit is for a new Public Water Supply (PWS) to serve 44,950 persons by year 2027 at the BRC. There are two existing wells and fifteen additional wells will be installed for a total of 17 Upper Floridan Aquifer wells. The Upper Floridan Aquifer occurs at approximately 500 feet below land surface and withdrawals are not anticipated to affect wetlands or the surficial aquifer system due to the confinement between the aquifers (including an intermediate aquifer system). There are several hundred feet of confining materials between the production zone and land surface.

The utility plant is to be a 6 MGD (million gallons per day) plant at full build-out and is a reverse osmosis facility. Irrigation for the mixed use BRC development is intended to be provided primarily from the onsite wastewater treatment plant (reclaimed water), supplemented by Upper Floridan water. The facility will also include a Class I industrial injection well for backup effluent disposal, which is currently being reviewed by FDEP. The associated 8" raw water main and utility site construction are part of the construction authorization for this first phase of the development.

**Waste Water System/Supplier:**

M.S.K.P. Town and Country Utility, LLC

**Right-Of-Way Permit Status:**

A District Right-of-Way Permit is not required for this project.

**DRI Status:**

This project is a DRI (SFWMD ID No. 07-501 & 09-519). The original Master Development Order for the Charlotte County portion of the proposed development (SFWMD ID No. 07-501) was issued by Charlotte County on December 13, 2007. The Application For Incremental Development Approval for Increment I of the Charlotte County portion of the proposed development (SFWMD ID No. 09-519) is currently being reviewed by District and other agency staff. No DRI applications have been submitted for the Lee County portion of the proposed development.

**Historical/Archeological Resources:**

A cultural resource assessment survey of the BRC project area was conducted by Archaeological Consultants, Inc. (ACI). The survey was conducted November through December of 2006 and January of 2007. Prior to the survey, a cultural resource predictive model was prepared for the project by ACI and was approved by the Florida Division of Historic Resources (FDHR).

The purpose of the cultural resource assessment survey was to locate and identify any cultural resources within the project area and to assess their significance in terms of eligibility for listing in the National Register of Historic Places (NRHP). This survey was conducted in accordance with Chapters 267 and 373, Florida Statutes, Florida's Coastal Management Program, and implementing state regulations regarding possible impact to historic properties listed or eligible for listing in the NRHP, or otherwise of historical, architectural, or archaeological value as per the FDHR. The survey was also conducted in accordance with Charlotte and Lee Counties' Land Development Codes and Management Plans. The following provides the findings of the cultural resource assessment.

**Archaeological:** Background research and a review of the Florida Master Site File (FMSF), and the NRHP, indicated that no archaeological sites have been recorded previously within the project area. As detailed in the FDHR approved predictive model, a review of relevant site location information for environmentally similar areas within Charlotte and Lee Counties and the surrounding region indicated a variable potential for prehistoric and/or historic archaeological sites. Visual reconnaissance, informant interviews, judgmental and systematic subsurface testing resulted in the discovery of one historic archaeological site (8CH678). This resource is not considered eligible for listing in the NRHP. No prehistoric archaeological sites were found.

**Historical:** Historical background research, including reviews of the FMSF, the NRHP, and archival resources including maps, manuscripts, and photographs indicated that although there were no historic structures recorded within or immediately proximate to the project area, there was a potential for historic resources such as cattle pens, windmills, and structures related to cattle and farming activities. As result of the fieldwork, visual reconnaissance, and informant interviews, no historic (50 years of age or older)

structures or potential resources were recorded.

Based on the results and in accordance with the FDHR-approved predictive model and the Land Development Codes and Management Plans for Charlotte and Lee Counties, it was the opinion of ACI that development of the Babcock Ranch Community will not affect any resources listed, determined eligible, or potentially eligible for listing in the NRHP and no further work was recommended. The Florida Division of Historical Resources reviewed the cultural resource assessment and verified that the project will not cause impacts to historical and/or archaeological resources in a letter dated April 9, 2007. This letter is included within the online permit file.

This permit does not release the permittee from compliance with any other agencies' requirements in the event that historical and/or archaeological resources are found on the site.

