SJR 2013-07

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

GOVERNING BOARD OF
THE ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT,

Complainant,

SJRWMD F.O.R. No. 2010-05
DOAH Case No. 10-9605

vs.

CONSOLIDATED-TOMOKA LAND CO.,

Respondents.
_____/

FINAL ORDER

On September 23, 2010, the Governing Board of the St. Johns River Water Management District ("District") served upon CONSOLIDATED-TOMOKA LAND CO. ("Respondent"), an Administrative Complaint and Proposed Order alleging Respondent had dredged and filled wetlands on Respondent's property without first obtaining the required Environmental Resource Permit from the District. The Administrative Complaint and Proposed Order included a Notice of Rights. Respondent timely requested an administrative hearing and the matter was referred to the Division of Administrative Hearings.

On December 31, 2012, the parties entered into a settlement agreement to resolve matters raised in the Administrative Complaint.

On March 26, 2013, the Administrative Law Judge relinquished jurisdiction of the case to the District for entry of a final order consistent with the settlement agreement.

ACCORDINGLY, it is ORDERED that the Settlement Agreement, which is attached hereto as Exhibit A, is adopted and incorporated herein as part of the Final

Order in this matter and is dispositive of all matters alleged in the Administrative Complaint.

DONE and ENTERED this 9th day of April, 2013.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

LAD DANIELS, Chairman

RENDERED on this 9th day of April 2013.

Sandra Bertram

SANDRA BERTRAM
District Clerk

Notice of Rights

1. Any substantially affected person who claims that final action of the District constitutes an unconstitutional taking of property without just compensation may seek review of the action in circuit court under section 373.617 of the Florida Statutes and the Florida Rules of Civil Procedure, by filing an action within 90 days of the rendering of the final District action.

2. Under section 120.68 of the Florida Statutes, a party who is adversely affected by final District action may seek review of the action in the district court of appeal by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure within 30 days of the rendering of the final District action.

3. A District action or order is considered "rendered" after it is signed by the Chairman of the Governing Board, or his delegate, on behalf of the District and is filed by the District Clerk.

4. Failure to observe the relevant time frames for filing a petition for judicial review as described in paragraphs 1 or 2 will result in waiver of that right to review.

CERTIFICATE OF SERVICE

I CERTIFY that a true copy of the foregoing has been furnished by U.S. Mail on April 9th, 2013 to Frank Matthews, Esquire and Amelia Savage, Esquire, Hopping Green & Sams, P. O. Box 6526, Tallahassee, FL 32314.

Thomas I Mayfield Jr for

Kealey A. West
Florida Bar No. 611611
Office of General Counsel
St. Johns River Water
Management District
4049 Reid Street, Palatka, FL 32177
(386) 312-2317

Prepared by/Return to:

Amelia A. Savage
Timothy M. Riley
Hopping Green & Sams, P.A.
119 South Monroe Street, Suite 300
Tallahassee, Florida 32301

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made this 31st day of December, 2012 ("Effective Date") by and between the St. Johns River Water Management District ("District"), a special taxing district, and Consolidated-Tomoka Land Co. ("Tomoka"), a Florida profit corporation.

WHEREAS, the District is a special taxing district established by Chapter 373, Florida Statutes, and charged with the duty to administer and enforce Chapter 373, Florida Statutes, and the rules promulgated thereunder, including Chapters 40C-4, 40C-40, 40C-42, and 40C-400, Florida Administrative Code;

WHEREAS, Tomoka is, and has been at all times, on and after February 26, 1993, a legally created, duly organized, and validly existing Florida profit corporation;

WHEREAS, Tomoka owns or controls an approximately 3,480-acre parcel of land in northeastern Volusia County, located in Sections 5, 6, 7, and 8, Township 15 South, Range 32 East; and Sections 26, 27, 34, 35, and 36, Township 14 South, Range 31 East, having parcel identification short numbers 4126-00-00-0020, 4127-00-00-0020, 4134-00-00-0010, 4135-00-00-0010, 4136-00-00-0250, 5205-00-00-0040, 5206-00-00-0020, 5206-00-00-0030, 5207-00-00-0010, and 5208-00-00-0020 (the "Property").

WHEREAS, on September 23, 2010, the District served Tomoka with an Administrative Complaint and Proposed Order (SJRWMD F.O.R. No. 2010-05), a copy of which is attached hereto and incorporated herein as Exhibit 1, alleging that Tomoka constructed and operated a surface water management system on the Property without obtaining a District Environmental Resource Permit;

WHEREAS, the District has jurisdiction over this matter, Tomoka, and the Property;

WHEREAS, in response to the Administrative Complaint, on October 7, 2010, Tomoka filed a Request for Formal Administrative Hearing, attached hereto as Exhibit 2;

WHEREAS, the District referred the case to the Division of Administrative Hearings on October 12, 2010;

WHEREAS, the case has been in abeyance since March 2011;

WHEREAS, on February 1, 2012, the Florida Department of Agriculture and Community Services ("FDACS") received a request for a binding determination from the District as to

whether the wetland impacts cited by the District qualify for an agricultural exemption pursuant to Section 373.406(2), Florida Statutes;

WHEREAS, on February 15, 2012, the District via electronic correspondence to FDACS, affirmed that allegations raised in the Administrative Complaint concerning certain drainage ditches were no longer at issue;

WHEREAS, following the submittal of additional information by both the District and Tomoka, and a site visit conducted by FDACS on February 23, 2012, FDACS issued its Binding Determination (FDACS Clerk No. A78355) on May 1, 2012. A copy of which is attached hereto and incorporated herein as Exhibit 3;

WHEREAS, in applying the criteria under Section 373.406(2), Florida Statutes, to determine whether the alleged activities were exempt from the District's permitting requirements under Part IV, Chapter 373, Florida Statutes, FDACS found that:

a. "[Tomoka] is engaged in the occupation of agriculture and has an agricultural tax classification on the subject parcel."

b. "For wetlands identified by the District but not corroborated by NWI map(s), FDACS finds that the alterations as a result of clearing and hay planting are normal and customary."

"For the remaining 101 acres of wetland impact areas ... FDACS finds that those with greater than 50% aerial extent of tree canopy in either 1995 or 2000 (based on District provided aerial photography) had already experienced significant succession and either were not wetlands, or were marginal wetlands at the time of conversion to hay fields. As such, the alterations as a result of clearing and hay planting are also normal and customary."

"For all other alleged wetland impacts areas...with less than 50% aerial extent of tree canopy in either 1995 or 2000 (based on District provided aerial photography), FDACS finds that these wetlands could have been reasonably determined to meet wetland delineation criteria (based on historic aerial photographs) and should have been delineated and flagged by a qualified professional before land clearing activities were conducted. Therefore, clearing and planting of hay in these areas are not normal and customary."

c. "For the wetlands for which the activities were determined to be normal and customary, the FDACS finds that the alterations were not conducted for the sole or predominant purpose of impeding or diverting the flow of surface waters or adversely impacting wetlands."

"For the wetlands for which the activities were determined to not be normal and customary, the alterations were for the sole or predominant purpose of adversely impacting wetlands."

(Exhibit 3, pp. 5-6.)

WHEREAS, FDACS asked the District and Tomoka to work together subsequent to its binding determination to calculate the final exempt and non-exempt wetland acreages;

WHEREAS, to achieve settlement, the District and Tomoka agreed that the non-exempt wetland impacts resulted in 40.327 functional loss units as calculated using the Uniform Mitigation Assessment Method ("UMAM"), as depicted in the spreadsheet attached hereto and incorporated herein as Exhibit 4, which was prepared by the District on or about October 3, 2012;

WHEREAS, Tomoka owns or controls a parcel of land known as the "DeBruhl" property, which is more fully described under Exhibit 5 to this Agreement, which is attached hereto and incorporated herein;

WHEREAS, Tomoka and the District have reached a settlement agreement to resolve the Administrative Complaint, which among other things, contemplates Tomoka causing its affiliate, Indigo Development LLC, to convey ownership of approximately 459 acres of the DeBruhl property (see Exhibit 5A hereto for an outline of the property) to the District as offsite mitigation for alleged adverse wetland impacts as part of an after-the-fact environmental resource permit application that Tomoka will file with the District; and

WHEREAS, this Agreement is intended to be the detailed and final settlement agreement between the parties.

NOW THEREFORE, for and in consideration of the mutual promises and other good and valuable consideration the parties hereto agree as follows:

1. The WHEREAS clauses above are true and correct and are hereby incorporated herein.

2. Tomoka agrees that within 60-days of the Effective Date of this Agreement to submit an after-the-fact Environmental Resource Permit (ERP) application to the District that will seek authorization for the alleged adverse impacts to the wetlands identified in Exhibit 4.

3. Tomoka agrees to submit a thorough and complete application. Should the District send Tomoka a request for additional information ("RAI"), Tomoka shall fully and timely respond to each RAI within one hundred twenty (120) days of receipt of the RAI. In the event Tomoka needs additional time to gather all of the requested information, Tomoka shall submit, within one hundred twenty (120) days of receipt of the RAI, a written request for an extension of time pursuant to Rule 40C-1.1008, F.A.C. The written request for an extension shall demonstrate that Tomoka is diligently acquiring the requested information. The written request shall include, as a minimum, a copy of all work done at the time the extension is requested that partially responds to the request for additional information. In the event the application is denied, this Agreement shall be null and void and of no further force and effect. In

the event this Agreement becomes null and void and of no further force and effect, the parties stipulate that this Agreement, as well as the parties' settlement negotiations, shall not be offered into evidence by either party, and shall not be admitted into evidence.

4. In connection with issuance of the ERP, the District agrees to accept and preserve approximately 459 acres of the DeBruhl property as offsite mitigation that will offset the 40.327 functional loss units identified in Exhibit 4.

5. Tomoka agrees to incur all costs associated with the conveyance of the DeBruhl property and to provide a Phase 1 environmental assessment and a title commitment and policy issued to the District.

6. The District agrees that in lieu of a one-time management fee of $500.00 per acre for each acre conveyed to the District as mitigation, it will accept the conveyance of additional acreage of the DeBruhl property having an equivalent monetary value to the management fee (see Exhibit 5B hereto for an outline of the total anticipated conveyance). At the time of the execution of this Agreement, the parties anticipate that the referenced property will be sufficient to adequately off-set the management fee, but the sufficiency has not been confirmed. The District and Tomoka agree to work together in good faith regarding this issue, but if they are ultimately unable to come to a mutual agreement that the referenced property is sufficient to adequately off-set the management fee, this Agreement shall be null and void and of no further force and effect. In the event this Agreement becomes null and void and of no further force and effect, the parties stipulate that this Agreement, as well as the parties' settlement negotiations, shall not be offered into evidence by either party, and shall not be admitted into evidence.

7. The complete and timely performance of the obligations set forth herein shall be dispositive of all violations alleged under Administrative Complaint (SJRWMD F.O.R. No. 2010-05).

8. After the District issues the ERP, both parties agree to jointly withdraw from the currently pending administrative proceeding before the Division of Administrative Hearings and the District shall issue a Final Order disposing of the Administrative Complaint.

9. Upon entry of the Final Order the parties shall be deemed to have released and discharged each other of and from any and all claims, costs, fees, or expenses associated with the Administrative Complaint (DOAH Case No. 10-009605; SJRWMD F.O.R. No. 2010-05) and the DACS Binding Determination, Florida Statute 373.406(2), Exemption Claim (FDACS Clerk No. A78355).

10. Upon entry of the Final Order, the District will be deemed to have waived its rights to seek judicial imposition of civil or criminal penalties and Tomoka will be deemed to have waived its rights under Section 120.69, Florida Statutes, to seek judicial review or an administrative hearing on the terms of this Agreement.

11. Both parties agree to continue to file joint motions for extension of abeyance with the administrative law judge for Case No. 10-009605 currently pending before the Division of

Administrative Hearings so long as each party works in good faith toward resolution of the after-the-fact ERP application and Final Order disposing of the Administrative Complaint.

12. By executing this Agreement, Tomoka does not admit, accept, or agree that the aforementioned activities constitute a violation of Florida law or District regulations.

13. THE RECITALS AND AGREEMENTS CONTAINED HEREIN SHALL BE BINDING ON TOMOKA AND ON ALL PERSONS (INCLUDING CORPORATIONS, ASSOCIATIONS, TRUSTS, AND OTHER LEGAL ENTITIES) TAKING TITLE TO ALL OR ANY PART OF THE TOMOKA PROPERTIES AT ISSUE UNDER THIS AGREEMENT, AND THEIR SUCCESSORS IN INTERESTS. BY TAKING SUCH TITLE, SUCH PERSONS SHALL BE DEEMED TO HAVE CONSENTED AND AGREED TO THE PROVISIONS OF THIS AGREEMENT OT THE SAME EXTENT AS IF THEY HAD EXECUTED IT AND BY TAKING SUCH TITLE, SUCH PERSONS SHALL BE ESTOPPED FORM CONTESTING, IN COURT OR OTHERWISE, THE VALIDITY, LEGALITY AND ENFORCEABILITY OF THIS AGREEMENT OR ANY MATTERS CONTAINED HEREIN.

IN WITNESS WHEREOF, the parties hereto have affixed their sign and seal on the day indicated.

"Tomoka"

CONSOLIDATED-TOMOKA LAND CO., a Florida corporation

By: _____
John P. Albright
President and CEO

Witness: _____

Witness: _____

STATE OF TX
COUNTY OF Travis

The foregoing instrument was acknowledged before me this 31st day of December, 2012, by John P. Albright, as President and CEO of Consolidated Tomoka Land Co., a Florida corporation, on its behalf.

_____
Signature of Notary Public

EMILY CATHERINE MONROE
Notary Public, State of Texas
My Commission Expires
March 23, 2016

(SEAL)

_____
Name of Notary Public

(Typed, Printed or Stamped)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced: _____

[Signatures continue on following page]

"DISTRICT"

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, a special taxing district established by Chapter 373, Florida Statutes

Witness: Kathy Breed

By: _____
Name: Hans G. Tanzler III
Its: Executive Director

Witness: Kyia Tiffany

STATE OF FLORIDA
COUNTY OF PUTNAM

The foregoing instrument was acknowledged before me this 31st day of December, 2012, by Hans G. Tanzler III, as Executive Director of St. Johns River Water Management District, a special taxing district established by Chapter 373, Florida Statutes, on its behalf.

(SEAL)

MYRA B. PERSCHNICK
MY COMMISSION # DD 865794
EXPIRES: June 28, 2013
Bonded Thru Notary Public Underwriters

Signature of Notary Public

Myra B. Perschnick
Name of Notary Public
(Typed, Printed or Stamped)

Personally Known X OR Produced Identification _____
Type of Identification Produced: _____

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

10-9605

FILED
10 OCT 12 AM 11:43
DIVISION OF
ADMINISTRATIVE
HEARINGS

GOVERNING BOARD OF
THE ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT,

Complainant,

vs.

CONSOLIDATED-TOMOKA LAND CO.

Respondent.
_____/

SJRWMD F.O.R. NO. 2010-05

ADMINISTRATIVE COMPLAINT
AND PROPOSED ORDER

TO: Linda Crisp
Consolidated-Tomoka Land Co.
P. O. Box 10809
Daytona Beach FL 33120

Complainant GOVERNING BOARD OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT ("District"), serves this Administrative Complaint and Proposed Order on CONSOLIDATED-TOMOKA LAND CO. ("Consolidated" or "Respondent"), for the reasons set forth below:

FINDINGS OF FACT

1. Under chapter 373 of the Florida Statutes, the District is a special taxing district charged with the duty to prevent harm to water resources and to administer and enforce chapter 373 and the rules implementing it.

2. More specifically, sections 373.413, 373.414, and 373.416 of the Florida Statutes authorize the District to administer and enforce the environmental resource permitting

EXHIBIT
1

requirements for the management and storage of surface waters, including activities in wetlands or other surface waters. The District has implemented these statutes, in pertinent part, through rule chapters 40C-4 and 40C-42 of the Florida Administrative Code.

3. Respondent Consolidated is a Florida corporation whose principal address is 1530 Cornerstone Boulevard, Daytona Beach, Florida 32117, and whose mailing address is Post Office Box 10809, Daytona Beach, Florida 33120. Linda Crisp serves as both an officer of Consolidated and its registered agent for receiving service of process. Her address is the same as Consolidated's principal address in Daytona Beach.

4. Consolidated owns or controls approximately 3480 acres of real property, located in Sections 5, 6, 7, and 8, Township 15 South, Range 32 East; and Sections 26, 27, 34, 35, and 36, Township 14 South, Range 31 East, all in Volusia County, Florida, having parcel identification short numbers 4126-00-00-0020, 4127-00-00-0020,4134-00-00-0010,4135-00-00-0010, 4136-00-00-0250, 5205-00-00-0040, 5206-00-00-0020, 5206-00-00-0030, 5207-00-00-0010, and 5208-00-00-0020 (the "Property"). The Property is located within the geographical boundaries of the District. See § 373.069(2)(c), Fla. Stat. (2009).

5. This action arises from Consolidated's unauthorized construction and operation of a surface water management system without the necessary environmental resource permit. A location map that shows the area within which Consolidated's unauthorized construction of a surface water management system occurred is attached as Exhibit 1.

6. During inspection flights over the Property in 2008 and 2009, District compliance staff observed the presence of heavy construction equipment on the Property. District staff also observed that trees and vegetation had been cleared, that fill material had been spread, that ditches had been excavated, and that dredging and filling had occurred in and around wetlands.

District staff documented their observations with photographs.

7. Subsequently, District staff reviewed and analyzed historical aerial photographs of the Property, as well as soil maps and national wetland inventory maps, and determined that Consolidated had excavated approximately 107 ditches on the Property, and also had dredged and/or filled all or portions of 108 wetlands on the Property. For ease of reference, the District has grouped the ditches and wetlands into two areas, the North Area and the South Area. See attached Exhibits 2 and 3, respectively. Those Exhibits are incorporated by reference.

8. Consolidated constructed and is operating approximately 17 miles of ditches. The ditches have altered the hydroperiod of wetlands or have provided surface drainage of wetlands or other surface waters. The District has identified within each area the ditches that are the subject of this administrative complaint. The relevant ditches within the North and South areas of the Property are shown in yellow on Exhibits 2 and 3, respectively, and are identified in those exhibits by the letter D, followed by a number. The approximate length of each of the ditches is set forth in Exhibit 4, attached and incorporated by reference.

