

Jeb Bush
Governor

Department of Environmental Protection

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen M. Castille
Secretary

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

November 8, 2006

Kevin L. Erwin Consulting Ecologist, Inc.
2077 Bayside Parkway
Ft. Myers, FL 33901

RECEIVED

NOV 16 2006

Dear Mr. Erwin:

Permit No. 0198035-001, Lee County
Corkscrew Regional Mitigation Bank

Save Our Rivers
Initials: _____

Your request to modify this permit has been received and reviewed by Department staff. The modifications revise the phase boundaries, grading/hydrologic plan and the proposed community configuration of the mitigation plan. These changes require revisions of most of the figures and several of the specific conditions concerning construction and planting, credit assessment and release, and success criteria. These changes are reflected in revised permit criteria and a new set of drawings and attachments provided with this modification.

After conducting the pasture grass eradication and disking in Phase I (Cell 5) and curtailing drainage from this area, the Qualified Mitigation Specialist (QMS) conducted additional topographic measurements. Based on these measurements and observations of field conditions and hydrology which are comparable to adjacent native lands, the QMS determined that the pasture area could support appropriate wetland communities without the extensive earthwork originally proposed. By re-arranging the proposed communities, proposed grading is limited to approximately 20 acres, predominately in uplands (Phase IV – see revised engineering drawing 6-C-3), and some minor contouring near the boundary of the site, thus limiting disturbance of the soil profile. Soil disturbance is further limited by setting temporary cell boundaries that correspond to the existing farm field drainage swales and service roads.

To optimize appropriate hydrology for the establishment of proposed communities and to ensure their long-term viability, several hydrologic features have also been modified. First, the temporary berms that serve as cell boundaries and limit drainage from the cells have been enhanced with control structures designed to be more adjustable for manipulating water levels during establishment. Further, specific conditions have been modified to allow more flexibility to the QMS regarding the manipulation and location of these structures to react to field conditions during the vulnerable planting and establishment phase of the project. An additional

"More Protection, Less Process"

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SPECIFIC CONDITIONS:

7. Project Oversight. 7.a. – 7.d.- no change

e. The QMS is authorized to make minor changes to the configuration of the communities, temporary structures, water regulation and planting plans to adjust for on-site conditions without a formal permit modification provided such modifications are consistent with and will enhance the bank's goals. Notice shall be given to the Department prior to or concurrent with the minor changes. The Department shall provide written approval or disapproval (may be e-mail) within 30 days of the notice. The permittee must remediate the alteration (including, as necessary, obtaining a permit modification) within 30 days if the changes are not authorized.

10. Construction. The engineering details for the construction elements of the project are presented in the attached TKW Consulting Engineers, Inc., drawings (Exhibit 6).

- a. At the initiation of any phase, all cattle shall be removed and isolated from that phase by a secure fence or barrier.
- b. As part of the implementation of Phase I, a two permanent adjustable outfalls structures shall be constructed in Cell 1 at the southwestern corner of the site and at the southeastern corner of Cell 1, in accordance with Figure 4 and Exhibits 6-A and 6-D1/D2, to regulate hydroperiod fluctuations. Prior to or as part of the implementation of Phase IV, a similar outfall structure shall be constructed in Cell 2 at the southeastern corner of the site in accordance with Exhibits 6-A and 6-D1/D2. Prior to the determination of final success, the control elevation of these structures shall be fixed and the weir hardened with concrete to minimize maintenance.
- c. In each phase, the farm field restoration cell within that phase (Cells 5-8) shall be separated from other non-restored cells by a temporary 2-foot earthen berm, as shown in Exhibits 6-A and 6-D3, constructed from material from adjacent on-site areas. Temporary adjustable weirs shall be incorporated into the berm to allow manipulation of water levels to optimize plant establishment and growth. The berm shall be stabilized with annual grasses or other non-invasive vegetation to minimize turbid discharge into adjacent cells or offsite to waters of the State. These ~~Temporary~~ berms, access, drainage and control structures shall be removed as the target vegetation becomes established and prior to the release of credits associated with ~~the~~ a particular phase achieving 2nd level success, as defined in Specific Conditions 23. In addition, the existing ditch and berm system between the native lands and the pasture shall also be restored to adjacent grade to the extent possible with minimal damage to large, healthy cypress, cabbage palm or native pine trees

supervision, those activities were conducted in accordance with permit drawings and conditions or indicating why, when, and where any construction plans were altered.

