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ENVIRONMENTAL CONSULTANTS

March 3, 2017
File: 2016-073.101

SENT VIA ELECTRONIC MAIL

Mr. Richard McGinley
5700 SW Highway 484
Ocala, Florida 34473
E-mail: richmcginley@gmail.com

RE: Environmental Constraints Assessment
McGinley Property
Marion County, Florida

Dear Mr. McGinley:

Executive Summary

Breedlove Dennis & Associates (BDA) conducted an ecological constraints assessment on the McGinley Property (Site). The purpose of the review was to identify ecological conditions on the Site and constraints which could affect the feasibility and/or cost associated with development on the Site.

The results of the field investigation indicate the presence of two state listed species (gopher tortoise and southeastern American kestrel), the presence of one federally protected species (Florida scrub jay), and the potential occurrence of two federally listed species (eastern indigo snake, sand skink) on Site.

The gopher tortoise (*Gopherus polyphemus*) and the southeastern American kestrel (*Falco sparverius paulus*) are both currently listed by the Florida Fish & Wildlife Conservation Commission (FWC) as State Threatened (ST). If the Site cannot be developed without potentially impacting gopher tortoises, a relocation permit will need to be obtained from the FWC. No active southeastern American kestrel nests were observed during the field review however, given the available nesting habitat, the timing of the survey being very early in the nesting season, it is possible that southeastern American kestrels utilize the Site for nesting. Given the potential occurrence on Site, BDA recommends that prior to land clearing/development during the nesting season (March – August), an additional survey be conducted. Should any active nesting be documented on Site, coordination/permitting with the FWC should be conducted as required based on

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survey results and the proposed activity.

The Florida scrub-jay (*Aphelocoma coerulescens*) is listed as a Threatened species under both federal and state laws/regulations. Florida scrub-jays were observed on the Site. Based on observations BDA estimates a minimum of four family groups/pairs that utilize the Site. In order to document family size and territories formal surveys conducted in accordance with the U.S. Fish and Wildlife Service (USFWS) survey protocol are recommended. The survey period runs from March – October and involves a minimum of five field surveys on separate days. Coordination with the U.S. Fish and Wildlife Service (USFWS) prior to development is recommended in order to determine the most appropriate approach to addressing potential impacts to this species on Site. Consultation and permitting with USFWS will be required to authorize impacts to the Florida scrub-jay and/or its habitat.

There is the potential for the occurrence of the eastern indigo snake (*Drymarchon corais couperi*) and/or the sand skink (*Neoseps [=Plestiodon] reynoldsi*) to occur on Site. Both species are listed as Threatened under both federal and state laws/regulations. Based upon Site conditions federal agencies will presume that these species occur on Site. Formal surveys as detailed below would be required in order to rebut that presumption.

There is one surface water on the Site comprising approximately 0.35 acre. Subject to confirmation by the Southwest Florida Water Management District (SWFWMD) staff the surface water will be considered jurisdictional pursuant to SWFWMD rules. Unavoidable impacts to this surface water will require permitting. Please note that pursuant to Section 10.2.2.2 and 10.3 of the SWFWMD Applicant's Handbook Volume I(15), it is BDA's opinion that since the surface water on Site is <1.0 acre, wholly owned, constructed in uplands and does not provide significant habitat for endangered or threatened species no mitigation will be required for impacts. Based on analysis it is BDA's opinion that the surface water on Site is not subject to federal regulation as "waters of the United States" (WOUS) pursuant to Section 404 of the Clean Water Act.

Coordination and additional documentation will be required by Marion County as part of any future rezoning, development plan approval and/or a comprehensive plan amendment.

Please see the sections below for additional detail.

Introduction

The Site is approximately 1,272.33 acres located in Sections 9 and 16, Township 17 South, Range 21 East,

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north and south of county road 484 and west of Interstate 75 in Marion County, Florida (Exhibit 1). BDA conducted an environmental assessment of the Site to identify ecological conditions and constraints which could affect the feasibility and/or costs to develop on the Site. The purpose of our review was to: 1) Review the approximate extent of wetlands that may be considered jurisdictional by the SWFWMD(6), the Department of the Army, Corps of Engineers (ACOE)(2, 18), or Marion County (13), and 2) Assess the Site for the occurrence and potential occurrence of wildlife or plant species listed as Threatened, Endangered (T&E) or Species of Special Concern (SSC) (Listed Species) under provisions of the Endangered Species Act (ESA)(4) or Florida rules(11, 5). Other constraints could exist that were not the subject of this review.

Ecological Conditions

An aerial photograph of the Site is included as Exhibit 2. The Site is characterized by cropland and pasture land, unimproved pastures, xeric oak, sand and gravel pits, and surface waters (Exhibit 3). The on-site land use and vegetative cover types were classified by BDA scientists through selective groundtruthing during the field study and aerial photo-interpretation to characterize the habitats and provide the basis for an assessment of the occurrence or likelihood of occurrence for listed wildlife and plant species (Exhibit 3). The characterization of the vegetative communities, surface waters, and land use types was based on the Florida Land Use, Cover and Forms Classification System(8). Botanical nomenclature (scientific names), as presented in this report, is per Wunderlin et al.(28).

Vegetative Communities and Land Use

The upland cover types on the Site consist of Sand and Gravel Pits (162) which encompasses approximately 38.96 acres, Cropland and Pastureland (210) 1,077.27 acres, Unimproved Pastures (212) 40.19 acres, and Xeric Oak (421) 115.56, (Exhibit 3). The remainder of the Site consists of a surface water, which includes approximately 0.35 acre of Reservoirs (530) (Exhibit 3). The Site is currently utilized for cattle grazing and the majority of the Site including the surface water exhibits clear evidence of cattle usage.

The Sand and Gravel Pits (162) was predominately under current mining activities. However, the northeastern portion had revegetated and included bermudagrass (*Cynodon dactylon*), cogongrass (*Imperata cylindrica*), broomsedge bluestem (*Andropogon virginicus*), bahiagrass (*Paspalum notatum*), and dock (*rumex* sp.).

The Cropland and Pastureland (210) was dominated by bahiagrass or planted millet crops, with occurrences of centipede grass (*Eremochloa ophiuroides*), bermudagrass, dock, Canadian horseweed (*Conyza canadensis*), yucca (*Yucca* sp.), blackberry (*Rubus* sp.), and remnant peanut (*Arachis hypogaea*). Also

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noted were scattered slash pine (*Pinus elliotii*), live oak (*Quercus virginiana*), Chinaberrytree (*Melia azedarach*) and turkey oak (*Quercus laevis*). The edges of the pastures were forested strips and vegetation consisted of slash pine, live oak, turkey oak, sand live oak (*Quercus geminata*), longleaf pine (*Pinus palustris*), Chinaberrytree, and myrtle oak (*Quercus myrtifolia*).

The vegetation within the Unimproved Pasture (212) included bahiagrass, dogfennel (*Eupatorium capillifolium*), broomsedge bluestem, cogongrass, rose natalgrass (*Rhynchelytrum repens*), Canadian horseweed, and pricklypear (*Opuntia humifusa*). Also noted were scattered sand live oak, live oak, and sand pine (*Pinus clausa*).

The vegetation within the Xeric Oak (421) included sand live oak, live oak, turkey oak, myrtle oak, sand pine, longleaf pine, saw palmetto (*Serenoa repens*), running oak (*Quercus elliotii*), gopher apple (*Licania michauxii*), winged sumac (*Rhus copallinum*), blackberry, and bracken fern (*Pteridium aquilinum*).

One surface water reservoir (530) was documented on Site. The reservoir (cattle pond) was heavily used by cattle and the vegetation included cattail (*Typha* sp.), threadleaf arrowhead (*Sagittaria filiformis*), rush (*Juncus* sp.), flatsedge (*Cyperus* sp.), spikerush (*Eleocharis* sp.), Caesarweed (*Urena lobata*), and dogfennel. Also noted around the edges were blackberry, falsewillow (*Baccharis* sp.), and bahiagrass.

