

April 1, 2016

Dept. of Environmental Protection
Office of General Counsel

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

ST. JOHNS RIVERKEEPER, INC.,
Petitioner,

vs.

DEP Permit File No.: 1292772-017-BI
Variance File No.: 129277-018-BV

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,
Respondent.

_____ /

PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioner, St. Johns Riverkeeper, Inc., by and through undersigned counsel, pursuant to Sections 120.569 and 120.57(1), and Rules 28-106.201 and 62-110.106, Florida Administrative Code, respectfully petitions for a formal administrative hearing regarding the Florida Department of Environmental Protection's (the "DEP") Notice of Intent to Issue an Environmental Resource Permit and Variance (the "Permit") for the Jacksonville Harbor Navigation Channel project (the "Project"), File Nos. 0129277-017-BI and Variance File Number: 129277-018-BV, and states:

NAMES AND ADDRESSES OF PARTIES

1. The Applicant is the United States Army Corps of Engineers (the "Corps"). Its mailing address is U.S. Corps of Engineers, Attn: Eric Summa, Planning and Policy Division, Jacksonville District, 701 San Marco Boulevard, Jacksonville, Florida, 32207.
2. The Petitioner is St. Johns Riverkeeper, Inc., 2800 University Boulevard, Jacksonville, Florida 32211.
3. The name, address, and telephone number of Petitioner's representative, which shall be the address for service purposes during the course of these proceedings, is:

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NOTICE OF AGENCY DECISION

4. St. Johns Riverkeeper requested written notice of any and all agency actions relating to the Project. St. Johns Riverkeeper became aware of a draft Notice of Intent to issue on February 19, 2016 by monitoring the DEP e-permitting portal.

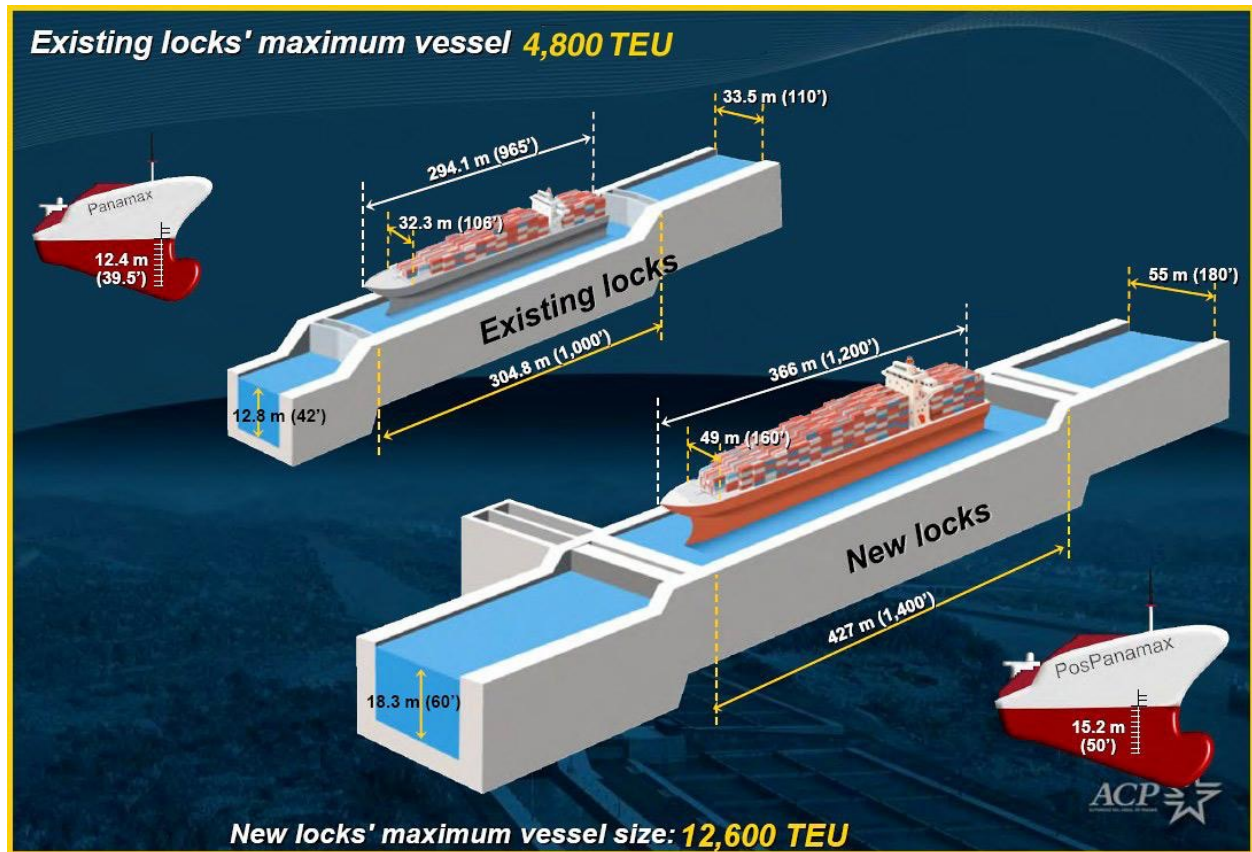
5. Upon discovering multiple defects with the notice, undersigned counsel contacted DEP and the Corps and a revised notice was published by the Corps on March 18, 2016. Due to discrepancies in the deadlines from the two notices, St. Johns Riverkeeper requested, and DEP granted, an extension of time to file the instant Petition until April 1, 2016. This Petition is timely filed pursuant to Sections 120.569 and 120.57, Florida Statutes, and Rule 62-110.106, Florida Administrative Code.