- g. The permittee may construct a temporary barn for maintenance equipment on uplands in Cell 6 in accordance with Figure 4. The barn shall be removed and the area planted with native, appropriate upland vegetation prior to a Level 3 success determination in Cell 6.

15. Work schedule: The Corkscrew Regional Mitigation Bank is to be implemented in four phases. The sequence of proposed activities is outlined in the following timetable (*modified table below*).

<u>Activity</u>	Approximate Time of Activity Implementation			
	Phase I Cells 1, 3, 4, 5	Phase II Cell 7	Phase III Cell 6	Phase IV Cells 8 & 2
Conservation Easement	~7/04	~ 7/04	~ 7/04	~ 7/04
Financial Assurance	10/06	2/07 – 10/07	2/08 – 10/08	2/08 – 10/08
Exotic in Cells 3 & 4	11/05 – 4/06	----	----	----
Construction/Planting	4/05 – 10/06	4/06 – 8/07	6/06 – 8/08	9/06 – 8/08
Burn in Cells 3 & 4	12/05 – 2/06	----	----	----
Level 1 Success	2/08	2/09	2/10	2/10
Level 2 Success	2/09	2/10	2/11	2/11
Level 3 Success	2/11	2/12	2/13	2/13
Bankwide Success	2/13	2/13	2/13	2/13

The permittee intends to begin restoration in Phase I, with subsequent phases to commence in successive years, beginning 12-18 months after the start of Phase I; however, dates are estimates subject to weather, availability of plant material, and on-site conditions. Regardless, once a phase is initiated, all construction and planting activities for that phase shall be completed within 2 years. The order or configuration of the phases may only be changed by minor modification of the permit.

17. Assessment of Credits: As a result of mitigation activities, the Corkscrew Regional Mitigation Bank, has the potential to provide for a total of ~~269.65~~ 271.40 forested freshwater mitigation credits and ~~82.13~~ 79.97 herbaceous freshwater mitigation credits following final bank wide success. Credits were assessed using the Unified Mitigation Assessment Method (UMAM), Chapter 62-345, F.A.C., and therefore include the assessment of time-lag and risk. An explanation of the credit assessment is included in Attachment C. These credits will be released incrementally, as detailed in Specific Condition 19.

Activity	Specific Condition	Phase 1		Phase 2		Phase 3		Phase 4		Total	
		Forest	Herb	Forest	Herb	Forest	Herb	Forest	Herb	Forest	Herb
Conservation Easement and Financial Assurance	5, 8, & 9	21.13	3.60	6.13	3.94	6.95	0.00	6.51	4.45	40.72	11.99
Initial Exotic Treatment in Cells 3 and 4	12	24.64	3.09	0.00	0.00	0.00	0.00	0.00	0.00	24.64	3.09
Grade/Plant Farm Field & Complete Construction	10 & 11	23.72	5.32	11.92	9.00	15.83	0.00	11.32	3.97	62.79	18.29
Prescribed Burn in Cells 3 and 4	13	7.04	0.88	0.00	0.00	0.00	0.00	0.00	0.00	7.04	0.88
Success Level 1	23	20.72	3.60	5.11	3.86	6.79	0.00	4.85	1.70	37.47	9.16
Success Level 2	23	20.72	3.60	5.11	3.86	6.79	0.00	4.85	1.70	37.47	9.16
Success Level 3	23	14.09	2.72	6.13	3.94	6.95	0.00	6.51	4.45	33.68	11.11
Creation Retainage		1.75	0.0	4.42	0.36	0.70	0.00	7.18	11.92	14.05	12.28
All Cells Success Level 3	22	7.03	1.21	2.04	1.31	2.31	0.00	2.16	1.49	13.54	4.01
Total Potential Credits		140.84	24.02	40.86	26.27	46.32	0.00	43.38	29.68	271.4	79.97