Soils

The U.S. Department of Agriculture (USDA) National Technical Committee for Hydric Soils (NTCHS) defines a hydric soil as a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part. The NTCHS and Natural Resources Conservation Service (NRCS) have generated a National Hydric Soils List using selected soil properties indicative of hydric soils. The hydric classification, listed within this table, is based on the properties of all soil types which comprise a map unit. Soils are classified as hydric, predominantly hydric, partially hydric, predominantly non-hydric, and non-hydric. A classification of "partially hydric" indicates the map unit is comprised of both hydric and non-hydric soils. "Partially hydric" soils require field verification to determine the presence or absence of hydric soil indicators.

According to the USDA, NRCS Soil Survey Geographic database(19) for Marion County, Florida, the following soil types occur within the Site (Exhibit 4).

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Soil Map Unit	Number	Hydric Classification	Percent of Map Unit	General Description
Apopka Sand, 0 to 5% Slopes	05	Nonhydric	0	Nearly level to gently sloping, well drained
Candler Sand, 0 to 5% Slopes	22	Nonhydric	0	Nearly level to gently sloping, excessively drained
Candler Sand, 5 to 12% Slopes	23	Nonhydric	0	Sloping to strongly sloping, excessively drained

Listed Animals and Plants

The vegetative cover types were visually inspected during the February 17, 2017 field study to determine the occurrence or likelihood of occurrence for listed (protected) wildlife and plant species. Species of wildlife and plants listed Endangered, Threatened, or Species of Special Concern and known to occur within Marion County, Florida, are represented in Exhibit 5. The FWC adopted revised rules for listing imperiled wildlife species effective on November 8, 2010, and amended October 9, 2013. Species previously classified by FWC as Endangered (E), Threatened (T), or Species of Special Concern (SSC) were approved for reclassification as Federally Endangered (FE), Federally Threatened (FT), State-designated Threatened (ST), or as SSC, a temporary category of protection for those species that needed additional data in order for FWC to determine whether they should be listed as ST or removed from the Florida list. Based on the regulatory changes to Chapter 68A-27 in 2010, FWC officially adopted the imperiled species management system and initiated preparation of the Draft Imperiled Species Management Plan (ISMP). The Draft ISMP is a strategic, comprehensive plan designed to conserve 57 fish and wildlife species over the next 10 years. The Draft ISMP includes supporting Draft Species Action Plans (SAPs) addressing individual species needs and Integrated Conservation Strategies for multiple species and their shared habitats. The final Draft ISMP and SAPs were adopted by the FWC on November 16, 2016. BDA has incorporated the final adopted ISMP and SAPs into our review.

The likelihood of occurrence for listed species, is based on a comparison of known general habitat requirements by these species with the habitats found on or near the Site; the quantity, quality, and adjacency of these habitats; as well as any observations of these species during field investigations. The likelihood of occurrence for listed species referenced in this report was rated as high, moderate, low, unlikely, or not applicable based on knowledge of a species' habitat preference and Site conditions. A likelihood of occurrence given as "unlikely" indicates that no, or very limited, suitable habitat for this species exists on Site, but the Site is within the documented range of the species; "not applicable" indicates

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that the habitat for this species does not exist on or adjacent to the Site and/or the Site is not within the documented range of the species.

Actions potentially resulting in impacts to Listed Species or to their habitat require review/authorization from the applicable state or federal regulatory agency.

Amphibians/Reptiles

Gopher Tortoise (*Gopherus polyphemus*) (Candidate, USFWS; State Threatened [ST], FWC): The gopher tortoise is listed as ST by the FWC but is not listed as T or E by the USFWS. BDA scientists documented gopher tortoises on the Site (Exhibit 6). Prior to development a formal survey conducted in accordance with the FWC gopher tortoise survey protocol(12) should be completed to document the extent and size of the population. Based on the BDA field review there is likely a minimum of 100 burrows on the Site located primarily in the outside of the permitted sand mine and cropland. If the Site cannot be developed without potentially impacting the gopher tortoises, a relocation permit will need to be obtained from the FWC. Permit processing will require approximately 90 days and the FWC will require that proof of local government approval of the project be provided prior to issuing the permit. The tortoises will need to be relocated in accordance with FWC permitting guidelines.

Eastern Indigo Snake (*Drymarchon corais couperi*) (Threatened [T], USFWS): Eastern indigo snakes have not been observed on the Site, and occurrence is considered unlikely. However, they have potential to occur based on the presence of a mix of habitats on and adjacent to the Site. In order to determine whether development may have an effect on the eastern indigo snake the USFWS developed the Eastern Indigo Snake Programmatic Effect Determination Key(24). The key uses Site characteristics and pre-construction protocol implementation to determine whether development may have an effect on the eastern indigo snake. Based upon the projected gopher tortoise population of >25 gopher tortoises as well as > 25 acres of xeric habitat there is a rebuttable presumption that the eastern indigo snake is present and that a project on the Site "May Affect" the eastern indigo snake. In order to document that eastern indigo snakes do not occur on Site, formal surveys conducted between October 1-April 30 would be necessary. BDA recommends that the USFWS standard protection measures(25) for project development (Exhibit 7) be implemented even if eastern indigo snakes are not documented on Site.

Sand skink (*Neoseps [=Plestiodon] reynoldsi*) (T, USFWS; FT, FWC): The sand skink is listed as T by the USFWS (lead regulatory agency for sand skinks in Florida). The USFWS posted the revised *Peninsular Florida Species Conservation and Consultation Guide for Sand and Bluetail Mole Skinks* (Guidelines) on February 7, 2012(23). The Guidelines establish a consultation area for the sand skink and bluetail mole

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skink (*Eumeces [=Plestiodon] egregius lividus*) that includes the seven counties in which the documented range exists for those species. Marion County is one of those counties; therefore, the Site is within the consultation area. The Guidelines generally describe suitable habitat as specific loose soil types occurring above 82 feet above sea level under natural and degraded cover types that include improved pastures (211). Some areas on Site meet the 82 feet elevation and soil type criteria (Exhibit 8). Therefore, there is potential that sand skinks may occur on the Site. Bluetail mole skink (*Eumeces [=Plestiodon] egregius lividus*) occupies similar habitat as the sand skink however, according to the USFWS its distribution is limited to the Lake Wales Ridge in Osceola and Polk counties.

Two areas on the Site meet the USFWS criteria for identifying areas where sand skinks may occur. The northern most area has been highly altered as part of ongoing agricultural practices. It is possible that through coordination with the USFWS this area could be determined as unsuitable due to Site conditions. The southern area does contain potentially suitable sand skink habitat (Exhibit 8). In order to rebut a presumption that sand skinks occur in the potentially suitable habitat formal surveys in accordance with the USFWS survey protocol would need to be conducted. Negative results from a formal survey should result in a determination by the USFWS that sand skinks do not occur on the property. Sand skink surveys must be conducted between March 1st and May 15th in order to be considered valid by the USFWS.

Birds

Bald Eagle (*Haliaeetus leucocephalus*): The bald eagle is protected by the USFWS under provisions of the BGEPA(1) and the Migratory Bird Treaty Act(14) (effective August 9, 2007). Recovery goals have been achieved for this species; therefore, the bald eagle is no longer listed or protected as a “Threatened” species under the ESA of 1973, as amended. The USFWS has implemented National Bald Eagle Management Guidelines (National Guidelines)(22) to assist private landowners and others to plan land-use activities in proximity to active bald eagle nests by measures that will minimize the removed bald eagle from classification and protection as a “Threatened” species under Florida Rule and likelihood of causing “disturbance” to nesting bald eagles, as defined under the BGEPA. The FWC also implemented the Florida Bald Eagle Management Plan (Florida Plan)(10) effective May 9, 2008. The Florida Plan includes Florida Bald Eagle Management Guidelines (Florida Guidelines) and permit provisions. Coordinating with both the USFWS and FWC for guidance prior to undertaking any activity that may result in “disturbance” of nesting bald eagles is recommended.

