



TRANSPORTATION SYMPOSIUM 2019

Natural Resources

Katasha Cornwell and Katie (Britt) Williams

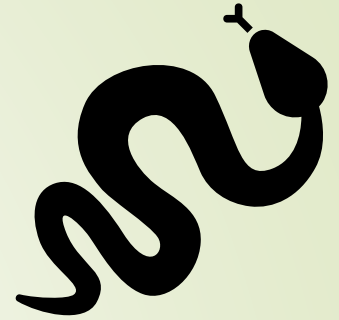


Natural Resources Topics

- Overview of Natural Resources Evaluation
- Recent clarifications with Federal Partners
- Lessons Learned
- Upcoming clarifications and guidance
- Other Initiatives

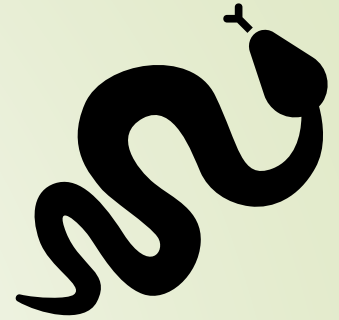
Natural Resources Evaluation Overview

- ▶ Includes information on protected species and habitat, wetlands and essential fish habitat
- ▶ When is an NRE required?
 - ▶ Formal/Informal Consultation for ESA
 - ▶ Wetland Impacts Requiring Standard or SAJ-92 permit
 - ▶ Substantial adverse effects to EFH



Natural Resources Evaluation Overview

- ▶ Technical report for consultation/coordination with resource agencies
- ▶ OEM reviews the NRE prior to resource agency submittal **regardless of federal Class of Action**. NREs for state funded projects do not require OEM review
- ▶ Information from the NRE is summarized and included in the Environmental Document





NRE Addendum

This is prepared when an agency requests additional information to be able to complete consultation on a project.

- Include agency comments
- Provide explanation of the revision/updates to the original NRE



Technical Memorandum

For protected species

- No effect
- Use of key that results in no further consultation

Wetlands

- Projects with impacts requiring a general or nationwide permit

EFH

- Impacts are minor



NRE Resources

PD&E Manual Part 1,
Chapter 12

PD&E Manual Part 2,
Chapters 9, 16 and 17

NRE Outline and
Guidance Document

Recent Clarifications with Federal Partners and Lessons Learned



Lead Agency for ESA Consultation

[Link: ESA Lead Agency Consultation Letter](#)



United States Department of the Interior

FISH AND WILDLIFE SERVICE
South Florida Ecological Services Office
1339 20th Street
Vero Beach, Florida 32960



March 13, 2019

Jason Watts
Director, Office of Environmental Management
Florida Department of Transportation
605 Suwannee Street
Tallahassee, Florida 32399

Subject: FDOT Lead Agency Role for Endangered Species Act Consultation

Dear Mr. Watts:

Thank you for your February 13, 2019, letter regarding the Florida Department of Transportation (FDOT) role as lead agency for Endangered Species Act (ESA) consultation.

FDOT is unique due to its authority established in federal legislation for responsibilities under the National Environmental Policy Act (NEPA) for highway projects¹. The Federal Highway Administration assigned, and FDOT assumed, all responsibilities under federal environmental laws, including those under the Endangered Species Act. FDOT is the lead agency for ESA consultation on federal projects; FDOT coordinates with federal agencies on state-funded projects that require ESA consultation during permitting.

1. For federal-funded projects, as the "lead agency," FDOT analyzes and consults with the U.S. Fish and Wildlife Service (Service) as part of its Project Development and Environment (PD&E) Study phase. For minor projects without a PD&E phase, FDOT will initiate consultation during the permit application process.
2. For state-funded projects requiring ESA consultation for federal permits, FDOT will obtain technical assistance from the Service during the PD&E phase, and subsequently coordinate with the U.S. Army Corps of Engineers and/or the U.S. Coast Guard to determine lead agency status for ESA consultation.

Thank you for the clarification of the process and expectations for ESA consultation as FDOT manages these distinct categories of federal and state-funded transportation projects in Florida. If you have any questions, please contact me at 772-469-4285.

Sincerely,

Larry Williams
State Supervisor

FDOT use of Species Programmatic Effect Determination Keys

[Link: FDOT use of Species Programmatic Keys](#)



United States Department of the Interior

FISH AND WILDLIFE SERVICE
South Florida Ecological Services Office
1339 20th Street
Vero Beach, Florida 32960



December 14, 2018

Jason Watts
Director, Office of Environmental Management
Florida Department of Transportation
605 Suwannee Street
Tallahassee, Florida 32399

Subject: Clarification of no effect determinations and species keys for endangered species

Dear Mr. Watts:

Thank you for your December 12, 2018, letter regarding the Florida Department of Transportation (FDOT) responsibilities for the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA) consultation.