Whenever a credit release activity has been successfully completed in accordance with the appropriate Specific Conditions, the permittee shall submit a minor modification request (with fee), along with supporting documentation, for the release of the appropriate number of credits. This request shall be made in writing to the Office of Submerged Lands and Environmental Resources. The Department shall review the documentation, conduct a site visit to determine if the documentation is representative of on-site conditions, and perform a compliance review of the permit, prior to the issuance or denial of the minor modification to release credits. An updated ledger indicating the additional available credits shall be attached to the minor modification.

23. Interim Release Criteria: Progressive environmental enhancement or trending towards success provides environmental lift for which credits may be released incrementally prior to achieving all of the final success criteria. Therefore, a set of interim success criteria have been identified to document functional enhancement. These criteria are defined by community type, and are the basis for interim credit releases, as outlined in Specific Condition 19. In order to release credits for a phase having achieved a certain level of success, all communities within that phase shall meet or exceed the criteria for that level of success. Modified tables follow:

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Hydrology (not required for Upland Communities)

Ecological Parameter	Level 1	Level 2	Level 3
Minimum days of soil saturation (water levels within 6 in of surface) or inundation during June-Oct. of a typical rainfall year ⁸	--	90	90
Plants appear healthy with no stress resulting from an improper hydroperiod	yes	yes	yes

8. Target hydroperiod criteria are based on typical rainfall during June-October. Should the Bank not receive typical rainfall for the second level of success determination, the Banker and DEP shall use an alternate mutually acceptable hydrologic criteria to determine success; however, for third level of success, the Bank shall demonstrate at least 2 years of success with typical rainfall.

Cypress/Mixed Wetland Hardwoods Success Criteria**Canopy/Shrub (Vegetation \geq 1" DBH)**

Ecological Parameter	Level 1	Level 2	Level 3
Minimum average appropriate trees per acre	500	450	400
Minimum average tree height	3	4.5	6
Minimum % of trees greater than 10 feet in height	--	--	20
No exotic (EPPC 2003 List Category 1) trees or shrubs present	yes	yes	yes
Evidence of trees or shrubs producing seed	--	--	yes

Ground Cover - modified table

Ecological Parameter	Level 1	Level 2	Level 3
Minimum % cover by native species listed as OBL, FACW, or FAC	25	50	75 ¹
Maximum % cover by nuisance/inappropriate species ³	10	10	5
Maximum % cover by exotic (EPPC 2003 List Category 1) species immediately following maintenance activities	5	2	<1 ²
Minimum species richness of native plants within sampling plots	5	10	15
Evidence of natural reproduction of ground cover species	--	yes	yes

1. A lower % cover that is attributable to appropriate amounts of open water or shading will not count against success attainment.

2. Level 3 requires no more than 2% cover by exotic species immediately prior to final maintenance event.

3. Upland ragweeds and facultative dogfennel are early succession species to be managed; however, they will not count toward native cover or nuisance species cover for Success Level 1 or 2, provided that annual monitoring data and observation demonstrate a significant decrease in the cover of these species annually.

Wildlife Utilization

Ecological Parameter	Level 1	Level 2	Level 3
Qualitative evidence of wildlife utilization	yes	yes	yes
Qualitative evidence of wildlife utilization, including use by native wetland dependent bird and mammal species		yes	yes
Evidence of native species of fish (or no fewer than 1 species less than occurring at reference wetland ²)	--	1 species	3 species
Evidence of native wetland dependant amphibian/reptile species (or no fewer than 1 species less than occurring at reference wetland ²)	--	1 species	8 species in 4 groups ³
Evidence of native wetland dependant bird species (or no fewer than 2 species less than occurring at reference wetland ²)	--	1 species	10 species in 4 groups ⁴
Evidence of native wetland dependant mammal species (or no fewer than 1 species less than occurring at reference wetland ²)	--	1 species	4 species w/ 1 predator

2. Reference wetlands may be used at Level 3 only.

3. Amphibian/reptile functional groups include alligators, turtles, snakes, salamanders, tree frogs, and deep water frogs.