The FWC bald eagle nest database was reviewed to determine the locations of all nests that occur on or in close proximity to the Site. Nest No. MR155 which was last recorded active in 2014 and is located ~4.86 miles north/northeast of the Site (Exhibit 9) was the closest reported active nest. All reported bald eagle

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nesting activities are over 660-feet from the project boundary, therefore, consistent with the State and National Bald Eagle Management Guidelines it is unlikely that development activities on the Site will affect the nesting activities of bald eagles.

Wood Stork (*Mycteria americana*) (Threatened [T], USFWS; FT, FWC): There are no records of a wood stork rookery on the Site based on the most recent FWC statewide survey in 1999(9) and based on data available from the USFWS through 2015(26). The nearest wood stork rookery is over 20 miles south of the Site. Wood storks typically return to the same rookery sites each year to nest, and will travel up to 18.6 miles from rookeries to forage in wetlands and return food to incubating adults and nestlings during the nesting season. Wetlands within 15 miles of known rookeries are considered by USFWS to comprise core foraging areas for nesting wood storks in this area of central Florida(21). The Site is not within the core foraging area of any wood stork rookeries that have been active within the last ten years. Therefore development is not expected to have any adverse effects on wood storks.

Wading Bird Rookeries (1999): The FWC wading bird rookery database from the 1999(9) statewide survey contains no records of rookeries used by other species of wading birds on the Site, but the database contains records of three wading bird rookeries within 9.3 miles of the Site. Listed species of wading birds, other than wood storks, will fly up to approximately 9.3 miles from the nesting site to forage in wetlands and return food to incubating adults and nestlings(3). Wetlands within 9.3 miles of the rookeries of listed species of wading birds are considered important to wading bird nesting success(3). Based on the proximity of at least one known active rookery within normal foraging distances of the Site there is a potential for the surface water to contribute to the nesting success of listed species of wading birds (Little Blue Heron, Tri-Colored Heron). However, given the distance from the rookery, the presence of many other foraging sites closer to the rookery, and the general lack of wetlands and poor quality of the surface water on Site the importance of this surface water is considered low. Further evaluation should be conducted once a master development plan is determined. Note also that in any development plan there will be substantial foraging opportunities associated with the stormwater management system. Coordination with FWC may be necessary.

Burrowing Owl (*Athene cunicularia*) (ST, FWC): The Site falls within the range of the Florida burrowing owl. No burrowing owls or their burrows were observed during the field survey and the likelihood of occurrence is moderate. An additional survey of the Site is recommended prior to land clearing/development. If any burrowing owls or their burrows are documented, coordination with the FWC should be initiated to address any potential impacts that may occur. If owl burrows are found to be present and the Site cannot be developed without impacting burrowing owls a Migratory Bird Nest removal permit will need to be obtained from the FWC to collapse inactive nest burrows. Burrows can only be collapsed

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if no eggs or flightless young are present in the nest. Permit processing is expected to take a minimum of 90 days.

Southeastern American Kestrel (*Falco sparverius paulus*) (ST, FWC): Kestrels (*Falco sp.*) were observed on Site. American kestrels and southeastern American kestrels are virtually indistinguishable on the wing, however given the habitat it is likely southeastern American kestrels occur on Site. Prior to development an additional survey conducted during the southeastern American kestrel nesting season (March-August) is recommended. Should any nesting southeastern American kestrels be documented on Site, coordination/permitting with the FWC should be conducted as required based on survey results and the development plan. Generally, if an active nest is located on Site the nest tree/snag/power pole must be protected until the nest is no longer active. If an active nest is identified and the development plan includes removal of the nest when inactive an Incidental Take Permit should be obtained from the FWC.

Florida Sandhill Crane (*Grus canadensis pratensis*) (ST, FWC): The Site is within the known range of Florida sandhill cranes. There is a moderate likelihood that Florida sandhill cranes forage on the Site based on the presence open pasture-like conditions on the Site. However, no suitable nesting habitat occurs on Site. Development of the Site is not likely to adversely affect Florida sandhill cranes.

Florida Scrub-Jay (*Aphelocoma coerulescens*) (T, USFWS; FT, FWC): Florida scrub-jays were observed on the Site. Based on observations BDA estimates a minimum of four family groups/pairs that utilize the Site. In order to document family size and territories formal surveys conducted in accordance with the USFWS survey protocol are recommended. The survey period runs from March – October and involves a minimum of five field surveys on separate days. Coordination with the USFWS prior to development is recommended in order to determine the most appropriate approach to addressing potential impacts to this species on Site. Consultation and permitting with USFWS will be required to authorize impacts to the Florida scrub-jay.

Mammals

Sherman's Fox Squirrel (*Sciurus niger shermani*) (SSC, FWC): Suitable nesting habitat for the Sherman's fox squirrel occurs on the Site. This species is relatively common in this region of central Florida. No fox squirrels were observed during field reviews. Prior to land clearing/development a survey for active Sherman's fox squirrel nests is recommended. If any active nests are identified, coordination with the FWC should be initiated to address any potential impacts that may occur to Sherman's fox squirrels.

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No state or federally listed plant species were observed on the Site during the field investigation, however there is the potential for some species to occur in the xeric scrub habitat on Site. Unless federal funds are involved in any development plan no permits or other approvals should be required to remove plants.

No critical habitat for T&E species occurs on or within the vicinity of the site.

Wildlife

Wildlife observed, via direct visual confirmation, call, or sign, included: gopher tortoise (*Gopherus polyphemus*), eastern gray squirrel (*Sciurus carolinensis*), pileated woodpecker (*Dryocopus pileatus*), red-shouldered hawk (*Buteo lineatus*), kestrel (*Falco sp.*), American crow (*Corvus brachyrhynchos*), raccoon (*Procyon lotor*), northern cardinal (*Cardinalis cardinalis*), blue jay (*Cyanocitta cristata*), eastern cottontail (*Sylvilagus floridanus*), northern mockingbird (*Mimus polyglottos*), northern bobwhite (*Colinus virginianus*), black vulture (*Coragyps atratus*), turkey vulture (*Cathartes aura*), southeastern pocket gopher (*Geomys pinetis*), eastern bluebird (*Sialia sialis*), killdeer (*Charadrius vociferus*), red-headed woodpecker (*Melanerpes erythrocephalus*), downy woodpecker (*Picoides pubescens*), Florida scrub-jay (*Aphelocoma coerulescens*), American robin (*Turdus migratorius*), bobcat (*Lynx rufus*), and mourning dove (*Zenaida macroura*).

Wetland Regulatory Jurisdiction

Southwest Florida Water Management District

The extent of jurisdictional wetlands and surface waters depicted on Exhibit 9 is based on our field review and photo interpretation. Approximately 0.35 acres of surface waters were documented on Site. Subject to review by the SWFWMD staff the surface water will be jurisdictional. Pursuant to Section 10.2.2.2 and 10.3 of the SWFWMD Applicant's Handbook Volume I(15), it is BDA's opinion that since the surface water on Site is <1.0 acre, wholly owned, constructed in uplands and does not provide significant habitat for endangered or threatened species no mitigation will be required for impacts. The SWFWMD regulates development and the construction of the storm water management systems pursuant to their environmental resource permitting rules and regulations. The Site will require a General Environmental Resource Permit for wetland impacts less than one acre.

Department of the Army, Corps of Engineers

The ACOE regulates WOUS pursuant to Section 404 of the Clean Water Act. The United States Supreme Court ruled [i.e., Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers, No. 99-

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1178 (January 9, 2001)], waters that could affect interstate commerce solely by virtue of their use as habitat by migratory birds were no longer considered WOUS. Interpretation of this ruling includes the presumption that isolated wetlands, which have no nexus to interstate commerce, should not be claimed by the ACOE. Further guidance was provided in the Rapanos Supreme Court Decision in 2007, which is detailed in the ACOE Memorandum dated December 2, 2008. The local ACOE offices have developed by policy the position that if there is a connection between on-site wetlands and navigable WOUS including an upland-cut ditch (hydrologic connection) the on-site wetlands are considered jurisdictional. An additional factor, which the ACOE may examine during the review process, is the proximity, adjacency, or location in the landscape of a subject wetland to WOUS. The ACOE may review topographic maps, drainage basin maps, or other graphic exhibits to facilitate the determination of regulatory jurisdiction. A formal wetland determination dated December 9, 2011 was issued by the ACOE for the Site. Subsequently, the determination was appealed and an appeal hearing decision was issued by the ACOE on August 2, 2012 confirming the original determination.