FDOT has a formal agreement with the Federal Highway Administration (FHWA) for its responsibilities under NEPA for highway projects. Under this NEPA Assignment, FDOT performs NEPA analysis, reviews and approvals; including those under the ESA. FDOT follows FHWA guidance for implementation of the ESA for highway projects.

Because FDOT is the "action agency" based on the NEPA Assignment, it is appropriate for FDOT to make "no effect" determinations and concurrence from the U.S. Fish and Wildlife Service (USFWS) is not required for "no effect" determinations. We agree it is appropriate for FDOT to use the various programmatic effect determination keys to evaluate its proposed actions, and to include the results in the NEPA Environmental Document. Some of these keys have been developed between USFWS and the U.S. Army Corps of Engineers. We will work with you to maintain a list of the latest tools for regulatory streamlining during transportation project review, and to regularly review their effectiveness.

Thank you for your partnership in conserving fish and wildlife resources. If you have any questions, please contact me at 772-469-4285 or by email at larry_williams@fws.gov.

Sincerely yours,

Larry Williams
State Supervisor, Ecological Services

cc:
USFWS, Jacksonville, Florida (Jay Herrington)
USFWS, Panama City, Florida (Catherine Phillips)
USFWS, Vero Beach, Florida (Roxanna Hinzman)



No Effect Determinations

- ▶ Where FDOT determines that an action will have “no effect” on a listed species or critical habitat consultation with the Service(s) is not required. **A “no effect” determination means no effect whatsoever (neither detrimental or beneficial) to a species or critical habitat, in the short term or long term.**



No Effect Determinations

- As stated in the *Endangered Species Consultation Handbook* (USFWS and NMFS, 1998, E-21), “The ‘may affect’ evaluation looks not only at effects on the entire species or local management unit, but also considers the effect on individual members of the species. **If even one individual may be affected, the biologist must conclude that there is a ‘may affect’ situation.**”

FHWA Guidance

- FHWA, 2002. Management of the ESA Environmental Analysis and Consultation Process.
- “The endangered species analysis should be appropriate to the scope of the project.”

Project Scope = No Effect



http://environment.fhwa.dot.gov/ecosystems/laws_esaguide.asp

Clearly make effect determinations without the reliance on FDOT standard specifications.



“FDOT Section 7-1.4: Compliance with Federal Endangered Species Act and other Wildlife Regulations will be adhered to, therefore no effect is determined for [species name].”



“Because of..., the project is expected to have no effect on [species name]. Although the species is not expected to occur in the project area, FDOT *Standard Specifications for Road and Bridge Construction* Section 7-1.4: Compliance with Federal Endangered Species Act and other Wildlife Regulations will be adhered to.”



“Because of..., the project is expected to have no effect on [species name].”



FHWA Guidance

- Evaluations must consider impacts based on:
 - Ecological importance and distribution of affected species
 - Intensity of potential impacts of the project.

http://environment.fhwa.dot.gov/ecosystems/laws_esaguide.asp

Documenting use of Species Keys

6. Section 7 of the Endangered Species Act (ESA) of 1973, as amended, or Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA):

☐ No ESA listed species and/or Essential Fish Habitat (EFH) present

☒ ESA listed species and/or Essential Fish Habitat (EFH) present

☒ Determination of No Effect

Enter names of species (required)

B	<i>I</i>	<u>U</u>				

☒ Used key, no consultation required

Enter names of species (required)

B	<i>I</i>	<u>U</u>				

Documenting use of Species Keys

- A. Project is not located in open water or salt marsh..... go to B
Project is located solely in open water or salt marsh.....no effect
- B. Permit will be conditioned for use of the Service's most current guidance for Standard Protection Measures For The Eastern Indigo Snake (currently 2013) during site preparation and project construction.....go to C
Permit will not be conditioned as above for the eastern indigo snake, or it is not known whether an applicant intends to use these measures and consultation with the Service is requested.....may affect
- C. The project will impact less than 25 acres of eastern indigo snake habitat (e.g., sandhill, scrub, pine flatwoods, pine rocklands, scrubby flatwoods, high pine, dry prairie, coastal prairie, mangrove swamps, tropical hardwood hammocks, hydric hammocks, edges of freshwater marshes, agricultural fields [including sugar cane fields and active, inactive, or abandoned citrus groves], and coastal dunes).....go to D
The project will impact 25 acres or more of eastern indigo snake habitat (e.g., sandhill, scrub, pine flatwoods, pine rocklands, scrubby flatwoods, high pine, dry prairie, coastal prairie, mangrove swamps, tropical hardwood hammocks, hydric hammocks, edges of freshwater marshes, agricultural fields [including sugar cane fields and active, inactive, or abandoned citrus groves], and coastal dunes).....may affect
- D. The project has no known holes, cavities, active or inactive gopher tortoise burrows, or other underground refugia where a snake could be buried, trapped and/or injured during project activities.....NLAA
The project has known holes, cavities, active or inactive gopher tortoise burrows, or other underground refugia where a snake could be buried, trapped and/or injured.....go to E
- E. Any permit will be conditioned such that all gopher tortoise burrows, active or inactive, will be excavated prior to site manipulation in the vicinity of the burrow¹. If an eastern indigo snake is encountered, the snake must be allowed to vacate the area prior to additional site manipulation in the vicinity. Any permit will also be conditioned such that holes, cavities, and snake refugia other than gopher tortoise burrows will be inspected each morning before planned site manipulation of a particular area, and, if occupied by an eastern indigo snake, no work will commence until the snake has vacated the vicinity of proposed work.....NLAA²
Permit will not be conditioned as outlined above.....may affect

