

Appendix I
FHWA 4f EXEMPTION

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U.S. Department
of Transportation
Federal Highway
Administration

545 John Knox Road, Suite 200
Tallahassee, Florida 32303

(850) 942-9850

2006 OCT 25

OCT 25, 2006

October 20, 2006

In Reply Refer To: HPR-FL

Mr. Dan B. Kimball
Superintendent
US Department of Interior
Everglades and Dry Tortugas National Parks
40001 State Road 9336
Homestead, Florida 33034-6733

Dear Mr. Kimball:

Subject: Modified Water Distribution to Everglades National Park - Tamiami Trail Modifications

This letter is in response to your letter of October 10, 2006 and serves as verification of information provided in conversations and emails between our respective staffs. Section 4(f) of the Department of Transportation (DOT) Act does not apply to the transfer of Everglades National Park (ENP) property to Florida DOT for implementation of the Modified Water Deliveries (MWD) project. The proposed project is an environmental restoration project and the Federal Highway Administration's involvement in the transfer of property between another Federal Agency and the Florida DOT would not trigger the applicability of Section 4(f).

Should you have any further questions, please contact Mr. George Hadley at (850) 942 9650, extension 3011.

Sincerely,

For: David C. Gibbs
Division Administrator

cc: Ms. Alice Bravo, FDOT (District 6)



**United States Department of the Interior
NATIONAL PARK SERVICE**

**Everglades and Dry Tortugas National Parks
40001 State Road 9336
Homestead, Florida 33034-6733**



In Reply Refer to:

L54

October 10, 2006

Mr. David Gibbs
Division Administrator
Federal Highway Administration - Florida Division
ATTN: Mr. George Hadley
545 John Knox Road, Suite 200
Tallahassee, Florida 32303

Subject: Modified Water Deliveries to Everglades National Park - Tamiami Trail Modifications

Dear Mr. Gibbs:

Everglades National Park (ENP), through the U.S. Army Corps of Engineers (Corps), is currently implementing the Modified Water Deliveries (MWD) project. The 1989 Everglades National Park Protection and Expansion Act authorized the project in order to construct structural features with the intent to restore water conveyance between the state-owned Water Conservation Areas and the Shark River Slough within ENP. One of the components of the MWD project is the modifications to Tamiami Trail (State Road 90). The purpose of this component is to remove barriers to flow between the aforementioned areas.

The conceptual design for the modifications to Tamiami Trail consists of providing two hydraulic openings by removing portions of the existing road and embankment. Bridges would be constructed over the openings to replace the removed sections of road and maintain motor vehicle traffic. The remaining road sections would be reconstructed with an asphalt overlay to raise their elevation. The construction of these structures will necessitate shifting the Florida Department of Transportation's (FDOT) current right-of-way south into Everglades National Park (ENP) lands. The Corps estimated that ENP would need to transfer 35 acres of its lands to the FDOT for roadway operation and maintenance purposes. This action was recommended in the November 2005 Final Revised General Reevaluation Report/ Second Environmental Impact Statement for the Tamiami Trail Modifications. The Record of Decision was signed in January 2006. The Corps is currently preparing a third EIS which addresses, among other topics, an increase of 14 acres in the amount of land (for a total acreage of 49 acres) to be transferred to the FDOT.

The Department of the Interior's Office of the Solicitor has advised us that if the Tamiami Trail is part of the Federal-aid highway system, then the statutory provision of 23 U.S.C. 317 could be used to develop a highway easement deed to provide for the construction of the new roadway structures, including bridges, on park lands. ENP is supportive of using this approach to

implement the beneficial aspects of relocation and modification of the road in order to promote the increased flow of water into the park. Therefore, ENP is ready to collaborate with FHWA in preparing the highway easement deed and transferring administrative jurisdiction in order to facilitate this work.

The outstanding issue is the applicability of section 4(f) of the DOT Act to the MWD project. Since the purpose of this congressionally authorized project is the environmental restoration of ENP and project funding is from DOI and Corps appropriations, we do not believe that section 4(f) applies to this project. In other words, this is not a transportation program or project that is subject to FHWA approval and therefore, does not require a section 4(f) evaluation. We request your opinion on whether the use of the highway easement deed for the MWD project involving the relocation of Tamiami Trail requires compliance with the section 4(f) evaluation process.

Should you have any questions, please contact Mark Wolff, MWD Project Manager (904-232-1125).

Sincerely,



Dan B. Kimball
Superintendent

cc:

U.S. Army Corps of Engineers - Jacksonville District (Mark Wolff, Brice McKoy, Cem Goral, Esq.)

Federal Highway Administration - Florida Division (Brian Telfair)

Florida Department of Transportation (Barbara Culhane)

Lewis, Longman & Walker, P.A. (Dan Richardson, Esq.)

National Park Service - Southeast Region (Keny Slay)

Department of Interior - Office of the Solicitor (Michael Tiernan, Esq.)

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