BDA evaluated the potential vegetative and/or hydrologic connections to WOUS within and along the perimeter of the Site during the field review on February 17, 2016. BDA also reviewed the U.S. Geological Survey National Hydrography Dataset website(20) to determine if the on-Site surface water is depicted as being connected to WOUS. It is our opinion that the on-Site surface water does not exhibit a connection to WOUS. The on-Site surface water appears to be an isolated system and in our opinion is not WOUS based on the current regulatory framework.

Marion County

The Site does not lie within the Environmentally Sensitive Overlay Zones or the Primary Springs of Protection Overlay Zones as depicted on the Marion County Comprehensive Land Use Maps on the county website. The Site, like the remainder of Marion County does lie within the secondary Springs of Protection Overlay Zone. Within this zone uses are permitted with conditions outlined in Section 5.4.4.B of the Marion County land development code. Uses with conditions include; golf courses, junk yards, chemical storage facilities, construction and demolition debris facilities, mining operations, heavy industrial and commercial uses, agricultural uses.

Marion County will require the preparation of an Environmental Assessment for Listed Species (EALS) as part of rezoning, development approval, or a comprehensive plan amendment. The EALS is separate from this report though information in this report can be used in partial fulfillment of the EALS report. Marion County in coordination with other reviewing agencies will require potential impacts to Listed Species be addressed to the satisfaction of those agencies.

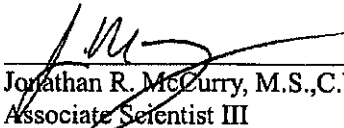
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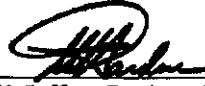
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Surface waters are not addressed in the Marion County Land Development Code (Section 6.6)(13). Since the Site does not contain wetlands no additional requirements for Marion County will be required for development with regards to wetlands and surface waters.

Please contact us if you require additional information or have any questions.

Sincerely yours,


Jonathan R. McCurry, M.S., C.W.B.
Associate Scientist III


W. Jeffrey Pardue, C.E.P., M.S., M.B.A.
Senior Vice President

JRM/WJP/tnp

Enclosures

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12. Florida Fish and Wildlife Conservation Commission. 2015. Gopher Tortoise Permitting Guidelines: *Gopherus polyphemus*. Tallahassee, FL.
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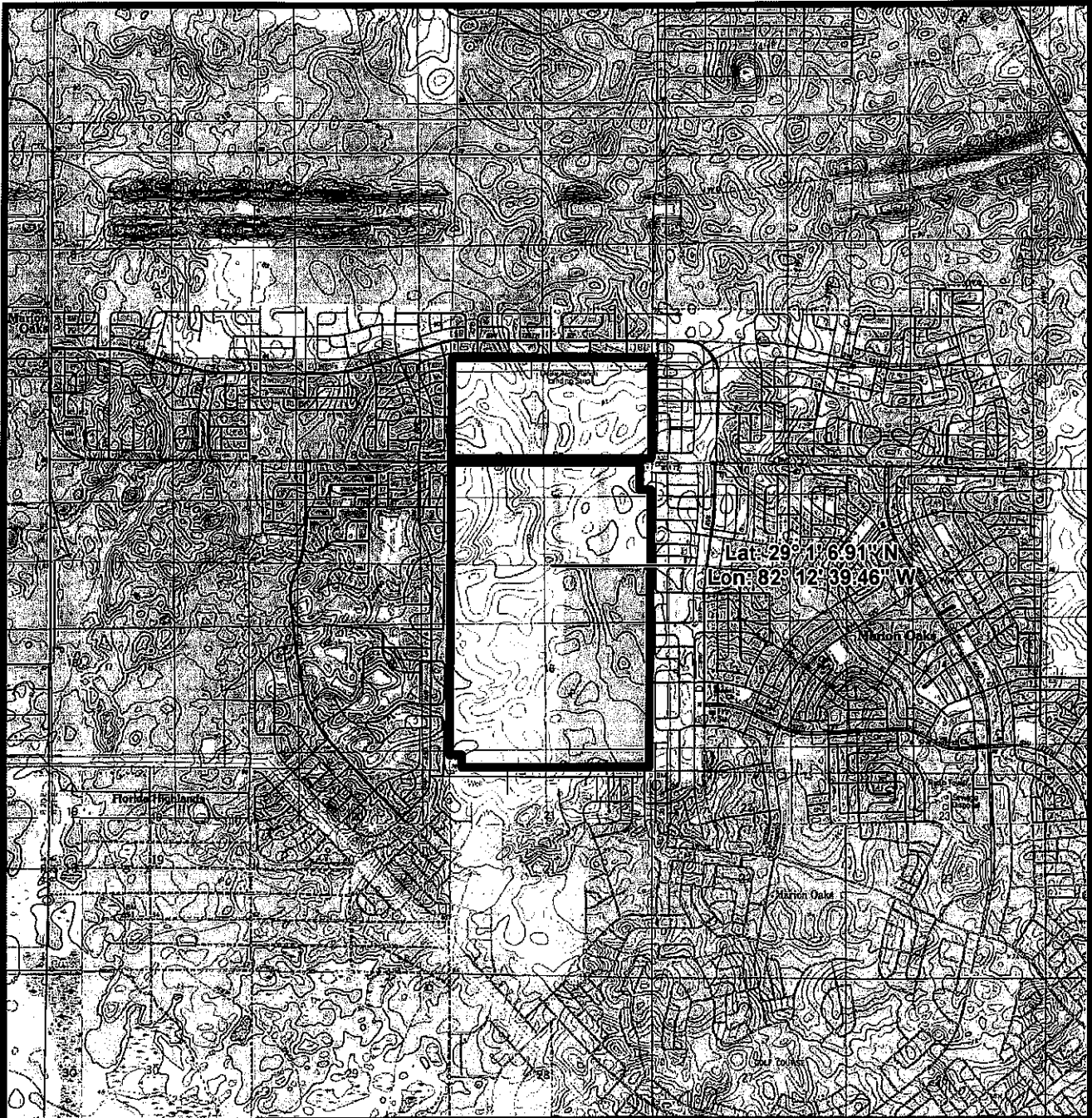
BDA
ENVIRONMENTAL CONSULTANTS

Mr. Richard McGinley
March 3, 2017
Page 15

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EXHIBIT 1

**LOCATION OF THE MCGINLEY PROPERTY,
MARION COUNTY, FLORIDA**



Legend

 McGinley Property (1272.33 ac)

Source: Breedlove, Dennis & Associates, Inc. USGS Shady, Fla. Quadrangle streamed from ESRI

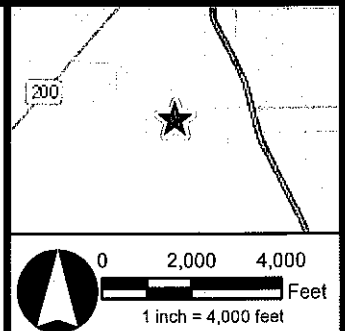


EXHIBIT 1
LOCATION OF THE MCGINLEY PROPERTY (SECTIONS 9 AND 16,
TOWNSHIP 17 S, RANGE 21 E), MARION COUNTY, FLORIDA.