**DCA/CZM Consistency Review:**

The District has not received a finding of inconsistency from the Florida Department of Environmental Protection or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

**Third Party Interest:**

A number of property owners within the general area of BRC submitted correspondence expressing concerns related to the proposed project, including representatives of Lee County. Some, but not all, of these property owners are located within the Owl Creek, Trout Creek, and Telegraph Creek watersheds. The concerns are related to potential adverse flooding in the area due to the proposed project. Three primary concerns have been identified: (1) Potential higher levels of inundation and discharge to downstream property owners, (2) existing flooding in the Owl Creek watershed will be exacerbated by the addition of this project, (3) Potential for the proposed project to result in higher discharge rates to the surrounding properties.

The concerned entities have been included in distribution of correspondence from the District. In addition, the applicant and District staff have met with these entities throughout the review process, including a meeting on April 14, 2009. In addition, a subsequent meeting was held between District representatives, Lee County staff, and one of the concerned parties on July 15, 2009 to discuss their concerns.

All third parties will receive a copy of this staff report.

**Enforcement:**

There has been no enforcement activity associated with this application.

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**STAFF RECOMMENDATION TO EXECUTIVE DIRECTOR:**

The Staff recommends that the following be issued :

Construction and Operation Authorization for a surface water management system serving a 6,283.1 acre project, part of a 22,363.1 acre mixed use development known as Babcock Ranch Community, and Conceptual Authorization for the surface water management system serving the remaining 16,080.0 acres of the development with discharge to the Caloosahatchee via Owl Creek, Trout Creek, and Telegraph Creek via direct discharge, on-site wetlands, and on-site conveyance systems.

Based on the information provided, District rules have been adhered to.

Staff recommendation is for approval subject to the attached General and Special Conditions.

**STAFF REVIEW:**

**NATURAL RESOURCE MANAGEMENT APPROVAL**

**ENVIRONMENTAL EVALUATION**

**SUPERVISOR**

\_\_\_\_\_  
Laura Layman

\_\_\_\_\_  
Laura Layman

**SURFACE WATER MANAGEMENT APPROVAL**

**ENGINEERING EVALUATION**

**SUPERVISOR**

\_\_\_\_\_  
William Foley, P.E.

\_\_\_\_\_  
William Foley, P.E.

**ENVIRONMENTAL RESOURCE PERMITTING DIVISION DIRECTOR :**

\_\_\_\_\_  
Anita R. Bain

**DATE:** \_\_\_\_\_

**ENVIRONMENTAL RESOURCE REGULATION DEPUTY DEPARTMENT DIRECTOR :**

\_\_\_\_\_  
Anthony M. Waterhouse, P.E.

**DATE:** \_\_\_\_\_

**GENERAL CONDITIONS**

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. 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 permitted 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 Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Certification - For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity

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approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
11. This permit 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 permit. This permit does not convey to the permittee or create in the permittee 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 permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal,

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abandonment or use of any system authorized by the permit.

15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

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## SPECIAL CONDITIONS

1. The conceptual phase of this permit shall expire no later than 5 years after permit issuance.  
The construction phase of this permit shall expire no later than 5 years after permit issuance.
2. Operation of the surface water management system shall be the responsibility of BABCOCK RANCH COMMUNITY INDEPENDENT SPECIAL DISTRICT.

Operation of the surface water management system for the Utility Site shall be the responsibility of the MSKP Town and Country Utility, L.L.C

3. Discharge Facilities: See Exhibit 2.6
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
9. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. The permittee acknowledges, that pursuant to Rule 40E-4.101(2), F.A.C., a notice of Environmental Resource or Surface Water Management Permit may be recorded in the county public records. Pursuant to the specific language of the rule, this notice shall not be considered an encumbrance upon the property.
13. Land use within a portion of the permitted facilities is agricultural, as outlined on Exhibit 1.2. Any proposed change in land use may require modification of this permit and must be reported to the District for a determination of permit requirements.
14. Any proposed change in land use or crop type may require modification of this permit and must be reported to the District.

Any change to a more intensive agricultural operation from the current uses in the agricultural fields adjacent to Mitigation Area E (pasture, bahia, sod, row/vegetable crops) will require a permit modification to re-assess the potential for impacts on the adjacent mitigation areas within Mitigation

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Area E. Such a modification would include but not be limited to a conversion of the fields to citrus crops. Farm fields of concern include 14, 15, 16, 25, 39, 37, 40, 51, 42, 36, 53, 44, 76, 96, 43, 13W and 77.