9. In addition to the ditches described in paragraph 8, Consolidated dredged and/or filled approximately 218 acres of wetlands. The dredged and/or filled wetlands that are the subject of this administrative complaint are shown in orange on Exhibits 2 and 3, and are identified in those exhibits by the letter W, followed by a number. The approximate acreage of each destroyed wetland is set forth in Exhibit 5, attached and incorporated by reference.

10. The District met with representatives of Consolidated to discuss the matter and exchanged letters regarding the unauthorized activities. Consolidated declined the District's request to access the Property. Consolidated has failed to obtain the necessary District environmental resource permit for the activities described in paragraphs 6, 7, 8, and 9.

CONCLUSIONS OF LAW

11. The District has jurisdiction over Respondent, the Property, and the construction and operation activities described in paragraphs 6 through 9. See §§ 373.069(2), 373.129, 373.413, 373.414, 373.416, Fla. Stat. (2009).

12. Under section 373.119(1), the District has the authority to issue and serve a written administrative complaint whenever the Executive Director of the District has reason to believe that a violation of any provision of chapter 373 or any regulation promulgated under it has occurred, is occurring, or is about to occur. §373.119(1). The administrative complaint may order that necessary corrective action be taken within a reasonable time as prescribed in such order. Id.

13. Consolidated's activities described in paragraphs 6 through 9 constitute the construction and operation of a "surface water management system," which is defined as "a stormwater management system, dam, impoundment, reservoir, appurtenant work, or works, or any combination thereof." Fla. Admin. Code R. 40C-4.021(27). The term also includes "areas of dredging or filling, as those terms are defined in subsections 373.403(13) and 373.403(14), F.S." Id. Consolidated's activities require permits under part IV of chapter 373 of the Florida Statutes and rules 40C-4.041(2)(b) 2 and 8 of the Florida Administrative Code. Consolidated's commencement of activities described in paragraphs 6 through 9 without first obtaining the required District permit violates chapter 373 of the Florida Statutes and rule chapter 40C-4 of the Florida Administrative Code. See § 373.430(1)(b), Fla. Stat. (2009); Fla. Admin. Code R. 40C-4.041(1), F.A.C.

14. Section 373.129(5) authorizes the District to commence a cause of action in court and seek a penalty not to exceed $10,000 per offense per day for violations of chapter 373 of the Florida Statutes and chapter 40C-4 of the Florida Administrative Code.

15. Section 373.129(6) authorizes the District to commence a cause of action in court and seek the recovery of investigative costs and reasonable attorney's fees expended in the enforcement of its programs and those delegated to it.

PROPOSED ORDER

16. In accordance with section 373.119, the District has alleged that the activities described in the Findings of Fact constitute a violation of Florida law. This proposed order states what you, as Respondent, must do in order to correct and address the violations alleged in the administrative complaint.

17. The District will adopt this proposed order as a final order (incorporating all the findings of fact and conclusions of law set forth above) in this case unless you, as Respondent, timely file a petition for administrative hearing under rule chapters 40C-1 and 28-106 of the Florida Administrative Code, and the Notice of Rights attached to this document as page 11 of 11. If you, as Respondent, fail to comply with this order once it becomes final, the District may file suit to enforce this order in court under sections 373.129(1) and 373.136(1) of the Florida Statutes, seeking penalties, costs, and reasonable attorney's fees.

The District proposes the following order in this matter:

18. Respondent shall implement one of the following corrective actions: (1) restore the property on which unpermitted construction took place to its pre-violation condition, in accordance with the restoration plan described in paragraph 20; (2) obtain an after-the-fact permit authorizing construction and operation of the unpermitted construction; or (3) implement a combination of corrective action plus restoration in accordance with the restoration plan described in paragraph 20, and after-the-fact permitting, in which each unpermitted activity described in paragraphs 6, 7, 8, and 9 is fully addressed through either restoration or after-the-fact permitting. Within fourteen (14) days

of rendition of the Final order in this matter, Respondent shall notify the District of the ditches and wetlands to be restored, if any, and of the unpermitted activities it will seek to authorize through an after-the-fact permit, if any. Within sixty (60) days of rendition of the Final Order, Respondent shall commence implementation of the restoration plan described in paragraph 20 for any ditches or wetlands it chooses to restore, and shall submit to the District a complete permit application, including the applicable permit fee, for any unpermitted activity respondent seeks to authorize through an after-the-fact permit. For any unpermitted activity for which Respondent seeks an after-the-fact permit, the complete permit application must provide reasonable assurance that the standards and criteria in rules 40C-4.301 and 40C-4.302 of the Florida Administrative Code are met.

19. Should Respondent elect to file an application for an after-the-fact permit and should the District send Respondent a request for additional information ("RAI"), Respondent shall fully and timely respond to each RAI within one hundred twenty (120) days of receipt of the RAI. In the event Respondent needs additional time to gather all of the requested information, Respondent shall submit, within one hundred twenty (120) days of receipt of the RAI, a written request for an extension of time pursuant to Rule 40C-1.1008, F.A.C. The written request for an extension shall demonstrate that the Respondent is diligently acquiring the requested information. The written request shall include, as a minimum, a copy of all work done at the time the extension is requested that partially responds to the request for additional information. Respondent's failure to complete an after-the-fact permit application within one hundred twenty (120) days of receipt of the RAI, or any written extension to that 120-day period, shall subject the incomplete application to administrative denial. Administrative denial of an application due to Respondent's failure to timely submit requested additional information will be deemed an abandonment by Respondent of its

election to seek an after-the-fact permit. Such abandonment by Respondent will activate the requirement that Respondent restore the wetlands as specified in paragraph 20. Similarly, denial of the application on a substantive basis for failure to meet the standards and criteria in rules 40C-4.301 and 40C-4.302 of the Florida Administrative Code will be deemed an abandonment by Respondent of its election to seek an after-the-fact permit and such abandonment will activate the requirement that Respondent restore the wetlands as specified in paragraph 20. In either case, Respondent shall implement the restoration plan specified in paragraph 20 within fourteen (14) days of rendition of the Final Order denying the application for a permit.

20. Should the Respondent elect to restore the Property, Respondent shall implement the following restoration plan:

A. Within nineteen (19) days of the rendition of the Final Order, Respondent shall arrange for District staff to conduct an on-site inspection to confirm the relevant historic elevations on the Property. The ditches and wetlands to be restored are shown on Exhibits 2 and 3, unless a revised document is provided by the District following the on-site inspection.

B. Within seventy (70) days of rendition of the Final Order, Respondent shall restore the 107 ditches to historic grade. For ditches within wetlands, Respondent shall use suitable native fill material; furthermore, any fill placed within adjacent wetlands must be used to fill the ditches or be removed and placed in a contained upland area.

C. Within eighty-five (85) days of rendition of the Final Order, Respondent shall submit two copies of an as-built topographic survey of the ditches and wetlands to be restored, certified by a Florida licensed land surveyor, showing dimensions, grades, ground elevations, and water surface elevations.

D. The District will review the as-built topographical survey to determine if the elevations have been restored to the historic elevations. The District will provide written approval that the as-built topographic survey is acceptable, or will provide written direction regarding additional work that needs to be performed to obtain approval.

E. After receipt of written approval that the District accepts the as-built topographic survey, Respondent shall promptly remove from the re-graded ditches and wetland areas any of the invasive species described in the "Florida Exotic Pest Plant Council's 2009 List of Invasive Plant Species." Then the re-graded ditches and wetland areas shall be planted in accordance with the planting plan attached as Exhibit 6 and incorporated by reference. The removal of invasive species and the planting shall be completed within twenty (20) days of receipt of the District's written approval of the topographic survey.

F. Within thirty (30) days of completion of the planting, Respondent shall submit two copies of a baseline report, utilizing District form EN-55. The baseline report shall include a description of the species and number of plants.

G. Respondent shall maintain the restoration area on a quarterly basis throughout the monitoring period so that the aerial coverage of invasive species, as defined in the "Florida Exotic Pest Plant Council's 2009 List of Invasive Plant Species" (including, but not limited to, Brazilian pepper, cattail, and primrose willow), is not greater than 10% for each stratum.

H. Respondent shall monitor the restoration area on an annual basis, and shall submit a report annually on District form EN-55 in the month of August through August 2014. The monitoring report shall contain all the information required by that form plus information describing all maintenance activities performed by Respondent during the applicable monitoring period (date and type). The first annual report is due in August 2011.

I. Successful establishment of the restoration area will have occurred when:

(i) At least 80 percent cover by appropriate wetland herbaceous species (species listed as obligate and facultative wet in Chapter 62-340.450, F.A.C.) has been obtained; and,

(ii) Hydrologic conditions sufficiently support the growth and survivorship of wetland plantings, and the propagation and colonization of additional wetland vegetation; and,

(iii) The aerial coverage of invasive species, as defined in the "Florida Exotic Pest Plant

Council's 2009 List of Invasive Plant Species" (including, but not limited to, Brazilian pepper, cattail, and primrose willow), is not greater than 10% for each stratum; and,

(iv) The above success criteria have been achieved by the end of a 3-year period following initial planting.

J. If successful establishment has not occurred as stated above, Respondent shall submit a remediation plan within thirty (30) days following the termination of the monitoring period in August 2014. The plan shall include a narrative describing the type and causes of failure and contain a complete set of plans for the redesign and/or replacement planting of the wetland restoration area so that the success criteria will be achieved. Within thirty (30) days of District approval, Respondent shall implement the redesign and/or replacement planting. The success criteria as stated above shall be achieved. If Respondent fails to timely submit a remediation plan or the remediation plan is unacceptable to the District, Respondents shall replant the restoration area in accordance with the specifications provided by the District within 60 days of being provided with the specifications. In addition, the monitoring required by these conditions shall be conducted again for a subsequent period of three (3) years.

K. If at any time Respondent observes 50% or greater mortality of planted wetland species in any stratum, Respondent shall submit a remediation plan to the District within thirty (30) days. Within thirty (30) days of receipt of written approval from the District, Respondent shall implement the approved remediation plan.

21. Respondent shall achieve successful establishment of the restoration wetland areas by meeting the success criteria described in paragraph 20.I.

22. Respondent shall undertake no construction that requires a permit from the District without first obtaining that permit from the District.

23. Respondent shall give the District, its employees, and consultants, following reasonable notice by the District to Respondent, access to the property to confirm the historic wetland elevations, inspect the restoration area, and determine compliance with the Final Order.

DATED on this 23rd day of ~~August~~ September 2010.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

KIRBY B. GREEN III
EXECUTIVE DIRECTOR

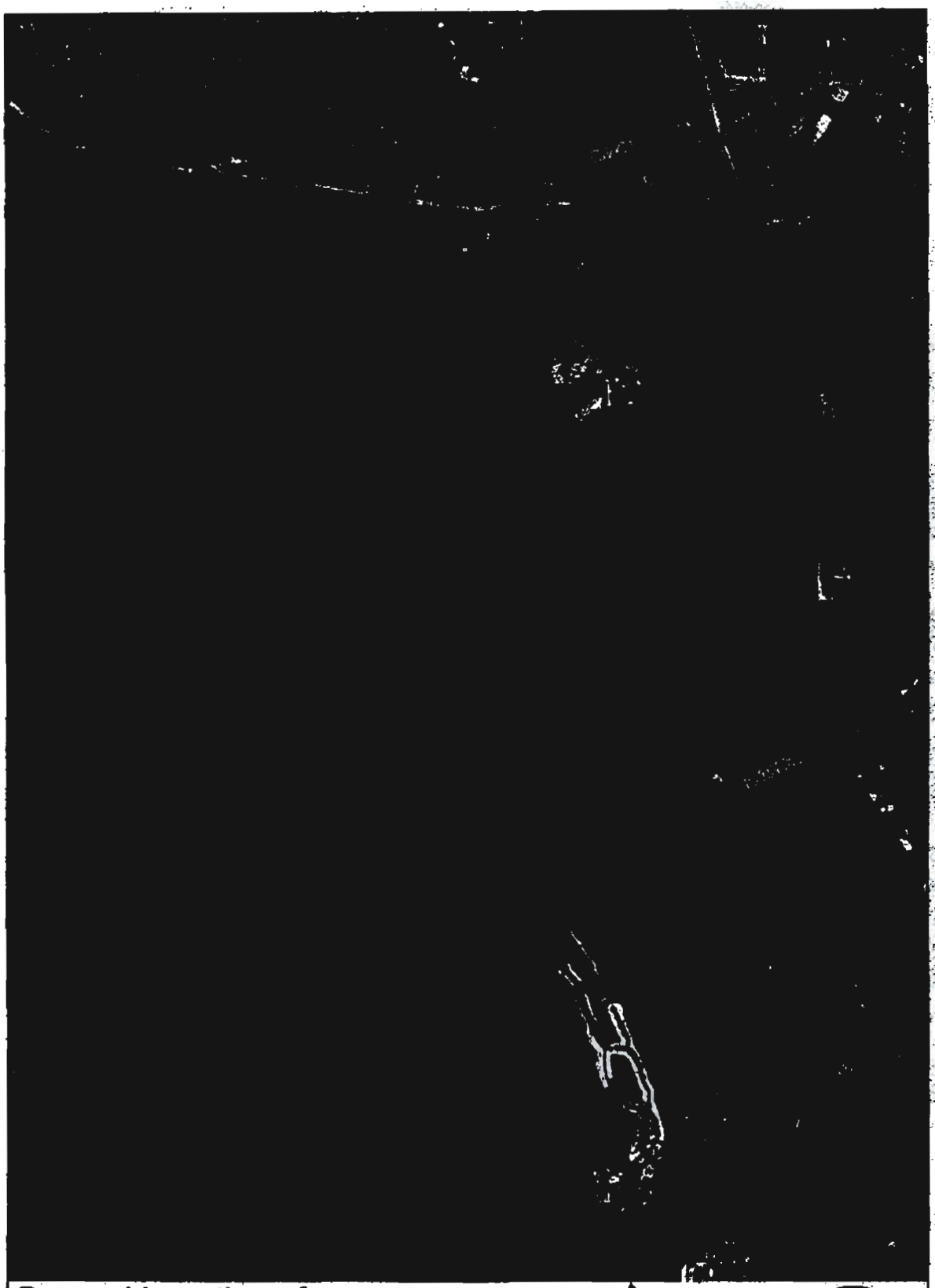
NOTICE OF RIGHTS

1. The person or persons named as a respondent in this Administrative Complaint and Proposed Order have the right to request an administrative hearing to be conducted in accordance with sections 120.569 and 120.57(1) of the Florida Statutes, and to be represented by counsel or other qualified representative. Any request for a hearing must comply with the requirements set forth in rule 28-106.2015(5) of the Florida Administrative Code. Mediation under section 120.573 of the Florida Statutes is not available.

2. Any request for a hearing must be filed with the St. Johns River Water Management District (District) either by delivery at the office of the District Clerk at District Headquarters, P. O. Box 1429, Palatka Florida 32178-1429 (4049 Reid St., Palatka, FL 32177) or by e-mail to the District Clerk at Clerk@sjrwmd.com, no later than 14 days after the date the Administrative Complaint and Proposed Order is served. A request for a hearing is deemed filed upon receipt of the complete request by the District Clerk at the District Headquarters in Palatka, Florida. A request for a hearing received by the District Clerk after 5:00 p.m., or on a Saturday, Sunday, or legal holiday, shall be deemed filed as of 8:00 a.m. on the next regular District business day. These requirements are set forth in chapter 28-106 of the Florida Administrative Code, in section 373.119 of the Florida Statutes, and in the District's Statement of Agency Organization and Operation (issued pursuant to rule 28-101.001, Florida Administrative Code). The District's acceptance of a request for hearing filed by email is subject to certain conditions contained in the District's Statement of Agency Organization and Operation, which is available for viewing at www.sjrwmd.com/agency_statement.pdf. These conditions include, but are not limited to, the request for hearing being in the form of a PDF or TIFF file and being capable of being stored and printed by the District. Further, pursuant to the District's Statement of Agency Organization and Operation, the District Clerk does not accept requests for hearing by facsimile (fax), and attempting to deliver a request for hearing by facsimile is prohibited and shall not constitute filing.

3. Failure to file a request for hearing within 14 days after the date the Administrative Complaint and Proposed Order is served shall constitute a waiver of the right to an administrative hearing. (Subsection 373.119(1) of the Florida Statutes).

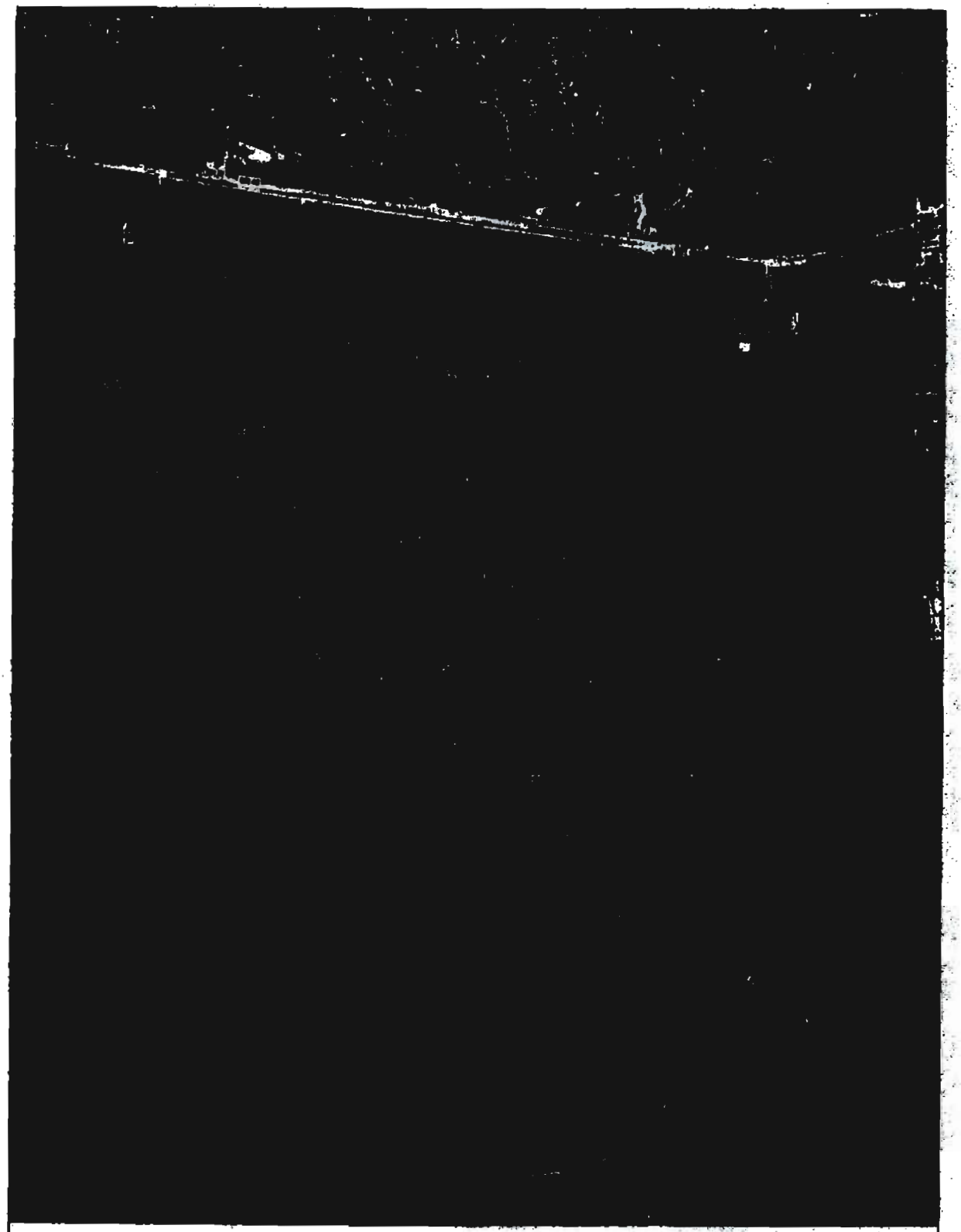
4. The right to an administrative hearing and the relevant procedures to be followed are governed by chapter 120 of the Florida Statutes, section 373.119 of the Florida Statutes, and chapter 28-106 of the Florida Administrative Code.