End Key

¹ If excavating potentially occupied burrows, active or inactive, individuals must first obtain state authorization via a Florida Fish and Wildlife Conservation Commission Authorized Gopher Tortoise Agent permit. The excavation method selected should also minimize the potential for injury of an indigo snake. Applicants should follow the excavation guidance provided within the most current Gopher Tortoise Permitting Guidelines found at <http://myfwc.com/gophertortoise>.

² Please note, if the proposed project will impact less than 25 acres of vegetated eastern indigo snake habitat (not urban/ human-altered) completely surrounded by urban development, and an eastern indigo snake has been observed on site, NLAA is not the appropriate conclusion. The Service recommends formal consultation for this situation because of the expected increased value of the vegetated habitat within the individual's home range.

Documenting Essential Fish Habitat





6. Section 7 of the Endangered Species Act (ESA) of 1973, as amended, or Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA):

☐ No ESA listed species and/or Essential Fish Habitat (EFH) present

☒ ESA listed species and/or Essential Fish Habitat (EFH) present


☒ Determination of No Effect

Enter names of species (required)

B <i>I</i> <u>U</u>    

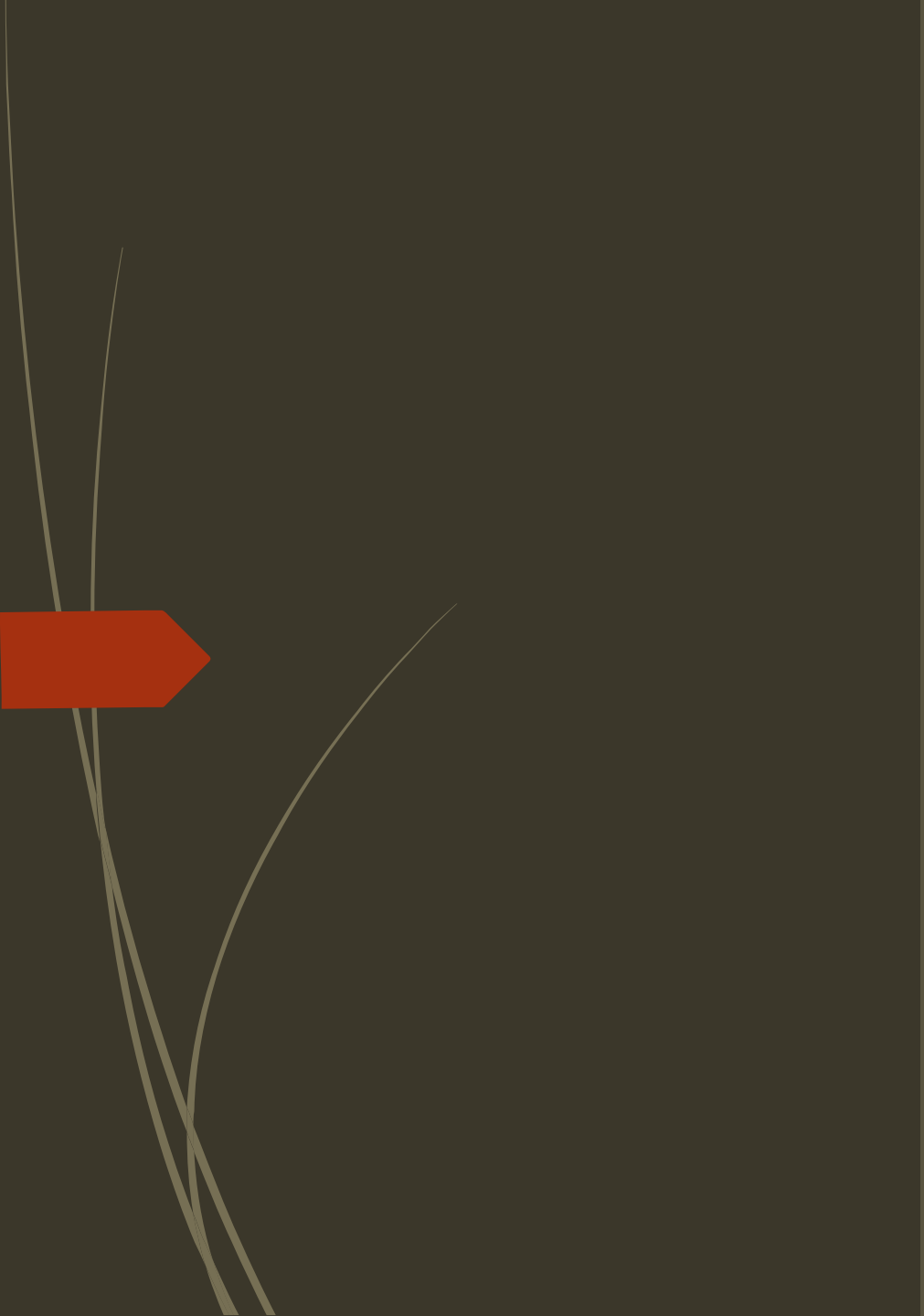
☒ Used key, no consultation required

Enter names of species (required)

B <i>I</i> <u>U</u>    



Minor Transportation Activities Programmatic Agreement with USFWS



Other OEM Clarifications and Guidance



Wild and Scenic, Study, NRI Rivers

- Wild and Scenic:

- 1) Northwest Fork of the Loxahatchee River, District 4
- 2) Wekiva River, District 5

- Study River

- Only current one in FL: St. Mary's River, District 2

- State Designated River

- Myakka River , District 1

- Nationwide Rivers Inventory, National Parks Service

<https://www.nps.gov/subjects/rivers/nationwide-rivers-inventory.htm>

