

DEPARTMENT OF THE ARMY PERMIT

Permittee: Cemex Materials of Florida - FEC Quarry
c/o Matt Mouncey
1501 Belvedere Rd.
West Palm Beach, FL 33406

Permit No: SAJ-2000-2373(IP-LAO)

Issuing Office: U.S. Army Engineer District, Jacksonville

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The permit authorizes the after-the-fact authorization of discharges of dredged or fill material into 799 acres of wetlands that took place between February 2002 and January 2009 and the discharge of dredged or fill material into 1,346 acres of wetlands that will take place between the issuance date of the permit and the close of the permit's construction window. The 1,346 acres of freshwater wetlands into which dredged or fill material is proposed to be discharged has been divided into two geographic areas: Section I (670 acres) and Section II (676 acres). Mining within Section II is approved conditionally such that this mining will occur only after the following requirements are met:

1.1.1. Completion of an effective seepage mitigation/management project (SM/MP);

1.1.2. Completion of successful Five-Year Interagency Review reflecting that the SM/MP is proceeding as required in permit conditions, that the water quality monitoring program is in full compliance without actionable water quality violations by the State or Local agencies, and that the Lake Belt Mitigation Program is current and proceeding according to permit requirements;

1.1.3. Completion of an updated Biological Opinion that provides renewed support that mining and its associated discharges of dredged or fill material in Section II will not jeopardize the wood stork or other listed species;

1.1.4. Submittal of an updated mitigation plan that takes into account any changed circumstances and identifies sufficient mitigation credits to fully offset all impacts under Section II;

1.1.5. Cemex shall record in public records all required conservation easements over its land parcels within the Pennsuco wetlands (1,708 acres) and the 1,500-foot Exclusion Area (250 acres), and for the areas where mining is completed within the Land Preservation Areas (post mining quarries) or enter into a legally binding agreement with a state or county governmental entity for the transfer of fee simple title for the land;

1.1.6. The Corps has confirmed in writing that Cemex has met these conditions, that the Lake Belt region-wide conditions for seepage and mitigation have been met, and that the record has been supplemented to reflect the Corps analysis documenting these determinations.

1.1.7. The permittee can document that it has reached full mining capacity within their Section I parcels to the Corps' satisfaction.

Acreage of discharge of dredged or fill material					
Sections	2002-2009 After the fact	Section I Proposed	Section II Proposed	Total 2010-2030 Impacts	Total Authorized Impacts
26	151	13	0	13	164
21, 28	0	0	676	676	676
10, 14, 15, 22, 23	648	657	0	657	1,305
Totals	799	670	676	1,346	2,145

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The work described above is to be completed in accordance with the 14 pages of drawings [and 9 attachments] affixed at the end of this permit instrument.

Project Location: The FEC Quarry is located between Okeechobee Road to the northeast, NW 130th Street to the south, and Florida's Turnpike to the east (Sections 10, 14, 15, 21-23, 26, and 28, Township 52 South, Range 39 East), within the Lake Belt Region in Miami-Dade County, Florida. The site is bordered by the Tarmac Quarry to the south, the Miami Canal to the north, Pennsuco Wetlands to the west, and Cemex FEC's existing mining lakes or staging areas to the east. Overall the site is located within the Lake Belt Area separating Miami-Dade County's urban development area to the east and the Pennsuco Wetlands and Water Conservation Area 3B to the west. The site lies to the north of the North West Wellfield (NWWF).

Directions to site: Exit Florida's Turnpike Homestead Extension N at Exit 35 for US-27/Okeechobee Rd and go west. The mining area is to the south of US-27/Okeechobee Rd, begin approximately 2.5 miles west of Florida's Turnpike.

Latitude & Longitude: Latitude: 25.906° North
Longitude: 80.440° West

Permit Conditions

General Conditions:

1. The time limit for completing the work authorized ends on **January 29, 2030**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to

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maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

4. If you sell the property associated with this permit, you must obtain the signature and the mailing address of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.

6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

1. **Reporting Address:** The permittee shall submit all reports, documentation and correspondence required by the conditions of this permit to the following addresses:

U.S. Army Corps of Engineers
Regulatory Division, Enforcement Section
Jacksonville District
Post Office Box 4970
Jacksonville, Florida 32232-0019

Palm Beach Gardens Regulatory Section
4400 PGA Boulevard, Suite 500

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Palm Beach Gardens, FL 33470

The Permittee shall reference this permit number, SAJ-2000-02373, on all submittals.

2. Preconstruction Meeting: The Permittee shall hold a pre-construction meeting a minimum of five days prior to commencement of construction to review and discuss the conditions of the permit. The Permittee shall provide a minimum 48 hours advance notification of the preconstruction meeting to the Corps; U.S. Environmental Protection Agency, attention: Eric Hughes; and U.S. Fish and Wildlife (USFWS), attention Allen Webb.

3. Commencement Notification: Within 10 days from the date of initiating the authorized work, the Permittee shall provide to the Corps a written notification of the date of commencement of work authorized by this permit.

4. Narrative and Monitoring Reports. The permittee, the Corps, the FDEP, DERM, SFWMD, and the Lake Belt Mitigation Committee (Committee), have a coordinated approach to reporting for this project. The permittee shall annually present a single report in a format acceptable to the agencies. The report shall include such all information required by the agencies on an annual basis. The reporting procedures and report contents shall include:

a. The annual report shall be submitted by January 15 of each year, unless another date has been approved by the Corps. The permittee shall continue to submit reports until all work required by this permit has been completed.

b. Miami-Dade County obtains aerial photographs of the project area each year during the winter months. The permittee may use these aerial photographs in preparation of the report. The reporting period shall be the period between the dates of each year's aerial photograph of the project area. If the County aerial photographs are not used, an annual reporting period shall be used.

c. The Corps, EPA, the FDEP, DERM, the Committee, and SFWMD shall each be provided with a copy of the report by the

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permittee. Reports to an agency party may cease if directed by that agency.

1) The report to the FDEP shall be provided to: Bureau of Mining and Minerals Regulation, 2051 East Paul Dirac Drive, Tallahassee, Florida 32310.

2) The report to the EPA shall be provided to: EPA, 400 N. Congress, West Palm Beach, FL 33401.

3) The report to the ACOE shall be provided to the addresses listed in Special Condition #1.

4) The report to DERM shall be provided to: Wetlands and Forest Resources Section, Department of Environmental Resources Management, 33 Southwest 2nd Avenue, Miami, Florida 33130.