15. Minimum building floor elevation: See Exhibit 2.4
16. Minimum road crown elevation: See Exhibit 2.4
17. If prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, the permitted project should cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The permittee, or other designee, should contact the Florida Department of State, Division of Historical Resources, Review and Compliance Section at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Project activities should not resume without verbal and/or written authorization from the Division of Historical Resources. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, Florida Statutes.
18. Grass seed or sod, shall be installed and maintained on all disturbed areas within 48 hours of completing final grade, and at other times, as necessary, to prevent erosion, sedimentation or turbid discharges into receiving waters and/or adjacent wetlands.
19. All contractors must be provided with a copy of the staff report and permit conditions prior to the commencement of construction. The permittee is responsible for ensuring that all contractors adhere to the project construction details and methods indicated on the attached permit Exhibits and described herein.
20. The permittee and all designated contractors shall adhere to all project and mitigation construction details and methodology indicated on the enclosed permit Exhibits and described herein.
21. Prior to the commencement of construction, the permittee shall conduct a pre-construction meeting with field representatives, contractors and District staff. The purpose of the meeting will be to discuss construction methods and sequencing, including the type and location of turbidity and erosion controls to be implemented during construction, mobilization and staging of contractor equipment, phasing of construction, methods of vegetation clearing, construction dewatering if required, wetland/buffer protection methods, endangered species protection, etc. with the permittee and contractors. The permittee shall contact District Environmental Resource Compliance staff from the Lower West Coast Service Center at (239) 338-2929 to schedule the pre-construction meeting.
22. The successful completion of the mitigation plan is heavily dependent on proper site grading as shown on Exhibit 4.5 Therefore, prior to demobilizing equipment from the site and prior to planting, the permittee shall provide an as-built survey in accordance with the work schedule identified as Exhibit 4.5 and schedule an inspection by District Environmental Resource Compliance staff to ensure that appropriate elevations and slopes have been achieved.
23. Spoil generated from the excavation authorized by this permit must be placed on an upland site and contained in such a manner as to prevent erosion into wetlands or other surface waters, unless specifically authorized by an ERP permit modification.
24. Prior to the commencement of construction, the perimeter of protected wetland/buffer zones and upland preservation areas shall be staked/roped/fenced to prevent encroachment into the protected areas. Using Global Positioning System (GPS) technology, the perimeter of the preserve area(s) shall be identified for future reference. The data shall be differentially corrected and accurate to less than a meter (+/- one meter or better). Electronic copies of the GPS data shall be provided to the District's Environmental Resource Compliance staff at the time of the pre-construction meeting. The

**SPECIAL CONDITIONS**

permittee shall notify the District's Environmental Resource Compliance staff in writing upon completion of the staking/roping/fencing and schedule an inspection of this work. The staking/roping/fencing shall be subject to District staff approval. The permittee shall modify the staking/roping/fencing if District staff determines that it is insufficient or is not in conformance with the intent of this permit. The staking/roping/fencing shall remain in place until all adjacent construction activities are complete.

25. Any temporary wetland impacts associated with construction activities shall be restored in accordance with the wetland mitigation plan and in coordination with District Environmental Resource Compliance staff.
26. Endangered species, threatened species and/or species of special concern have been observed onsite and/or the project contains suitable habitat for these species. It shall be the permittee's responsibility to coordinate with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Fish and Wildlife Service for appropriate guidance, recommendations and/or necessary permits to avoid impacts to listed species.

Specific RCW (red-cockaded woodpeckers) management areas will be identified prior to permit issuance in the applicable mitigation areas during subsequent construction modifications as part of the wetland mitigation plan.

The applicant shall implement the listed species management plans for this project as outlined on Exhibit 4.8 (incorporated by reference). Any changes to these plans approved by wildlife agencies will be incorporated into this permit.