Wild and Scenic, Study, NRI Rivers NEPA Documentation

➤ Type 1 CE

- ✓ Does the project involve a Wild and Scenic River or Study River?

If yes, in the comment box summarize the results of coordination with OEM and NPS. Identify that there will be no direct or adverse effects on the values for which the river was designated.

There is involvement with a Wild and Scenic River or Study River if project activities are located within the river corridor (at least a quarter mile outside of the banks), across, or adjacent to (upstream, downstream, or on a tributary) the designated river segment.)

5. Construction activities in, across or adjacent to a river component designated as a Wild and Scenic River, a Study River, or listed on the Nationwide Rivers Inventory (NRI)?

- ☒ No designated Wild and Scenic, Study Rivers, or NRI Rivers present or not within a quarter mile of the listed river
- ☐ Northwest Fork of the Loxahatchee River in D4 (See PD&E Manual Chapter for limits) [Contact the Office of Environmental Management (OEM)]
- ☐ Wekiva River in D5 (See PD&E Manual Chapter for limits) [Contact the Office of Environmental Management (OEM)]
- ☐ St. Marys River (See PD&E Manual Chapter for limits) [Contact the Office of Environmental Management (OEM)]
- ☐ Yes, a river listed on the NRI ([name of the river]) [Contact the Office of Environmental Management (OEM)]

Has Required Documentation: ✓

General Comments

General Comments and attachments are **optional**.



Wild and Scenic, Study, NRI Rivers NEPA Documentation

- Type 2 CE Form
- Please identify in the comment box all protected rivers present in the project limits."

Include details to support this determination and identify if there are any other protected rivers present in the project limits. Any correspondence with NPS should be added to the project file in SWEPT.)

Wild and Scenic Rivers

 [PD&E Manual, Part 2, Chapter 12: Wild and Scenic Rivers](#)

☐ Enhancement - (Check this box if this project is expected to enhance this issue)