BDA BREEDLOVE, DENNIS & ASSOCIATES, INC.
 Environmental Consultants
 330 W. Canton Ave., Winter Park, FL 32789 • 407-677-1862

EXHIBIT 2

**2015 AERIAL PHOTOGRAPH OF
THE MCGINLEY PROPERTY,
MARION COUNTY, FLORIDA**



Legend

 McGinley Property (1272.33 ac)

Source: BreeZave, Dennis & Associates, Inc. Data streamed from LSR/L1.gdb date: 20151112

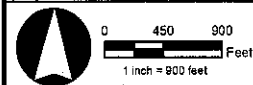
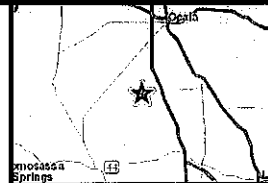
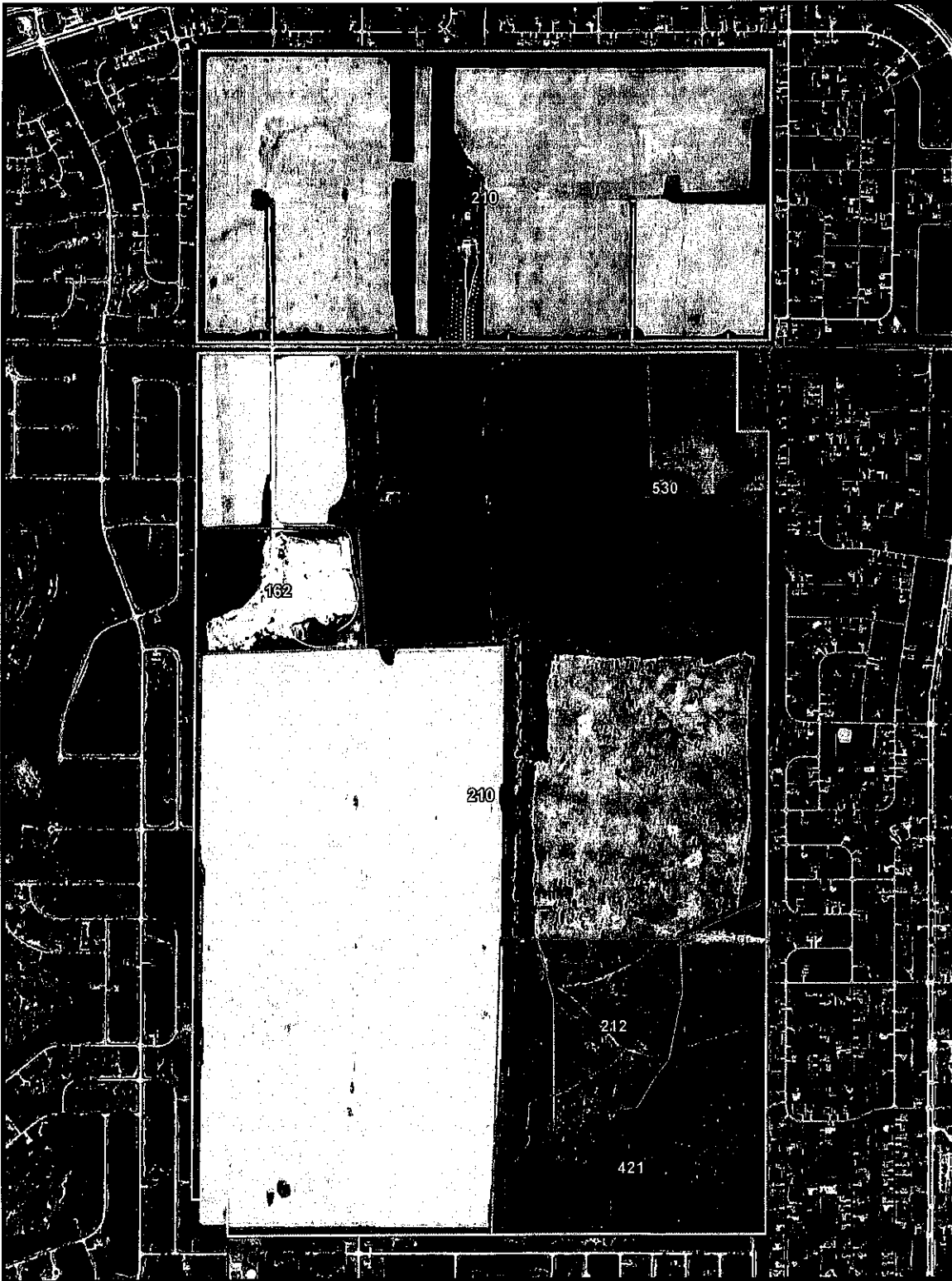


EXHIBIT 2
AERIAL PHOTOGRAPH OF THE MCGINLEY PROPERTY, MARION COUNTY FL.







BDA BREEDLOVE, DENNIS & ASSOCIATES, INC.
Environmental Consultants
330 W. Canton Ave., Winter Park, FL 32789 • 407-877-1862

EXHIBIT 3

**FLORIDA LAND USE, COVER, AND FORMS
CLASSIFICATION SYSTEM MAP
FOR THE MCGINLEY PROPERTY,
MARION COUNTY, FLORIDA**



Legend

- | | |
|---|--|
|  McGinley Property (1272.33 ac) |  212 - Unimproved Pastures (40.19 ac) |
| FLUCFCS Data |  421 - Xeric Oak (115.56 ac) |
|  162 - Sand and Gravel Pits (38.96 ac) |  530 - Reservoirs (0.35 ac) |
|  210 - Cropland and Pastureland (1077.27 ac) | |

Source: Breedlove, Dennis & Associates, Inc.

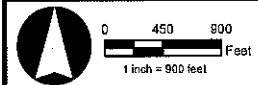
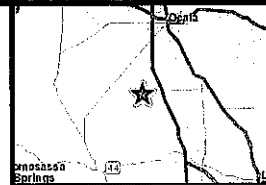


EXHIBIT 3
FLORIDA LAND USE, COVER AND FORMS CLASSIFICATION SYSTEM (FLUCFCS) MAP FOR THE
MCGINLEY PROPERTY, MARION COUNTY FL.

BDA BREEDLOVE, DENNIS & ASSOCIATES, INC.
 Full Formatted Consultants
 230 W. Canton Ave., Winter Park, FL 32789 • 407-677-1892

EXHIBIT 4

**NATURAL RESOURCES CONSERVATION
SERVICE SOILS MAP OF THE MCGINLEY PROPERTY,
MARION COUNTY, FLORIDA**



Legend

- McGinley Property (1272.33 ac)
- NRCS Soils**
- 22 - Candler sand, 0 to 5 percent slopes (957.49 ac)
- 23 - Candler sand, 5 to 12 percent slopes (140.22 ac)
- 5 - Apopka sand, 0 to 5 percent slopes (174.62 ac)

Source: Broadlove, Dennis & Associates, Inc.

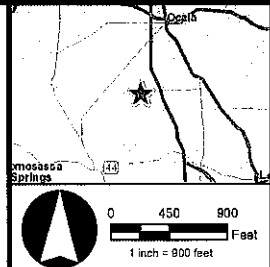


EXHIBIT 4
NATURAL RESOURCES CONSERVATION SERVICE (NRCS) SOILS MAP OF THE
MCGINLEY PROPERTY, MARION COUNTY FL.

BDA BROADLOVE, DENNIS & ASSOCIATES, INC.
 Environmental Consultants
 320 W. Canton Ave., Winter Park, FL 32789 • 407-677-1882

EXHIBIT 5

**PROTECTED PLANTS AND ANIMALS WITH
POTENTIAL FOR OCCURRENCE
ON THE MCGINLEY PROPERTY,
MARION COUNTY, FLORIDA**

Exhibit 5. Protected Plants and Animals with Potential for Occurrence on the McGinley Property, Marion County, Florida.

Species	Habitat of Occurrence	Likelihood of Occurrence	Designated Status ¹	
			USFWS ²	
PLANTS				
<i>Bonamia grandiflora</i> Florida bonamia	Scrub, dry pinelands.	Moderate	T	
<i>Clitoria fragrans</i> scrub pigeon-wing	Turkey and bluejack oak; scrub and scrubby high pine.	Unlikely	T	
<i>Dicerandra cornutissima</i> longspurred mint	Sand pine scrub, xeric oak scrub.	Moderate	E	
<i>Eriogonum longifolium</i> var. <i>gnaphalifolium</i> scrub buckwheat	Sandhill, scrub.	Moderate	T	
<i>Nolina brittoniana</i> Britton's beargrass	Scrub, sandhill, scrubby flatwoods, xeric hammock.	Moderate	E	
<i>Polygala lewtonii</i> Lewton's polygala	Xeric oak scrub, sandhill.	Moderate	E	
Species	Habitat of Occurrence	Likelihood of Occurrence	Designated Status ¹	
			USFWS ²	FWC ^{3,4}
FISH				
<i>Etheostoma ohmstedii maculaticeps</i> southern tessellated darter	Streams.	N/A	—	ST

Exhibit 5. Continued.