4. Bird functional groups include wading birds, shore birds, raptors, perching birds, anhinga/cormorants, and waterfowl.

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Hydrology

Ecological Parameter	Level 1	Level 2	Level 3
Minimum days of soil saturation (water levels within 6 in of surface) or inundation during June to Dec. of a typical wet season rainfall year ⁵	--	150	150
Plants appear healthy with no stress resulting from an improper hydroperiod	yes	yes	yes

5. Target hydroperiod criteria are based on typical rainfall during June-December. Should the Bank not receive typical rainfall for the second level of success determination, the Banker and DEP shall use an alternate mutually acceptable hydrologic criteria to determine success; however, for third level of success, the Bank shall demonstrate at least 2 years of success with typical rainfall.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. Petitions filed by the permittee and the parties listed below must be filed within 21 days of receipt of this letter. Petitioner shall mail a copy of the petition to the permittee at the address indicated above at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, F.S.

The Petition shall contain the following information:

- (a) The name, address, and telephone number of each petitioner, the permittee's name and address, the Department Permit File Number and the county in which the project is proposed;
- (b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department's action; or proposed action;
- (d) A statement of the material facts disputed by petitioner, if any;
- (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action;
- (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; and
- (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this letter. Persons whose substantial interests will be affected by any decision of the Department with regard to the permit have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department.