5) The report to SFWMD shall be provided to: Planning Department, Post Office Box 24680, West Palm Beach, Florida 33416-4680.

d. The permittee shall use ground surveys, aerial photographs, or other methods acceptable to this office to identify the location and extent of the various areas within the project. If aerial photographs are used, the aerial analysis shall be supplemented where necessary with a field reconnaissance, to be conducted by personnel qualified to relate the mapped cover types to conditions on the ground. If the observed cover types are not consistent with determinations based on the aerial photographs, a ground survey of cover types can be conducted using hand-held Global Positioning System (GPS) units to accurately document cover-type areas. For areas that are difficult to access on foot, a combination of ground-truthing from accessible points and interpolation from the aerial photographs may be used.

e. The cover page shall indicate the permit number for each permit issued by the permitting agencies, the permittee name, and the mine name. Include, just below the title, the certification of the following statement by the individual who supervised preparation of the report: "This report represents a

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true and accurate description of the activities conducted during the period covered by this report."

f. The report shall include a construction status report utilizing an Annual Status Report Form No. 62-343.900(4), F.A.C. The form shall include the start and end dates of the reporting period. The form shall clearly include the start and end dates of reported impacts. The form shall list each permit activity in progress or completed, which is required by each permit issued by the three permitting agencies.

g. The report shall include a copy of the permit drawings, and the most recent aerials showing where work occurred. The intent of the report drawings is to show the condition of the mine on the last day of the reporting period and to identify changes that occurred during the reporting period.

h. The report shall include the following items:

1) Identify the following: a) wetland areas filled during the reporting period, b) wetland areas cleared or demucked (areas of vegetation clearing where stumps and root masses are uprooted from the soil or muck during the reporting period), and c) the acreage of these two areas. The report shall identify the time period during which the wetlands were impacted. Since the wetlands impacted between April 2002 and January 2009 have already been identified (2,707 acres), the report shall refer to impacts which occur after the January 2009 date which have already been documented.

2) Include a copy of the permit drawings or aerials showing where work is anticipated to occur during the next 12 months.

3) Documentation that verifies pre-impact habitats types for wetland areas disturbed as a result of mining-related activities conducted during the reporting period and provide the acreage of these areas. (Special Condition #5)

4) Show the extent of each mine pit. Show the extraction areas completed during the reporting period, and provide the acreage of these areas.

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5) Identify areas where reclamation contouring is in progress or complete, and provide the acreage of these areas.

6) Include notification by the permittee of permanent termination of mine-related activities within any severable or discrete mining area. If any lake perimeters were not excavated within the last year (i.e. the lake edge location has not changed), but the permittee does not consider mining in the area to be permanently terminated or reclamation activities have not begun, the permittee must provide notification stating the proposed mining schedule for those areas and expected date reclamation will begin.

7) Identify areas where reclamation revegetation is in progress or complete, and provide the acreage of these areas.

8) Include the results of any on-site revegetation monitoring of completed littoral shelves conducted during the reporting period.

9) An updated Lake Belt Mitigation Plan including an updated mitigation schedule, mitigation fee sufficiency analysis, and mitigation credits earned both year to date and cumulatively (Special Conditions #6).

10) Include a statement that the permittee has complied with section 373.41492, F.S., as to the collection and remittance of the per ton mitigation fee to the state of Florida, during period of report.

11) Verification that the mitigation performed and habitat units created, restored, enhanced or preserved to date is 100 units greater than the wetland habitat units lost due to project impacts as of the reporting date of the annual report (Special Condition #7).

12) Include the results of any listed species survey conducted during the reporting period.

13) Include the Water Quality Monitoring Reports required by mining company. (Special Conditions #34-38)

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14) Include interim progress reports required to assess the effectiveness of the groundwater seepage mitigation structure. (Special Condition #25)

15) Include the results of Phase I or Phase II cultural resource surveys conducted during the reporting period. These surveys should be provided to the Corps in advance of any ground clearing activities. (Special Conditions #30 and 31)

16) Include the results of the required hydrological monitoring reports. (Special Condition #24).

5. Wetland Habitat Identification: This permit requires a full accounting of all habitats impacted based on their pre-impact condition. Prior to the clearing or filling of any area on the project site the permittee shall document the actual wetland habitat types present in such areas with ground and aerial photography, numerical data, and narrative analysis. While the wildlife and habitat surveys previously conducted in Lake Belt may be the starting point for this identification, this information must be ground truthed and documented prior to clearing activities. The permittee shall provide the documentation to the Corps as part of each annual report.

6. Compensatory Mitigation: The permittee shall be responsible for performing the mitigation outlined in the Lake Belt Mitigation Plan (LBMP) (Attachment D), which may be performed with the cooperation or through the mechanism of the Lake Belt Mitigation Committee. The LBMP may be modified with the Corps' approval without modification of this permit. Prior to mining within Section II, the permittees shall provide an updated LBMP that identifies sufficient mitigation to offset Section II impacts for Corps approval.

a. Mitigation Plan Update: As part of the annual review, the permittee shall provide the status of the Lake Belt Mitigation Plan. This status review shall include an analysis, and if necessary, an update of the Mitigation Schedule, the Mitigation Fee Sufficiency Analysis, and the mitigation balance. These plans will be reviewed each year by the Corps to ensure that the mitigation plan is progressing as required and to

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provide final validation and verification for mitigation projects prior to construction to ensure that the projects meet the twelve objectives for mitigation projects as outlined in 33 CFR 332.4(c)(2)-(13) . If the applicant is requesting a modification to the LBMP, the annual report must also include a draft modified plan which must comply with the twelve objectives for mitigation projects as outlined in 33 CFR 332.4(c)(2)-(13) as well as all applicable conditions in this permit. A new LBMP will not take effect until the Corps approves the plan in writing.

b. Mitigation Schedule: The LBMP includes an approved mitigation schedule. The permittee shall be responsible for ensuring that the mitigation projects are on schedule and that mitigation occurs concurrently with or in advance of the project's impacts as is outlined in Special Condition #7. As part of the annual review and mitigation plan update, the permittee shall provide an updated mitigation schedule if appropriate for the Corps's approval.

c. Mitigation Sufficiency Analysis: As part of the annual review, the permittee shall provide a mitigation fee sufficiency analysis to the Corps. If at the annual review, the Corps deems that the mitigation fee is insufficient to fund the Lake Belt Mitigation Plan, the permittee shall seek to adjust the mitigation fee through an amendment to the relevant Florida Statutes or secure an alternative funding mechanism deemed sufficient by the Corps to fund the Lake Belt Mitigation Plan.

7. Required Mitigation Units at Annual Review: As part of the annual review, the cumulative balance of mitigation credits must be 100 units greater than the cumulative impacts reported at the time of each annual report in order to ensure actual mitigation activities remain concurrent with or in advance of the project impacts (i.e. if it is reported at the time of the annual review that 300 habitat units have been lost since permit issuance due to the discharge of dredged or fill material, the mitigation credits earned must be equal to or greater than 400 habitat units).