Species	Habitat of Occurrence	Likelihood of Occurrence	Designated Status ¹	
			USFWS ²	FWC ³⁴
<i>Pteronotopis welaka</i> bluenose shiner	Blackwater rivers and streams, spring runs.	N/A	—	ST
REPTILES				
<i>Alligator mississippiensis</i> American alligator	Freshwater marsh, cypress swamp, mixed hardwood swamp, shrub swamp, bottomland hardwoods, lakes, ponds, rivers, streams.	Unlikely	T(S/A)	FT(S/A)
<i>Drymarchon corais couperi</i> eastern indigo snake	Xeric oak scrub, sand pine scrub, sandhill, pine flatwoods, pine rocklands, tropical hardwood hammock, hydric hammock, wet prairie, mangrove swamp.	Low	T	FT
<i>Gopherus polyphemus</i> gopher tortoise	Sandhill, sand pine scrub, xeric oak scrub, coastal strand, xeric hammock, dry prairie, pine flatwoods, mixed hardwood–pine forests, ruderal.	Observed	—	ST
<i>Lampropeltis extenuata</i> short-tailed snake	Sandhill, xeric hammock, sand pine scrub, xeric oak scrub.	Moderate	—	ST
<i>Macrolemys temminckii</i> alligator snapping turtle	Rivers.	N/A	—	SSC
<i>Neoseps reynoldsi</i> sand skink	Rosemary scrub, sand pine scrub, xeric oak scrub, scrubby flatwoods, xeric hammock.	Moderate	T	FT
<i>Pituophis melanoleucus mugitus</i> Florida pine snake	Xeric oak scrub, sand pine scrub, sandhill, scrubby pine flatwoods, old fields on former sandhill and scrub sites.	Moderate	—	ST

Exhibit 5. Continued.

Species	Habitat of Occurrence	Likelihood of Occurrence	Designated Status ¹	
			USFWS ²	FWC ³⁴
BIRDS				
<i>Aphelocoma coerulescens</i> Florida scrub-jay	Xeric oak scrub.	Observed	T	FT
<i>Athene cunicularia floridana</i> Florida burrowing owl	Sandhill, dry prairie, pastures, ruderal.	Moderate	—	ST
<i>Egretta caerulea</i> little blue heron	Freshwater marsh, various types of forested wetlands, lakes, streams, salt marsh, mangrove swamp, tidal mud flats.	Unlikely	—	ST
<i>Egretta tricolor</i> tricolored heron	Salt marsh, mangrove swamp, tidal mud flats, tidal creeks, tidal ditches, freshwater marsh, various types of forested wetlands, lakes, and ponds.	Unlikely	—	ST
<i>Falco sparverius paulus</i> southeastern American kestrel	Sandhill, pine flatwoods, dry prairie, pasture, old field.	Observed	—	ST
<i>Grus canadensis pratensis</i> Florida sandhill crane	Dry prairie, freshwater marsh, pasture.	Moderate	—	ST
<i>Mycteria americana</i> wood stork	Freshwater marsh, various types of forested wetlands, ponds, salt marsh, mangrove swamp, tidal mud flats, lagoons, flooded pastures.	Unlikely	T	FT

Exhibit 5. Continued.

Species	Habitat of Occurrence	Likelihood of Occurrence	Designated Status ¹	
			USFWS ²	FWC ^{3,4}
<i>Picoides borealis</i> red-cockaded woodpecker	Sandhill, pine flatwoods.	N/A	E	FE
<i>Rostrhamus sociabilis plumbeus</i> Everglade snail kite	Freshwater marsh, lakes.	N/A	E	FE
MAMMALS				
<i>Sciurus niger shermani</i> Sherman's fox squirrel	Sandhill, pine flatwoods, pastures.	High	—	SSC
<i>Sorex longirostris eionis</i> Homosassa shrew	Hardwood swamp/mixed wetland forest, hydric and xeric hammocks, industrial/commercial pineland, mixed hardwood-pine forest, natural pineland, disturbed/transitional habitat.	N/A	—	SSC
<i>Trichechus manatus latirostris</i> Florida manatee	Estuarine bays and lagoons, seagrass beds, rivers, spring runs.	N/A	E	FE

¹ Federal Designations: E = Endangered; T = Threatened; T(S/A) = Threatened Due to Similarity of Appearance; State Designations: ST = State-designated Threatened; SSC = State Species of Special Concern; ST(S/A) = State-designated Threatened Due to Similarity of Appearance; FE = Federally-designated Endangered; FT = Federally-designated Threatened; FT(S/A) = Federally-designated Threatened Due to Similarity of Appearance.

² U.S. Fish and Wildlife Service.

³ Florida Fish and Wildlife Conservation Commission.






⁴ Species are listed as "Federally-designated endangered or threatened species" on the Florida Endangered and Threatened Species list, however, regulatory authorizations for take are only provided by the federal agency administering the species under the Endangered Species Act of 1973, as amended.

EXHIBIT 6

**LISTED SPECIES OBSERVATIONS ON THE MCGINLEY PROPERTY,
MARION COUNTY, FLORIDA**



Legend

-  McGinley Property (1272.33 ac)
-  Tracks
-  Gopher Tortoise Burrow
-  Scrub Jay
-  South Eastern Kestrel

Source: Breedlove, Dennis & Associates, Inc.

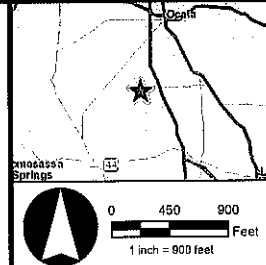


EXHIBIT 6
LISTED SPECIES OBSERVATIONS ON THE MCGINLEY PROPERTY,
MARION COUNTY, FLORIDA.

BDA BREEDLOVE, DENNIS & ASSOCIATES, INC.
 Environmental Consultants
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EXHIBIT 7

**U.S. FISH AND WILDLIFE SERVICE STANDARD PROTECTION
MEASURES FOR THE EASTERN INDIGO SNAKE**

STANDARD PROTECTION MEASURES FOR THE EASTERN INDIGO SNAKE
U.S. Fish and Wildlife Service
August 12, 2013

The eastern indigo snake protection/education plan (Plan) below has been developed by the U.S. Fish and Wildlife Service (USFWS) in Florida for use by applicants and their construction personnel. At least **30 days prior** to any clearing/land alteration activities, the applicant shall notify the appropriate USFWS Field Office via e-mail that the Plan will be implemented as described below (North Florida Field Office: jaxregs@fws.gov; South Florida Field Office: verobeach@fws.gov; Panama City Field Office: panamacity@fws.gov). As long as the signatory of the e-mail certifies compliance with the below Plan (including use of the attached poster and brochure), no further written confirmation or “approval” from the USFWS is needed and the applicant may move forward with the project.

If the applicant decides to use an eastern indigo snake protection/education plan other than the approved Plan below, written confirmation or “approval” from the USFWS that the plan is adequate must be obtained. At least 30 days prior to any clearing/land alteration activities, the applicant shall submit their unique plan for review and approval. The USFWS will respond via e-mail, typically within 30 days of receiving the plan, either concurring that the plan is adequate or requesting additional information. A concurrence e-mail from the appropriate USFWS Field Office will fulfill approval requirements.

The Plan materials should consist of: 1) a combination of posters and pamphlets (see **Poster Information** section below); and 2) verbal educational instructions to construction personnel by supervisory or management personnel before any clearing/land alteration activities are initiated (see **Pre-Construction Activities** and **During Construction Activities** sections below).