27. The use of triploid grass carp (*Ctenopharygodon idella*) for aquatic weed control (e.g. hydrilla) is not currently approved by the Florida Fish and Wildlife Conservation Commission (FWC) or the District for this permit application. If grass carp are proposed for weed control in water bodies directly or indirectly connected to the mitigation areas or preserve areas, the permittee shall apply for a permit from the FWC. In addition, a permit modification to the District Environmental Resource Permit would be required to demonstrate reasonable assurances that no adverse environmental impacts would occur to the mitigation and preservation areas. If approved, the applicant would be required to install and permanently maintain permanent exclusion barriers to prevent grass carp from entering mitigation areas. If grass carp entered the mitigation areas, the permittee would be responsible for removal of all grass carp specimens and the restoration of any mitigation acreage impacted due to grass carp grazing.
28. All future surface water management areas located in the undeveloped areas of this site shall meet the District's lake-wetland separation criteria as outlined in Section 6.12 of the Basis of Review for Environmental Resource Permit applications. This is a particular concern in Basins G100 and G300 and B200, and this requirement will be verified as part of future construction authorizations.
29. Wetland preservation/mitigation areas, upland buffer zones and/or upland preservation areas shall be dedicated as conservation and common areas in the deed restrictions as well as on the plat if the project will be platted. Restrictions for use of the conservation/ common areas shall be consistent with the language approved for the project's conservation easements and shall stipulate:

The wetland preservation/mitigation areas, upland buffer zones, and/or upland preservation areas are hereby dedicated as conservation and common areas. The conservation/common areas shall be the perpetual responsibility of the Babcock Ranch Community Independent Special District and may in no way be altered from their natural or permitted state as documented in Application No. 070330-5, with the exception of permitted restoration activities. Activities prohibited within the conservation areas include, but are not limited to:

- (a) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other

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## SPECIAL CONDITIONS

structures on or above the ground;

(b) dumping or placing soil or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;

(c) removal or destruction of trees (except for selective tree removal as allowed in the BRC conservation easement), shrubs, or other vegetation - with the exception of exotic and nuisance vegetation removal;

(d) excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substances in such manner as to affect the surface;

(e) surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;

(f) activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation, including but not limited to ditching, diking and fencing;

(g) acts or uses detrimental to such retention of land or water areas; and

(h) acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

Copies of recorded documents shall be submitted to the District's Environmental Resource Compliance staff concurrently with engineering certification of construction completion.

30. All onsite mitigation areas identified in this conceptual permit shall be subject to conservation easements in favor of the District. All such conservation easements shall use the form attached as Exhibit 4.11. These conservation easements shall be recorded within 30 days after issuance of the construction permit requiring the mitigation. No construction shall take place until the conservation easements are signed and recorded.

The mitigation areas approved in this conceptual permit will not receive mitigation credit under future construction permits for this project if the property identified has been:

1. Altered from its present land use in a manner that will adversely affect the mitigation as approved in this conceptual permit.
2. Altered from its present size or configuration in a manner that would adversely affect the mitigation as approved in this conceptual permit.
3. Altered from its present legal ownership in a manner that would adversely affect the mitigation as approved in this conceptual permit.

For future construction modifications, prior to the commencement of construction and in accordance with a permitted work schedule, the permittee shall submit the following information regarding the conservation easements in an electronic or hard copy version for review and approval. Electronic versions shall be submitted via the District's ePermitting/eCompliance website and hard copy versions shall reside on CD disk and be submitted to the District's Environmental Resource Compliance Division in the service area office where the application was submitted.

1. Project map identifying conservation area(s)
2. Legal description of conservation area(s)
3. Signed conservation easement
4. Sealed boundary survey of conservation area(s) by professional Land surveyor (both hard copy original and electronic)
5. Title insurance commitment for conservation easement naming District as beneficiary using approved valuation.

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6. Formatting in accordance with paragraph F (below) if available.

The above information shall be submitted to the Environmental Resource Compliance staff in the District service center where the application was submitted or via the District's ePermitting website.

B) The real estate information referenced in paragraph (a) above shall be reviewed by the District in accordance with the District's real estate review requirements. The easement shall not be recorded until such approval is received.

C) The permittee shall record a conservation easement(s) over the real property designated as a conservation / preservation / mitigation area(s). The easement shall be granted free of encumbrances or interests which the District determines are contrary to the intent of the easement. The conservation easement shall be granted to the District utilizing the form attached as Exhibit 4.11. Any proposed modifications to the approved form must receive prior written consent from the district.

D) The permittee shall record the conservation easement in the public records within 14 days of receiving the District's approval of the real estate information. Upon recordation, the permittee shall submit two certified copies of the recorded conservation easement for the mitigation area and associated buffers and title insurance policy, to the Environmental Resource Compliance staff in the District service center where the application was submitted.

E) In the event the conservation easement real estate information reveals encumbrances or interests in the easement which the District determines are contrary to the intent of the easement, the permittee shall be required to provide release or subordination of such encumbrances or interests. If such are not obtained, permittee shall be required to apply for a modification to the permit for alternative acceptable mitigation.