8. Fee-per-ton Modification: By 31 December 2011, the Mitigation Fee-per-ton Schedule must be modified to increase the Fee-per-ton value to \$0.45 per ton through an amendment to the

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relevant Florida Statute or the permittee must secure an alternative funding mechanism deemed sufficient by the Corps for the Lake Belt Mitigation Plan.

9. Pennsuco Land Exchange and Acquisition. The permittee owns several tracts of land totaling approximately 1,708 acres within the Pennsuco wetlands as depicted in the LBMP which have been committed as mitigation to the Lake Belt Mitigation Committee.

a. On or before the 90th day following the effective date of this permit, the permittee shall provide a draft access agreement package to the South Florida Water Management District for its review and approval. The access agreement must provide the SFWMD sufficient access to conduct wetland mitigation, including exotic treatment, monitoring and maintenance, within the 1,708 acres within the Pennsuco wetlands.

b. On or before January 15, 2015, the permittee shall either (i) execute and record a conservation easement to encompass its 1,708 acres within the Pennsuco wetlands in accordance with the Conservation Easement Special Condition, or (ii) enter into a legally binding agreement with an agency of the State of Florida for the transfer of fee simple title of the 1,708 acres within the Pennsuco wetlands to the State of Florida.

10. 1,500-foot Exclusion Area: The permittee owns several tracts of land totaling approximately 250 acres within the 1,500-foot Exclusion Area east of and adjacent to the Section line separating the Pennsuco Wetlands and the eastern portion of Lake Belt as depicted on the project drawings.

a. Within twenty-four months of the effective date of this permit, the permittee shall provide notice to the Lake Belt Mitigation Committee established by paragraph 373.41492(6)(b), F.S., and the South Florida Water Management District that the 250 acres within the 1,500-foot Exclusion Area are available for wetland mitigation activity.

b. Within twenty-four months of the effective date of this permit, the permittee shall provide an access agreement package to the South Florida Water Management District for its review and approval. The access agreement must provide the SFWMD

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sufficient access to conduct wetland mitigation, including exotic treatment, monitoring and maintenance, within the 250 acres within the 1,500-foot Exclusion Area.

c. Preservation of the 1,500-foot Exclusion Area is necessary to minimize impacts to endangered species, on-site wetlands, and seepage effects on adjacent wetlands in order to ensure that the project is not contrary to the public interest. Therefore, on or before the 90th day following the effective date of this permit, the permittee shall execute and record a conservation easement to encompass the 250 acres within the 1,500-foot Exclusion Area in accordance with the Conservation Easement Special Condition and shall provide the Corps with a Specific Mitigation Proposal for these areas.

11. Conservation Easement: The conservation easement(s) required to be executed and recorded by the permittee under this permit must be consistent with §704.06 Florida Statutes, and ensure to the Corps' satisfaction that the property encompassed by the conservation easement(s) will remain in a natural state in perpetuity. The properties protected by the conservation easement(s) must not be disturbed by any dredging, filling, land clearing, agricultural activities, planting, or other activity whatsoever except as required or authorized by this permit. To comply with this condition the Permittee shall complete the following:

a. On or before the 60th day prior to the date that a conservation easement required by this permit must be executed, the Permittee shall submit to the Corps a draft of the conservation easement document with a legal description, a survey, and scale drawings of the property to be encompassed by the conservation easement. The Corps must have all rights of the Grantee in the conservation easement. The following paragraph must be incorporated in the conservation easement document:

"Rights of the Corps: The Corps shall have all the rights of the Grantee under this easement. The Corps shall approve any modification, alteration, release, or revocation of the conservation easement, and shall review and approve as necessary any additional structures or activities that require approval by the Grantee. The Grantor shall provide the Corps (District

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Engineer) at least 60 days advance notice in writing before any action is taken to alter or revoke this Conservation Easement."

b. On or before the 30th day following the date of the Corps' approval of the draft conservation easement, the permittee shall record the easement in the public records of Miami-Dade County, Florida. A certified copy of the recorded document, plat, and verification of acceptance from the grantee shall be forwarded to the Corps within 60 days of Corps' approval of the draft conservation easement.

c. On or before the 60th day prior to the date that a conservation easement required by this permit must be executed, the permittee shall submit to the Corps a title insurance commitment with the draft conservation easement document, IN FAVOR OF THE GRANTEE, for the property to be encompassed by the conservation easement to show that the Permittee has clear title to the real property and can legally place it under a conservation easement. Any existing liens or encumbrances on the property shall be subordinated to the conservation easement. At the time of recordation of the conservation easement, a title insurance policy shall be provided to the Corps in an amount equal to the current market value of the property.

d. If this permit is transferred, proof of delivery of a copy of the recorded conservation easement(s) to the subsequent Permittee or Permittees shall be submitted to the Corps together with the notification of permit transfer.

The Grantee shall not assign its rights or obligations under the conservation easement(s) except to another organization qualified to hold such interests under the applicable state and federal laws, including §704.06 Florida Statutes, and committed to holding the conservation easement(s) exclusively for conservation purposes. The Corps shall be notified in writing of any intention to reassign the conservation easement(s) to a new grantee and shall approve the selection of the grantee. The new grantee shall accept the assignment in writing and a copy of this acceptance delivered to the Corps. The conservation easement(s) shall then be re-recorded and indexed in the same manner as any other instrument affecting title to real property and a copy of the recorded conservation easement(s) furnished to the Corps.

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12. **Mitigation Credit Purchase:** Within 30 days of purchasing mitigation credits from the Hole-in-the-donut Mitigation Bank (SAJ-1993-01691) either directly or through the Lake Belt Mitigation Committee to offset wetland impacts for mining in Lake Belt, the Permittee shall provide written verification to the Corps regarding the quantity of federal mitigation bank credits purchased. The required verification shall reference this project's permit number (SAJ-2000-2373) or the Lake Belt Mitigation Fund.

13. **Performance Standards:** All mitigation projects must meet these performance standards which will be written into the mitigation plan for each project and any mitigation plan updates as approved by the Corps.

a. At least 80 percent cover by appropriate wetland species (i.e., FAC or wetter).

b. Cover of Category I and II invasive exotic plant species, pursuant to the most current list established by the Florida Exotic Pest Plant Council at <http://www.fleppc.org>, and the nuisance species, dogfennel (*Eupatorium capillifolium*), Bermudagrass (*Cynodon spp.*), Bahiagrass (*Paspalum notatum*), and cattail (*Typha spp.*) shall total less than 5 percent.

c. Less than 20 percent mortality of planted wetland species.

d. Hydrologic enhancement will result in soils that are at a minimum saturated to the surface between 5 and 12.5 percent of the growing season.

