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March 15, 2012

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RIGHT OF WAY OCCUPANCY NEW PERMITS

1. STEWART COHEN
COUNTY: PALM BEACH
- Permit Number 13979
Appl. No. 12-0221-2
Easement
- AUTHORIZING:
EXISTING TREES AND POOL HEATER, PROPOSED FENCE ENCLOSURE ENCROACHING 15' (50' FROM TOP OF BANK) WITH LANDSCAPING INSIDE THE FENCED ENCLOSURE WITHIN THE NORTH RIGHT OF WAY OF THE HILLSBORO CANAL AT THE REAR OF 23468 MIRABELLA CIRCLE SOUTH (LOT 9, VALENCIA).
- LAST DATE FOR GOVERNING BOARD ACTION: **April, 2012**
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2. COLLIER COUNTY BOARD OF COMMISSIONERS
COUNTY: COLLIER
- Permit Number 13966
Appl. No. 11-1214-2
Agreement
- AUTHORIZING:
EXISTING SOUTHWEST 25TH AVENUE BRIDGE CROSSING THE C.R. 951 CANAL.
- LAST DATE FOR GOVERNING BOARD ACTION: **April, 2012**
-

3. COLLIER COUNTY BOARD OF COMMISSIONERS
COUNTY: COLLIER
- Permit Number 13967
Appl. No. 11-1214-1
Agreement
- AUTHORIZING:
EXISTING SOUTHWEST 17TH AVENUE DOUBLE BOX CULVERT BRIDGE CROSSING THE C.R. 951 CANAL.
- LAST DATE FOR GOVERNING BOARD ACTION: **April, 2012**
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4. DANIEL KOCH
COUNTY: BROWARD
- Permit No. 13974
Appl. No. 12-0109-1
Easement
- AUTHORIZING:
REPAIR OF EXISTING SEAWALL, REPLACEMENT OF EXISTING DOCK AND MOORING PILES AND INSTALLATION OF ADDITIONAL MOORING PILES WITHIN THE SOUTH RIGHT OF WAY OF THE HILLSBORO CANAL AT THE REAR OF 67 N.E. 11TH WAY (LOT 14, BLOCK 7, LITTLE HARBOR ON THE HILLSBORO).
- LAST DATE FOR GOVERNING BOARD ACTION: **June, 2012**
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RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS

1. AMY SINNOTT
COUNTY: PALM BEACH

Permit Number 11459
Appl. No. 12-0127-1M
Easement

AUTHORIZING:
EXISTING FENCE ENCLOSURE ENCROACHING 36' (44' FROM THE TOP OF BANK) WITH AN EXISTING ARBOR AND GARDEN WITHIN THE EXISTING FENCING; ALSO, AN EXISTING BOAT LIFT ADDED TO THE EXISTING, PREVIOUSLY-AUTHORIZED MULTI-LEVEL DOCK WITHIN THE WEST RIGHT OF WAY OF C-51 ADJACENT TO 1114 CARAMBOLA CIRCLE (LAKE CLARKE MANOR).

LAST DATE FOR GOVERNING BOARD ACTION: **April, 2012**

2. R. L. BUSBY
COUNTY: PALM BEACH

Permit Number 3791
Appl. No. 11-09-2M
Easement

AUTHORIZING:
DOCK WITH 2 LIFTS, WATER AND ELECTRICAL SERVICE, LIGHTS, AIR SUPPLY, SURVEILLANCE CAMERAS, BANK STABILIZATION AND DREDGING WITHIN THE NORTH RIGHT OF WAY OF C-17 AT THE REAR OF 708 IBIS WAY (LOT 13, BLOCK 26, VILLAGE OF NORTH PALM BEACH, PLAT NO. 2).

LAST DATE FOR GOVERNING BOARD ACTION: **April, 2012**

3. FLORIDA GAS TRANSMISSION COMPANY, LLC
COUNTY: MIAMI-DADE

Permit Number 13736
Appl. No. 12-0119-2
Fee and Easement

AUTHORIZING:
EXISTING BURIED TIE-IN VALVE (IN LIEU OF PREVIOUSLY-AUTHORIZED UNDERGROUND INSTALLATION) WITH EXISTING CONCRETE SLAB AND FENCE ENCLOSURE, CONNECTING TO EXISTING 24" BURIED GAS MAIN LOCATED 165' SOUTH OF THE CENTERLINE OF OLD CUTLER ROAD BRIDGE ENCROACHING APPROXIMATELY 5' WITHIN THE WEST RIGHT OF WAY OF C-1.