General Location of
Consolidated Tomoka's
Unpermitted Activities

Imagery Source: Volusia County 2006, 1 foot True

Exhibit 1



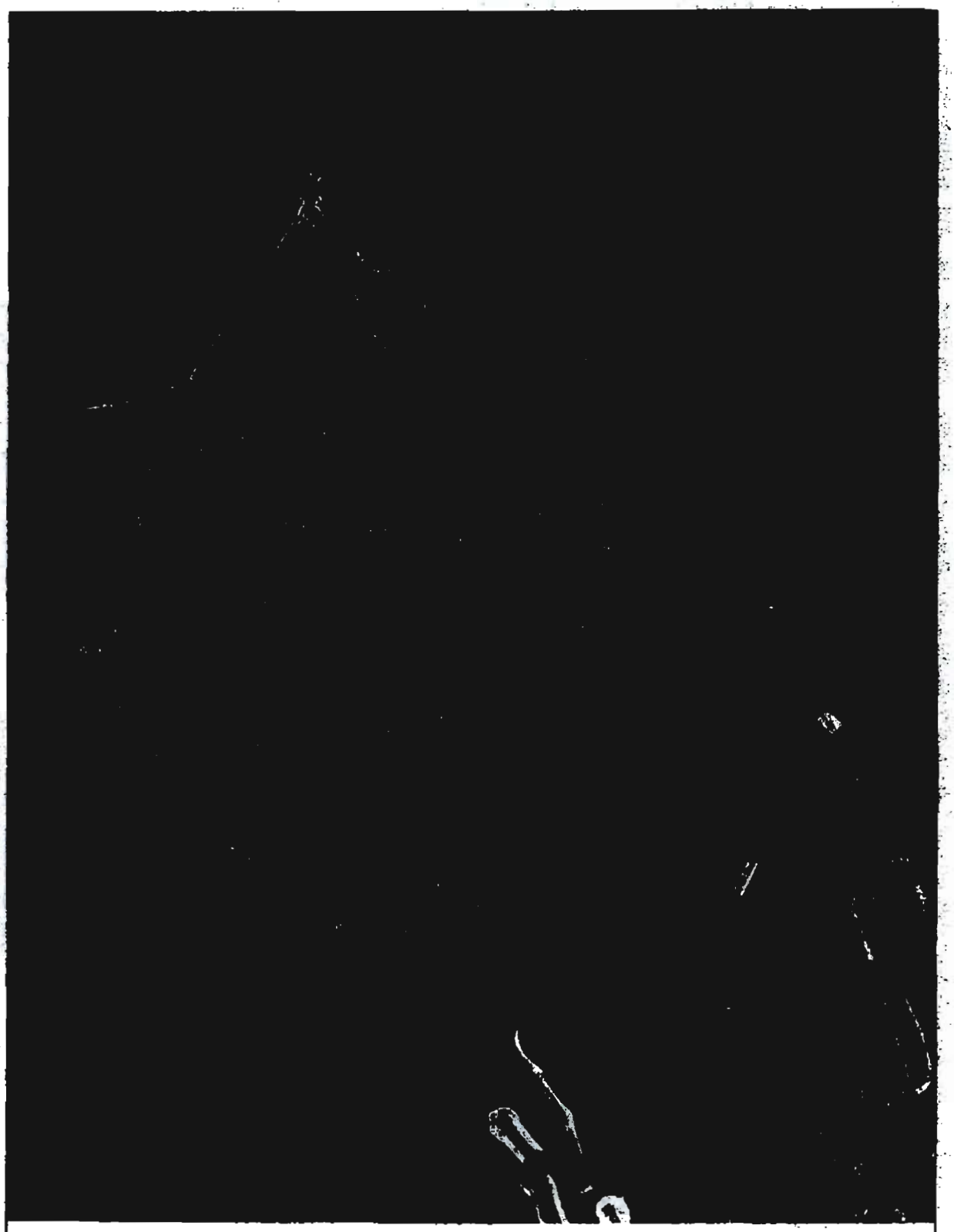
Consolidated-Tomoka's Unpermitted Activites North Area

Ditches

Destroyed Wetland Areas

Imagery Source: Volusia County 2006, 1 foot True Color

Exhibit 2



Consolidated-Tomoka's Unpermitted Activites South Area

Ditches

Destroyed Wetland Areas

Imagery Source: Volusia County ...

Exhibit 3

No.	Area	Length (Feet)
D-1	North	1236
D-2	North	387
D-3	North	961
D-4	North	1485
D-5	North	325
D-6	North	666
D-7	North	381
D-8	North	2770
D-9	North	727
D-10	North	931
D-11	North	1048
D-12	North	1276
D-13	North	779
D-14	North	1214
D-15	North	5161
D-16	North	1166
D-17	North	575
D-18	North	733
D-19	North	243
D-20	North	553
D-21	North	323
D-22	North	1122
D-23	North	444
D-24	North	460
D-25	North	928
D-26	North	4139
D-27	North	2406
D-28	North	4814
D-29	North	2102
D-30	North	1868
D-31	North	292
D-32	North	499
D-33	North	1520
D-34	North	10224
D-35	North	1739
D-36	North	148
D-37	North	3578
D-38	South	465
D-39	South	460
D-40	South	1981
D-41	South	3794
D-42	South	348
D-43	South	367
D-44	South	830
D-45	South	124
D-46	South	311
D-47	South	127
D-48	South	346
D-49	South	170
D-50	South	444
D-51	South	2990
D-52	South	105
D-53	South	565
D-54	South	519
D-55	South	3414
D-56	South	97
D-57	South	582
D-58	South	354
D-59	South	191
D-60	South	1079
D-61	South	3761
D-62	South	1550
D-63	South	1511
	TOTAL	**67472 Feet**
		12.8 Miles

Exhibit 4

No.	Area	Acres
W-1	North	0.5
W-2	North	0.7
W-3	North	0.3
W-4	North	0.4
W-5	North	1.1
W-6	North	0.6
W-7	North	0.3
W-8	North	0.5
W-9	North	1.1
W-10	North	0.7
W-11	North	2.8
W-12	North	3.6
W-13	North	1.2
W-14	North	1.0
W-15	North	0.8
W-16	North	0.6
W-17	North	4.7
W-18	North	7.8
W-19	North	4.6
W-20	North	2.7
W-21	North	1.5
W-22	North	5.3
W-23	North	1.0
W-24	North	7.3
W-25	North	1.5
W-26	North	2.2
W-27	North	9.4
W-28	North	0.5
W-29	North	1.0
W-30	North	0.5
W-31	North	0.8
W-32	North	1.0
W-33	North	1.9
W-34	North	1.2
W-35	North	0.7
W-36	North	0.9
W-37	North	0.5
W-38	North	1.6
W-39	North	4.5
W-40	North	0.5
W-41	North	1.1
W-42	North	0.9
W-43	North	0.8

No.	Area	Acres
W-44	North	0.7
W-45	North	1.6
W-46	North	0.3
W-47	North	0.8
W-48	South	1.3
W-49	South	5.4
W-50	South	0.9
W-51	South	0.9
W-52	South	3.1
W-53	South	0.4
W-54	South	3.5
W-55	South	0.8
W-56	South	3.3
W-57	South	9.1
W-58	South	1.1
W-59	South	3.1
W-60	South	1.8
W-61	South	0.9
W-62	South	1.0
W-63	South	11.1
W-64	South	5.6
W-65	South	5.5
W-66	South	1.4
W-67	South	1.1
W-68	South	0.3
W-69	South	0.7
W-70	South	0.6
W-71	South	5.1
W-72	South	2.3
W-73	South	1.2
W-74	South	0.7
W-75	South	1.9
W-76	South	1.0
W-77	South	0.4
W-78	South	0.5
W-79	South	4.4
W-80	South	2.6
W-81	South	1.7
W-82	South	2.0
W-83	South	1.3
W-84	South	1.2
W-85	South	0.8
W-86	South	6.7

No.	Area	Acres
W-87	South	1.6
W-88	South	7.4
W-89	South	0.4
W-90	South	1.5
W-91	South	0.7
W-92	South	0.9
W-93	South	0.7
W-94	South	2.1
W-95	South	1.3
W-96	South	1.7
W-97	South	3.8
W-98	South	1.1
W-99	South	2.0
W-100	South	2.3
W-101	South	1.2
W-102	South	0.5
W-103	South	1.2
W-104	South	0.2
W-105	South	1.7
W-106	South	0.3
W-107	South	0.6
W-108	South	1.3
	TOTAL	216.6

Exhibit 5

Restoration Planting Plan for Consolidated-Tomoka Land Co.

I. **Flatwood Depressional Pine (FDPI)/Cypress (CY)/Hardwood Swamp (HS) – Wetlands**

A. W-4 (0.4 ac): plant 160 trees on 10 ft centers and 1904 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
B. W-10 (0.7 ac): plant 280 trees on 10 ft centers and 3332 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
C. W-11 (2.8 ac): plant 1080 trees on 10 ft centers and 12854 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
D. W-13 (1.2 ac): plant 480 trees on 10 ft centers and 5713 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
E. W-28 (0.5 ac): plant 200 trees on 10 ft centers and 2380 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
F. W-36 (0.9 ac): plant 360 trees on 10 ft centers and 4284 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
G. W-48 (1.3 ac): plant 520 trees on 10 ft centers and 6189 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
H. W-50 (0.9 ac): plant 360 trees on 10 ft centers and 4284 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
I. W-56 (3.3 ac) plant 1320 trees on 10 ft centers and 15711 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
J. W-58 (1.1 ac): plant 440 trees on 10 ft centers and 5237 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
K. W-82 (2.0 ac): plant 800 trees on 10 ft centers and 9522 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
L. W-90 (1.6 ac): plant 640 trees on 10 ft centers and 7617 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
M. W-93 (0.7 ac): plant 280 trees on 10 ft centers and 3332 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
N. W-95 (1.3 ac): plant 520 trees on 10 ft centers and 6189 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
O. W-97 (3.8 ac): plant 1520 trees on 10 ft centers and 18091 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
P. W-99 (2.0 ac): plant 800 trees on 10 ft centers and 9522 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
Q. W-100 (2.3 ac): plant 920 trees on 10 ft centers and 10950 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
R. W-102 (0.5 ac): plant 200 trees on 10 ft centers and 2380 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

Exhibit 6

S. W-80 (2.6 ac): plant 1040 trees on 10 ft centers and 12378 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

T. W-106 (0.3 ac): plant 120 trees on 10 ft centers and 1428 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

U. W-108 (1.3 ac): plant 520 trees on 10 ft centers and 6189 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

Trees

1. Boxelder *(Acer negundo)*
2. Red maple *(Acer rubrum)*
3. Water hickory *(Carya aquatica)*
4. Common persimmon *(Diospyros virginana)*
5. Pop ash *(Fraxinus caroliniana)*
6. Loblolly bay *(Gordonia lasianthus)*
7. Dahoon *(Ilex cassine)*
8. Sweetgum *(Liquidambar styraciflua)*
9. Sweetbay *(Magnolia virginiana)*
10. Swamp tupelo *(Nyssa sylvatica, var. biflora)*
11. Swamp bay *(Persea palustris)*
12. Pond pine *(Pinus serotina)*
13. Laurel oak *(Quercus laurifolia)*
14. Water oak *(Quercus nigra)*
15. Cabbage palm *(Sabal palmetto)*
16. Pond cypress *(Taxodium ascendens)*
17. Bald cypress *(Taxodium distichum)*
18. Carolina basswood *(Tilia americana)*
19. Winged elm *(Ulmus alata)*
20. American elm *(Ulmus americana)*

Groundcover

1. Leather fern *(Acrostichum danaeifolium)*
2. Bushy bluestem *(Andropogon glomeratus, var. glomeratus)*
3. Blue maidencane *(Amphicarpum muhlenbergianum)*
4. Swamp milkweed *(Asclepias perennnis)*
5. Lemon bacopa *(Bacopa carolinana)*
6. Water hyssop *(Bacopa monnieri)*
7. Bur-marigold *(Bidens laevis)*
8. Marsh beggar-ticks *(Bidens mitis)*
9. Rayless goldenrod *(Bigelowia nudata, var. nudata)*
10. Swamp fern *(Blechnum serrulatum)*
11. False nettle *(Boehmeria cylindrica)*

12. Golden canna *(Canna flaccida)*
13. Saw-grass *(Cladium jamaicense)*
14. Southern swamp-lily *(Crinum americanum)*
15. Florida tickseed *(Coreopsis floridana)*
16. Leavenworth's tickseed *(Coreopsis leavenworthii)*
17. Toothache grass *(Ctenium aromaticum)*
18. Hairgrass *(Eleocharis baldwinii)*
19. Coastal spikerush *(Eleocharis cellulosa)*
20. Jointed spikerush *(Eleocharis interstincta)*
21. Viviparous spikerush *(Eleocharis vivipara)*
22. Horsetail *(Equisetum hyemale)*
23. Blue-flowered snakeroot *(Eryngium aquaticum)*
24. Marsh fimbry *(Fimbristylis spadicea)*
25. Yellowtop *(Flaveria linearis)*
26. Scarlet hibiscus *(Hibiscus coccineus)*
27. Swamp hibiscus *(Hibiscus grandiflorus)*
28. Skyflower *(Hydrolea corymbosa)*
29. Myrtleleaf St. John's-wort *(Hypericum myrtifolium)*
30. Anglepod blue-flag *(Iris hexagona)*
31. Soft rush *(Juncus effuses)*
32. Swamp sunflower *(Helianthus angustifolius)*
33. Lakeside sunflower *(Helianthus carnosus)*
34. Cardinal flower *(Lobelia cardinalis)*
35. Squarestem *(Melanthera nivea)*
36. Browne's savory *(Micromeria brownei)*
37. Cinnamon fern *(Osmunda cinnamomea)*
38. Royal fern *(Osmunda regalis)*
39. Water dropwort *(Oxypolis filiformis)*
40. Spreading panicum *(Panicum anceps)*
41. Maidencane *(Panicum hemitomon)*
42. Switchgrass *(Panicum virgatum)*
43. Eastern false dragonhead *(Physostegia purpurea)*
44. Pickerelweed *(Pontederia cordata)*
45. Dotted smartweed *(Polygonum punctatum)*
46. Savannah meadowbeauty *(Rhexia alifanus)*
47. Yellow meadowbeauty *(Rhexia lutea)*
48. Pale meadowbeauty *(Rhexia mariana)*
49. Maid marian *(Rhexia nashii)*
50. Fringed meadowbeauty *(Rhexia petiolata)*
51. White-topped sedge *(Rhynchospora colorata)*
52. Tracy's beakrush *(Rhynchospora tracyi)*
53. Giant plumegrass *(Saccharum giganteum)*

54. Lizard's tail *(Saururus cernuus)*
55. Soft-stem bulrush *(Scirpus validus)*
56. Sand cordgrass *(Spartina bakeri)*
57. Duck potato *(Sagittaria lancifolia)*
58. Blue-eyed grass *(Sisyrinchium angustifolium)*
59. Marsh goldenrod *(Solidago fistulosa)*
60. Leavenworth's goldenrod *(Solidago leavenworthii)*
61. Seaside goldenrod *(Solidago sempervirens)*
62. Willow leaf goldenrod *(Solidago stricta)*
63. Stoke's aster *(Symphyotrichum elliottii)*
64. Alligator flag *(Thalia geniculata)*
65. Diverseleaf crownbeard *(Verbesina heterophylla)*
66. Giant ironweed *(Vernonia gigantea)*
67. Netted chain fern *(Woodwardia areolata)*
68. Virginia chain fern *(Woodwardia virginica)*

II. Scrub Shrub (SS) Wetlands

A. W-103 (1.2 ac): plant 480 trees or shrubs on 10 ft centers and 5713 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

B. W-104 (0.2 ac): plant 80 trees or shrubs on 10 ft centers and 952 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

Trees and Shrubs

1. Boxelder *(Acer negundo)*
2. Red maple *(Acer rubrum)*
3. Agarista *(Agarista populifolia)*
4. Saltbush *(Baccharis halimifolia)*
5. Ironwood *(Carpinus caroliniana)*
6. Water hickory *(Carya aquatica)*
7. Buttonbush *(Cephalanthus occidentalis)*
8. Swamp dogwood *(Cornus foemina)*
9. May haw *(Crataegus aestivalis)*
10. Parsley haw *(Crataegus marshallii)*
11. Common persimmon *(Diospyros virginana)*
12. Swamp doghobble *(Eubotrys racemosa)*
13. Pop ash *(Fraxinus caroliniana)*
14. Loblolly bay *(Gordonia lasianthus)*
15. Dahoon *(Ilex cassine)*
16. Possum-haw *(Ilex decidua)*