F) The permittee shall submit an electronic or hard copy version of the recorded conservation easement for the mitigation area(s) and associated buffer(s). Electronic versions shall be submitted via the District's ePermitting/eCompliance website and hard copy versions shall reside on CD disk and be submitted to the District's Environmental Resource Compliance Division in the service area office where the application was submitted. The data should also be supplied in a digital CAD (.dxf) or GIS (ESRI Coverage) format. The files should be in the Florida State Plane coordinate system, East Zone (3601) with a data datum of NAD83, HARN with the map units in feet.

31. Prior to commencement of construction of Phase I and in accordance with the work schedule in Exhibit 4.0A the permittee shall submit an electronic or hard copy version of the certified copy of the recorded conservation easement for the mitigation area(s) and associated buffer(s). The electronic version of the recorded conservation easement, and associated GIS information described below, shall be submitted via the District's ePermitting/eCompliance website. The GIS data shall be supplied in a digital ESRI Geodatabase (mdb), ESRI Shapefile (shp) or AutoCAD Drawing Interchange (dxf) file format using Florida State Plane coordinate system, East Zone (3601), Datum NAD83, HARN with the map units in feet. A map depicting the Conservation Easement over the best available satellite or aerial imagery shall also be provided. If the information is provided via hard copy the GIS data shall reside on CD disk and be submitted to the District's Environmental Resource Compliance Division in the service area office where the application was submitted.

The recorded easement shall utilize the form attached as Exhibit 4.11. Any proposed modification to the approved form must receive prior written consent from the District. The easement must be free of encumbrances or interests in the easement which the District determines are contrary to the intent of the easement. In the event it is later determined that there are encumbrances or interests in the easement which the District determines are contrary to the intent of the easement, the permittee shall be required to provide release or subordination of such encumbrances or interests.

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32. Mitigation activities on State Lands (Mitigation Areas B, C, and D) cannot commence until appropriate Consent of Use authorizations have been granted by the Florida Department of Environmental Protection, Division of State Lands.
33. The final control elevation of all of the wetland creation areas and particularly Wetland Creation Area 2 (treatment marsh A4), will be verified and finalized during a future construction modification application. Data used to support the final established control elevation will include nearby well data, topography, biological indicators and soils information.

Grading plans for the wetland creation areas will also be re-assessed during future construction modifications, as necessary.

34. The following exhibits for the permit are incorporated by reference herein and are located in the permit file. In addition, these exhibits can be viewed on the District's ePermitting website under this application number.

Exhibit No. 2.0 (pages 2 - 12) - Land Use Summary  
 Exhibit No. 2.1 (pages 1-4) - Allowable Discharge Rates  
 Exhibit No. 2.2 (pages 1-20) - Predevelopment Versus Postdevelopment - 5 Year - 1 Day and 25 Year-3 Day Inundation Maps  
 Exhibit No. 2.3 (page 1) - Proposed Discharge Rate at Property Boundary  
 Exhibit No. 2.4 (pages 1-12) - Design Summary  
 Exhibit No. 2.5 (pages 1-16) - Allowable Discharge Summary from Controlled Basin Area  
 Exhibit No. 2.7 (pages 1-10) - Predevelopment Versus Postdevelopment - Floodplain Maps  
 Exhibit No. 2.8 (pages 1-4) - Allowable Discharge Rates  
 Exhibit No. 2.9 (pages 1-12) - Construction Stormwater Pollution Prevention Plan  
 Exhibit No. 2.10 (pages 1-19) - Urban Stormwater Management Plan  
 Exhibit No. 2.11 (pages 1-6) - Deep Lake Management Plan

Exhibit No. 3.0 (pages 5-11) - Conceptual Plans (Overall Development)  
 Exhibit No. 3.1 (pages 1-18) - Conceptual Plans (Tract A)  
 Exhibit No. 3.2 (pages 1-9) - Conceptual Plans (Tract B)  
 Exhibit No. 3.3 (pages 1-11) - Conceptual Plans (Tract C)  
 Exhibit No. 3.4 (pages 1-13) - Conceptual Plans (Tract D)  
 Exhibit No. 3.5 (pages 1-10) - Conceptual Plans (Tract E)  
 Exhibit No. 3.6 (pages 1-9) - Conceptual Plans (Tract F)  
 Exhibit No. 3.7 (pages 1-10) - Conceptual Plans (Tract G)  
 Exhibit No. 3.8 (pages 1-12) - Conceptual Plans (Tract H)  
 Exhibit No. 3.9 (pages 1-9) - Conceptual Plans (Tract I)  
 Exhibit No. 3.10 (pages 1-5) - Conceptual Plans (Tract J)  
 Exhibit No. 3.11 (pages 6-23) - Construction Plans - Phase 1A  
 Exhibit No. 3.12 (pages 5-11) - Construction Plans - Babcock Ranch Community Utility Site  
 Exhibit No. 3.13 (pages 2-5) - Construction Plans - Utility Site (Water Mains)