LAST DATE FOR GOVERNING BOARD ACTION: **April, 2012**

4. BROWARD COUNTY
COUNTY: BROWARD

Permit No. 13397
Appl. No. 11-0317-1
Easement

AUTHORIZING:
ADDITION OF LANDSCAPING AND HARDSCAPE AMENITIES TO PREVIOUSLY-AUTHORIZED GREENWAY WITHIN THE NORTH RIGHT OF WAY OF THE NORTH NEW RIVER CANAL FROM N.W. 136TH AVENUE TO UNIVERSITY DRIVE.

LAST DATE FOR GOVERNING BOARD ACTION: **April, 2012**

RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA

1. Consideration of a request by **Florida Department of Transportation** (Application 11-1102-2, Permit Number 13969), for issuance of a Right of Way Occupancy Permit and Waiver of the District's criteria for the proposed placement of guardrail within the south right of way of C-100 at the southeast quadrant of the Dixie Highway (S.R. 5/U.S. Number 1) bridge. Location: Miami-Dade County, Section 28, Township 55 South, Range 40 East.

The applicant's request for waiver of the District's criteria, which governs the placement of permanent and/or semi-permanent above-ground encroachments within 40 feet of the top of the canal bank and within the District's designated 100 foot long equipment staging areas located at all bridge and pile-supported utility crossings within Works and Lands of the District is based on "substantial hardship." The applicant asserts that site physical limitation (i.e., lack of sufficient space) between the existing Highway and the District's canal right of way as well as the need to comply with the Florida Department of Transportation's Roadway Safety criteria leave no other alternate location to place the guardrail structure. Further, the applicant gives emphasis to the fact that strict application of the District's Rules would create a "substantial hardship" to creating the need to realign the existing roadway to accommodate additional space for the guardrail making the project economically unfeasible.

The District's Operations, Maintenance and Construction staff has determined that the proposed guardrail section will not interfere with the District's ability to perform necessary construction, alteration, operation and maintenance activities, so the purpose of the underlying statute will be achieved.

Therefore, staff recommends **approval** of the issuance of Right of Way Occupancy Permit Number 13969 and **approval** of the petition of waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground encroachments within 40 feet of the top of the canal bank and within the District's designated 100 foot long equipment staging areas located at all bridge and pile-support utility crossings within the Works or Lands of the District.
(Prescriptive Rights)

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2. Consideration of a request by **Florida Department of Transportation** (Application 11-1209-1, Permit Number 13975), for issuance of a Right of Way Occupancy Permit and Waiver of the District's Criteria to allow an existing light pole with buried electrical service and a concrete base located within the south right of way of C-103N at the southeast quadrant of the Dixie Highway (S.R. 5/U.S. Number 1) bridge to remain. Location: Miami-Dade County, Section 33, Township 56 South, Range 39 East.

The applicant's request for waiver of the District's criteria, which governs the placement of permanent and/or semi-permanent above-ground encroachments within the District's designated 100 foot long equipment staging areas located at all bridge and pile-supported utility crossings within Works and Lands of the District is based on "substantial hardship."

RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA

The applicant asserts that the placement of the existing light pole with concrete base was necessary to avoid conflicts with existing utilities and to comply with the Florida Department of Transportation's lighting safety criteria.

In addition, the applicant asserts that the waiver is necessary because strict application of the District's Rules would create a "substantial hardship," because relocating the existing underground utilities to accommodate the light pole with buried electrical service and concrete base is economically unfeasible.

The District's Operations, Maintenance and Construction staff has determined that the existing light pole with buried electrical service and concrete base does not interfere with the District's ability to perform necessary construction, alteration, operation and maintenance activities, so the purpose of the underlying statute will be achieved.

The applicant's Petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to Section 120.542(6), F.S. notice of the Petition was provided to the Department of State and was published in *Volume 37, Number 51* of the *Florida Administrative Weekly* on December 23, 2011. No public comments were received.

Therefore, staff recommends **approval** of the issuance of Right of Way Occupancy Permit Number 13975 and **approval** of the petition of waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground encroachments within the District's designated 100 foot long equipment staging area located at all bridge and pile-supported utility crossings within Works or Lands of the District.