The Permittee shall achieve the above performance standards by the end of the 5-year monitoring period, with no maintenance during the 5th year of monitoring. In the event that the above performance standards have not been achieved, the Permittee shall undertake a remediation program approved by the Corps in accordance with the **Remediation** Special Condition of this permit.

14. **Monitoring and Reporting Timeframes:** All mitigation projects must meet these performance standards which will be

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written into each mitigation plan and any mitigation plan updates as approved by the Corps.

a. Perform a time-zero monitoring event of the wetland mitigation area(s) within 60 days of completion of the compensatory mitigation objectives for any mitigation project identified in the **Lake Belt Mitigation Plan** (Attachment D).

b. Submit the time-zero report to the Corps within 60 days of completion of the monitoring event. The report will include at least one paragraph depicting baseline conditions of the mitigation site(s) prior to initiation of the compensatory mitigation objectives and a detailed plan view drawing of all created, enhanced and/or restored mitigation areas.

c. Subsequent to completion of the compensatory mitigation objectives, perform annual monitoring of the wetland mitigation areas for no less than 5 years.

d. Submit annual monitoring reports to the Corps within 60 days of completion of the monitoring event.

e. Monitor the mitigation area(s) and submit annual monitoring reports to the Corps until released in accordance with the **Mitigation Release** Special Condition of this permit.

16. Reporting Format for Monitoring Reports: Monitoring reports shall follow a 10-page maximum report format for assessing compensatory mitigation sites. The Permittee shall submit all documentation to the Corps on 8½-inch by 11-inch paper, and include the following:

- a. Project Overview (1 Page):
- 1) Department of the Army Permit Number
 - 2) Name and contact information of Permittee and consultant
 - 3) Name of party responsible for conducting the monitoring and the date(s) the inspection was conducted
 - 4) A brief paragraph describing the purpose of the approved project, acreage and type of aquatic resources impacted, and

mitigation acreage and type of aquatic resources authorized to compensate for the aquatic impacts.

5) Written description of the location, any identifiable landmarks of the compensatory mitigation project including information to locate the site perimeter(s), and coordinates of the mitigation site (expressed as latitude, longitudes, UTM's, state plane coordinate system, etc.).

6) Dates compensatory mitigation commenced and/or was completed

7) Short statement on whether the performance standards are being met

8) Dates of any recent corrective or maintenance activities conducted since the previous report submission

9) Specific recommendations for any additional corrective or remedial actions.

b. Requirements (1 page): List the monitoring requirements and performance standards, as specified in the approved mitigation plan and special conditions of this permit, and evaluate whether the compensatory mitigation project site is successfully achieving the approved performance standards or trending towards success. A table is a recommended option for comparing the performance standards to the conditions and status of the developing mitigation site.

c. Summary Data (maximum of 4 pages): Summary data should be provided to substantiate the success and/or potential challenges associated with the compensatory mitigation project. Photo documentation may be provided to support the findings and recommendations referenced in the monitoring report and to assist the PM in assessing whether the compensatory mitigation project is meeting applicable performance standards for that monitoring period. Submitted photos should be formatted to print on a standard 8½-inch by 11-inch piece of paper, dated, and clearly labeled with the direction from which the photo was taken. The photo location points should also be identified on the appropriate maps.

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d. Maps and Plans (maximum of 3 pages): Maps shall be provided to show the location of the compensatory mitigation site relative to other landscape features, habitat types, locations of photographic reference points, transects, sampling data points, and/or other features pertinent to the mitigation plan. In addition, the submitted maps and plans should clearly delineate the mitigation site perimeter(s). Each map or diagram should be formatted to print on a standard 8½-inch x 11-inch piece of paper and include a legend and the location of any photos submitted for review. As-built plans may be included.

e. Conclusions (1 page): A general statement shall be included that describes the conditions of the compensatory mitigation project. If performance standards are not being met, a brief explanation of the difficulties and potential remedial actions proposed by the Permittee or sponsor, including a timetable, shall be provided. The District Commander will ultimately determine if the mitigation site is successful for a given monitoring period.

16. **Remediation:** All mitigation projects must meet these performance standards which will be written into each mitigation plan and any mitigation plan updates as approved by the Corps.

If the compensatory mitigation fails to meet the performance standards 5 years after completion of the compensatory mitigation activities the compensatory mitigation will be deemed unsuccessful. Within 60 days of notification by the Corps that the compensatory mitigation is unsuccessful, the Permittee shall submit to the Corps an alternate compensatory mitigation proposal sufficient to create the functional lift required in the approved Lake Belt Mitigation Plan. The alternate compensatory mitigation proposal may be required to include additional mitigation to compensate for the temporal loss of wetland function associated with the unsuccessful compensatory mitigation activities. The Corps reserves the right to fully evaluate, amend, and approve or reject the alternate compensatory mitigation proposal. Within 120 days of Corps approval, the Permittee will implement the alternate compensatory mitigation proposal.

17. **Mitigation Release:** The Permittee's responsibility to complete the required compensatory mitigation, as set forth in

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the Lake Belt Mitigation Plan and the mitigation special conditions of this permit will not be considered fulfilled until mitigation success has been demonstrated and written verification has been provided by the Corps. A mitigation area which has been released will require no further monitoring or reporting by the Permittee; however the Permittee, Successors and subsequent Transferees remain perpetually responsible to ensure that the mitigation area(s) remain in a condition appropriate to offset the authorized impacts in accordance with General Condition 2 of this permit.

18. **As-Builts:** Within 60 days of completion of the authorized work or at the expiration of the construction window of this permit, whichever comes first, the Permittee shall submit as-built drawings of the authorized work (i.e. for discharge of dredged or fill material or any required mitigation) and a completed As-Built Certification Form (Attachment F) to the Corps. The drawings shall be signed and sealed by a registered professional engineer and include the following:

a. A plan view drawing of the location of the authorized work footprint (as shown on the permit drawings) with an overlay of the work as constructed in the same scale as the attached permit drawings (8½-inch by 11-inch). The drawing should show all "earth disturbance," including wetland impacts, water management structures, and any on-site mitigation areas.

b. List any deviations between the work authorized by this permit and the work as constructed. In the event that the completed work deviates, in any manner, from the authorized work, describe on the As-Built Certification Form the deviations between the work authorized by this permit and the work as constructed. Clearly indicate on the as-built drawings any deviations that have been listed. Please note that the depiction and/or description of any deviations on the drawings and/or As-Built Certification Form does not constitute approval of any deviations by the U.S. Army Corps of Engineers.

c. The Department of the Army Permit number.

d. Include pre- and post-construction aerial photographs of the project site, if available.