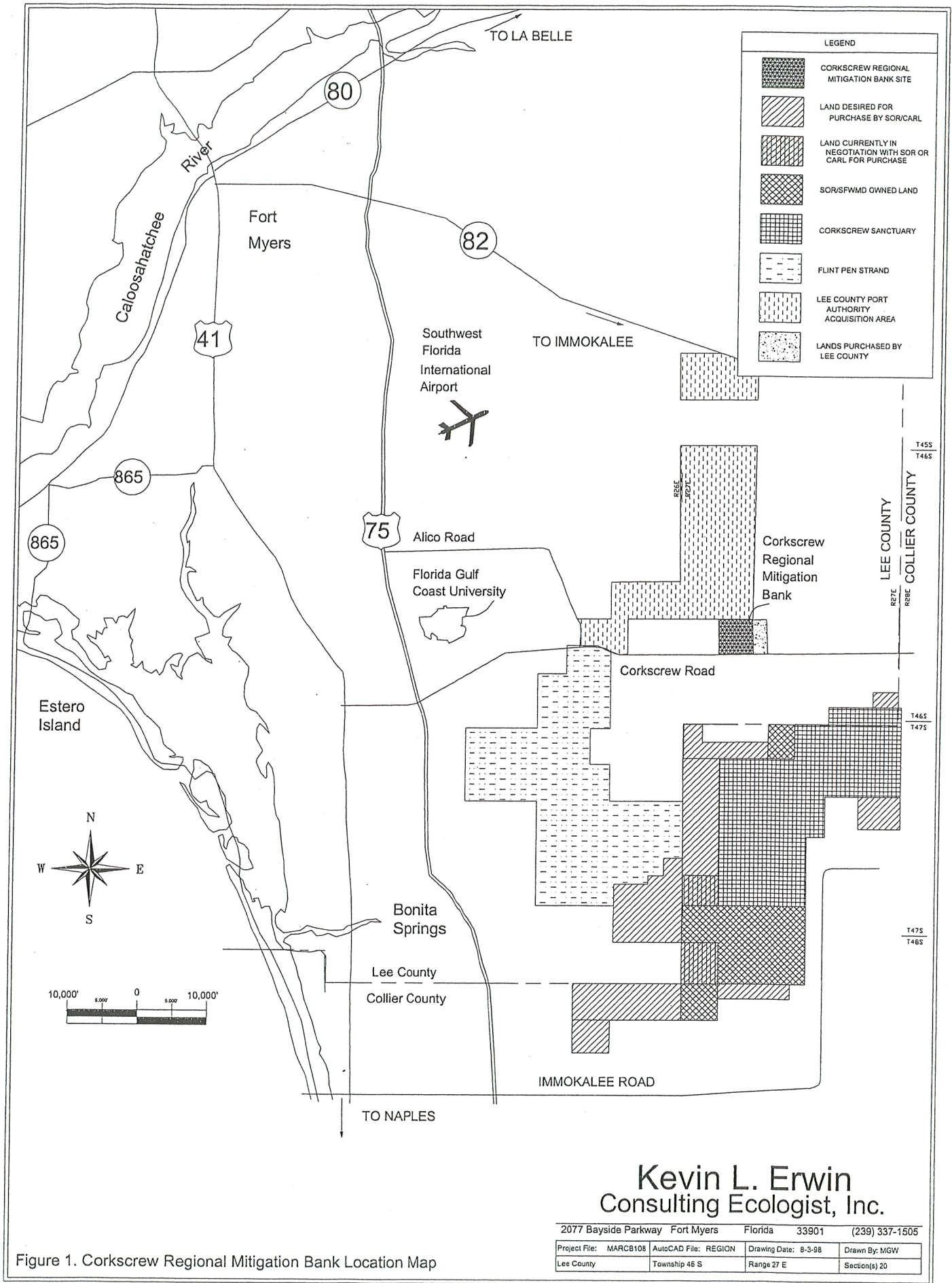