BACKGROUND

6. In 2007, the Panama Canal Authority announced plans to expand the Panama Canal to accommodate cargo container vessels drafting up to 50 feet and a container ship capacity of up to 12,000 TEUs. Containerships carry their load in containers measured in Twenty-Foot Equivalent Unit “boxes” or TEUs.

7. The Panama Canal expansion was stimulated by the development of a new, larger, class of container ships (herein referred to as “Post-Panamax”). These ships, seen by the industry as making overseas commerce more economical and efficient, are more than twice the size of the ships passing through the Panama Canal before the Panamax expansion. Such ships have been de-

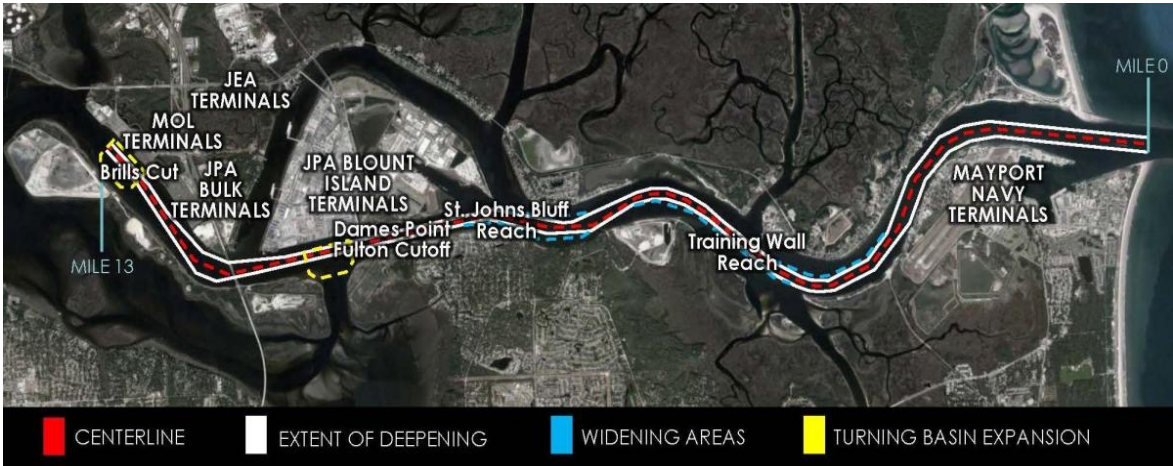
ployed in trade routes servicing the few ports large enough to accommodate them. But once these huge container ships are able to traverse the expanded Panama Canal, they are expected to dominate overseas trade.