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19. **Biological Opinions:** This Corps permit does not authorize the Permittee to take an endangered species, in particular the wood stork. In order to legally take a listed species, the Permittee must have separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit, or a BO under ESA Section 7, with "incidental take" provisions with which the Permittee must comply). The enclosed US Fish and Wildlife Service (FWS) Biological Opinions (BO) (Attachments G and H) contain mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BOs. Authorization under this Corps permit is conditional upon compliance with all of the mandatory terms and conditions associated with incidental take of the attached BOs, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BOs, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute non-compliance with this Corps permit. The FWS is the appropriate authority to determine compliance with the terms and conditions of its BOs, and with the ESA.

20. **Eastern Indigo Snake Protection Measures:** The Permittee shall comply with U.S. Fish and Wildlife Service's "Standard Protection Measures for the Eastern Indigo Snake" dated February 12, 2004 and provided in Attachment I of this permit."

21. **Fill Material:** The Permittee shall use only clean fill material for this project. The fill material shall be free from items such as trash, debris, automotive parts, asphalt, construction materials, concrete block with exposed reinforcement bars, and soils contaminated with any toxic substance, in toxic amounts in accordance with Section 307 of the Clean Water Act.

22. **Regulatory Agency Changes:** Should any other regulatory agency require changes to the work authorized or obligated by this permit, the Permittee is advised that a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit.

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23. Drawing Conflicts. The project shall be conducted in compliance with the permit drawings, plans, figures, and narratives which identify location, schedule, notification, and reclamation and mitigation activities. If the permit drawings, plans, figures, and narratives conflict with the special conditions, then the special conditions shall prevail.

24. Groundwater Seepage. The project is in a region where there is a potential for an increase in the eastward rate of groundwater seepage from the protected wetlands of the Greater Everglades Ecosystem, as mining extraction expands within the Lake Belt Area. In order to assure that the impacts of this mining activity can be accurately assessed, and offset where appropriate, the Permittee shall participate in a regional groundwater monitoring program. The groundwater monitoring will be conducted by the Miami-Dade County Limestone Products Association, an association of Lake Belt Area mining companies. The approved monitoring plan (The Lake Belt Hydrologic Monitoring Plan) is attached as Attachment E. The Lake Belt Hydrologic Monitoring Plan can be modified, as deemed necessary by the Corps without modification of this permit.

The regional groundwater monitoring results shall be reported tabularly and graphically in the Annual Mining Report. The Corps shall review each Annual Report to determine if any adverse trends are indicated by the monitoring data. If the Corps determines in coordination with other federal or state agencies that the results of the regional groundwater monitoring in the vicinity of the mine indicate that adverse impacts to offsite wetlands are occurring, or are likely to occur, the Corps shall contact the permittee and determine a remedial course of action. Possible remedial actions may include requiring additional monitoring at new well locations, requiring mitigation for the seepage, restrictions on mining locations, or the suspension or revocation of the permit with restoration of the disturbed areas.

25. Seepage Management/Mitigation Project (SM/MP). In order to mitigate for seepage impacts attributable to mining, the permittee is required to construct a SM/MP which complies with the following schedule:

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a. Within 24 months of the effective date of this permit, the Dade Broward Levee Road must be constructed pursuant to the FPL Levee-Midway Transmission Corridor to facilitate geologic studies required for the seepage management project.

b. Within 24 months of the effective date of this permit, geologic investigations and design of the SM/MP must be completed. The permittee shall submit a complete application (in accordance with 33 CFR 325.1(d) to the Corps for a SM/MP. An application must also have been submitted with the same information to all other permitting agencies.

c. Within 36 months of the effective date of this permit, the permittee must have submitted a proposed monitoring program sufficient to confirm that the SM/MP will work as designed. Sufficient information for a complete application must have been submitted to the FDEP.

d. Within 48 months of the effective date of this permit, the permittees must have received any necessary permits for the SM/MP, as well as concurrence on the final plan from the SFWMD, and have finalized an approved financing and construction schedule. Construction of the SM/MP is to begin.

e. Within 60 months of the effective date of this permit, the permittee must have completed construction of the SM/MP.

After operation and monitoring, if the SM/MP is not providing the anticipated seepage management benefits, the applicants propose corrective action to the Corps to modify the SM/MP in order to achieve offset of seepage impacts on adjacent wetlands. The permittee will provide year updates on the progress of the SM/MP development as part of the annual report.

26. Littoral Marsh Demonstration Project.

a. Within one year of the effective date of this permit, the permittee shall submit a proposal, to either (1) construct a demonstration littoral marsh of at least 500 feet in length, (2) to participate in the enhancement of an existing littoral marsh, or (3) participate in another similar type of demonstration project.

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b. The permittee shall commence construction of the demonstration project no later than six months after approval of the plan by the Corps. If the permittee is unable to create a demonstration project, the permittee may, with concurrence of the regulatory agencies and other Lake Belt Area permittees, partner with other companies that are creating a demonstration project.

c. The permittee shall submit, by January 30, 2011, (or at a later date if approved by the Corps), after construction of the demonstration project, a proposal to modify the littoral marsh design found on the enclosed drawings incorporating information gained from the demonstration project and consistent with the requirements of Miami-Dade County under its land use authority and a proposed construction schedule. The revised designs from the demonstration project shall not affect completed or on-going littoral shelf construction.

27. Littoral Marsh. Within one year of the completion of excavation for each perimeter edge (i.e. any lake perimeter edges of any mining lake) or within three years after termination of mining along a perimeter within a lake authorized in this permit (whether the Permittee intends to return to the lake or not) whichever occurs first, the permittee shall complete construction of a littoral shelf wetland along any completed edge or in the case of termination, along the entire perimeter of each excavated lake as follows:

a. The permittee shall construct a minimum 50-foot wide littoral shelf, exclusive of berms, roads, setback easements and upland areas, along the entire lake perimeter.

b. The shelf and water elevations shown in the attached design plans are conceptual. Final elevations shall be based on hydrologic conditions (range, frequency, duration, etc.) existing at the time of construction. Six months prior to littoral shelf construction, the permittee shall provide to this office revised design plans and the hydrologic basis for the proposed elevations.

c. The lake littoral shelves shall be generally constructed as shown on the attached plans (Conceptual Littoral Area Plan, Figure 14) (Conceptual Littoral Area Plan Cross Sections, Figure

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15) (Conceptual Littoral Area Plan Aquatic Refugium, Figure 16) and shall incorporate the depicted enhancements.

d. The waterward berm on the littoral shelf shall be constructed of coarse rock that can inhibit colonization by trees, exotic and invasive vegetation.

e. At least 12 inches of muck shall be used to enhance the establishment of vegetation and shall be placed on level areas of the littoral shelf. Thicker layers of overburden or muck may be used to provide a variety of topographic elevations within wetland areas of the shelves.

f. Vegetation monitoring stations shall be clearly identified and marked with a permanent post or other marker. Along each length of littoral shelf, photographic stations shall be established 1000 feet apart. Along each length of littoral shelf, vegetation cover sampling areas shall be established 600 feet apart.

g, Two years after completion of construction, any bare areas greater than 0.25 of an acre shall be planted with appropriate species. Appropriate species are species native to Miami Dade County and identified as obligate, or facultative wet plant species.

h. All reclamation activities for each mine pit shall be completed within three years of the cessation of excavation at the mine pit.