Exhibit No. 4.0B (pages 1-9)- Project Wetland and Other Surface Water Summary  
 Exhibit No. 4.1 (pages 15-84)- Wetland Mitigation Plan  
 Exhibit No. 4.4 (pages 1-48)- UMAM analysis  
 Exhibit No. 4.7 (pages 1-24)- External Road Analysis Maps  
 Exhibit No. 4.8 (pages 1-18)- Listed Species Management Plans  
 Exhibit No. 4.12 (pages 1-14)- 302-Acre Recorded Conservation Easement Within Mitigation Area E  
 Exhibit No. 7.0 (pages 1-10) Wetland Specific Purpose Survey

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35. All commercial/industrial parcels shall provide a minimum dry pre-treatment volume of 1/2 inch of runoff prior to discharge into the master surface water management system based on a total impervious coverage (building + other impervious area) of 75%.
36. Prior to any future construction, the permittee shall apply for and receive a permit modification. As part of the permit application, the applicant for that phase shall provide documentation verifying that the proposed construction is consistent with the design of the master surface water management system, including the land use and site grading assumptions.
37. The first phase of construction and all future phases shall consist of the portion of the master system required to support that phase of development. This includes the proposed flood attenuation areas, perimeter berm and stormwater ponds, including all necessary structures to provide water quality treatment, stormwater attenuation, and floodplain compensating storage for that phase of development.
38. The permittee shall utilize the criteria contained in the Construction Pollution Prevention Plan (Exhibit No. 2.9) and on the applicable approved construction drawings for the duration of the project's construction activities.
39. The Urban Stormwater Management Plan shall be implemented in accordance with Exhibit No. 2.10 and the Deep Lake Management Plan shall be implemented in accordance with Exhibit 2.11.
40. Agriculture operations previously authorized by the District is authorized to continue until a request for Construction and Operation authorization for site development has been received and approved by the District for that site.
41. Full water quality treatment shall be required prior to discharge into the proposed recreational use Lakes A300-01 and A300-02 if these lakes will be used for recreational use at the time of Construction and Operation Authorization.
42. Construction of Tract I shall occur either concurrent with or following construction of Storage Basin 2 (part of Tract H)
43. Concurrent with receiving District approval for construction and operation for Tract A - Basin A300, the mining lakes currently included in FDEP Permit authorization for Earthsource Mine (FDEP Permit No. 0184047-003) must be reclaimed per the requirements of that permit.
44. The exhibits and special conditions in this permit apply only to this application. They do not supersede or delete any requirements for other applications covered in Permit No. 08-00004-S unless otherwise specified herein.
45. The applicant shall conduct all activities required as part of the Biological Opinion issued for this project and shall coordinate with Florida Fish and Wildlife Conservation Commission (FWC) to assess the issues in Exhibit 4.10 as they apply to future construction phases and to prevent impacts to listed species.
46. An average 25' wide, minimum 15', buffer of undisturbed upland vegetation shall be maintained between the proposed development and existing wetlands. Buffers shall be staked and roped and District environmental staff notified for inspection prior to clearing. Areas where structural buffers will be installed shall be planted in accordance with the attached mitigation plan and engineering plans.
47. At the time of application for any phase of construction that includes wetland impacts, the permittee shall demonstrate that an adequate portion of the mitigation plan has been or shall be executed and completed in a timely manner (i.e., concurrent with the wetland impacts) and that the specified mitigation will adequately offset the wetland impacts associated with that phase.

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48. A mitigation program for the Babcock Ranch Community (BRC) shall consist of 361.28 acres of wetland creation (comprising 265.70 acres of wetland creation while remaining 95.58 acres are transitional pine flatwoods areas and berm areas), 2,377.32 acres of wetland preservation and enhancement and 4,125.96 acres of upland preservation and enhancement within Mitigation Areas A and E-K.