8. JaxPort, on the St. Johns River in Jacksonville Harbor, is one of many U.S. ports vying for a share of the Post-Panamax container ship traffic. To compete for that market requires channel deepening and widening. Other southeast seaboard ports dredging to share in this commerce include: Wilmington, North Carolina; Charleston, South Carolina; Savannah, Georgia, Port Everglades, Florida; and Miami, Florida (completed in 2015).

9. The portion of the St. Johns River from the mouth almost to JaxPort's Talleyrand Terminal has a federally designated and maintained navigational channel. The Corps currently maintains the Federal channel at a depth of 40 feet and a width ranging from 400 to 1,200 feet.

10. JaxPort’s Post-Panamax plan includes deepening the Federal channel to 49 feet with 1 foot required overdepth and 1 foot allowable overdepth for a maximum depth of 51 feet for Bar Cut 3 Station 0+00 to Bar Cut 3 Station 210+00 and 47 feet with 1 foot required overdepth and 1 foot allowable overdepth for a maximum depth of 49 feet from Bar Cut 3 Station 210+00 to Cut 45 Station 28+18.43 and Blount Island Turning Basin (north side). As described in the Draft Final Order of Variance, the proposed Maintenance Zones contemplate a depth of 51 feet from the entrance channel to approximately River Mile 13, two areas of widening at the Training Wall Reach and St. Johns Bluff Reach, and two new Turning Basins at Blount Island and Brills Cut. See Final EIS Figure 1 below:



PROJECT AREA

11. The entire St. Johns River, including the Lower St. Johns River Basin (LSJRB), was officially designated an American Heritage River by President Clinton on July 30, 1998, in recognition of its ecological, historic, economic, and cultural significance. This designation resulted in a formal agreement that the signatory partners (federal agencies, state agencies, and local communities) would work together to preserve and enhance the water quality and ecological and cultural resources along the St. Johns River, to stimulate economic revitalization and to cooperate with

other state, local, and federal agencies to serve their common interest in the St. Johns River. Federal agencies entered into this agreement for all the purposes stated above, to the extent allowed by law and agency policy, including staffing and funding.

12. The Lower St. Johns River is an elongated estuary that extends about 101 miles from its union with the Ocklawaha River to its mouth at the Atlantic Ocean. From Palatka to Jacksonville, the river widens from about one to three miles, with an average depth of less than 10 feet. The channel narrows at Jacksonville and turns eastward to the Atlantic Ocean, deepening to almost 30 feet.

13. The St. Johns is a slow-moving river with a very mild slope averaging 0.1 foot drop per mile. The gentle slope of the river allows tidal effects to extend at least 106 river miles from the river mouth in Duval County to Lake George in Volusia County. Lake George, with an area of 67 square miles, is the second largest lake in Florida. According to the applicant, the filling and draining of Lake George, due to subtidal variability of Atlantic Ocean water levels, causes intermittent periods of reverse flow extending far upstream in the Lower St. Johns River. These reverse flow periods, when the daily net discharge moves upstream, extend the upstream movement of salt as well as upstream dispersal of pollutants entering the river.

14. The Timucuan Ecological and Historic Preserve straddles the St. Johns River over much of the project area. In 1988, Congress created the preserve as part of the National Park System to “preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley” and to protect the many cultural resources present at the park. Florida designated the Preserve an Outstanding Florida Water (OFW) in 1994. Fla. Admin. Code R. 62-302.700(9)(k)(2).