28. Restoration of Unmined, Disturbed Areas. If the permittee permanently ceases mining operations before completing the extraction shown on the attached figures, the permittee shall remove all fill material and restore any disturbed wetlands to appropriate grade. For each restoration area:

a. At least 12 inches of muck shall be used to enhance the establishment of vegetation.

b. Vegetation monitoring stations shall be clearly identified and marked with a permanent post or other marker.

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c. Two years after completion of construction, bare areas greater than 0.25 of an acre shall be planted with appropriate species.

d. The permittee shall comply with the monitoring requirements of Specific Condition #29 below, and the release criteria of Specific Condition # 17.

e. If the permittee permanently ceases mining operations before completing the extraction shown on the attached figures, the permittee shall begin implementing all reclamation design standards and monitoring and maintenance for littoral shelves along the entire perimeter of the deep cut or other adjacent locations, wherever that perimeter may be. The permittee shall provide plans and cross sections depicting the revised post-reclamation topography, drainage, vegetation, and land cover to the Corps, the FDEP and DERM for review and approval. All permit standards for the design and vegetation of the littoral shelves shall be met at the revised shoreline locations.

f. For the purposes of this condition, lakes that have not been mined for a period of any three consecutive years prior to time limit indicated in general condition #1 of this permit shall be considered to have permanently ceased mining operations as of the last date of the three-year period and this condition shall be triggered with respect to such lakes on that date.

29. Littoral Shelf and Reclaimed or Restored Wetland Monitoring.

a. Within 30 days after completion of contouring of each section of littoral shelf, the permittee shall submit as-built certifications (Attachment F). When the completed system differs substantially from the permitted plans, any substantial deviations shall be noted and explained and two copies of as-built drawings submitted to this office. The depiction and description of the deviations on the drawings and Certification Form does not necessarily mean that this office will approve of them. Submittal of the completed form shall serve to notify this office that the system is ready for inspection. The statement of completion and certification shall be based on on-site observation of construction (conducted by the registered professional engineer, or other appropriate individual as authorized by law, or under his or her direct supervision) or

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review of as-built drawings for the purpose of determining if the work was completed in compliance with approved plans and specifications. As-built drawings shall be the permitted drawings revised to reflect any changes made during construction. Both the original and any revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.

b. Until meeting the release criteria, the permittee shall inspect revegetated littoral shelves and other reclaimed or restored wetlands at least annually at the end of the growing season. The purpose of the periodic maintenance of the littoral shelves and other reclaimed or restored wetlands, is to ensure that the plants will survive and thrive. The permittee shall do the following:

1) The annual vegetation monitoring report shall include a plan view describing the vegetative community; a description of work conducted to control invasive and exotic plant species; a description of work conducted to maintain or enhance littoral shelf and upland buffer slope stability and vegetation communities; a list of species and their percent cover for each community; the percent cover by aquatic, obligate, facultative wet, facultative, upland species; invasive, and exotic plant species; a description of any unusual climatic or other factors; a description of any erosion, shoaling, or other stability conditions; substrate type, depth and condition, including grain size and organic content; a brief evaluation of the wetland functions (for example, average high and average low water elevations, wildlife utilization, growth and reproduction of vegetation, and condition of the site, including impacts from adjoining uses); and, panoramic photographs from the same points as were used for the photographs for the initial report. If the wetlands have not reached the criteria for release, the monitoring report shall also include a plan of planting, excavation, monitoring, changes in control elevations, and/or other actions to achieve success and, after that plan or a modification is accepted by this office, the permittee will implement the plan.

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2) Remove invasive and exotic species from the littoral shelves, all other reclaimed or restored wetlands, and the littoral shelf berms (breakwaters) at least annually to meet the requirements of the permit.

3) Replant wetland areas with appropriate wetland species any bare area greater than 0.25 of an acre.

4) If during the initial establishment phase site conditions become abnormally dry, supplemental irrigation to assist in the successful establishment of the vegetation is suggested.

30. **Phase I Surveys:** A Phase I Cultural Resources survey must be completed prior to the clearing and demucking of any mining locations. If prehistoric or historic artifacts, such as pottery or ceramics, stone tools, or any other physical remains that could be associated with Native American cultures such as black dirt middens and faunal material concentrations are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance within 100 meters of such discoveries. The permittee shall contact the Florida Department of State, Division of Historic Resources, Compliance Review Section at (850)245-6333 or (800)847-7278, as well as appropriate permitting agency office. Project activities shall not resume without verbal and/or written authorization.

31. **Phase II Surveys:** A Phase II Cultural Resources survey must be completed for all known sites containing cultural resources in order to identify the likely perimeter of these sites. All known cultural resource sites must be avoided.

32. **Tribal Rights:** The Permittee shall notify the Corps upon becoming aware of issues which implicate the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida so that the Corps can ensure Government to Government coordination and relations. None of the authorizations or conditions in the permit are intended to diminish or alter the governmental authority and powers of the Miccosukee Tribe of Indians of Florida and the Seminole Tribe of Florida (Tribes), or diminish or alter the rights of those Tribes, including rights under any tribal agreement with the Permittee or any agency of the U.S.

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Government. The Permittee shall advise this office and the Tribes when the Permittee becomes aware of issues implicating the powers or rights of the Tribes or other issues that may make necessary a modification to the permit.

33. Historic Properties/Cultural Resources:

a. The Permittee shall not initiate any construction for this undertaking that would adversely affect cultural resources or the properties listed or eligible for listing in the National Register of Historic Places (NRHP) or any cultural resource sites. No impacts to cultural resources or properties listed or eligible for listing in the National Register of Historic Places (NRHP) is authorized. These areas are to be preserved in place and should be fenced around the border and clearly marked to designate that it is a preservation site.

b. The permit acknowledges that buffer areas shall be established by the Corps around all cultural resource sites or sites determined to be eligible or potentially eligible for listing in the NRHP. The buffer shall be a minimum of 100 feet from the extreme east and west points of the site as identified in the required Cultural Resource Phase II Surveys. A second buffer shall be a minimum of 100 meters from the 100-foot boundary. A State approved archaeological monitor or professional archaeologist shall be on site during all ground disturbing activities within this second buffer.

c. If prehistoric or historic artifacts, such as but not limited to prehistoric and historic ceramics, lithic materials or metal implements, dugout canoes, or any other physical remains that could be associated with prehistoric or historic cultures is encountered during work authorized by this permit, the Permittee shall cease all activities involving the subsurface disturbance in the immediate vicinity of such discoveries and immediately contact the Corps for assessment by State and Federal cultural resource specialists. Project activities shall not resume without written authorization from the Corps and until the Corps has verified that the requirements of 33 CFR Part 325, Appendix C, and the *Revised Interim Guidance for Implementing Appendix C of 33 CFR part 325 with the Revised Advisory Council on Historic Preservation Regulations at 36 CFR Part 800* dated April 25, 2005 (Interim Guidance) have been met.