17. American holly *(Ilex opaca)*
18. Star anise *(Illicium parviflorum)*
19. Yaupon *(Ilex vomitoria)*
20. Virginia willow *(Itea virginica)*
21. Spicebush *(Lindera benzoin)*
22. Sweetgum *(Liquidambar styraciflua)*
23. Shiny lyonia *(Lyonia lucida)*
24. Rusty staggerbush *(Lyonia ferruginea)*
25. Coastalplain staggerbush *(Lyonia fruticosa)*
26. Sweetbay *(Magnolia virginiana)*
27. Wax myrtle *(Myrica cerifera)*
28. Swamp tupelo *(Nyssa sylvatica, var. biflora)*
29. Swamp bay *(Persea palustris)*
30. Pond pine *(Pinus serotina)*
31. Wild coffee *(Psychotria nervosa)*
32. Shortleaf wild coffee *(Psychotria sulzneri)*
33. Laurel oak *(Quercus laurifolia)*
34. Water oak *(Quercus nigra)*
35. Swamp rose *(Rosa palustris)*
36. Cabbage palm *(Sabal palmetto)*
37. Carolina willow *(Salix caroliniana)*
38. Elderberry *(Sambucus nigra subsp. canadensis)*
39. Storax *(Styrax americanus)*
40. Pond cypress *(Taxodium ascendens)*
41. Bald cypress *(Taxodium distichum)*
42. Carolina basswood *(Tilia americana)*
43. Winged elm *(Ulmus alata)*
44. American elm *(Ulmus americana)*
45. Arrow-wood *(Viburnum dentatum)*
46. Walter's viburnum *(Viburnum obovatum)*

Groundcover

1. Leather fern *(Acrostichum danaeifolium)*
2. Bushy bluestem *(Andropogon glomeratus, var. glomeratus)*
3. Blue maidencane *(Amphicarpum muhlenbergianum)*
4. Swamp milkweed *(Asclepias perennnis)*
5. Lemon bacopa *(Bacopa carolinana)*
6. Water hyssop *(Bacopa monnieri)*
7. Bur-marigold *(Bidens laevis)*
8. Marsh beggar-ticks *(Bidens mitis)*
9. Rayless goldenrod *(Bigelowia nudata, var. nudata)*

10. Swamp fern *(Blechnum serrulatum)*
11. False nettle *(Boehmeria cylindrica)*
12. Golden canna *(Canna flaccida)*
13. Saw-grass *(Cladium jamaicense)*
14. Southern swamp-lily *(Crinum americanum)*
15. Florida tickseed *(Coreopsis floridana)*
16. Leavenworth's tickseed *(Coreopsis leavenworthii)*
17. Toothache grass *(Ctenium aromaticum)*
18. Hairgrass *(Eleocharis baldwinii)*
19. Coastal spikerush *(Eleocharis cellulosa)*
20. Jointed spikerush *(Eleocharis interstincta)*
21. Viviparous spikerush *(Eleocharis vivipara)*
22. Horsetail *(Equisetum hyemale)*
23. Blue-flowered snakeroot *(Eryngium aquaticum)*
24. Marsh fimbry *(Fimbristylis spadicea)*
25. Yellowtop *(Flaveria linearis)*
26. Scarlet hibiscus *(Hibiscus coccineus)*
27. Swamp hibiscus *(Hibiscus grandiflorus)*
28. Skyflower *(Hydrolea corymbosa)*
29. Myrtleleaf St. John's-wort *(Hypericum myrtifolium)*
30. Anglepod blue-flag *(Iris hexagona)*
31. Soft rush *(Juncus effuses)*
32. Swamp sunflower *(Helianthus angustifolius)*
33. Lakeside sunflower *(Helianthus carnosus)*
34. Cardinal flower *(Lobelia cardinalis)*
35. Squarestem *(Melanthera nivea)*
36. Browne's savory *(Micromeria brownei)*
37. Cinnamon fern *(Osmunda cinnamomea)*
38. Royal fern *(Osmunda regalis)*
39. Water dropwort *(Oxypolis filiformis)*
40. Spreading panicum *(Panicum anceps)*
41. Maidencane *(Panicum hemitomon)*
42. Switchgrass *(Panicum virgatum)*
43. Eastern false dragonhead *(Physostegia purpurea)*
44. Pickerelweed *(Pontederia cordata)*
45. Dotted smartweed *(Polygonum punctatum)*
46. Savannah meadowbeauty *(Rhexia alifanus)*
47. Yellow meadowbeauty *(Rhexia lutea)*
48. Pale meadowbeauty *(Rhexia mariana)*
49. Maid marian *(Rhexia nashii)*
50. Fringed meadowbeauty *(Rhexia petiolata)*
51. White-topped sedge *(Rhynchospora colorata)*

52. Tracy's beakrush *(Rhynchospora tracyi)*
53. Giant plumegrass *(Saccharum giganteum)*
54. Lizard's tail *(Saururus cernuus)*
55. Soft-stem bulrush *(Scirpus validus)*
56. Sand cordgrass *(Spartina bakeri)*
57. Duck potato *(Sagittaria lancifolia)*
58. Blue-eyed grass *(Sisyrinchium angustifolium)*
59. Marsh goldenrod *(Solidago fistulosa)*
60. Leavenworth's goldenrod *(Solidago leavenworthii)*
61. Seaside goldenrod *(Solidago sempervirens)*
62. Willow leaf goldenrod *(Solidago stricta)*
63. Stoke's aster *(Symphyotrichum elliottii)*
64. Alligator flag *(Thalia geniculata)*
65. Diverseleaf crownbeard *(Verbesina heterophylla)*
66. Giant ironweed *(Vernonia gigantea)*
67. Netted chain fern *(Woodwardia areolata)*
68. Virginia chain fern *(Woodwardia virginica)*

III. Wet Prairie (WP)/Shallow Marsh (SM) Wetlands

A. W-1 (0.5 ac): plant 2380 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
B. W-2 (0.7 ac): plant 3332 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
C. W-3 (0.3 ac): plant 1428 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
D. W-6 (0.6 ac): plant 2856 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
E. W-8 (0.5 ac): plant 2380 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
F. W-12 (3.6 ac): plant 17139 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
G. W-15 (0.8 ac): plant 3808 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
H. W-16 (0.6 ac): plant 2856 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
I. W-20 (2.7 ac): plant 12854 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
J. W-29 (1.0 ac): plant 4761 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).

K. W-34 (1.2 ac): plant 5713 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
L. W-35 (0.7 ac): plant 3332 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
M. W-39 (4.5 ac): plant 21424 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
N. W-40 (0.5 ac): plant 2380 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
O. W-41 (1.1 ac): plant 5237 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
P. W-43 (0.8 ac): plant 3808 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
Q. W-44 (0.7 ac): plant 3332 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
R. W-46 (0.3 ac): plant 1428 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
S. W-62 (1.0 ac): plant 4761 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
T. W-65 (5.5 ac): plant 26185 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
U. W-67 (1.1 ac): plant 5237 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
V. W-71 (5.1 ac): plant 24281 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
W. W-72 (2.3 ac): plant 10950 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
X. W-73 (1.2 ac): plant 5713 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
Y. W-77 (0.4 ac): plant 1904 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
Z. W-78 (0.5 ac): plant 2380 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
AA. W-81 (1.7 ac): plant 8093 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
BB. W-86 (6.7 ac): plant 31898 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
CC. W-87 (1.6 ac): plant 7617 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
DD. W-88 (7.4 ac): plant 35231 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).
EE. W-89 (0.4 ac): plant 1904 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).

FF. W-91 (0.7 ac): plant 3332 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).

GG. W-92 (0.9 ac): plant 4284 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).

HH. W-98 (1.1 ac): plant 5237 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).

II. W-107 (0.6 ac): plant 2856 groundcover on 3 ft centers from list below (any combination of appropriate species – 3 species minimum).

Groundcover

1. Leather fern *(Acrostichum danaeifolium)*
2. Bushy bluestem *(Andropogon glomeratus, var. glomeratus)*
3. Blue maidencane *(Amphicarpum muhlenbergianum)*
4. Swamp milkweed *(Asclepias perennnis)*
5. Lemon bacopa *(Bacopa carolinana)*
6. Water hyssop *(Bacopa monnieri)*
7. Bur-marigold *(Bidens laevis)*
8. Marsh beggar-ticks *(Bidens mitis)*
9. Rayless goldenrod *(Bigelowia nudata, var. nudata)*
10. Swamp fern *(Blechnum serrulatum)*
11. False nettle *(Boehmeria cylindrica)*
12. Golden canna *(Canna flaccida)*
13. Saw-grass *(Cladium jamaicense)*
14. Southern swamp-lily *(Crinum americanum)*
15. Florida tickseed *(Coreopsis floridana)*
16. Leavenworth's tickseed *(Coreopsis leavenworthii)*
17. Toothache grass *(Ctenium aromaticum)*
18. Hairgrass *(Eleocharis baldwinii)*
19. Coastal spikerush *(Eleocharis cellulosa)*
20. Jointed spikerush *(Eleocharis interstincta)*
21. Viviparous spikerush *(Eleocharis vivipara)*
22. Horsetail *(Equisetum hyemale)*
23. Blue-flowered snakeroot *(Eryngium aquaticum)*
24. Marsh fimbry *(Fimbristylis spadicea)*
25. Yellowtop *(Flaveria linearis)*
26. Scarlet hibiscus *(Hibiscus coccineus)*
27. Swamp hibiscus *(Hibiscus grandiflorus)*
28. Skyflower *(Hydrolea corymbosa)*
29. Myrtleleaf St. John's-wort *(Hypericum myrtifolium)*
30. Anglepod blue-flag *(Iris hexagona)*
31. Soft rush *(Juncus effuses)*

32. Swamp sunflower *(Helianthus angustifolius)*
33. Lakeside sunflower *(Helianthus carnosus)*
34. Cardinal flower *(Lobelia cardinalis)*
35. Squarestem *(Melanthera nivea)*
36. Browne's savory *(Micromeria brownei)*
37. Cinnamon fern *(Osmunda cinnamomea)*
38. Royal fern *(Osmunda regalis)*
39. Water dropwort *(Oxypolis filiformis)*
40. Spreading panicum *(Panicum anceps)*
41. Maidencane *(Panicum hemitomon)*
42. Switchgrass *(Panicum virgatum)*
43. Eastern false dragonhead *(Physostegia purpurea)*
44. Pickerelweed *(Pontederia cordata)*
45. Dotted smartweed *(Polygonum punctatum)*
46. Savannah meadowbeauty *(Rhexia alifanus)*
47. Yellow meadowbeauty *(Rhexia lutea)*
48. Pale meadowbeauty *(Rhexia mariana)*
49. Maid marian *(Rhexia nashii)*
50. Fringed meadowbeauty *(Rhexia petiolata)*
51. White-topped sedge *(Rhynchospora colorata)*
52. Tracy's beakrush *(Rhynchospora tracyi)*
53. Giant plumegrass *(Saccharum giganteum)*
54. Lizard's tail *(Saururus cernuus)*
55. Soft-stem bulrush *(Scirpus validus)*
56. Sand cordgrass *(Spartina bakeri)*
57. Duck potato *(Sagittaria lancifolia)*
58. Blue-eyed grass *(Sisyrinchium angustifolium)*
59. Marsh goldenrod *(Solidago fistulosa)*
60. Leavenworth's goldenrod *(Solidago leavenworthii)*
61. Seaside goldenrod *(Solidago sempervirens)*
62. Willow leaf goldenrod *(Solidago stricta)*
63. Stoke's aster *(Symphyotrichum elliottii)*
64. Alligator flag *(Thalia geniculata)*
65. Diverseleaf crownbeard *(Verbesina heterophylla)*
66. Giant ironweed *(Vernonia gigantea)*
67. Netted chain fern *(Woodwardia areolata)*
68. Virginia chain fern *(Woodwardia virginica)*

IV. Flatwood Depressional Pine (FDPI) /Cypress (CY) - Wet Prairie (WP)/Shallow Marsh (SM) Wetlands

A. W-26 (2.2 ac) plant 371 trees on 15 ft centers and 10474 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
B. W-47 (0.8 ac) plant 135 trees on 15 ft centers and 3808 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
C. W-49 (5.4 ac): plant 912 trees on 15 ft centers and 25709 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
D. W-51 (0.9 ac): plant 152 trees on 15 ft centers and 4284 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
E. W-52 (3.1 ac): plant 523 trees on 15 ft centers and 14759 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
F. W-55 (0.8 ac) plant 135 trees on 15 ft centers and 3808 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
G. W-57 (9.1 ac) plant 1537 trees on 15 ft centers and 43325 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
H. W-59 (3.1 ac) plant 523 trees on 15 ft centers and 14759 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
I. W-61 (0.9 ac) plant 152 trees on 15 ft centers and 4284 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
J. W-63 (11.1 ac) plant 1875 trees on 15 ft centers and 52847 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
K. W-64 (5.6 ac) plant 946 trees on 15 ft centers and 26661 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
L. W-70 (0.6 ac) plant 101 trees on 15 ft centers and 2856 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
M. W-101 (1.2 ac) plant 202 trees on 15 ft centers and 5713 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

Trees

1. Boxelder *(Acer negundo)*
2. Red maple *(Acer rubrum)*
3. Water hickory *(Carya aquatica)*
4. Common persimmon *(Diospyros virginana)*
5. Pop ash *(Fraxinus caroliniana)*
6. Loblolly bay *(Gordonia lasianthus)*
7. Dahoon *(Ilex cassine)*
8. Sweetgum *(Liquidambar styraciflua)*
9. Sweetbay *(Magnolia virginiana)*
10. Swamp tupelo *(Nyssa sylvatica, var. biflora)*

11. Swamp bay *(Persea palustris)*
12. Pond pine *(Pinus serotina)*
13. Laurel oak *(Quercus laurifolia)*
14. Water oak *(Quercus nigra)*
15. Cabbage palm *(Sabal palmetto)*
16. Pond cypress *(Taxodium ascendens)*
17. Bald cypress *(Taxodium distichum)*
18. Carolina basswood *(Tilia americana)*
19. Winged elm *(Ulmus alata)*
20. American elm *(Ulmus americana)*

Groundcover

1. Leather fern *(Acrostichum danaeifolium)*
2. Bushy bluestem *(Andropogon glomeratus, var. glomeratus)*
3. Blue maidencane *(Amphicarpum muhlenbergianum)*
4. Swamp milkweed *(Asclepias perennnis)*
5. Lemon bacopa *(Bacopa carolinana)*
6. Water hyssop *(Bacopa monnieri)*
7. Bur-marigold *(Bidens laevis)*
8. Marsh beggar-ticks *(Bidens mitis)*
9. Rayless goldenrod *(Bigelowia nudata, var. nudata)*
10. Swamp fern *(Blechnum serrulatum)*
11. False nettle *(Boehmeria cylindrica)*
12. Golden canna *(Canna flaccida)*
13. Saw-grass *(Cladium jamaicense)*
14. Southern swamp-lily *(Crinum americanum)*
15. Florida tickseed *(Coreopsis floridana)*
16. Leavenworth's tickseed *(Coreopsis leavenworthii)*
17. Toothache grass *(Ctenium aromaticum)*
18. Hairgrass *(Eleocharis baldwinii)*
19. Coastal spikerush *(Eleocharis cellulosa)*
20. Jointed spikerush *(Eleocharis interstincta)*
21. Viviparous spikerush *(Eleocharis vivipara)*
22. Horsetail *(Equisetum hyemale)*
23. Blue-flowered snakeroot *(Eryngium aquaticum)*
24. Marsh fimbry *(Fimbristylis spadicea)*
25. Yellowtop *(Flaveria linearis)*
26. Scarlet hibiscus *(Hibiscus coccineus)*
27. Swamp hibiscus *(Hibiscus grandiflorus)*
28. Skyflower *(Hydrolea corymbosa)*
29. Myrtleleaf St. John's-wort *(Hypericum myrtifolium)*

30. Anglepod blue-flag *(Iris hexagona)*
31. Soft rush *(Juncus effuses)*
32. Swamp sunflower *(Helianthus angustifolius)*
33. Lakeside sunflower *(Helianthus carnosus)*
34. Cardinal flower *(Lobelia cardinalis)*
35. Squarestem *(Melanthera nivea)*
36. Browne's savory *(Micromeria brownei)*
37. Cinnamon fern *(Osmunda cinnamomea)*
38. Royal fern *(Osmunda regalis)*
39. Water dropwort *(Oxypolis filiformis)*
40. Spreading panicum *(Panicum anceps)*
41. Maidencane *(Panicum hemitomon)*
42. Switchgrass *(Panicum virgatum)*
43. Eastern false dragonhead *(Physostegia purpurea)*
44. Pickerelweed *(Pontederia cordata)*
45. Dotted smartweed *(Polygonum punctatum)*
46. Savannah meadowbeauty *(Rhexia alifanus)*
47. Yellow meadowbeauty *(Rhexia lutea)*
48. Pale meadowbeauty *(Rhexia mariana)*
49. Maid marian *(Rhexia nashii)*
50. Fringed meadowbeauty *(Rhexia petiolata)*
51. White-topped sedge *(Rhynchospora colorata)*
52. Tracy's beakrush *(Rhynchospora tracyi)*
53. Giant plumegrass *(Saccharum giganteum)*
54. Lizard's tail *(Saururus cernuus)*
55. Soft-stem bulrush *(Scirpus validus)*
56. Sand cordgrass *(Spartina bakeri)*
57. Duck potato *(Sagittaria lancifolia)*
58. Blue-eyed grass *(Sisyrinchium angustifolium)*
59. Marsh goldenrod *(Solidago fistulosa)*
60. Leavenworth's goldenrod *(Solidago leavenworthii)*
61. Seaside goldenrod *(Solidago sempervirens)*
62. Willow leaf goldenrod *(Solidago stricta)*
63. Stoke's aster *(Symphyotrichum elliottii)*
64. Alligator flag *(Thalia geniculata)*
65. Diverseleaf crownbeard *(Verbesina heterophylla)*
66. Giant ironweed *(Vernonia gigantea)*
67. Netted chain fern *(Woodwardia areolata)*
68. Virginia chain fern *(Woodwardia virginica)*

V. Cypress (CY)/Scrub Shrub (SS) - Wet Prairie (WP) Wetlands

A. W-24 (7.3 ac) plant 1233 trees or shrubs on 15 ft centers and 34755 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