15. The National Park footprint is shown in grey diagonal shading on the EIS Map below.



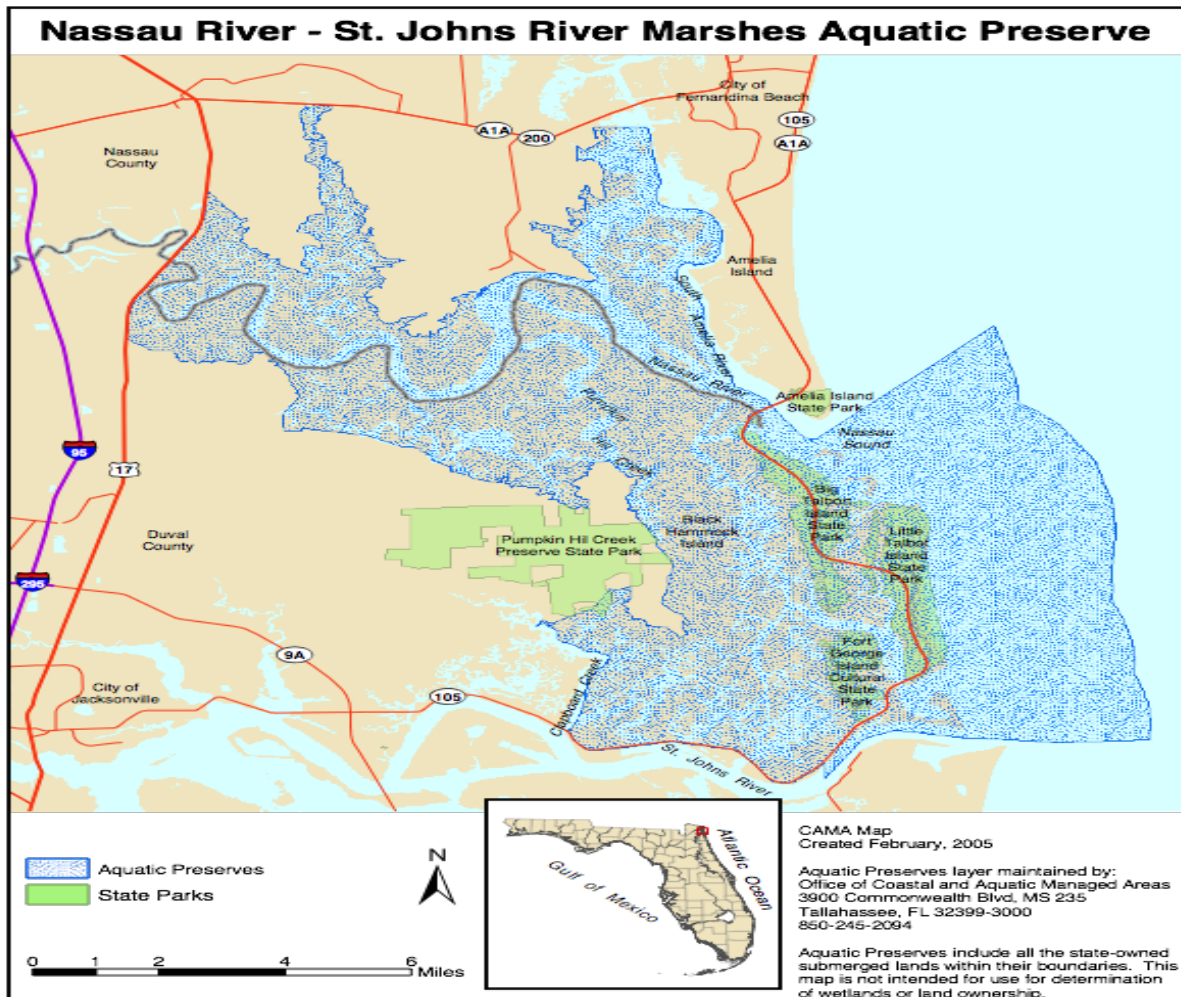
16. Approximately three-quarters of the park consists of inland waterways and wetlands that form an estuarine system of salt marsh, coastal hammock, and marine and brackish waters. The park is bounded by the Atlantic Ocean and Little Talbot Island to the east, the Nassau River in the north, and the St. John’s River in the south.

17. The estuary is the largest marsh-estuarine system on the east coast of Florida and is the only example of an Atlantic Sea Island estuarine system in Florida. The estuary is one of the most productive in Florida, based on commercial landings of fin-fish and the area provides habitat for several state and federally-listed rare, threatened, or endangered species.

18. Because the Preserve is largely a hydrological phenomenon (75% wetlands and open waters), water-related issues naturally predominate. For that reason, land use within and adjacent to the

Preserve, as well as land use anywhere in the watersheds, connected by either groundwater or surface water has the potential to affect the Preserve.

19. The Nassau River – St. Johns River Marshes Aquatic Preserve (shown below in blue) is also located to the north of the mouth of the St. Johns River.