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d. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance within Section 872.05, Florida Statutes. However, since the project is on lands owned by the State of Florida, The Native American Graves Protection and Repatriation Act does not apply.

e. Prior to commencement of construction, the Permittee shall ensure that a professional archaeologist provide training to all personnel on the job, including construction workers as well as personnel responsible for post-construction monitoring and patrolling on the kinds of archaeological/cultural materials that may be encountered during construction, the steps that should be taken in the event those materials are encountered, and detection and prevention of vandalism to the intact sites.

34. Water Quality Screening. Water quality within the active mine pits shall be screened at each blasting location, prior to and after the blast. In active mine pits where blast events are occurring three or more times a month, the screening shall be performed only once a month, prior to and after a blast. The water samples shall be collected adjacent to the blasting location, near the mining bench, at a depth of five feet. At each planned blasting location:

a. The permittee shall collect pre-blast water quality samples, no more than 24 hours prior to the start of the loading of the explosive material.

b. The permittee shall collect post-blast samples within 24 hours after the blast.

c. Each sample shall be tested for the following constituents: total nitrogen, nitrate-nitrite, and benzene.

The water quality samples shall be promptly analyzed and reported to the Corps. The data shall be compiled into a monthly blasting report letter, covering the entire mine, which shall be submitted to the Corps on or before the 28th day following the last date of the month in which the samples were collected. The monthly blasting report shall provide the following information:

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A description of the blasting agents used during the month, the number and dates of blasting events during the month, the date, locations, and ultimate fate of blasting agents for any borehole locations where detonation did not occur on an initial firing or attempt, and a location map for the sampling sites.

If the monthly reports indicate potential surface or ground water quality concerns, the Corps may require corrective steps, including additional monitoring or other new or additional conditions. After this screening requirement has been completed for not less than 12 monthly reports with screening results, the permittee may request a modification to the permit to remove this condition.

35. Other Water Quality Reports. If any federal, state, or local permit requires water quality monitoring not contained in this permit, the permittee shall provide copies of the monitoring reports to the Corps and EPA when they are provided to the other agencies. The permittee shall provide to the Corps copies of permits which will involve water quality monitoring.

36. Wellfield Protection. Blasting emulsions utilized in Lake Belt Area shall consist of mineral oil or other environmentally benign blasting agents.

37. Wellfield Protection Monitoring. As stated in General Condition #5, the specific conditions of the FDEP issued, conditioned Water Quality Certification are incorporated as special conditions of this permit by reference (Attachment C). As stated in Special Condition #35, copies of all FDEP water quality reports shall be provided to the Corps and EPA when they are provided to FDEP. The Corps has determined that the following additional water quality monitoring shall be conducted in addition to the required FDEP "Wellfield Protection Monitoring" condition (these are considered supplemental to the FDEP conditions and are intended to work with the rest of the condition):

a) Quarterly samples shall also be taken at intermediate and deep depths.

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b) Additional quarterly sampling may halt after a two-year period in which none of the parameters exceed primary and secondary drinking water standards.

c) All data and reports from this additional sampling will be submitted to the Corps, EPA, FDEP, and Miami-Dade County DERM.

38. Groundwater Quality Monitoring. As stated in General Condition #5, the specific conditions of the FDEP issued, conditioned Water Quality Certification are incorporated as special conditions of this permit by reference (Attachment C). As stated in Special Condition #35, copies of all FDEP water quality reports shall be provided to the Corps and EPA when they are provided to FDEP. The Corps has determined that the following additional water quality monitoring shall be conducted in addition to the required FDEP "Wellfield Protection Monitoring" condition (these are considered supplemental to the FDEP conditions and are intended to work with the rest of the condition):

a) The sampling shall be conducted on a quarterly basis for VOC, PAH, ammonia, TRPH, NOX-N and chlorides at three depths, shallow, intermediate and deep.

b) The quarterly monitoring may be halted after two years if none of the parameters exceed drinking water standards. All monitoring may be discontinued after all extraction has ended on the site.

c) All data and reports from this additional sampling will be submitted to the Corps, EPA, FDEP, and Miami-Dade County DERM.

39. Review. This permit requires 5-year interagency reviews of the activities.

a. The Corps and the permittee recognize that certain questions pertaining to the cumulative, long-term consequences of mining activities within the Miami-Dade Lake Belt Area (Lake Belt Area), as defined in subsection 373.4149(3), F.S., may benefit from ongoing review of updated information. Consequently, this permit contemplates that analyses of the impacts from mining activities will continue to be performed and

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recognizes that the permit conditions will be periodically reviewed during the life of the permit.

b. Five years after the date of issuance of this modification, the permittee and the Corps shall conduct an evaluation of the progress of the permit. This evaluation will be based upon applicable law and regulations, the results of environmental monitoring, compliance records, comments by other agencies, and the results of studies conducted to address such issues as wellfield protection, seepage management, water quality and wildlife habitat to the extent applicable to this project. The permittee may provide to the Corps the methods and results of studies conducted which relate to the project.

c. As necessary, prior to the expiration of the construction phase of the permit, the permittee may begin the pre-application and application process for a permit extension or modification. The decision as to whether to approve an extension or modification application will be based upon studies provided by the permittee in the application, applicable law and regulations, the results of environmental monitoring, compliance records, and the results of studies conducted to address such issues as wellfield protection, seepage management, and water quality to the extent applicable to this project. The permittee is advised that a recent listed species survey will be required to evaluate any request for a permit extension.