Trees and Shrubs

1. Boxelder *(Acer negundo)*
2. Red maple *(Acer rubrum)*
3. Agarista *(Agarista populifolia)*
4. Saltbush *(Baccharis hallmifolia)*
5. Ironwood *(Carpinus caroliniana)*
6. Water hickory *(Carya aquatica)*
7. Buttonbush *(Cephalanthus occidentalis)*
8. Swamp dogwood *(Cornus foemina)*
9. May haw *(Crataegus aestivalis)*
10. Parsley haw *(Crataegus marshallii)*
11. Common persimmon *(Diospyros virginana)*
12. Swamp doghobble *(Eubotrys racemosa)*
13. Pop ash *(Fraxinus caroliniana)*
14. Loblolly bay *(Gordonia lasianthus)*
15. Dahoon *(Ilex cassine)*
16. Possum-haw *(Ilex decidua)*
17. American holly *(Ilex opaca)*
18. Star anise *(Illicium parviflorum)*
19. Yaupon *(Ilex vomitoria)*
20. Virginia willow *(Itea virginica)*
21. Spicebush *(Lindera benzoin)*
22. Sweetgum *(Liquidambar styraciflua)*
23. Shiny lyonia *(Lyonia lucida)*
24. Rusty staggerbush *(Lyonia ferruginea)*
25. Coastalplain staggerbush *(Lyonia fruticosa)*
26. Sweetbay *(Magnolia virginiana)*
27. Wax myrtle *(Myrica cerifera)*
28. Swamp tupelo *(Nyssa sylvatica, var. biflora)*
29. Swamp bay *(Persea palustris)*
30. Pond pine *(Pinus serotina)*
31. Wild coffee *(Psychotria nervosa)*
32. Shortleaf wild coffee *(Psychotria sulzneri)*
33. Laurel oak *(Quercus laurifolia)*
34. Water oak *(Quercus nigra)*

35. Swamp rose *(Rosa palustris)*
36. Cabbage palm *(Sabal palmetto)*
37. Carolina willow *(Salix caroliniana)*
38. Elderberry *(Sambucus nigra subsp. canadensis)*
39. Storax *(Styrax americanus)*
40. Pond cypress *(Taxodium ascendens)*
41. Bald cypress *(Taxodium distichum)*
42. Carolina basswood *(Tilia americana)*
43. Winged elm *(Ulmus alata)*
44. American elm *(Ulmus americana)*
45. Arrow-wood *(Viburnum dentatum)*
46. Walter's viburnum *(Viburnum obovatum)*

Groundcover

1. Leather fern *(Acrostichum danaeifolium)*
2. Bushy bluestem *(Andropogon glomeratus, var. glomeratus)*
3. Blue maidencane *(Amphicarpum muhlenbergianum)*
4. Swamp milkweed *(Asclepias perennnis)*
5. Lemon bacopa *(Bacopa carolinana)*
6. Water hyssop *(Bacopa monnieri)*
7. Bur-marigold *(Bidens laevis)*
8. Marsh beggar-ticks *(Bidens mitis)*
9. Rayless goldenrod *(Bigelowia nudata, var. nudata)*
10. Swamp fern *(Blechnum serrulatum)*
11. False nettle *(Boehmeria cylindrica)*
12. Golden canna *(Canna flaccida)*
13. Saw-grass *(Cladium jamaicense)*
14. Southern swamp-lily *(Crinum americanum)*
15. Florida tickseed *(Coreopsis floridana)*
16. Leavenworth's tickseed *(Coreopsis leavenworthii)*
17. Toothache grass *(Ctenium aromaticum)*
18. Hairgrass *(Eleocharis baldwinii)*
19. Coastal spikerush *(Eleocharis cellulosa)*
20. Jointed spikerush *(Eleocharis interstincta)*
21. Viviparous spikerush *(Eleocharis vivipara)*
22. Horsetail *(Equisetum hyemale)*
23. Blue-flowered snakeroot *(Eryngium aquaticum)*
24. Marsh fimbry *(Fimbristylis spadicea)*
25. Yellowtop *(Flaveria linearis)*
26. Scarlet hibiscus *(Hibiscus coccineus)*
27. Swamp hibiscus *(Hibiscus grandiflorus)*

28. Skyflower *(Hydrolea corymbosa)*
29. Myrtleleaf St. John's-wort *(Hypericum myrtifolium)*
30. Anglepod blue-flag *(Iris hexagona)*
31. Soft rush *(Juncus effuses)*
32. Swamp sunflower *(Helianthus angustifolius)*
33. Lakeside sunflower *(Helianthus carnosus)*
34. Cardinal flower *(Lobelia cardinalis)*
35. Squarestem *(Melanthera nivea)*
36. Browne's savory *(Micromeria brownei)*
37. Cinnamon fern *(Osmunda cinnamomea)*
38. Royal fern *(Osmunda regalis)*
39. Water dropwort *(Oxypolis filiformis)*
40. Spreading panicum *(Panicum anceps)*
41. Maidencane *(Panicum hemitomon)*
42. Switchgrass *(Panicum virgatum)*
43. Eastern false dragonhead *(Physostegia purpurea)*
44. Pickerelweed *(Pontederia cordata)*
45. Dotted smartweed *(Polygonum punctatum)*
46. Savannah meadowbeauty *(Rhexia alifanus)*
47. Yellow meadowbeauty *(Rhexia lutea)*
48. Pale meadowbeauty *(Rhexia mariana)*
49. Maid marian *(Rhexia nashii)*
50. Fringed meadowbeauty *(Rhexia petiolata)*
51. White-topped sedge *(Rhynchospora colorata)*
52. Tracy's beakrush *(Rhynchospora tracyi)*
53. Giant plumegrass *(Saccharum giganteum)*
54. Lizard's tail *(Saururus cernuus)*
55. Soft-stem bulrush *(Scirpus validus)*
56. Sand cordgrass *(Spartina bakeri)*
57. Duck potato *(Sagittaria lancifolia)*
58. Blue-eyed grass *(Sisyrinchium angustifolium)*
59. Marsh goldenrod *(Solidago fistulosa)*
60. Leavenworth's goldenrod *(Solidago leavenworthii)*
61. Seaside goldenrod *(Solidago sempervirens)*
62. Willow leaf goldenrod *(Solidago stricta)*
63. Stoke's aster *(Symphyotrichum elliottii)*
64. Alligator flag *(Thalia geniculata)*
65. Diverseleaf crownbeard *(Verbesina heterophylla)*
66. Giant ironweed *(Vernonia gigantea)*
67. Netted chain fern *(Woodwardia areolata)*
68. Virginia chain fern *(Woodwardia virginica)*

VI. Wet Prairie (WP)/Shallow Marsh (SM) - Flatwood Depressional Pine (FDPI)/Cypress (CY) Wetlands

A. W-5 (1.1 ac) plant 70 trees on 25 ft centers and 5237 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
B. W-7 (0.3 ac) plant 19 trees on 25 ft centers and 1428 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
C. W-9 (1.1 ac) plant 70 trees on 25 ft centers and 5237 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
D. W-21 (1.5 ac) plant 96 trees on 25 ft centers and 7141 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
E. W-23 (1.0 ac) plant 64 trees on 25 ft centers and 4761 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
F. W-30 (0.5 ac) plant 32 trees on 25 ft centers and 2380 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
G. W-31 (0.8 ac): plant 51 trees on 25 ft centers and 3808 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
H. W-32 (1.0 ac) plant 64 trees on 25 ft centers and 4761 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
I. W-33 (1.9 ac) plant 121 trees on 25 ft centers and 9045 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
J. W-42 (0.9 ac): plant 57 trees on 25 ft centers and 4284 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
K. W-53 (0.4 ac) plant 25 trees on 25 ft centers and 1904 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
L. W-54 (3.5 ac) plant 224 trees on 25 ft centers and 16663 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
M. W-60 (1.8 ac) plant 115 trees on 25 ft centers and 8569 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
N. W-66 (1.4 ac) plant 89 trees on 25 ft centers and 6665 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
O. W-68 (0.3 ac) plant 19 trees on 25 ft centers and 1428 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
P. W-69 (0.7 ac) plant 44 trees on 25 ft centers and 3332 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
Q. W-74 (0.7 ac) plant 44 trees on 25 ft centers and 3332 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
R. W-75 (1.9 ac) plant 121 trees on 25 ft centers and 9045 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

S. W-76 (1.0 ac) plant 64 trees on 25 ft centers and 4761 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

T. W-79 (4.4 ac): plant 281 trees on 25 ft centers and 20948 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

U. W-83 (1.3 ac): plant 83 trees on 25 ft centers and 6189 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

V. W-105 (1.7 ac): plant 108 trees on 25 ft centers and 8093 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

W. W-85 (0.8 ac): plant 51 trees on 25 ft centers and 3808 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

X. W-94 (2.1 ac): plant 134 trees on 25 ft centers and 9998 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

Y. W-96 (1.7 ac): plant 108 trees on 25 ft centers and 8093 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

Trees

1. Boxelder *(Acer negundo)*
2. Red maple *(Acer rubrum)*
3. Water hickory *(Carya aquatica)*
4. Common persimmon *(Diospyros virginana)*
5. Pop ash *(Fraxinus caroliniana)*
6. Loblolly bay *(Gordonia lasianthus)*
7. Dahoon *(Ilex cassine)*
8. Sweetgum *(Liquidambar styraciflua)*
9. Sweetbay *(Magnolia virginiana)*
10. Swamp tupelo *(Nyssa sylvatica, var. biflora)*
11. Swamp bay *(Persea palustris)*
12. Pond pine *(Pinus serotina)*
13. Laurel oak *(Quercus laurifolia)*
14. Water oak *(Quercus nigra)*
15. Cabbage palm *(Sabal palmetto)*
16. Pond cypress *(Taxodium ascendens)*
17. Bald cypress *(Taxodium distichum)*
18. Carolina basswood *(Tilia americana)*
19. Winged elm *(Ulmus alata)*
20. American elm *(Ulmus americana)*

Groundcover

1. Leather fern *(Acrostichum danaeifolium)*
2. Bushy bluestem *(Andropogon glomeratus, var. glomeratus)*
3. Blue maidencane *(Amphicarpum muhlenbergianum)*

4. Swamp milkweed *(Asclepias perennnis)*
5. Lemon bacopa *(Bacopa carolinana)*
6. Water hyssop *(Bacopa monnieri)*
7. Bur-marigold *(Bidens laevis)*
8. Marsh beggar-ticks *(Bidens mitis)*
9. Rayless goldenrod *(Bigelowia nudata, var. nudata)*
10. Swamp fern *(Blechnum serrulatum)*
11. False nettle *(Boehmeria cylindrica)*
12. Golden canna *(Canna flaccida)*
13. Saw-grass *(Cladium jamaicense)*
14. Southern swamp-lily *(Crinum americanum)*
15. Florida tickseed *(Coreopsis floridana)*
16. Leavenworth's tickseed *(Coreopsis leavenworthii)*
17. Toothache grass *(Ctenium aromaticum)*
18. Hairgrass *(Eleocharis baldwinii)*
19. Coastal spikerush *(Eleocharis cellulosa)*
20. Jointed spikerush *(Eleocharis interstincta)*
21. Viviparous spikerush *(Eleocharis vivipara)*
22. Horsetail *(Equisetum hyemale)*
23. Blue-flowered snakeroot *(Eryngium aquaticum)*
24. Marsh fimbry *(Fimbristylis spadicea)*
25. Yellowtop *(Flaveria linearis)*
26. Scarlet hibiscus *(Hibiscus coccineus)*
27. Swamp hibiscus *(Hibiscus grandiflorus)*
28. Skyflower *(Hydrolea corymbosa)*
29. Myrtleleaf St. John's-wort *(Hypericum myrtifolium)*
30. Anglepod blue-flag *(Iris hexagona)*
31. Soft rush *(Juncus effuses)*
32. Swamp sunflower *(Helianthus angustifolius)*
33. Lakeside sunflower *(Helianthus carnosus)*
34. Cardinal flower *(Lobelia cardinalis)*
35. Squarestem *(Melanthera nivea)*
36. Browne's savory *(Micromeria brownei)*
37. Cinnamon fern *(Osmunda cinnamomea)*
38. Royal fern *(Osmunda regalis)*
39. Water dropwort *(Oxypalis filiformis)*
40. Spreading panicum *(Panicum anceps)*
41. Maidencane *(Panicum hemitomon)*
42. Switchgrass *(Panicum virgatum)*
43. Eastern false dragonhead *(Physostegia purpurea)*
44. Pickerelweed *(Pontederia cordata)*
45. Dotted smartweed *(Polygonum punctatum)*

46. Savannah meadowbeauty *(Rhexia alifanus)*
47. Yellow meadowbeauty *(Rhexia lutea)*
48. Pale meadowbeauty *(Rhexia mariana)*
49. Maid marian *(Rhexia nashii)*
50. Fringed meadowbeauty *(Rhexia petiolata)*
51. White-topped sedge *(Rhynchospora colorata)*
52. Tracy's beakrush *(Rhynchospora tracyi)*
53. Giant plumegrass *(Saccharum giganteum)*
54. Lizard's tail *(Saururus cernuus)*
55. Soft-stem bulrush *(Scirpus validus)*
56. Sand cordgrass *(Spartina bakeri)*
57. Duck potato *(Sagittaria lancifolia)*
58. Blue-eyed grass *(Sisyrinchium angustifolium)*
59. Marsh goldenrod *(Solidago fistulosa)*
60. Leavenworth's goldenrod *(Solidago leavenworthii)*
61. Seaside goldenrod *(Solidago sempervirens)*
62. Willow leaf goldenrod *(Solidago stricta)*
63. Stoke's aster *(Symphyotrichum elliottii)*
64. Alligator flag *(Thalia geniculata)*
65. Diverseleaf crownbeard *(Verbesina heterophylla)*
66. Giant ironweed *(Vernonia gigantea)*
67. Netted chain fern *(Woodwardia areolata)*
68. Virginia chain fern *(Woodwardia virginica)*

VII. Wet Prairie (WP) - Cypress (CY)/Scrub Shrub (SS) Wetlands

A. W-14 (1.0 ac): plant 64 trees or shrubs on 25 ft centers and 4761 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
B. W-17 (4.7 ac): plant 300 trees or shrubs on 25 ft centers and 22376 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
C. W-18 (7.8 ac): plant 499 trees or shrubs on 25 ft centers and 37135 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
D. W-19 (4.6 ac): plant 294 trees or shrubs on 25 ft centers and 21900 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
E. W-22 (5.3 ac): plant 339 trees or shrubs on 25 ft centers and 25233 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

F. W-25 (1.5 ac): plant 96 trees or shrubs on 25 ft centers and 7141 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
G. W-27 (9.4 ac): plant 601 trees or shrubs on 25 ft centers and 44753 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
H. W-37 (0.5 ac): plant 32 trees or shrubs on 25 ft centers and 2380 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
I. W-38 (1.6 ac): plant 102 trees or shrubs on 25 ft centers and 7617 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
J. W-45 (1.6 ac): plant 102 trees or shrubs on 25 ft centers and 7617 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).
K. W-84 (1.2 ac): plant 76 trees or shrubs on 25 ft centers and 5713 groundcover on 3 ft centers from lists below (any combination of appropriate species – 3 species minimum of each).

Trees and Shrubs

47. Boxelder *(Acer negundo)*
48. Red maple *(Acer rubrum)*
49. Agarista *(Agarista populifolia)*
50. Saltbush *(Baccharis halimifolia)*
51. Ironwood *(Carpinus caroliniana)*
52. Water hickory *(Carya aquatica)*
53. Buttonbush *(Cephalanthus occidentalis)*
54. Swamp dogwood *(Cornus foemina)*
55. May haw *(Crataegus aestivalis)*
56. Parsley haw *(Crataegus marshallii)*
57. Common persimmon *(Diospyros virginana)*
58. Swamp doghobble *(Eubotrys racemosa)*
59. Pop ash *(Fraxinus caroliniana)*
60. Loblolly bay *(Gordonia lasianthus)*
61. Dahoon *(Ilex cassine)*
62. Possum-haw *(Ilex decidua)*
63. American holly *(Ilex opaca)*
64. Star anise *(Illicium parviflorum)*
65. Yaupon *(Ilex vomitoria)*
66. Virginia willow *(Itea virginica)*
67. Spicebush *(Lindera benzoin)*

68. Sweetgum *(Liquidambar styraciflua)*
69. Shiny lyonia *(Lyonia lucida)*
70. Rusty staggerbush *(Lyonia ferruginea)*
71. Coastalplain staggerbush *(Lyonia fruticosa)*
72. Sweetbay *(Magnolia virginiana)*
73. Wax myrtle *(Myrica cerifera)*
74. Swamp tupelo *(Nyssa sylvatica, var. biflora)*
75. Swamp bay *(Persea palustris)*
76. Pond pine *(Pinus serotina)*
77. Wild coffee *(Psychotria nervosa)*
78. Shortleaf wild coffee *(Psychotria sulzneri)*
79. Laurel oak *(Quercus laurifolia)*
80. Water oak *(Quercus nigra)*
81. Swamp rose *(Rosa palustris)*
82. Cabbage palm *(Sabal palmetto)*
83. Carolina willow *(Salix caroliniana)*
84. Elderberry *(Sambucus nigra subsp. canadensis)*
85. Storax *(Styrax americanus)*
86. Pond cypress *(Taxodium ascendens)*
87. Bald cypress *(Taxodium distichum)*
88. Carolina basswood *(Tilia americana)*
89. Winged elm *(Ulmus alata)*
90. American elm *(Ulmus americana)*
91. Arrow-wood *(Viburnum dentatum)*
92. Walter's viburnum *(Viburnum obovatum)*

Groundcover

1. Leather fern *(Acrostichum danaeifolium)*
2. Bushy bluestem *(Andropogon glomeratus, var. glomeratus)*
3. Blue maidencane *(Amphicarpum muhlenbergianum)*
4. Swamp milkweed *(Asclepias perennnis)*
5. Lemon bacopa *(Bacopa carolinana)*
6. Water hyssop *(Bacopa monnieri)*
7. Bur-marigold *(Bidens laevis)*
8. Marsh beggar-ticks *(Bidens mitis)*
9. Rayless goldenrod *(Bigelowia nudata, var. nudata)*
10. Swamp fern *(Blechnum serrulatum)*
11. False nettle *(Boehmeria cylindrica)*
12. Golden canna *(Canna flaccida)*
13. Saw-grass *(Cladium jamaicense)*
14. Southern swamp-lily *(Crinum americanum)*