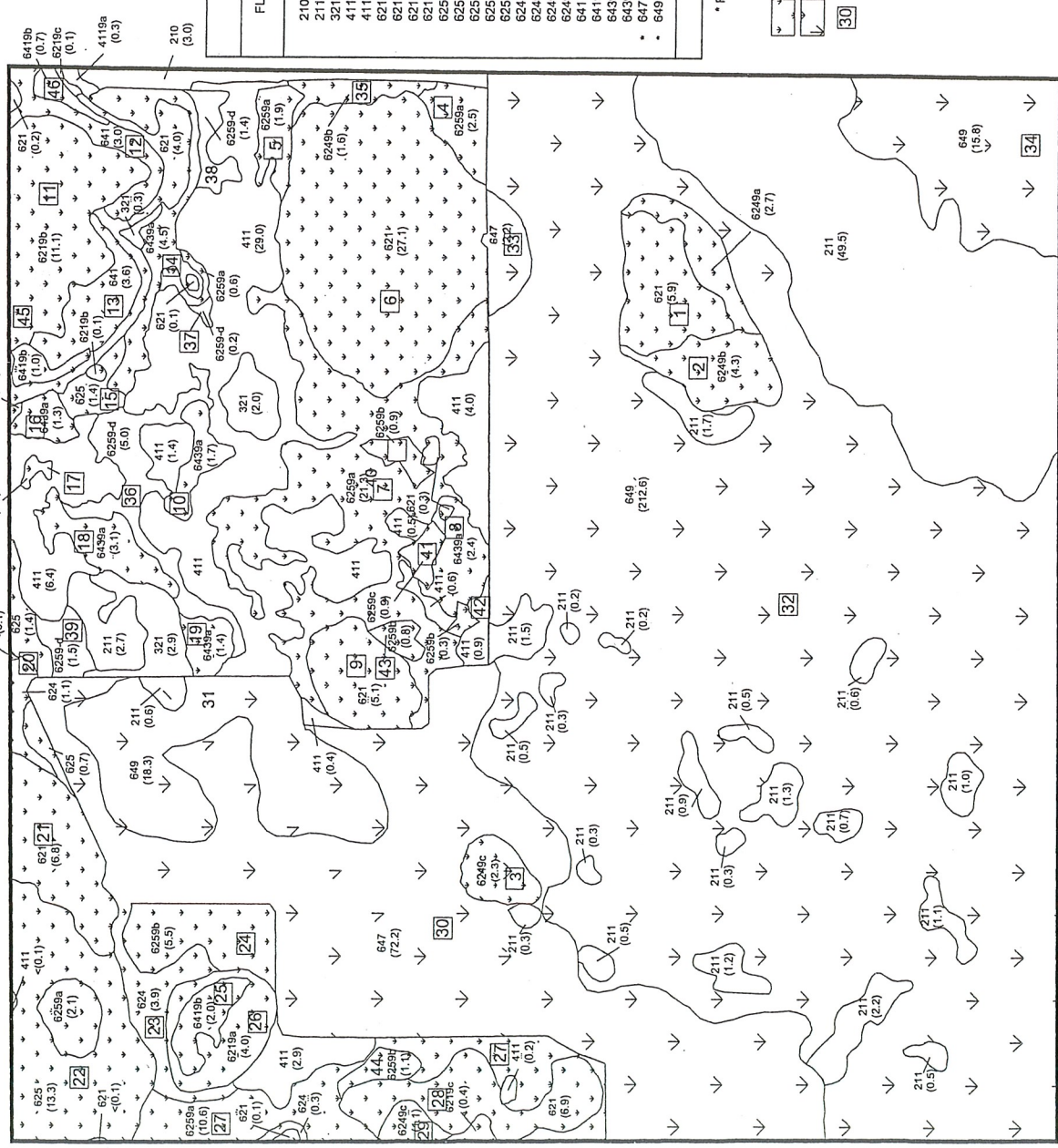