☒ Present ☐ Not Present

☒ Impacted ☐ Not Impacted

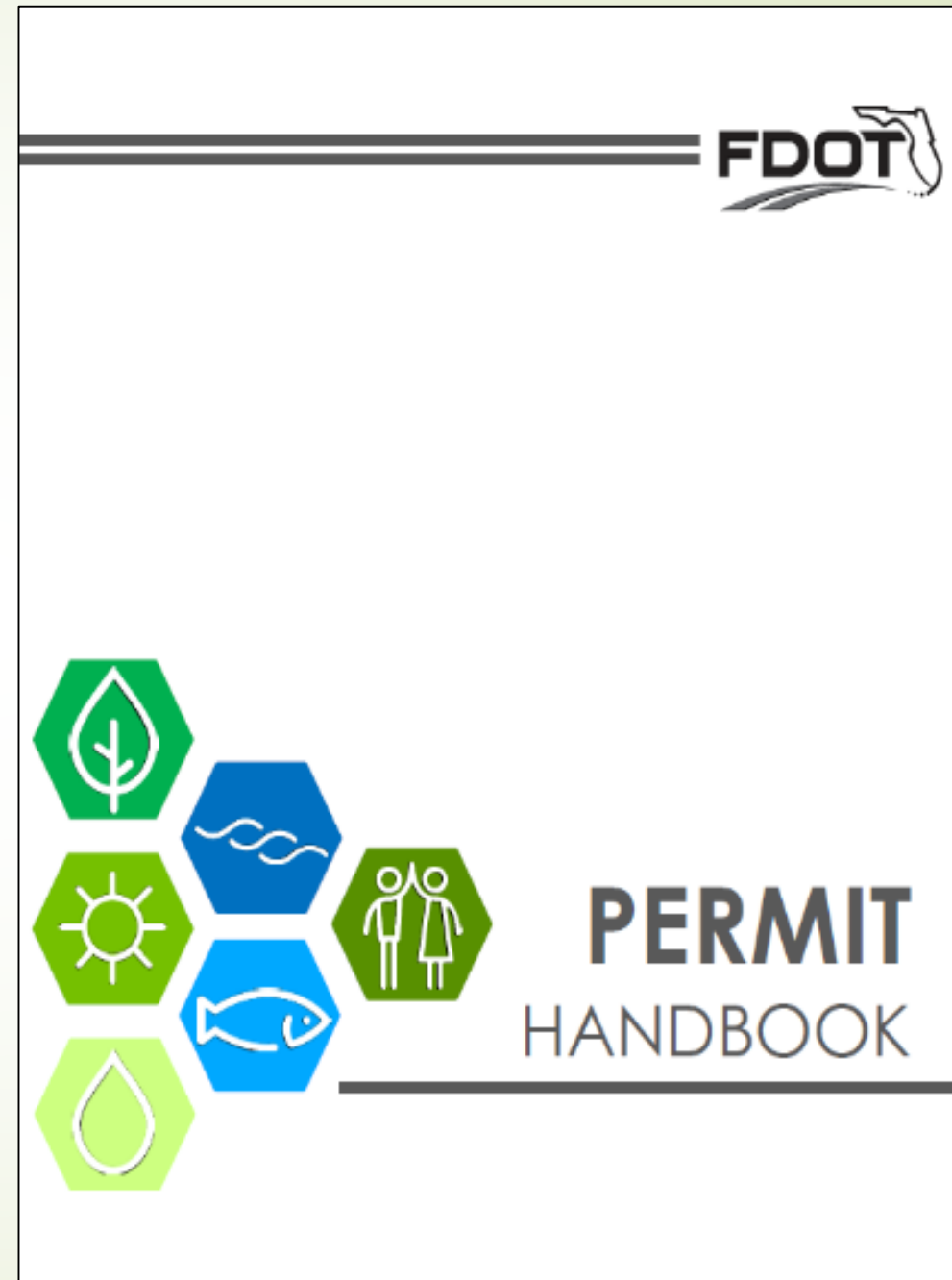
i **Standard Statement** (automatically included in the PDF):

The following evaluation was conducted pursuant to the Wild and Scenic Rivers Act of 1968 as amended.

Summary:

B **I** **U**    

Permit Handbook and Appendices





FDOT Species Special Provisions



Species Specific Special Provisions

Released in January 2018

Florida Black Bear

Bald Eagle

Sea Turtles

Manatee

Smalltooth Sawfish

Sturgeon

Gopher Tortoise

Eastern Indigo Snake

Seagrass Special Provision- July 2019

LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC – LAWS TO BE OBSERVED – COMPLIANCE WITH FEDERAL ENDANGERED SPECIES ACT AND OTHER WILDLIFE REGULATIONS (SEAGRASS BEDS)

(REV 10-3-18) (FA 12-11-18) (7-19)

SUBARTICLE 7-1.4 is expanded by the following new Subarticle:

7-1.4.1 Additional Requirements for Seagrass Beds: The Department has determined that seagrass beds are located within or nearby the project area. The approximate location of the seagrass beds is provided in the Plans.

Do not place material or equipment, including barge anchorage and turbidity barriers, over or within seagrass beds to prevent shading and scour impacts.

Avoid seagrasses whenever possible and operate at no wake speeds when transiting areas containing seagrass beds. Maintain a minimum one-foot vessel clearance over seagrass beds.

Bat Special Provision- July 2019

LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC – LAWS TO BE OBSERVED – COMPLIANCE WITH FEDERAL ENDANGERED SPECIES ACT AND OTHER WILDLIFE REGULATIONS (BATS)

(REV 12-7-18) (FA 1-4-19) (7-19)

SUBARTICLE 7-1.4.1 is expanded by the following new Subarticle:

7-1.4.1 Additional Requirements for Bats

Maintain the previously installed bat exclusion devices to prevent future bat roosting during construction on Bridge No(s) [REDACTED]

Immediately repair exclusion devices that become torn or damaged. Repairs must be conducted by a qualified specialty contractor or experienced biologist. Remove the exclusion devices upon completion of construction. Notify the Engineer if bats, bat remains, or new evidence of roosting is found.

Bat Special Provision- July 2019

LEGAL REQUIREMENTS AND RESPONSIBILITY TO THE PUBLIC – LAWS TO BE OBSERVED – COMPLIANCE WITH FEDERAL ENDANGERED SPECIES ACT AND OTHER WILDLIFE REGULATIONS (BATS IN BRIDGES)

(REV 12-7-18) (FA 12-11-18) (7-19)


SUBARTICLE 7-1.4.1 is expanded by the following new Subarticle:

7-1.4.1 Additional Requirements for Bats in Bridges: The Department has determined that bats occupy Bridge No(s) [REDACTED] and their associated retaining walls.