20. This coastal marsh area was designated as an Aquatic Preserve OFW on November 24, 1969 to protect the Nassau Sound area marshes and associated waters and to minimize water pollution and loss of wetlands from development in the region. Fla. Admin. Code R. 62-302.700(9)(h)(27).

21. The 69,000 acre Preserve is a part of the watershed of the St. Johns River that is used extensively by numerous threatened and endangered species. Water quality and quantity impacts with-

in the Lower St. Johns watershed affect the flow of water to the preserve and its vegetation, fish, and wildlife.

THE DREDGING PROJECT

22. Between 1890 and 1951, multiple Corps dredging projects deepened the original 15-foot St. Johns River channel to 34-feet, with the total costs over that time, including maintenance dredging, amounting to more than \$26 million.

23. The current channel deepening proposal was first studied pursuant to a February 5, 1992 authorizing resolution of the Committee on Public Works and Transportation, U.S. House of Representatives. The resulting feasibility study recommended modifications from the entrance channel to River Mile 14.7, including deepening 38 feet to 40 feet. Deepening of that segment was authorized in 1999 Water Resources Development Act, and construction was completed in 2003.

24. A General Reevaluation Report (GRR) recommended deepening the harbor from River Mile 14.7 to River Mile 20 from 38 feet to 40 feet; deepening of that segment was authorized in the FY2006 Appropriations Act and construction was completed in 2010.

25. In order to pursue further dredging envisioned by the original 1992 study, it was determined by U.S. Army Corps of Engineers (USACE) that further study was needed. The Feasibility and Cost Sharing Agreement (FCSA) for this study was signed July 1, 2005 and amended June 15, 2006.

26. In June 2012, the Corps' Institute for Water Resources released *U.S. Port and Inland Waterways Modernization: Preparing for Post-Panamax Vessels*, which concluded, among other things, that south of Norfolk, Virginia along the Southeast and Gulf Coasts there were no ports considered "Post-Panamax ready." Southeastern ports did not have channel depths of 50 feet

with allowances for tide, as well as sufficient channel width, turning basin size, dock and crane capacity.

27. The Institute, called upon to advise the Congress, opined that: “There is uncertainty in the port specific details of when such vessels will arrive in large number, which ports they will call, how deep vessels calling will draft and, consequently, how deep navigation channels must be.

Over time these uncertainties will reduce as experience replaces expectation. Even in the face of this uncertainty, individual ports are actively engaged in port expansions and studies to deepen and widen Federal access channels. We can predict that in the absence of transshipment centers post-Panamax vessels will call in large numbers, they will call at most major ports and their sailing drafts will become known. Our challenge is to invest in capacity expansion in the right places at the right time consistent with industry needs.”

28. On March 22, 2012, in an effort to stimulate jobs and the U.S. economy, President Barack Obama issued Executive Order 13604. This Executive Order established the “We Can't Wait” Initiative, among other things, expediting completion of the Jacksonville Harbor deepening study and reducing the study schedule. A July 19, 2012 White House Press Release boasted that: “One of the critical steps in modernizing and expanding the Port of Jacksonville is to finalize the federal feasibility study examining the costs and benefits of deepening the harbor. Nationally, feasibility studies take an average of 10 years and the expedited process announced today will shave 7 years off of that timeline, committing the federal government to finalize the study by April of 2013, years ahead of previous projections.”

29. The six-step planning process for the study was modified with incorporation of a Corps initiative to streamline the planning process, and the President’s “We Can’t Wait Initiative.” Both of these initiatives resulted in an expedited study process.

30. In April 2014, Federal studies were completed and the Corps published its *Final Integrated General Reevaluation Report II and Supplemental Environmental Impact Statement*, U.S. Army Corps of Engineers, Jacksonville District (April 2014), intending the GRRII to serve as both the Corps' Decision Document for the navigation improvement project and as the Environmental Impact Statement (EIS) supplement for the proposed federal action.

31. Though the GRRII study concluded dredging to 45 feet was indicated by cost-benefit analysis, JaxPort prevailed upon the Corps to proceed with a plan to deepen the Federal channel to 47 feet from the entrance channel to approximately River Mile 13, and widen two areas at the Training Wall Reach and St. Johns Bluff Reach, and dredge two new Turning Basins at Blount Island and Brills Cut.