Figure 1. Corkscrew Regional Mitigation Bank Location Map



FLUCCS LEGEND		
FLUCCS	ACRES	% OF TOTAL
210	3.0	0.5%
211	66.6	10.9%
321	5.2	39.0%
411	46.3	11.8%
4119a	0.3	0.8%
621	17.1	7.3%
6219a	39.0	0.1%
6219b	8.6	2.7%
6219c	0.9	6.2%
625	8.1	1.4%
6259a	56.5	0.1%
6259b	4.0	1.3%
6259c	11.2	8.9%
6259d	0.5	0.6%
624	5.3	1.8%
6249a	2.7	0.1%
6249b	5.9	0.8%
6249c	3.4	0.4%
641	6.6	0.9%
6419b	3.7	0.5%
6439a	14.4	1.0%
6439b	0.1	0.6%
* 647	74.4	2.3%
* 649	246.7	<0.1%
TOTAL	632.5	100.0%

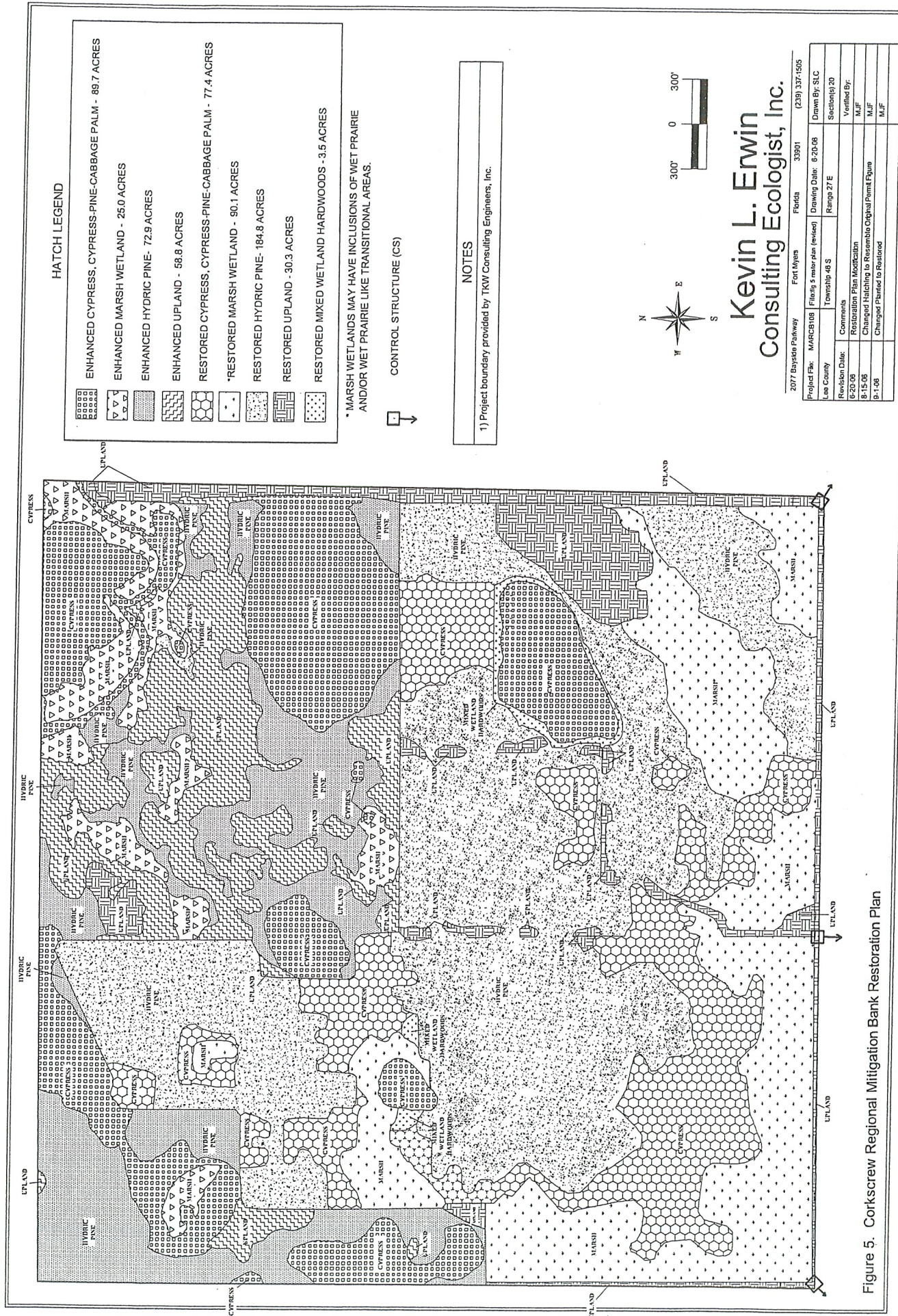
* FOR THIS PERMIT, 647 & 649 REPRESENT TYPES OF WETLAND PASTURE LANDUSE WITHIN THE 640 SERIES OF FLUCCS CODES

- JURISDICTIONAL NATIVE WETLANDS
- JURISDICTIONAL AGRICULTURAL LANDS
- ASSESSMENT AREA

Kevin L. Erwin
Consulting Ecologist, Inc.

2077 Bayside Parkway	Fort Myers	Florida	33901	(239) 337-1505
Project File: MARCB108	File: 600ERP_VEG-MAP	Drawing Date: 6-3-04	Drawn By: MGW	
Lee County	Township 46 S	Range 27 E	Section(s) 20	
Revision Date: 6-4-04	Comments		Verified By: M.J.F.	
	note to fluccs legend			

Figure 3. Corkscrew Regional Mitigation Bank Existing FLUCCS map



Kevin L. Erwin
Consulting Ecologist, Inc.

2077 Baystate Parkway	Fort Myers	Florida	33901	(239) 337-1505
Project File: MARCB108	Filing: 5 meter plan (revised)	Drawing Date: 6-20-08	Drawn By: SLG	
Lee County	Township 48 S	Range 27 E	Section(s) 20	
Revision Date:	Comments		Verified By:	
6-20-08	Restoration Plan Modification		M.J.F.	
9-1-08	Changed Hatching to Resemble Original Point Figure		M.J.F.	
	Changed Planting to Restored		M.J.F.	

Figure 5. Corkscrew Regional Mitigation Bank Restoration Plan