Install bat exclusion devices on the structure prior to commencing work on the structure. At the Pre-construction conference, submit a Bat Exclusion Plan outlining entry and exit point identification, installation of exclusion devices, methodology for securing all openings half an inch or greater in size, and monitoring methodology. Provide a specialty contractor or biologist experienced in performing bat exclusions to implement the Bat Exclusion Plan. Initial installation of bat exclusion devices can only occur from August 15th through April 15th.

Maintain all exclusion devices throughout work on the structure. Immediately repair damaged or altered exclusion devices that could allow reentry of bats. Repairs must be conducted by a qualified specialty contractor or experienced biologist. Remove the exclusion devices upon completion of construction. Notify the Engineer if bats, bat remains, or new evidence of roosting is found.

Where to Find Special Provisions

**Florida Department of
TRANSPORTATION**

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Program Management

Program Management/Specifications

Standard Specifications Library



 Adobe Reader is required to view the specification documents. [Free Adobe download](#)

The Standard Specifications for Road and Bridge Construction contain requirements setting out or relating to the method or manner of performing work or to the quantities and qualities of materials and labor for all FDOT contracts. Here you will find links to the standard specifications documents for current and recent past FDOT projects. For more information on FDOT and other Specifications, visit the [Standard Specifications](#) web page.

Please Note: All Workbook History files have been relocated to The Florida Department of Transportation FTP site. When prompted, simply type "guest" as the username. NO PASSWORD IS NEEDED. For more information, please see this guide.

The guide is under construction.



This document contains the most recent published version of FDOT's Standard Specifications for Road and Bridge Construction, effective for project lettings beginning JULY 2019. Please view and read the Distribution memo for more information.

[July 2019 Distribution Bulletin](#)

[July 2019 Standard Specifications eBook](#)


[Signed and Sealed Record Copy](#)

Revisions to the published Standard Specifications for Road and Bridge Construction may be implemented to enhance safety; reduce costs; comply with new laws, rules or policies; incorporate new technology; update industry standards or practices; and other critical updates.

[July 2019 Redline eBook](#)

[July 2019 Workbook](#)

Where to Find Special Provisions



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TRANSPORTATION

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Program Management

Program Management / Specifications

July 2019 Workbook



Implemented Modifications to the 2019 Standard Specifications

July 2019 Workbook

for Lettings Effective July - December 2019

Special Provisions - Specific clauses adding to or revising the Standard Specifications, setting forth conditions varying from or additional to the Standard Specifications for a specific project.

Supplemental Specifications - Additions or revisions to the Standard Specifications.

History of Revisions - To review the History of revisions for this Workbook.

Mandatory Revisions - Critical modifications implemented for the Workbook.

Note: These files are in Adobe Acrobat (PDF) format.

File size ranges from 9 kb to 200 kb.

SPECIAL PROVISIONS	SP0000001	Usage Note
PROPOSAL REQUIREMENTS AND CONDITIONS (BUSINESS DEVELOPMENT INITIATIVE). (REV 4-21-16) (FA 4-21-16) (7-19)	SP0020100BDI	Use with the approval of the District Program Management Office. Use with SP0030201BDI, SP0071302BDI and SP0080100BDI.
Changes to: 2-1, 2-7.		
PROPOSAL REQUIREMENTS AND CONDITIONS - EXAMINATION OF PLANS, SPECIFICAITONS, SPECIAL PROVISIONS, AND SITE OF WORK. (REV 11-3-15) (FA 1-27-16) (7-19)	SP0020400	All Jobs (add a phone number or email address) Do not use with SP0020400-60day
Insert Information Required. Changes to: 2-4.		
PROPOSAL REQUIREMENTS AND CONDITIONS - EXAMINATION OF PLANS, SPECIFICAITONS, SPECIAL PROVISIONS, AND SITE OF WORK (60 DAY AD). (REV 4-11-16) (FA 7-1-16) (7-19)	SP0020400-60day	Jobs with 60-day Ads. (add a phone number or email address) Do not use with SP0020400

Where to Find Special Provisions

Changes to: 7-1.4. 

LEGAL REQUIREMENTS AND RESPONSIBILITY TO
THE PUBLIC - LAWS TO BE OBSERVED -
COMPLIANCE WITH FEDERAL ENDANGERED
SPECIES ACT AND OTHER WILDLIFE REGULATIONS
(INDIGO SNAKE).
(REV 5-25-17) (FA 6-13-17) (7-19)

SP0070104-7

Use when called for by the District Environmental
Permit Office (Indigo Snake)

Changes to: 7-1.4.