32. Construction of the recommended plan would involve dredging of approximately 18 million cubic yards of material during construction. Fracturing (confined blasting) of any consolidated sediments and underlying rock is anticipated prior to dredging. Dredged material will be disposed at an ocean dredged material disposal site (ODMDS).

THE ERP APPLICATION

33. The Corps submitted the ERP application for the proposed project on April 10, 2015. DEP sent the Corps a Request for Additional Information (RAI) on May 13, 2015; and the Corps responded to the RAI on July 29, 2015.

34. Dredging proposed from approximately river mile 1 to approximately river mile 8 would be located within the Timucuan National Ecological and Historic Preserve. Dredging from the Atlantic Ocean to between river miles 3 and 4 would be located adjacent to the southern boundary of the Nassau River – St. Johns River Marshes Aquatic Preserve. The center of the proposed

dredge material disposal site is located approximately 4.4 miles southeast of the waterward tip of the St. Johns River entrance channel south jetty, outside of state waters.

35. The Applicant acknowledges the dredging is likely to cause turbidity for an extended period of time (up to 2,920 days) over an expansive area of the St. Johns estuary, exceeding DEP's rule criteria and leading DEP to propose variances to authorize the Corps to exceed applicable turbidity mixing zone criteria.

36. Hydrodynamic modeling submitted by the Applicant shows the recommended plan will also cause changes in salinity, causing an increase in salinity stress in estuarine wetlands and submerged aquatic vegetation as well as changes in fish and macroinvertebrate distributions. Uncertainty exists about the magnitude of both the effect of deepening on salinity and the ecological response to changes in salinity.

THE PROPOSED AGENCY ACTION

37. On February 19, 2016, DEP entered a Notice of Intent to Issue specifying the following proposed agency actions: (a) issue to the Corps a 10-year Environmental Resource Permit (ERP) under Part IV of Chapter 373, Florida Statutes (F.S.), and Title 62, Florida Administrative Code (F.A.C.); and (b) grant a variance to the Corps (File No. 0129277-018-BV) from the provisions of Rule 62-4.244(5)(c), F.A.C., to allow the turbidity mixing zone to exceed 150 meters; and from Rules 62-302.700(1) and 62-4.242(2)(a)2.b., F.A.C., to establish a maximum allowable turbidity level above background for work within the Timucuan National Ecological and Historic Preserve and the Nassau River – St. Johns River Marshes Aquatic Preserve, which are both Outstanding Florida Waters (OFWs).

38. Explosives and "hydrohammers" will be allowed to break up rock prior to dredging. Blasting is expected to be required for up to 250 days and is not excluded from the OFWs.

39. The requested variance (File No. 0129277-018-BV) from Rule 62-4.244(5)(c), F.A.C., would establish an “expanded mixing zone that extends 600 meters downcurrent from the dredge for work adjacent to the existing federal channel in the OFWs. Outside of this expanded mixing zone, the requested variance from the antidegradation provisions in Rules 62-302.700(1) and 62-4.242(2)(a)2.b., F.A.C., would establish a maximum allowable turbidity level of 6 Nephelometric Turbidity Units (NTUs) above corresponding background turbidity levels for work within the OFWs.”

40. In addition to the 18 million cubic yards of river bottom that will be dumped offshore, the proposed Permit authorizes the Corps to dredge approximately 56 million cubic yards of material during annual maintenance dredging over the 50-year life of the project, resulting in continuing ecosystem impacts long after the construction phase of the Project.

41. The dredging, blasting, and turbidity, which DEP is allowing for a period of 2920 days (eight years), will adversely affect the St. Johns River and its adjacent wetlands during the construction and post-construction phases of the Project.

42. NO MITIGATION IS REQUIRED FOR ANY IMPACTS.

PETITIONER’S SUBSTANTIAL INTERESTS

43. Established in 2000, the St. Johns Riverkeeper is a non-profit membership based corporation with its primary place of business in Jacksonville, Florida. St. Johns Riverkeeper was formed for the purpose of the protection of the environment, fish and wildlife resources, and protection of air and water quality and St. Johns Riverkeeper has standing because St. Johns Riverkeeper has had more than 25 members residing in Duval County, where the proposed project would take place, since about the year 2000. See, §403.412(6), Fla. Stat.