15. Florida tickseed *(Coreopsis floridana)*
16. Leavenworth's tickseed *(Coreopsis leavenworthii)*
17. Toothache grass *(Ctenium aromaticum)*
18. Hairgrass *(Eleocharis baldwinii)*
19. Coastal spikerush *(Eleocharis cellulosa)*
20. Jointed spikerush *(Eleocharis interstincta)*
21. Viviparous spikerush *(Eleocharis vivipara)*
22. Horsetail *(Equisetum hyemale)*
23. Blue-flowered snakeroot *(Eryngium aquaticum)*
24. Marsh fimbry *(Fimbristylis spadicea)*
25. Yellowtop *(Flaveria linearis)*
26. Scarlet hibiscus *(Hibiscus coccineus)*
27. Swamp hibiscus *(Hibiscus grandiflorus)*
28. Skyflower *(Hydrolea corymbosa)*
29. Myrtleleaf St. John's-wort *(Hypericum myrtifolium)*
30. Anglepod blue-flag *(Iris hexagona)*
31. Soft rush *(Juncus effuses)*
32. Swamp sunflower *(Helianthus angustifolius)*
33. Lakeside sunflower *(Helianthus carnosus)*
34. Cardinal flower *(Lobelia cardinalis)*
35. Squarestem *(Melanthera nivea)*
36. Browne's savory *(Micromeria brownei)*
37. Cinnamon fern *(Osmunda cinnamomea)*
38. Royal fern *(Osmunda regalis)*
39. Water dropwort *(Oxypolis filiformis)*
40. Spreading panicum *(Panicum anceps)*
41. Maidencane *(Panicum hemitomon)*
42. Switchgrass *(Panicum virgatum)*
43. Eastern false dragonhead *(Physostegia purpurea)*
44. Pickerelweed *(Pontederia cordata)*
45. Dotted smartweed *(Polygonum punctatum)*
46. Savannah meadowbeauty *(Rhexia alifanus)*
47. Yellow meadowbeauty *(Rhexia lutea)*
48. Pale meadowbeauty *(Rhexia mariana)*
49. Maid marian *(Rhexia nashii)*
50. Fringed meadowbeauty *(Rhexia petiolata)*
51. White-topped sedge *(Rhynchospora colorata)*
52. Tracy's beakrush *(Rhynchospora tracyi)*
53. Giant plumegrass *(Saccharum giganteum)*
54. Lizard's tail *(Saururus cernuus)*
55. Soft-stem bulrush *(Scirpus validus)*
56. Sand cordgrass *(Spartina bakeri)*

57. Duck potato *(Sagittaria lancifolia)*
58. Blue-eyed grass *(Sisyrinchium angustifolium)*
59. Marsh goldenrod *(Solidago fistulosa)*
60. Leavenworth's goldenrod *(Solidago leavenworthii)*
61. Seaside goldenrod *(Solidago sempervirens)*
62. Willow leaf goldenrod *(Solidago stricta)*
63. Stoke's aster *(Symphyotrichum elliottii)*
64. Alligator flag *(Thalia geniculata)*
65. Diverseleaf crownbeard *(Verbesina heterophylla)*
66. Giant ironweed *(Vernonia gigantea)*
67. Netted chain fern *(Woodwardia areolata)*
68. Virginia chain fern *(Woodwardia virginica)*

VII. Restored Ditches

Groundcover

1. Leather fern *(Acrostichum danaeifolium)*
2. Bushy bluestem *(Andropogon glomeratus, var. glomeratus)*
3. Blue maidencane *(Amphicarpum muhlenbergianum)*
4. Swamp milkweed *(Asclepias perennnis)*
5. Lemon bacopa *(Bacopa carolinana)*
6. Water hyssop *(Bacopa monnieri)*
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25. Yellowtop *(Flaveria linearis)*
26. Scarlet hibiscus *(Hibiscus coccineus)*
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29. Myrtleleaf St. John's-wort *(Hypericum myrtifolium)*
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68. Virginia chain fern *(Woodwardia virginica)*

10-9605 BC

FILED

10 OCT 12 AM 11:42

DIVISION OF ADMINISTRATIVE HEARINGS

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
1:51pm via email
OCT 7 2010
PALATKA, FLORIDA
DISTRICT CLERK

GOVERNING BOARD OF THE
ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

Complainant,

v. SJRWMD F.O.R. NO. 2010-05

CONSOLIDATED-TOMOKA LAND CO.

Respondent.

_____/

RESPONDENT'S REQUEST FOR FORMAL ADMINISTRATIVE HEARING

Pursuant to sections 120.569 and 120.57(1), F.S.,[1] and Rule 28-106.2015(5), F.A.C., Respondent, CONSOLIDATED-TOMOKA LAND CO. ("Tomoka"), by and through undersigned counsel, hereby requests a formal administrative hearing on the Administrative Complaint and Proposed Order served on it by Complainant, ST. JOHNS RIVER WATER MANAGEMENT DISTRICT ("District"), and states:

1. Tomoka is a Florida corporation whose principal place of business is 1530 Cornerstone Boulevard, Suite 100, Daytona Beach, Florida 32117. Tomoka's telephone number is (386) 274-2202. Tomoka's facsimile number is (386) 274-1223.

2. Tomoka's attorneys in this matter are Frank Matthews, Amelia Savage and Mohammad Jazil from the law firm of Hopping Green & Sams, P.A. Service of pleadings and other papers may be made on Tomoka's attorneys. Their address is P.O. Box 6526, Tallahassee, Florida 32314; facsimile number is (850) 224-8551; and e-mail addresses are frankm@hgslaw.com, amelias@hgslaw.com and mohammadj@hgslaw.com.

[1] This request abbreviates all citations to the 2010 Florida Statutes and 2010 Florida Administrative Code as "F.S." and "F.A.C." respectively.

EXHIBIT 2

3. Tomoka owns real property in Volusia County, Florida. The property is within the District's geographical boundaries. *See* § 373.069(2)(c), F.S. On September 23, 2010, the District served its Administrative Complaint and Proposed Order on Tomoka, alleging that Tomoka constructed and operated a surface water management system on the property without the necessary environmental resource permit ("ERP"). Tomoka disagrees. An ERP permit is not required since Tomoka either did not dredge or fill wetlands, or its activities qualified for the agricultural exemption from ERP permitting provided by 373.406(2), F.S. Tomoka thus disputes the following issues of material fact:

(a) Whether Tomoka dredged or filled approximately 218 acres of wetlands, as the District alleges. Tomoka maintains that it did not dredge or fill wetlands or, as discussed below, Tomoka's activities qualified for the agricultural exemption provided by 373.406(2), F.S. Tomoka further maintains that the District does not have jurisdiction over the activities at issue – which were necessary for Tomoka to convert the types of crop on its property from timber to hay – because the District failed to abide by the uniform statewide methodology to define and delineate wetlands, which the Florida Department of Environmental Protection supervises and oversees. *See generally* § 373.421, F.S. As such, an ERP permit is unnecessary.

(b) Whether Tomoka constructed and operated approximately 17 miles of new ditches, as the District alleges. Tomoka maintains that it did not construct or operate any new ditches or other surface water management systems on its property that require ERP permitting. Tomoka merely maintained existing

systems and otherwise engaged in normal and customary agricultural activities. Its activities are thus exempt from ERP permitting requirements.

(c) Whether Tomoka's activities qualify for the agricultural exemption to the ERP permitting requirements. § 373.406(2), F.S. They do. Tomoka is – and for approximately 100 years has been – engaged in agricultural and sivilcultural activities on the property; the topographical alterations at issue here were necessary for "purposes consistent with the practice of such occupation"; and the topographical alterations were "not for the sole or predominant purpose of impounding or obstructing surface water." *Id.* Tomoka thus qualifies for the agricultural exemption to the ERP permitting requirement. *See id.*

(d) Whether the District may rely solely on aerial surveillance and other activities described in its Administrative Complaint and Proposed Order to assess the applicability of the agricultural exemption in section 373.406(2), F.S., or otherwise exercise its regulatory jurisdiction over Tomoka. Given the factual inquiry needed to assess the exemption's applicability and the District's jurisdiction, such methods alone are not enough. Indeed, a more detailed assessment will reveal that the activities at issue did not affect wetlands or were otherwise consistent with the agricultural exemption provided by section 373.406(2), F.S., since Tomoka undertook the activities to convert crop on its property from timber to hay.

(e) Whether the District's assertions are otherwise inconsistent with law and practice. Tomoka contends that they are and that an ERP permit is unnecessary.

4. Tomoka reserves the right to supplement its list of disputed material facts, as additional facts become known. Tomoka also reserves the right to assert any questions of law that may arise.

5. Since the Administrative Complaint and Proposed Order directed at Tomoka would impose unnecessary compliance requirements at great expense, Tomoka's substantial interests are at stake. These unnecessary requirements may have the effect of precluding Tomoka's ability to farm its land or otherwise use its property. A formal administrative hearing to test the District's assertions is thus both appropriate and necessary. Tomoka is entitled to relief under chapters 70, 120, and 373, F.S., and chapters 40C-4 and 28, F.A.C.

WHEREFORE Tomoka requests the following relief:

A. That the SJRWMD forward the Administrative Complaint and Proposed Order in SJRWMD File of Record Number 2010-05 and this Request for Formal Administrative Hearing to the Division of Administrative Hearing so that an Administrative Law Judge may be assigned to this matter;

B. That a Final Order be entered denying the Administrative Complaint and Proposed Order of SJRWMD F.O.R. NO. 2010-05;

C. That any appropriate costs and/or attorneys fees be granted to Tomoka; and

D. Any other such relief as may be appropriate and lawful.

Respectfully submitted on October 7, 2010 by:

Frank Matthews, Fla. Bar No. 328812
Amelia Savage, Fla. Bar No. 26967
Mohammad O. Jazil, Fla. Bar No. 72556
Post Office Box 6526
Tallahassee, FL 32314
(850) 222-7500; fax (850) 224-8551

Attorneys for Respondent
Consolidated Tomoka Land Co.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been provided via electronic mail on October 7, 2010 to the Clerk of the St. Johns River Water Management District at P.O. Box 1429, Palatka, Florida 32178-1429 and Clerk@sjrwmd.com. An additional copy has been provided to William Congdon, Esq., via electronic mail at WCongdon@sjrwmd.com.

Attorney

OFFICE OF AGRICULTURAL
WATER POLICY
(850) 617-1700

MAGNOLIA CENTER, SUITE 200
1203 GOVERNOR'S SQUARE BOULEVARD
TALLAHASSEE, FLORIDA 32301

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

COMMISSIONER ADAM H. PUTNAM

May 1, 2012

Vince Singleton
Technical Program Manager
St. Johns River Water Management District
4049 Reid Street
Palatka, Florida 32177

SUBJECT: **373.406(2) Binding Determination – Consolidated-Tomoka Land Company**

Dear Mr. Singleton:

Per your request, enclosed please find our written report on the subject referral. In short, it is the Department's opinion that the operation is engaged in production agriculture. However, all of the activities as detailed in the attached report do not, in our opinion, qualify for the exemption under subsection 373.406(2), Florida Statutes.

If you have any questions as you review the document, please feel free to contact me or Bill Bartnick at 850-617-1700.

Sincerely,

ADAM H. PUTNAM
COMMISSIONER

Richard J. Budell
Director

Enclosure

cc: Amelia A. Savage
Carol Forthman

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
Office of Agricultural Water Policy
1203 Governors Square Blvd., Suite 200
Tallahassee, Florida 32301

Binding Recommendation and Opinion **FDACS Clerk No. A78355**
Florida Statute 373.406(2) Exemption Claim
Consolidated-Tomoka Land Company, Volusia County

Introduction:

Pursuant to Section 373.407, F.S., a water management district or landowner may request that the Florida Department of Agriculture and Consumer Services (FDACS) make a binding determination as to whether an existing or proposed agricultural activity qualifies for a permitting exemption under Section 373.406(2), F.S. However, in order for FDACS to conduct a binding determination, all of the following conditions must exist:

a. There must be a dispute between the landowner and the water management district as to the applicability of the exemption.

b. The activities in question must be on lands classified as agricultural by the county property appraiser pursuant to Section 193.461, F.S.

c. The activities in question have not been previously authorized by an environmental resource permit (ERP) or a management and storage of surface water (MSSW) permit issued pursuant to Part IV, Chapter 373, F.S., or by a dredge and fill permit issued pursuant to Chapter 403, F.S.

St. Johns River Water Management District (District) has requested that FDACS conduct a binding determination on Consolidated-Tomoka Land Company (CTLC), and the conditions described above are in place. Pursuant to this request, FDACS staff has performed a site inspection and evaluated District and CTLC provided documentation, and has rendered a conclusion. The basis for that conclusion is provided below.

Background:

The CTLC parcel is approximately 3,850 acres located in northeastern Volusia County, 8 miles west of Ormond Beach. It is located on the west side of Interstate 95, south of State Road 40 and north of LPGA Boulevard. It is in Sections 5-8, Township 15 South, Range 32 East; and, Sections 26, 27, 34-36, Township 14 South, Range 31 East. The parcel encompasses two named tracts that are separated by Priest Branch, which is a tributary of the Tomoka River. The tract north of Priest Branch is the "40 Tract"; and the tract south of Priest Branch is the "Priest Branch/LPGA Tract".

Prior to the conversion of the property to hay production which began in 2006, most of the subject parcel was reportedly managed as timberlands. Based on historic aerial photographic interpretation and information provided by CTLC representatives, the property appeared to have been generally forested prior to conversion to hay production, with the exception of the larger wet prairie areas. The forested areas consisted of slash pine stands, cypress ponds/strands and mixed pine cypress stands,

in various stages of growth. Some forested areas were managed as natural stands and some pine stands were managed intensively as pine plantations. Both areas were subsequently harvested. According to the District, the wetlands consist of cypress stands, wet prairie, and mixed vegetative types. It should be noted that the CTLC parcel has no irrigation wells, thus it has no District issued Consumptive Use Permits.

On September 23, 2010, the District served CTLC with an Administrative Complaint and Proposed Order, alleging that CTLC constructed and operated a surface water management system without obtaining a District Environmental Resource Permit. In response, on October 7, 2010, CTLC filed a Request for Formal Administrative Hearing; and, on October 12, 2010, the District referred the case to the Division of Administrative Hearings. The case has been held in abeyance since that time. On February 1, 2012 the FDACS received a request for a binding determination from the District as to whether the wetland impacts cited by the District qualify for an agricultural exemption pursuant to Section 373.406(2) F.S. On February 14, 2012 the FDACS received additional information from Frank E. Matthews and Timothy M. Riley, attorneys with Hopping Green & Sams (HGS), the law firm representing CTLC. On February 15, 2012, District representative Vince Singleton confirmed via email that the drainage ditches on the subject parcel are not an issue, and as such, were not reviewed or evaluated in the context of this determination.

The subject of this determination, therefore, is the wetland impacts cited by the District and delineated on maps attached as **Exhibits 1** and **2**. The District alleges that CTLC either dredged or filled all or portions of these wetlands and that those activities require an ERP.

Site Inspection Findings:

On February 23, 2012 a site inspection was performed by Bill Bartnick and Vanessa Bessey with the FDACS, accompanied by Clay Benedict (CTLC), Amelia Savage (HGS), and engineering consultant Del Bottcher, P.E. As part of the investigation, digital photos were taken at various locations along with soil auger borings.

The Priest Branch/LPGA Tract (south area on District Map, **Exhibit 1)** was accessed from LPGA Boulevard, using the Florida Power and Light transmission line right-of-way as the main means of south to north travel. The tract consists of large expanses of coastal bermudagrass hay fields, spotty bahiagrass hay fields, interspersed cypress flats and strands, and some remaining planted slash pine areas, most of which were relegated to portions of the hay field perimeter. Hay production is now the predominant agricultural land use and there are no irrigation wells or irrigation system on-site. According to Clay Benedict, who was hired in 2005 to serve as the production manager for W. Hay LLC, a CTLC subsidiary, the hay is generally cut and baled 2 to 3 times per year, and was last cut in December of 2011. Hay baler and cutting equipment, an equipment storage barn, and a few net-wrapped round hay bales were all observed on-site. Hay fields, both north and south of Priest Branch were well vegetated, albeit dormant given the season, and had a few sparsely vegetative areas scattered throughout. Field grades, swales, and overland flow outlets into existing wetland areas

were observed and noted to be in conformance with Dr. Del Bottcher's "Evaluation of Practices" report dated February 14, 2012.

As part of their submittal documentation, The District contends that CTLC imported fill while conducting laser-leveling activities to prepare the land for hay production. When asked about this, Clay Benedict said that no earthen fill was imported; however, felled immature trees and shrubs were mulched using grinders brought in by an outside contractor; and, subsequently land spread throughout upland areas during the 2006 period. To test this claim, a number of 10-inch soil cores were evaluated throughout the hay production areas, using a soil probe. FDACS staff noted no altered soil horizons, which would suggest artificial fill, nor did they see any evidence of incorporated mulch material. FDACS staff asked those in attendance about the rationale for laser leveling hay fields, given the absence of an irrigation system. Dr. Del Bottcher answered by stating that the majority of soils (Farmton Soil Type) on the CTLC parcel are poorly drained (Hydrologic Group D), and experience high water tables for many months during the year. Therefore, laser leveling was conducted in this instance to shed water, not to facilitate irrigation system function.

The inspection then moved on to the existing forested wetlands on this tract. FDACS staff asked those in attendance whether trees were harvested in these wetlands, during the time that silvicultural activities were conducted. The answer was no. This was corroborated after walking into many of the cypress ponds, strands and flats and seeing an absence of stumps. FDACS staff also asked if a wetland jurisdictional determination was done pursuant to Rule Chapter 62-340, F.A.C., before CTLC cleared the land for hay production. The answer was no; however, Clay Benedict stated that he instructed his workers to not operate land clearing equipment in forested wetland areas that had either cypress trees or bay trees as indicator species. It appears from the site inspection that CTLC workers abided by these instructions, as almost all of the remaining cypress ponds, strands and flats maintain their natural contour and shape.