POSTER INFORMATION

Posters with the following information shall be placed at strategic locations on the construction site and along any proposed access roads (a final poster for Plan compliance, to be printed on 11” x 17” or larger paper and laminated, is attached):

DESCRIPTION: The eastern indigo snake is one of the largest non-venomous snakes in North America, with individuals often reaching up to 8 feet in length. They derive their name from the glossy, blue-black color of their scales above and uniformly slate blue below. Frequently, they have orange to coral reddish coloration in the throat area, yet some specimens have been reported to only have cream coloration on the throat. These snakes are not typically aggressive and will attempt to crawl away when disturbed. Though indigo snakes rarely bite, they should NOT be handled.

SIMILAR SNAKES: The black racer is the only other solid black snake resembling the eastern indigo snake. However, black racers have a white or cream chin, thinner bodies, and WILL BITE if handled.

LIFE HISTORY: The eastern indigo snake occurs in a wide variety of terrestrial habitat types throughout Florida. Although they have a preference for uplands, they also utilize some wetlands

and agricultural areas. Eastern indigo snakes will often seek shelter inside gopher tortoise burrows and other below- and above-ground refugia, such as other animal burrows, stumps, roots, and debris piles. Females may lay from 4 - 12 white eggs as early as April through June, with young hatching in late July through October.

PROTECTION UNDER FEDERAL AND STATE LAW: The eastern indigo snake is classified as a Threatened species by both the USFWS and the Florida Fish and Wildlife Conservation Commission. "Taking" of eastern indigo snakes is prohibited by the Endangered Species Act without a permit. "Take" is defined by the USFWS as an attempt to kill, harm, harass, pursue, hunt, shoot, wound, trap, capture, collect, or engage in any such conduct. Penalties include a maximum fine of \$25,000 for civil violations and up to \$50,000 and/or imprisonment for criminal offenses, if convicted.

Only individuals currently authorized through an issued Incidental Take Statement in association with a USFWS Biological Opinion, or by a Section 10(a)(1)(A) permit issued by the USFWS, to handle an eastern indigo snake are allowed to do so.

IF YOU SEE A LIVE EASTERN INDIGO SNAKE ON THE SITE:

- Cease clearing activities and allow the live eastern indigo snake sufficient time to move away from the site without interference;
- Personnel must NOT attempt to touch or handle snake due to protected status.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Immediately notify supervisor or the applicant's designated agent, **and** the appropriate USFWS office, with the location information and condition of the snake.
- If the snake is located in a vicinity where continuation of the clearing or construction activities will cause harm to the snake, the activities must halt until such time that a representative of the USFWS returns the call (within one day) with further guidance as to when activities may resume.

IF YOU SEE A DEAD EASTERN INDIGO SNAKE ON THE SITE:

- Cease clearing activities and immediately notify supervisor or the applicant's designated agent, **and** the appropriate USFWS office, with the location information and condition of the snake.
- Take photographs of the snake, if possible, for identification and documentation purposes.
- Thoroughly soak the dead snake in water and then freeze the specimen. The appropriate wildlife agency will retrieve the dead snake.

Telephone numbers of USFWS Florida Field Offices to be contacted if a live or dead eastern indigo snake is encountered:

North Florida Field Office – (904) 731-3336
Panama City Field Office – (850) 769-0552
South Florida Field Office – (772) 562-3909

PRE-CONSTRUCTION ACTIVITIES

1. The applicant or designated agent will post educational posters in the construction office and throughout the construction site, including any access roads. The posters must be clearly visible to all construction staff. A sample poster is attached.
2. Prior to the onset of construction activities, the applicant/designated agent will conduct a meeting with all construction staff (annually for multi-year projects) to discuss identification of the snake, its protected status, what to do if a snake is observed within the project area, and applicable penalties that may be imposed if state and/or federal regulations are violated. An educational brochure including color photographs of the snake will be given to each staff member in attendance and additional copies will be provided to the construction superintendent to make available in the onsite construction office (a final brochure for Plan compliance, to be printed double-sided on 8.5" x 11" paper and then properly folded, is attached). Photos of eastern indigo snakes may be accessed on USFWS and/or FWC websites.
3. Construction staff will be informed that in the event that an eastern indigo snake (live or dead) is observed on the project site during construction activities, all such activities are to cease until the established procedures are implemented according to the Plan, which includes notification of the appropriate USFWS Field Office. The contact information for the USFWS is provided on the referenced posters and brochures.

DURING CONSTRUCTION ACTIVITIES

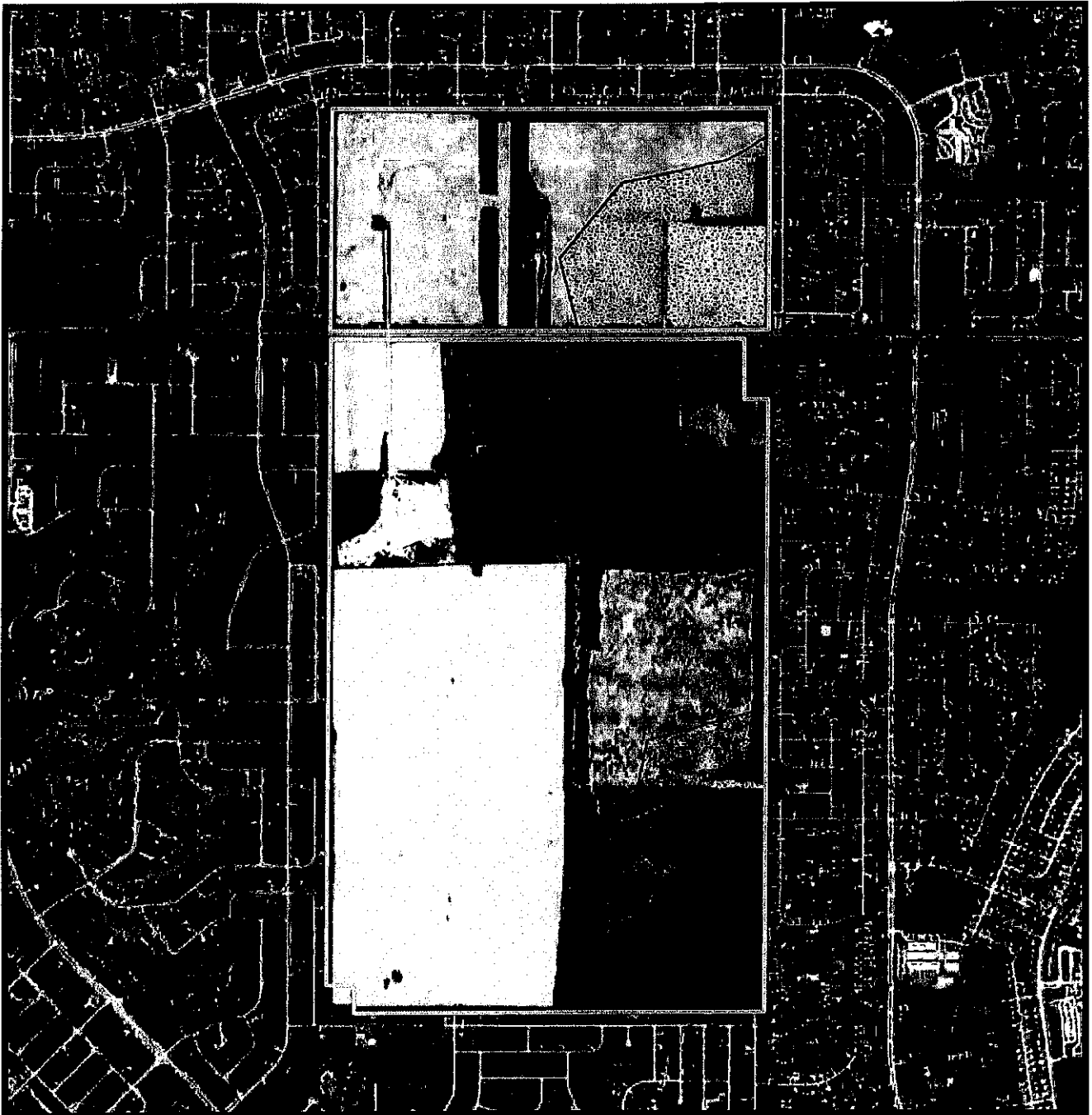
1. During initial site clearing activities, an onsite observer may be utilized to determine whether habitat conditions suggest a reasonable probability of an eastern indigo snake sighting (example: discovery of snake sheds, tracks, lots of refugia and cavities present in the area of clearing activities, and presence of gopher tortoises and burrows).
2. If an eastern indigo snake is discovered during gopher tortoise relocation activities (i.e. burrow excavation), the USFWS shall be contacted within one business day to obtain further guidance which may result in further project consultation.
3. Periodically during construction activities, the applicant's designated agent should visit the project area to observe the condition of the posters and Plan materials, and replace them as needed. Construction personnel should be reminded of the instructions (above) as to what is expected if any eastern indigo snakes are seen.