(Prescriptive Rights)

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3. Consideration of a request by **Broward County Highway and Bridge Maintenance Division**, Application Number 12-0130-1, Permit (MOD) Number 6598 for issuance of a modification to Right of Way Occupancy Permit Number 6598 and Waiver of the District's Criteria to allow for the placement of a concrete barrier wall with guardrailing at the northwest and southeast quadrants of the existing Pine Island Road bridge crossing C-13. Location: Broward County, Sections 28 & 29, Township 49 South, Range 41 East.

The applicant's request for waiver of the District's criteria which governs the placement of above ground permanent and/or semi permanent facilities within 40 feet of the top of the canal bank is based on "principles of fairness". The applicant asserts that in order to be in accordance with the FDOT design standards for guardrail it is necessary to place safety protection features, such as guardrailing at certain bridge quadrants where approach spans do not restrict on-coming traffic from possibly entering into the canal channel.

RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA

The applicant has coordinated the installation and design with the District's Operations, Maintenance and Construction staff so that the proposed guardrailing will not interfere with the District's ability to perform necessary construction, alteration, operation and maintenance activities, so the purpose of the underlying statute will be achieved.

The applicant's petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to Section 120.542(6), F.S., notice of the Petition was provided to the Department of State was published in *Volume 38, Number 8*, of the *Florida Administrative Weekly* on February 24, 2012. No public comments were received.

Therefore, staff recommends **approval** of the issuance of a Modification to Right of Way Occupancy Permit Number 6598 and **approval** of the petition for Waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground facilities within 40 feet of the top of the canal bank with Works and Lands of the District.

(Fee)

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4. Consideration of a request by **Timothy James** (Application 06-0412-1, Permit Number 13973), for issuance of a Right of Way Occupancy Permit to allow 3 existing Royal Palm Trees, a concrete seawall and a fence enclosure to remain and Waiver of the District's Criteria to allow 2 existing boat docks, a boat house with screening and water and electrical service and a boardwalk to remain within the northwest right of way of the L-50 Borrow Canal at the rear of 721 Loop Road. Location: Glades County, Section 13, Township 40 South, Range 32 East.

The applicant's request for waiver of the District's criteria, which governs the placement of permanent and/or semi-permanent above-ground facilities within 40' of the top of the canal bank and the District's criteria which governs the minimum required low member elevation of pile-supported docking facilities within Works and Lands of the District is based on "substantial hardship." The applicant asserts that the existing encroachments he is requesting to remain have been in place in excess of five (5) years; the applicant has already spent a substantial amount of money removing existing, unpermissible encroachments such as at least 6 Royal Palm Trees and railroad ties from the top of bank throughout this property as well as fencing at the northeasterly property line from the top of bank, he has also removed a airboat ramp, a concrete slab with covered carport, a large shed and has stopped the parking of motor vehicles within the District's right of way.

The District's Operations, Maintenance and Construction staff has determined that as the District does not have vehicular access throughout this area due to existing boat basins connecting to L-50; and the fact that the L-50 Borrow Canal channel dead-ends approximately 1065' east of the Applicant's east property line, that the existing encroachments do not interfere with the District's ability to perform necessary construction, alteration, operation and maintenance activities, so the purpose of the underlying statute will be achieved.

RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA

The low member elevations of the existing "L"-Shaped dock and finger pier are required to be set at elevation 16.0' NGVD/MSL to meet the District's criteria; the existing facilities have a low member elevation of 15.2' and 15.1' NGVD/MSL, respectively. The Applicant will raise the low member elevation of the docking facilities at such time of replacement of the facilities. The existing boat house and boardwalk are located within a boat basin within the District's right of way and as such do not interfere with the operation of the canal.

The applicant's Petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to Section 120.542(6), F.S. notice of the Petition was provided to the Department of State and was published in *Volume 37, Number 46* of the *Florida Administrative Weekly* on November 18, 2011. No public comments were received.

Therefore, staff recommends **approval** of the issuance of Right of Way Occupancy Permit Number 13973 and **approval** of the petition of waiver of the District's criteria which governs the required minimum low member elevation of pile-supported docking facilities and governs the placement of permanent and/or semi-permanent above-ground structures within 40' feet of the top of the canal bank within Works or Lands of the District.

(Prescriptive Rights)