44. The mission of St. Johns Riverkeeper is to be an independent voice that defends, advocates, and activates others for the protection and restoration of the St. Johns River.. As an advocate for the river, St. Johns Riverkeeper seeks to eliminate or mitigate threats to the St. Johns River for current users and future generations. St. Johns Riverkeeper has an interest in preserving and protecting the health and aesthetic qualities of the St. Johns River, its tributaries, and adjacent wetlands. St. Johns Riverkeeper encourages and inspires citizens to reclaim and protect the natural and cultural heritage of the St. Johns River, while also participating in public policy decision-making to represent the interests of its members and the public.

45. St. Johns Riverkeeper has nearly 1400 individual, family, business, and organizational memberships that includes several thousand people who use and enjoy the waters of the St. Johns River for boating, fishing, and observing birds and other wildlife throughout the watershed of the St. Johns River. St. Johns Riverkeeper organizes regular boat trips for its members and citizens to learn more about the ecology of the river and its vast cultural history. Additionally, St. Johns Riverkeeper organizes clean up events in and around the St. Johns River and its tributaries, as well as organizes outreach programs to bolster community involvement in issues relating to the river.

46. St. Johns Riverkeeper is a member of the Waterkeeper Alliance, an international environmental organization uniting more than 270 Waterkeeper affiliates globally. Members recreate, use, enjoy, and benefit economically from the St. Johns River and the marine resources that inhabit the river. Members boat, fish, swim, observe wildlife, and enjoy the aesthetic qualities of the St. Johns River and its adjacent wetlands.

47. The Project will impact coastal property owned and used by members as a result of shoreline erosion from increased wakes of the post-Panamax ships. The long-term effects of the Project

will cause significant ecological changes to the St. Johns River and its adjacent wetlands, which will greatly diminish or eliminate the current opportunities for members to observe fish and wildlife. The short-term turbidity and sedimentation problems will harm submerged vegetation, leading to more devastating long-term effects on the ecology of the river.

48. Dredge spoil may disperse over long distances instead of sinking to the ocean floor, causing negative effects to the ecology of the offshore spoil site, as well as unknown impacts to the coastline near the mouth of the river. Further, the dumping of dredge spoil offshore may affect the habitat of the North Atlantic Right Whale.

49. The Project will significantly alter public access to the St. Johns River, and at some points completely block public access.

50. Should the permit and variances be issued, there will be substantial impacts to water quality and the ecology of the river and its adjacent wetlands. The Project will result in the following adverse effects to the St. Johns River: (1) salinity will move farther upstream, impacting hundreds of acres of wetlands and submerged aquatic vegetation in the St. Johns River watershed; (2) an increased probability for algae blooms because nutrient-laden water will have a longer residence time in the river; (3) greater shoreline erosion from larger wakes caused by post-Panamax ships; (4) potential exposure of the surficial aquifer to saltwater intrusion as a result of consecutive days of confined blasting; (5) impacts to threatened and endangered species from the blasting necessary for the project; (6) long term ecological changes to the river affecting the habitat of threatened and endangered species; (7) turbidity and sedimentation during the construction phase of the project; and (8) significant exacerbation of the likely effects of sea-level rise.

51. The impacts of the Project adversely affect the interests of St. Johns Riverkeeper and its members in maintaining the health and aesthetic quality of the St. Johns River, and adversely

affect St. Johns Riverkeeper's members' use and enjoyment of these water resources and ecosystem. The Project is not in the public interest, because of its adverse impacts on the ability of St. Johns Riverkeeper members and the general public to use the St. Johns River for boating, fishing, wildlife observation, and other recreational activities. While all Project impacts cannot be predicted with certainty, the Port of Miami's Post-Panamax dredge project has resulted in turbidity and sedimentation problems that have violated state water quality standards because the environmental risks of the project were ignored or downplayed during the planning phase. In the Miami Harbor dredging project, the violations of state water quality standards resulted in lingering turbidity problems that have blanketed coral and submerged vegetation with an overabundance of silt and clay long after the project's completion. A similar effect on the St. Johns River as a result of the Project would negatively impact all members of St. Johns Riverkeeper, as well as other individuals in their use and enjoyment of the river for generations to come.