Nearly all of the cypress ponds, strands and flats inspected in this tract showed signs of past fires and fire-related impacts, some dead cypress trees in the wetland core, and an assemblage of slash pines (average range 5 to 7" diameter at breast height) encroaching into the wetland area. Clay Benedict stated, when asked, that there had been no controlled burns conducted since 2005. Some of this "pine encroachment" was contained at wetland perimeters, while others showed encroachment right into the wetland core. All wetlands observed this day had no standing water, even though it rained ¼" the day before. Very little cypress regeneration was noted in the wetlands.

Remnant Wetland No. 65 was selected for further investigation as representative of small isolated areas denoted by the district as wetlands, in order to determine whether or not wetland indicators were present, despite the fact that it is now a hay field. This area was also selected to investigate the District's claim that fill material was imported to the site. FDACS used a soil auger at a location north of the east/west dirt road to ascertain soil conditions. A spodic (darker) horizon was encountered at approximately 2 feet, and the water table was encountered at around 4 feet. No apparent wetland indicators were noted. A second hole was dug in the adjacent cypress wetland to a depth of 3 feet. This was done to establish "reference" conditions in case significant soil

differences were noted. Soil mottling was encountered in the reference wetland, which is characteristic of wetland soils.

We then travelled north through Priest Branch to the "40 Tract" (north area on District map, **Exhibit 2**). Priest Branch had a slight flow (east) at the point where the FPL transmission lines crossed the creek. In general, there appeared to be less slash pine encroachment into the wetlands, as compared to the Priest Branch/LPGA Tract. Similar to what was done above, remnant Wetland No. 24 was selected for further investigation in this area to determine whether or not wetland indicators were present, despite the fact that it is now a hay field. Using a soil auger, soils exhibiting light orange, dark orange, and clay material were encountered to a depth of 4 feet (water table). FDACS was unable to determine whether these soil characteristics would meet hydric soil indicators in Rule Chapter 62-340, F.A.C.

The site visit wrapped up with a tour of the barn. A bedded slash pine plantation was noted near this area. The trees were estimated to be approximately 12 to 15 years old.

Application of Statutory Criteria:

Pursuant to Section 373.406(2), F.S., all of the following criteria must be met in order for the permitting exemption to apply.

(a) *"Is the landowner engaged in the occupation of agriculture, silviculture, floriculture, or horticulture?"*

YES. The FDACS finds that CTLC is engaged in the occupation of agriculture and has an agricultural tax classification on the subject parcel.

(b) *"Are the alterations (or proposed alterations) to the topography of the land for purposes consistent with the normal and customary practice of such occupation in the area?"*

The conclusions below on this item were reached with the assistance of Jeff Vowell and Roy Lima, of the Florida Forest Service. It should also be noted that subsequent to the aforementioned site inspection, CTLC produced a general ledger that showed income realized from timber sales which dated from 1990 through 1998. FDACS believes that this is a critical time period, given that the 1998 and 2008 wildfires seriously impacted parts of the CTLC property. This coupled with the fact that slash pine trees under 10 years of age are not merchantable and cannot tolerate intense wildfire followed by widespread, long-term drought conditions, lends credence to CTLC's decision to clear-cut and/or push and mulch dead trees. Given the circumstances, FDACS finds the clearing and felling of trees, in uplands or wet prairies, to be a normal and customary practice. This then requires a second tier (wetland-related impacts) analysis as described in the paragraph below.

Aerial photo-interpretation was used extensively to ascertain whether wetlands were adversely impacted as a result of the clearing and subsequent conversion to hay. FDACS staff used the U.S. Fish and Wildlife Service National Wetland Inventory

(NWI) Map as a base layer, and subsequently overlaid the District's alleged wetland impact areas map (denoted as cross-hatched polygons) to ascertain whether there is a relationship between the two maps. This map was generated by FDACS and is depicted in **Exhibit 3**. FDACS staff also used the 1994-1995 as well as the 1999-2000 color infrared aerial photography (with and without photo-interpreted wetland overlays) provided by the District to establish a baseline set of silvicultural activities.

YES. For wetlands identified by the District but not corroborated by NWI map(s), FDACS finds that the alterations as a result of clearing and hay planting are normal and customary. This decision is based on the limited site visit evidence and the weak correlation to the NWI map, compared to the alleged wetland impact areas provided by the District; and, on other extenuating circumstances such as drought-induced mixed community succession and fire impacts. This subset of exempt wetlands, which totals approximately 117 acres, has been removed, as depicted in FDACS **Exhibit 4.**

For the remaining 101 acres of wetland impact areas on **Exhibit 4,** FDACS finds that those with greater than 50% aerial extent of tree canopy in either 1995 or 2000 (based on District provided aerial photography) had already experienced significant succession and either were not wetlands, or were marginal wetlands at the time of conversion to hay fields. As such, the alterations as a result of clearing and hay planting are also normal and customary.

NO. For all other alleged wetland impact areas on **Exhibit 4** with less than 50% aerial extent of tree canopy in either 1995 or 2000 (based on District provided aerial photography), FDACS finds that these wetlands could have been reasonably determined to meet wetland delineation criteria (based on historic aerial photographs) and should have been delineated and flagged by a qualified professional before land clearing activities were conducted. Therefore, clearing and planting of hay in these areas are not normal and customary.

NOTE: It is anticipated that the District and CTLC consulting staff will work together subsequent to this determination and use the information above to calculate the final exempt and non-exempt wetland acreages. If such an agreement cannot be reached, a request for an additional determination should be submitted.

(c) *"Are the alterations (or proposed alterations) for the sole or predominant purpose of impeding or diverting the flow of surface waters or adversely impacting wetlands?"*

NO. For the wetlands for which the activities were determined to be normal and customary, the FDACS finds that the alterations were not conducted for the sole or predominant purpose of impeding or diverting the flow of surface waters or adversely impacting wetlands.

YES. For the wetlands for which the activities were determined to not be normal and customary, the alterations were for the sole or predominant purpose of adversely impacting wetlands.

Conclusion:

Based upon the aforementioned facts, site-specific characteristics, historical land use, and documented industry practices, the FDACS has determined that the activities that have been found to be normal and customary based on the criteria identified in item (b) above qualify for an exemption under Section 373.406(2), F.S.; all other wetland-related impacts do not meet the exemption.

Nothing herein relieves the landowner from applying for and obtaining any applicable federal, state, or local authorization.

A determination by the Department that an activity is not exempt from permitting does not preclude the landowner and the water management district from agreeing to modifications to the activity that would render it exempt.

Notice of Rights:

If you wish to contest the Department's action, you have the right to request an administrative hearing to be conducted in accordance with Sections 120.569 and 120.57, Florida Statutes, and to be represented by counsel or other qualified representative. Mediation is not available. Your request for hearing must contain:

1. Your name, address, and telephone number, and facsimile number (if any).
2. The name, address, and telephone number, and facsimile number of your attorney or qualified representative (if any) upon whom service of pleadings and other papers shall be made.
3. A statement that you are requesting an administrative hearing and dispute the material facts alleged by OAWP, in which case you must identify the material facts that are in dispute (formal hearing); or that you request an administrative hearing and that you do not dispute the facts alleged by the Department (informal hearing).
4. A statement of when (date) you received this Notice and the file number of this Notice.

Your request for a hearing must be received at: The Office of Agricultural Water Policy, 1203 Governors Square Blvd. Suite 200, Tallahassee, Florida 32301, within twenty-one (21) days of receipt of this Notice. If you fail to request an administrative hearing within the twenty-one (21) day deadline you waive your right to a hearing and the binding determination will become final agency action upon filing with the agency clerk.

Any party to these proceedings adversely affected by this Final Order is entitled to seek judicial review of this Final Order pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedures. Judicial review proceedings must be instituted by filing a Notice of Appeal with the Department's Agency Clerk, 407 South

Calhoun Street, Suite 509, Tallahassee, Florida, 32399-0800, within thirty (30) days of rendition of this order. A copy of the Notice of Appeal must be filed with the Clerk of the appropriate District Court of Appeal accompanied by any filing fees prescribed by law.

Supporting Documents:

(1) USDA Soil Survey, Volusia County, Florida
(2) Site Visit Digital Photographs
(3) SJRWMD Exemption Determination Submittal received February 1, 2012.
(4) Additional information from Hopping Green & Sams received on February 14, 2012, transmitting Dr. Del Bottcher's "Evaluation of Practices" report dated February 14, 2012.
(5) GIS map with soils, National Wetland Inventory, impacted wetland delineated areas
(6) UF-IFAS Bermudagrass Production in Florida, SS-AGR-60, July 2011
(7) Silviculture Best Management Practices Manual, Florida Forest Service
(8) CTLC General Ledger of Timber Sales (1990 – 1998)

Filed with the Agency Clerk and rendered this 26th day of April, 2012.

Paul Palmiotto, Agency Clerk

Exhibit 1

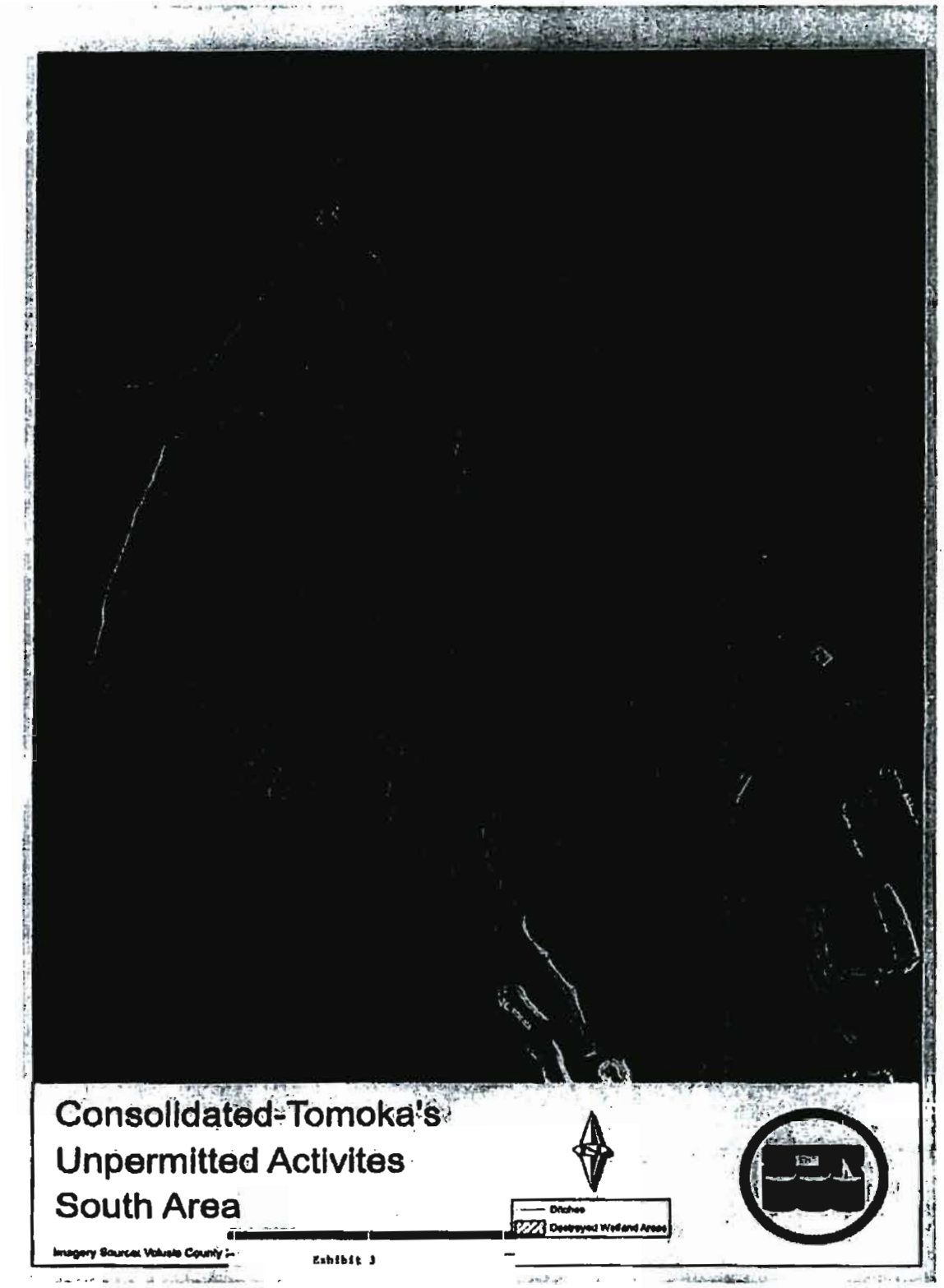

Consolidated-Tomoka's
Unpermitted Activites
South Area
Ditches
Destroyed Wetland Areas
Imagery Source: Volusia County
Exhibit 3

Exhibit 2

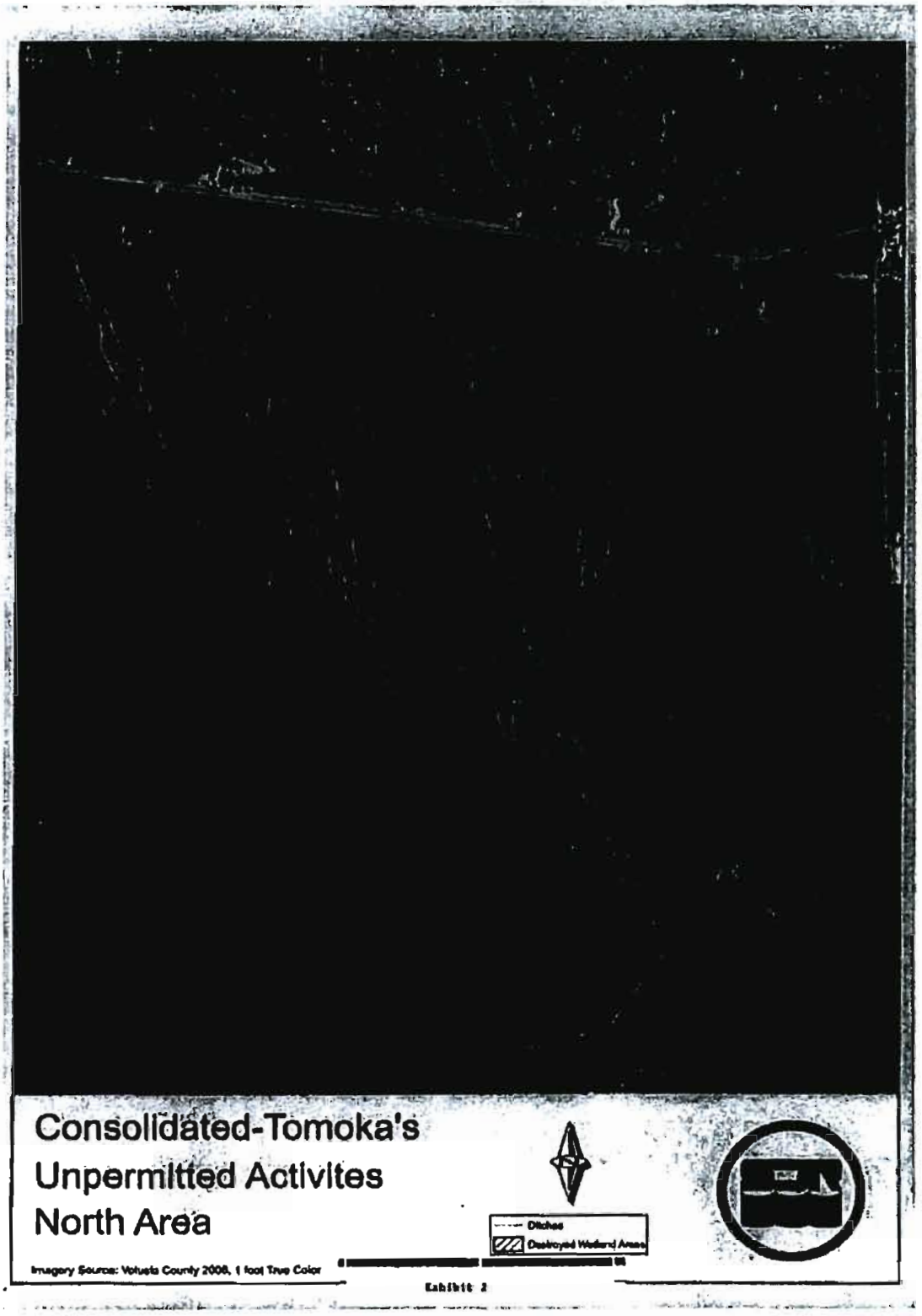

Consolidated-Tomoka's
Unpermitted Activites
North Area
Imagery Source: Volusia County 2008, 1 foot True Color
Ditches
Destroyed Wetland Areas
Exhibit 2