In addition, 5840.1 acres of mitigation shall occur in Mitigation Areas B, C and D on state-owned lands. This involves 2704.44 acres of wetland preservation and enhancement and 3,135.66 acres of upland preservation and enhancement.

49. The District reserves the right to require remedial measures to be taken by the permittee if monitoring or other information demonstrates that adverse impacts to onsite or offsite wetlands, upland conservation areas or buffers, or other surface waters have occurred due to project related activities.
50. If monitoring reports or other information show the preserved wetlands have been negatively affected by the permitted development in a manner that is irreversible (such as impounding the wetland and drowning the existing vegetation or a reduction in the hydroperiod resulting in the transition of wetlands into upland/transitional habitat), the permittee shall be required to submit a remediation plan within 30 days of notification by the District's Environmental Resource Compliance staff of such conditions. The remediation plan may include onsite or offsite mitigation as necessary to address any deficiencies.
51. Each application for construction of future phases of the permit shall be accompanied by an updated summary and map which shows the location and acreage of the wetland(s) impacted to date, and the existing mitigation areas for the entire project. The mitigation credit ledgers and UMAM analysis will also be updated and submitted for each construction modification.
52. A monitoring program shall be implemented in accordance with Exhibit No. 4.1 and 4.1A. The monitoring program shall extend for a period of 5 years with annual reports submitted to District staff. At the end of the first monitoring period the mitigation area shall contain an 80% survival of planted vegetation. The 80% survival rate shall be maintained throughout the remainder of the monitoring program, with replanting as necessary. If native wetland, transitional, and upland species do not achieve an 80% coverage within the initial two years of the monitoring program, native species shall be planted in accordance with the mitigation program. At the end of the 5 year monitoring program the entire mitigation area shall contain an 80% survival of planted vegetation and an 80% coverage of desirable obligate and facultative wetland species.
53. A maintenance program shall be implemented in accordance with Exhibit No. 4.1 for all mitigation and preservation areas on a regular basis to ensure the integrity and viability of those areas as permitted. Maintenance shall be conducted in perpetuity to ensure that the conservation areas are maintained free from Category 1 exotic vegetation (as defined by the Florida Exotic Pest Plant Council at the time of permit issuance) immediately following a maintenance activity. Maintenance in perpetuity shall also insure that conservation areas, including buffers, maintain the species and coverage of native, desirable vegetation specified in the permit. Coverage of exotic and nuisance plant species shall not exceed 5% of total cover between maintenance activities. In addition, the permittee shall manage the conservation areas such that exotic/nuisance plant species do not dominate any one section of those areas.

Torpedo grass has an allowable maximum coverage of 10% in any mitigation area.

54. Permanent physical markers designating the preserve status of the wetland preservation areas and buffer zones shall be placed as depicted on the engineering plans, included in Exhibit 3.0. These markers shall be maintained in perpetuity by the operating entity.
55. Activities associated with the implementation of the mitigation, monitoring and maintenance plan(s) shall be completed in accordance with the work schedule attached as Exhibit No. 4.1A. Any deviation

**SPECIAL CONDITIONS**

from these time frames will require prior approval from the District's Environmental Resource Compliance staff. Such requests must be made in writing and shall include (1) reason for the change, (2) proposed start/finish and/or completion dates; and (3) progress report on the status of the project development or mitigation effort.

A work schedule modification will be required to be submitted if mitigation activities commence on Mitigation Areas B, C, and D.

56. The delineation of the extent of wetlands and/or other surface waters located within the limits of the project area shall be considered binding as reflected on the Specific Purpose Survey (Exhibit 7.0 Incorporated by Reference). The extent of wetlands/uplands located outside the limits of the development has not been verified and shall not be considered binding.

# Preliminary Draft

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**Application No:** 070330-5

**Permit No:** 08-00004-S-05

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### GOVERNMENT AGENCIES

- X Lee County - Development Services Director

### OTHER INTERESTED PARTIES

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- X Audubon of Florida - Charles Lee
- X Audubon of Florida - Charles Lee
- X Carl Veaux
- X Charlotte County Growth Management Department
- X Conservancy of Southwest Florida Steven Brown,AICP
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- X FL Dept. of Env Protection- Div of State Lands - Bill Howell
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