40. **Land Preservation.**

a. Background. The regulatory agencies and the mining companies operating within the Lake Belt Area recognize the importance of providing protection to the Northwest Wellfield, and to the ecological and recreational values of the post-mining lakes, littoral shelves, incidental uplands. As stated in the Phase II Lake Belt Report, towards these ends, alternatives should be explored to accomplish the goal of bringing these lands into public ownership, where appropriate, once mining has been completed. The following conditions are included to help achieve that goal.

b. The FEC Quarry is located in an area that must be placed under conservation easement after completion of mining operations, including the following areas: Sections 10, 14, 15,

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21, 23, 26, 28, Township 52 south, Range 39 East as shown in permit drawing #18. The easement shall be generally consistent with the provisions in Special Condition #11, except that the easement language may allow activities consistent with water management and environmental protection, including but not limited to restoration and creation of additional mitigation areas, recreation, and wellfield protection, as approved by the Corps following coordination with Miami-Dade County and may contain specific provisions to facilitate mining and related activities on adjacent lands. The easements shall contain language recognizing that mining may occur on adjacent properties, consistent with the rock mining supported and allowable areas in the Lake Belt Plan, and required permits, and may include provisions that any party benefited by the easement by virtue of the agreement to grant or actual grant of the conservation easement may not use the agreement to grant or the actual easement as reason to object to ongoing mining and related activities within the rock mining supported and allowable areas of the Lake Belt Plan.

c. Conditions for Land Preservation.

1) By accepting this permit, the permittee accepts that this Land Preservation condition ensures that the project is not contrary to the public interest and commits to fulfilling the required land preservation.

2) The requirement to grant a conservation easement within any of the above listed Section, Township, Range areas shall be contingent upon the permittee actually discharging fill or dredged material for the purpose of mining within areas consistent with section 24.12.1(7)(c) of the Miami-Dade County Code, exclusive of required rights-of-way, easements, out-parcel setbacks, littoral shelves, incidental uplands, water control berms and structures, and required archaeological setbacks, and also exclusive of the 1,500 foot Exclusion Area.

3) It is the intent of the agencies that the land preservation will take place in phases throughout the full mine-out of the Lake Belt. The land preservation through conservation easement shall occur within six months of completion of mining and permanent termination of mine-

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related activities within any severable or discrete mining area (i.e., an area where mining has been completed to a point at which no further lake expansion or other mine-related activities will occur).

- a) For the purpose of this paragraph, "mine related activities" shall include limestone mining activities and ancillary activities including activities necessary to prepare an area for extraction, overburden placement, the process of extraction, the short-term, temporary storage of wet rock adjacent to the mine pit to allow for draining, and the crushing, sorting and grading of extracted material and the construction and monitoring of littoral shelf areas. For the purposes of this paragraph, termination of mine-related activities includes termination as a result of the permittee's voluntary decision not to complete authorized mining.
 - b) The permittee shall submit the draft conservation easement documents to the Corps for approval or modification within three months of completion of mining and termination of mine-related activities within a severable or discrete mining area. Corps approval shall be required prior to execution of the documents.
- 4) The conservation easement shall include all lakes, littoral shelves, wetland buffers and incidental uplands remaining upon completion of mining and termination of mine related activities which are designated for conservation easements on Permit Drawing 18.
- 5) The voluntary failure by the permittee to complete authorized mining, to apply for required mining permits, or sale of unmined portions of land designated as rock mining supported or allowable shall not change the requirement to grant a conservation easement, as appropriate, over mined areas as described above. In the instance where authorized mining will not be completed, the conservation easement shall be granted within six months of the permanent cessation of mining and mine-related activities in the severable or discrete mining area, and shall include lakes, littoral shelves and incidental uplands.

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6) In the event the property is taken in the future for water storage, water filtration or other non-conservation purpose, the conservation easement shall automatically terminate upon the filing of an order of taking by any eminent domain authority.

7) The identification of the future land preservation shall not be construed to give any person or entity standing to object to limestone mining or the methods employed in limestone mining in the supported and allowable areas of the Lake Belt Plan.

8). The conservation easement may contain provisions addressing the respective liability of the grantors and grantees, as appropriate for the intended future use of the preservation area and the rights or the restrictions granted and/or reserved.

41. Mining within Section II is approved conditionally such that this mining will occur only after the following requirements are met:

a) Completion of an effective seepage mitigation/management project (SM/MP);

b) Completion of successful Five-Year Interagency Review reflecting that the SM/MP is proceeding as required in permit conditions, that the water quality monitoring program is in full compliance without actionable water quality violations by the State or Local agencies, and that the Lake Belt Mitigation Program is current and proceeding according to permit requirements;

c) Completion of an updated Biological Opinion that provides renewed support that mining and its associated discharges of dredged or fill material in Section II will not jeopardize the wood stork or other listed species;

d) Submittal of an updated mitigation plan that takes into account any changed circumstances and identifies sufficient mitigation credits to fully offset all impacts under Section II;

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e) Cemex shall record in public records all required conservation easements over its land parcels within the Pennsuco wetlands (1,708 acres) and the 1,500-foot Exclusion Area (250 acres), and for the areas where mining is completed within the Land Preservation Areas (post mining quarries) or enter into a legally binding agreement with a state or county governmental entity for the transfer of fee simple title for the land;

f) The permittee can document that it has reached full mining capacity within their Section I parcels to the Corps' satisfaction.

g) The Corps has confirmed in writing that Cemex has met these conditions, that the Lake Belt region-wide conditions for seepage and mitigation have been met, and that the record has been supplemented to reflect the Corps analysis documenting these determinations.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

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d. This permit does not authorize interference with any existing or proposed Federal projects.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

a. You fail to comply with the terms and conditions of this permit.

b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 4 above).

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c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

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Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

G. Cliff Kirkmyer
(PERMITTEE)

02/03/10
(DATE)

Cemex Construction Materials Florida, LLC
G. Cliff Kirkmyer, VP

(PERMITTEE NAME-PRINTED)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

JOY, White
(DISTRICT ENGINEER)

Alfred A. Pantano, Jr.
Colonel, U.S. Army
District Commander

02/03/2010
(DATE)

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When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEEE-SIGNATURE)

(DATE)

(NAME-PRINTED)

(ADDRESS)

(CITY, STATE, AND ZIP CODE)

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***Attachments to Department of the Army
Permit Number SAJ-2000-2373(IP-LAO)***

- A. WETLAND JURISDICTIONAL DETERMINATION DRAWINGS: 9 pages
- B. PERMIT DRAWINGS: 19 pages
- C. WATER QUALITY CERTIFICATION: Specific Conditions of the water quality permit/certification in accordance with General Condition number 5 on page 2 of this DA permit. 32 pages.
- D. LAKE BELT MITIGATION PLAN: 13 pages with 13 attachments
- E. LAKE BELT HYDROLOGIC MONITORING PLAN: 8 pages
- F. AS-BUILT FORMS: 2 pages
- G. U.S. FISH & WILDLIFE BIOLOGICAL OPINION - Section I: 149 pages
- H. U.S. FISH & WILDLIFE BIOLOGICAL OPINION - Regional Lake Belt: 155 pages
- I. INDIGO SNAKE CONSTRUCTION CONDITIONS: 1 page
- J. CEMEX LITTORAL SHELF MEMO: 3 pages