Exhibit 3

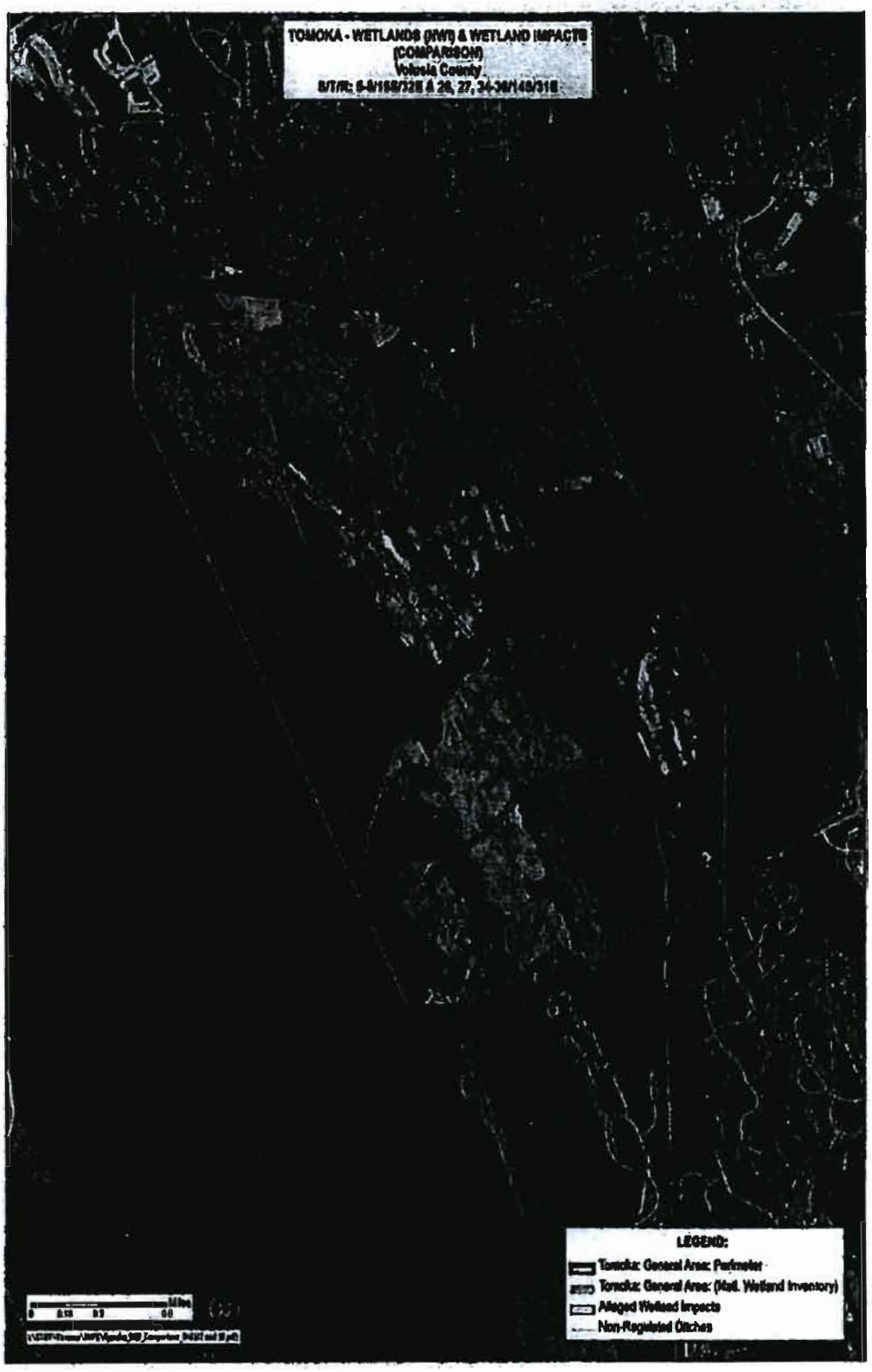
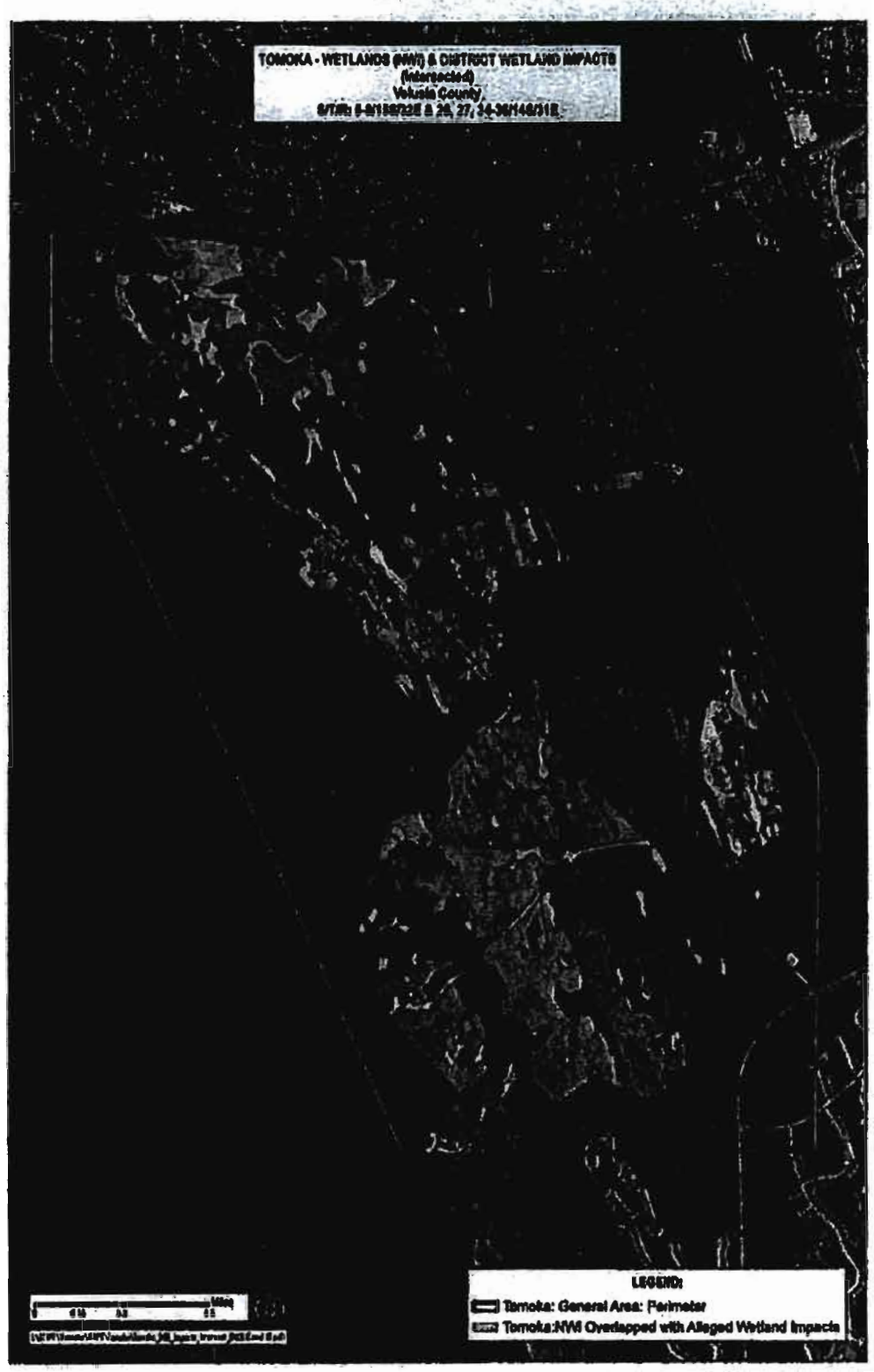

TOMOKA - WETLANDS (NWI) & WETLAND IMPACTS
(COMPARISON)
Volusia County
LEGEND:
Tomoka: General Area: Perimeter
Tomoka: General Area: (Natl. Wetland Inventory)
Alleged Wetland Impacts
Non-Regulated Ditches

Exhibit 4


TOMOKA - WETLANDS (NWI) & DISTRICT WETLAND IMPACTS
(Intersected)
Volusia County,
LEGEND:
Tomoka: General Area: Perimeter
Tomoka:NWI Overlapped with Alleged Wetland Impacts

site: **UMAM Workbook tryout** date:

Impacts	Habitat Type	Location and Landscape Support		Water Environment		Community Structure		Acres	Functional Loss
		before	after	before	after	before	after		
W6 (#34)	6300	4	0	6	0	7	0	0.28	0.1587
W11 (316)	6240	4	0	6	0	7	0	0.888	0.5032
W12 (#38)	6430	5	0	6	0	4	0	1.02	0.5100
W12B (#39)	6201/6210	5	0	6	0	6	0	0.624	0.3536
W15 (#40)	6430	4	0	5	0	6	0	0.381	0.1905
W17 (#8)	6200	4	0	6	0	7	0	0.653	0.3700
W17 (#9)	6430	4	0	6	0	5	0	3.528	1.7640
W18 (#23,25	6210	5	0	6	0	7	0	1.561	0.9366
W18 (#24)	6200/6201	5	0	6	0	7	0	1.034	0.6204
W19 (#27)	6200	5	0	6	0	5	0	0.396	0.2112
W19 (#28)	6200/6210	5	0	6	0	6	0	2.572	1.4575
W19 (#106)	6210/6200	5	0	6	0	6	0	0.012	0.0068
W20 (#29)	6200	5	0	6	0	5	0	0.653	0.3483
W20B (#30)	6210	5	0	6	0	6	0	1.281	0.7259
W22 (#13)	6200/6250	5	0	6	0	7	0	3.499	2.0994
W24C (# 6)	6210	4	0	6	0	6	0	2.522	1.3451
W25 (#7)	6210	4	0	6	0	7	0	0.295	0.1672
W26 (#1,2)	6210	4	0	6	0	7	0	1.167	0.6613
W26 (#3)	6201	4	0	6	0	6	0	0.631	0.3385
W27 (#10)	6210	5	0	6	0	7	0	0.217	0.1302
W27 (#11)	6200	5	0	6	0	6	0	6.799	3.8528
W27 (#12)	6200	5	0	6	0	6	0	1.336	0.7571
W29 (#17)	6200/6210	5	0	6	0	7	0	0.738	0.4428
W31 (#19)	6210	5	0	6	0	5	0	0.536	0.2859
W32 (#20)	6210	5	0	6	0	5	0	0.845	0.4507
W33 (#18)	6200	5	0	6	0	5	0	0.275	0.1467
W34 (#22)	6210	5	0	6	0	4	0	1.142	0.5710
W35 (#21)	6210	5	0	6	0	5	0	0.377	0.2011
W38 (#44)	6210	5	0	6	0	4	0	1.477	0.7385
W39 (#41)	6210/6250	5	0	6	0	5	0	3.06	1.6320
W43 (#45)	6210	5	0	6	0	4	0	0.148	0.0740
W45 (#32)	6210	5	0	6	0	4	0	0.738	0.3690
W49 (#98)	6203	5	0	6	0	7	0	3.218	1.9308
W49	6410	5	0	6	0	7	0	1.007	0.6042
W52 (#100)	6430/6202	5	0	5	0	6	0	1.803	0.9616
W54 (#103)	6202	5	0	5	0	6	0	0.51	0.2720
(#104)	6202	5	0	5	0	6	0	0.373	0.1989
W55 (#105)	6460	5	0	5	0	6	0	0.567	0.3024
(#50)	6430	5	0	6	0	7	0	0.468	0.2808

Total Impact Acres	Total Creation Acres	Total Preservation Provided	Upland Acres Provided
72.004	0		0

Total Functional Loss	Total Functional Gain Units
40.327	0.000

EXHIBIT 4

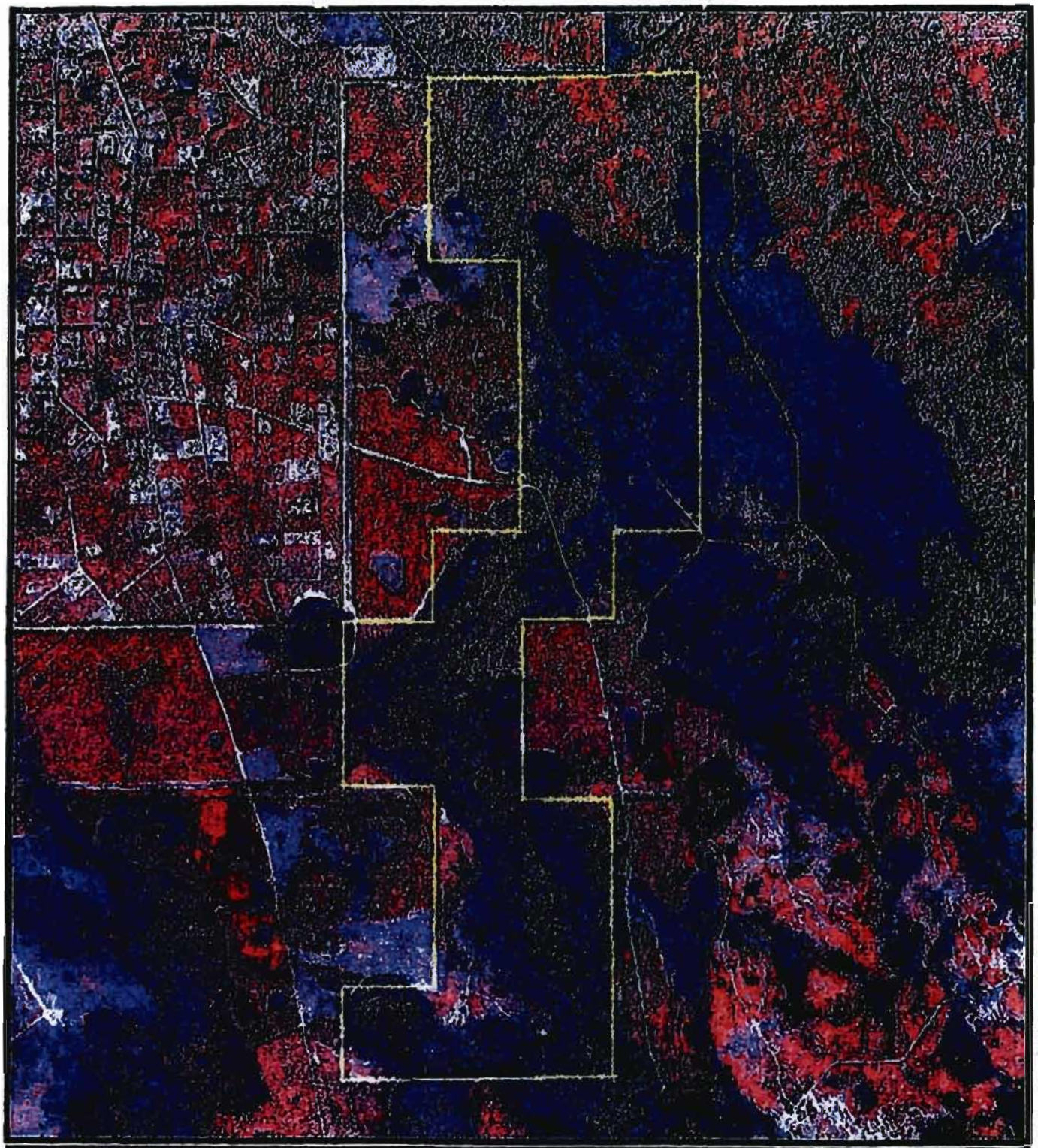
W62 (#47)	6430	5	0	6	0	7	0	0.558	0.3348
W65 (#58)	6430	5	0	6	0	6	0	2.446	1.3861
W66 (#54)	6430	5	0	6	0	6	0	0.932	0.5281
W68 (#55)	6430	5	0	6	0	7	0	0.096	0.0576
W69 (#56)	6200	5	0	6	0	6	0	0.219	0.1241
W71 (#59)	6430	5	0	6	0	7	0	4.09	2.4540
(#60)	6430	5	0	6	0	7	0	0.009	0.0054
W72 (#67)	6430	5	0	6	0	6	0	0.194	0.1099
(#68)	6430	5	0	6	0	6	0	1.589	0.9004
W73 (#70)	6210	5	0	6	0	5	0	0.53	0.2827
W74 (#71)	6430	5	0	6	0	5	0	0.464	0.2475
W76 (#69)	6200	5	0	6	0	5	0	0.005	0.0027
W77 (#86)	6430	5	0	6	0	6	0	0.209	0.1184
W78 (#85)	6201	4	0	6	0	6	0	0.285	0.1520
(#96)	6210	5	0	6	0	4	0	1.373	0.6865
W83 (#93)	6300	4	0	5	0	6	0	1.119	0.5595
W90 (#57)	6300	5	0	6	0	7	0	1.212	0.7272
W92 (#65)	6210	5	0	6	0	7	0	0.442	0.2652
W93 (#62)	6300	5	0	6	0	7	0	0.442	0.2652
W94 (#72)	6202	5	0	6	0	7	0	1.048	0.6288
W96 (#64)	6210/6430	5	0	6	0	7	0	0.441	0.2646
W97 (#74)	6300	5	0	6	0	6	0	0.378	0.2142
W98 (#73)	6200	5	0	6	0	6	0	0.79	0.4477
W100 (#77)	6430	5	0	6	0	7	0	0.923	0.5538
W101 (#78)	6200	5	0	6	0	5	0	0.596	0.3179
W102 (#81)	6430	5	0	6	0	6	0	0.449	0.2544
W103 (#80)	6210	5	0	6	0	5	0	0.763	0.4069
W104 (#79)	6200	5	0	6	0	7	0	0.12	0.0720
W105 (#61)	6200	5	0	6	0	7	0	1.651	0.9906

Mitigation	Habitat Type	Location and Landscape Support		Water Environment		Community Structure		Time Lag	Risk
preservation		before	after	before	after	before	after		
1								1	1
2								1	1
3								1	1
4								1	1
5								1	1
6								1	1
7								1	1
8								1	1
9								1	1

10									1	1				
11									1	1				
12									1	1				
13									1	1				
creation/enh														
1									1	1				
2									1	1				
3									1	1				
4									1	1				
5									1	1				
uplands														
11					x	x			1	1				
12					x	x			1	1				
13					x	x			1	1				
14					x	x			1	1				
15					x	x			1	1				
16					x	x			1	1				
17					x	x			1	1				
18					x	x			1	1				
19					x	x			1	1				
20					x	x			1	1				
21					x	x			1	1				
22					x	x			1	1				
23					x	x			1	1				

Preservation Adjustment Factor	Relative Function Gain	Acres Provided	Functional Gain Units
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
n/a	0.0000		0.0000
n/a	0.0000		0.0000
n/a	0.0000		0.0000
n/a	0.0000		0.0000
n/a	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000
	0.0000		0.0000

risk	P.A.F.	scores	year	time lag
1	0.1	0	<1	1.00
1.25	0.2	1	1-2	1.03
1.5	0.3	2	2-3	1.07
1.75	0.4	3	3-4	1.10
2	0.5	4	4-6	1.14
2.25	0.6	5	6-10	1.25
2.5	0.7	6	11-15	1.46
2.75	0.8	7	16-20	1.68
3	0.9	8	21-25	1.92
	1	9	26-30	2.18
		10	31-35	2.45
			36-40	2.73
			41-45	3.03
			46-50	3.34
			51-55	3.65
			>55	3.91



N

DeBruhl Property
LA02R - 11
(+/- 946 Acres)

Debruhl

0 0.25 0.5 Miles

1:24000

The St. Johns River Water Management District prepared and uses this information for its own purposes and this information may not be suitable for other purposes. This information is provided as is. Further documentation of this data can be obtained by contacting:

St. Johns River Water Management District
Geographic Information Systems
Palatka, Florida 32178-1429 (904)329-4176

Source: /home/dla/landac/ludv/debruhl.avr March 2

EXHIBIT

5

1211 Tech Blvd
Tampa, FL 33619
(813) 623 6646

S&ME

MAPWINDOW

EXHIBIT
5A

mitigation area is outlined in blue

1211 Tech Blvd
Tampa, FL 33619
(813) 623-6846

S&ME

MAPWINDOW

EXHIBIT
5B

total conveyance is outlined in red