POST CONSTRUCTION ACTIVITIES



Whether or not eastern indigo snakes are observed during construction activities, a monitoring report should be submitted to the appropriate USFWS Field Office within 60 days of project completion. The report can be sent electronically to the appropriate USFWS e-mail address listed on page one of this Plan.

EXHIBIT 8

**POTENTIAL SAND SKINK HABITAT BASED ON USFWS CRITERIA
MCGINLEY PROPERTY,
MARION COUNTY, FLORIDA**



Legend

-  McGinley Property (1272.33 ac)
-  Sank Skink Protocol Areas (307.98 ac)

Source: Breedlove, Dennis & Associates, Inc. USGS Shady, Fla. Quadrangle streamed from ESRI

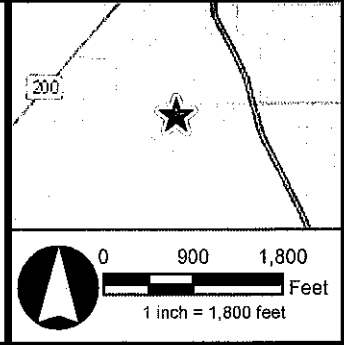
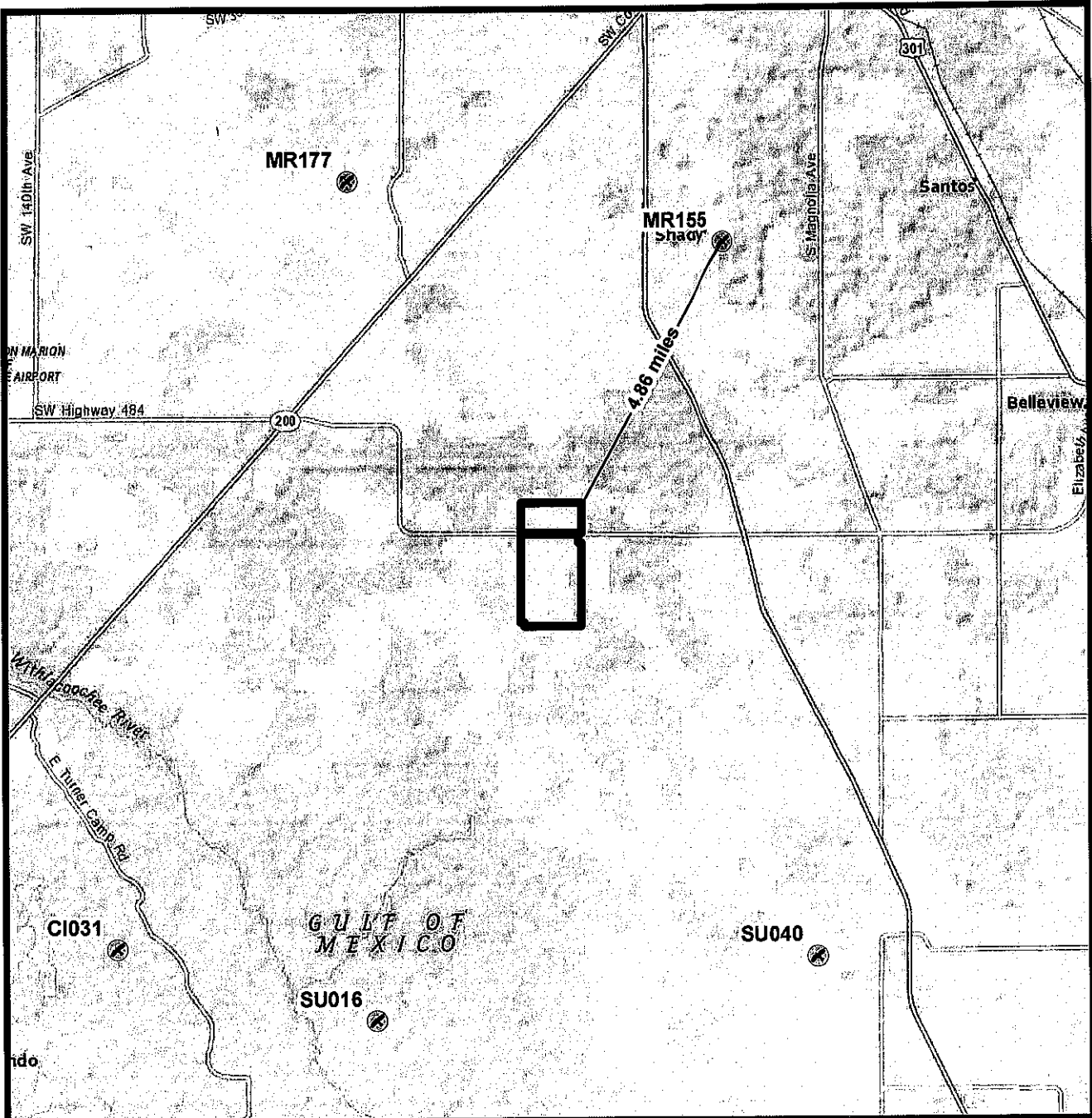


EXHIBIT 8
POTENTIAL SAND SKINK HABITAT BASED ON USFWS CRITERIA,
MCGINLEY PROPERTY, MARION COUNTY, FLORIDA.



BDA BREEDLOVE, DENNIS & ASSOCIATES, INC.
 Environmental Consultants
 330 W. Canton Ave., Winter Park, FL 32789 • 407-677-1882

EXHIBIT 9

**DOCUMENTED BALD EAGLE NESTS IN PROXIMITY TO
THE MCGINLEY PROPERTY,
MARION COUNTY, FLORIDA**



Legend

-  McGinley Property (1272.33 ac)
-  Eagle's Nests

Source: Breedlove, Dennis & Associates, Inc. USGS Shady, Fla. Quadrangle streamed from ESRI

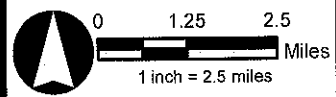


EXHIBIT 9
DOCUMENTED BALD EAGLE NESTS IN PROXIMITY TO THE
MCGINLEY PROPERTY, MARION COUNTY, FLORIDA.

BDA BREEDLOVE, DENNIS & ASSOCIATES, INC.
 Environmental Consultants
 310 W. Canton Ave., Winter Park, FL 32789 • 407-877-1882

EXHIBIT 10


**WETLANDS AND SURFACE WATERS ON
THE MCGINLEY PROPERTY,
MARION COUNTY, FLORIDA**



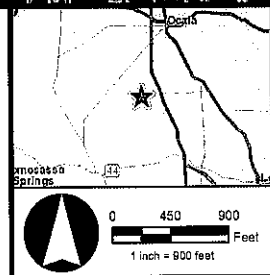
Legend

 McGinley Property (1272.33 ac)

Wetlands and Surface Waters

 Surface Waters (0.35 ac)

Source: BreeDove, Dennis & Associates, Inc.



**EXHIBIT 10
WETLANDS AND SURFACE WATERS ON THE MCGINLEY PROPERTY,
MARION COUNTY FL.**

BDA BREEDOVE, DENNIS & ASSOCIATES, INC.
Environmental Consultants
335 W. Canton Ave., Winter Park, FL 32789 • 407-677-1892