LEGAL REQUIREMENTS AND RESPONSIBILITY TO
THE PUBLIC - LAWS TO BE OBSERVED -
COMPLIANCE WITH FEDERAL ENDANGERED
SPECIES ACT AND OTHER WILDLIFE REGULATIONS
(STURGEON).
(REV 5-25-17) (FA 6-28-17) (7-19)

SP0070104-8

Use when called for by the District Environmental
Permit Office (Sturgeon)

Changes to: 7-1.4.

LEGAL REQUIREMENTS AND RESPONSIBILITY TO
THE PUBLIC - LAWS TO BE OBSERVED -
COMPLIANCE WITH FEDERAL ENDANGERED
SPECIES ACT AND OTHER WILDLIFE REGULATIONS
(SEAGRASS BEDS)
(REV 10-3-18) (FA 12-11-18) (7-19)

SP0070104-9

Used when called for by the District Environmental
Permit Office (Seagrass Beds)

Changed to: 7-1.4.

LEGAL REQUIREMENTS AND RESPONSIBILITY TO
THE PUBLIC - LAWS TO BE OBSERVED -
COMPLIANCE WITH FEDERAL ENDANGERED
SPECIES ACT AND OTHER WILDLIFE REGULATIONS
(BATS)
(REV 12-7-18) (FA 1-4-19) (7-19)

SP0070104-10

Used when called for by the District Environmental
Permit Office (Bats)

Changed to: 7-1.4.

LEGAL REQUIREMENTS AND RESPONSIBILITY TO
THE PUBLIC - LAWS TO BE OBSERVED -
COMPLIANCE WITH FEDERAL ENDANGERED
SPECIES ACT AND OTHER WILDLIFE REGULATIONS
(BATS IN BRIDGES)
(REV 12-7-18) (12-11-18) (7-19)

SP0070104-11

Used when called for by the District Environmental
Permit Office (Bats in Bridges)

Proposed Sea Turtle Special Provision Work Zone Lighting

8-4.1.1 Additional Requirements for Night Work Along Coastal Roads: The project is located adjacent to sea turtle nesting habitat. Direct all work zone lighting away from the beach to avoid illumination of or direct visibility from the beach. Shield luminaires to avoid lighting areas outside of the immediate construction area.

Proposed Wildlife Sensitive Special Provision

Permanent Lighting

411.3003

992-2.4.2 Luminaires for Wildlife-Sensitive Conventional Lighting:
Luminaires must meet the following additional requirements:

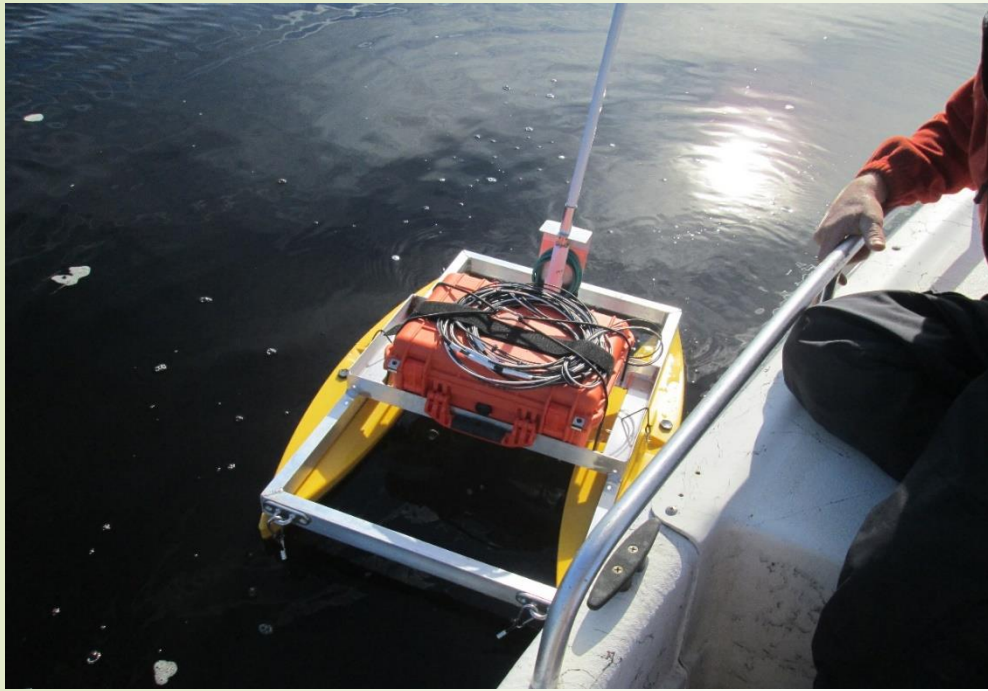
- a. The light source for the luminaires must be true red, orange, or amber light-emitting diodes (LEDs) with no more than 1.75% of the spectral power distribution below 560 nm. Submit testing report.
- b. The optics must have an IP 66 rating. Submit testing report.
- c. The luminaire mounting assembly must be a slipfitter type designed to accommodate a nominal 2 inch pipe size (2-3/8 inch O.D.) arm or a pole top mounting assembly designed to accommodate a 2-3/8 inch pole top tenon.
- d. Luminaires must have a IESNA light distribution curve (IES LM-79) designated by an EPA-recognized laboratory. Submit testing report.
- e. Luminaires must meet a minimum pole spacing of 50 feet using the AGi32 lighting optimization tool in accordance with the settings shown in 992-2.4. Submit IES file.

Underwater Noise Research Project



UNF out on the
water

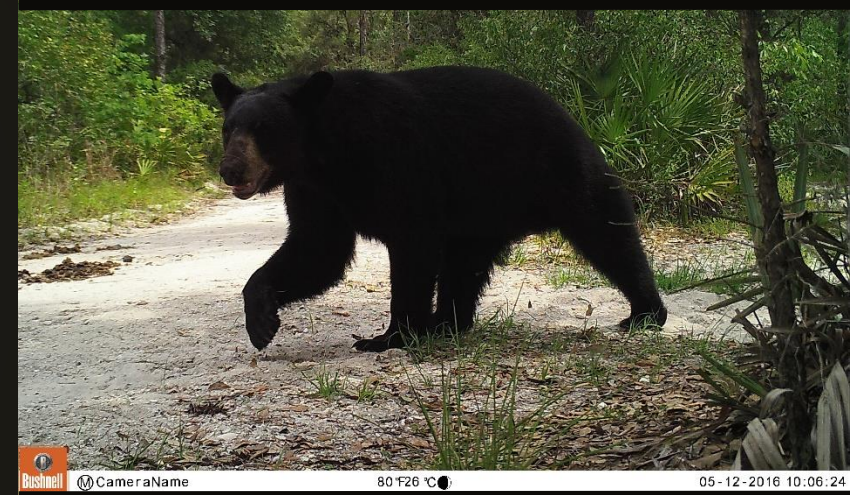




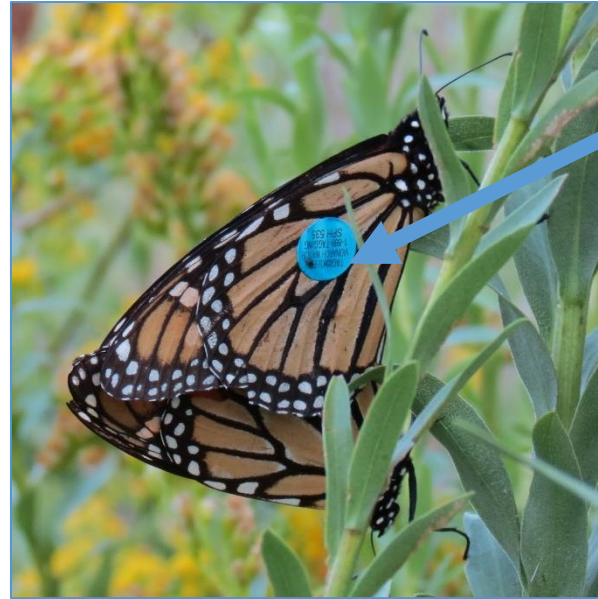
Line of
Buoys

Wildlife Crossing Inventory

- Develop model to identify wildlife crossing needs/priorities
- South and Central Florida Structure Inventory
- Possible Manual



Monarch Butterfly





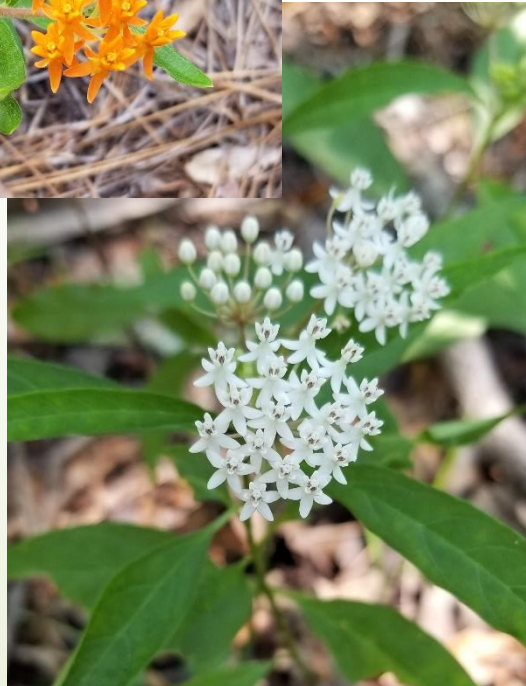
Monarch Butterfly Candidate Conservation Agreement With Assurances

Milkweed

Asclepius veriagatta



Asclepius tuberosa



Asclepius amplexicaulis



Asclepius humistrata

Asclepius perennis

Questions

Katasha Cornwell

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850-414-5206

Katie Britt

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850-414-5259



Erica