52. The injury is sufficiently immediate and of the type and nature that Chapters 120 and 403, Florida Statutes, are designed to protect.

DISPUTED ISSUES OF MATERIAL FACT

53. In this Petition, St. Johns Riverkeeper contends there is merit to the assertion that the Project meets the requirements of Chapter 373, Part IV, Florida Statutes for the reasons herein, which St. Johns Riverkeeper asserts in good faith and which assertions may include good faith argument for the application, extension, or modification of existing law, or the establishment of new law as necessitated by the material facts regarding the project and proposed Project.

54. St. Johns Riverkeeper disputes whether the applicant has provided reasonable assurances that the activities authorized by the Project:

a. Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters [paragraph 62- 330.301(1)(d), F.A.C.]; so as to cause adverse impacts to: (a) The abundance and diversity of fish, wildlife, listed species, ...; and (b) The habitat of fish, wildlife, and listed species;

b. Will not adversely affect the quality of receiving waters such that the water quality standards set forth in Chapters 62-4, 62-302, 62-520, and 62-550, F.A.C., including any antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), subsections 62-4.242(2) and (3), and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters ... set forth in subsections 62- 4.242(2) and (3), F.A.C., will be violated [paragraph 62- 330.301(1)(e), F.A.C.];

c. Will not cause unacceptable cumulative impacts upon wetlands and other surface waters [paragraph 62-330.302(1)(b), F.A.C.] as set forth in sections 10.2.8 through 10.2.8.2 of Volume I;

d. Will not adversely affect the public health, safety, or welfare or the property of others (subparagraph 62-330.302(1)(a)1, F.A.C.);

e. Will not adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats (subparagraph 62- 330.302(1)(a)2, F.A.C.);

f. Will not adversely affect navigation or the flow of water or cause harmful erosion or shoaling (subparagraph 62-330.302(1)(a)3, F.A.C.);

g. Will not adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity (subparagraph 62-330.302(1)(a)4, F.A.C.); Examples of activities that may adversely affect fisheries or marine productivity are the elimination or degradation of fish nursery habitat, change in ambient water temperature, change in normal salinity re-

gime, reduction in detrital export, change in nutrient levels, or other adverse effects on populations of native aquatic organisms;

h. Will not have temporary and permanent adverse impacts (subparagraph 62-330.302(1)(a)5, F.A.C.);

i. Will not adversely affect or will enhance significant historical and archaeological resources under the provisions of Section 267.061, F.S. (subparagraph 62-330.302(1)(a)6, F.A.C.);

j. Will not cause adverse effects to existing recreational uses of a wetland or other surface water. Wetlands and other surface waters may provide recreational uses such as boating, fishing, swimming, waterskiing, hunting, and birdwatching. An example of potential adverse effects to recreational uses is the construction of a traversing work, such as a road crossing a waterway, which could impact the current use of the waterway for boating;

k. Are clearly in the public interest;

l. Will have adverse impacts fully offset or mitigated;

m. Will not cause adverse water quantity impacts to receiving waters and adjacent lands;

n. Will not cause adverse flooding to on-site or off-site property;

o. Will not cause adverse impacts to existing surface water storage and conveyance capabilities;

p. Will be capable, based on generally accepted engineering and scientific principles, of performing and functioning as proposed;

q. Will be implemented by an entity with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued;

- r. The proposed mixing zone complies with Florida's antidegradation policy and rules;
- s. The Applicant and DEP performed required antidegradation analyses, including analysis of the Project's impacts on ambient water quality;
- t. The Applicant has complied with Florida Administrative Code Rule 62-110.104(1) by submitting a petition containing all of the information required by the Rule;
- u. The proposed variance complies with Florida's antidegradation policy and rules;
- v. There is no practicable means known or available for the adequate control of the turbidity and salinity pollution involved;
- w. The variance complies with the limitations contained in Sections 373.414(17) and 403.201, Florida Statutes, and Florida Administrative Code Rule 62-110.104;
- x. Any hardship asserted as a basis of the need for a variance is peculiar to the affected property and is not self-imposed.

ULTIMATE FACTS

55. The ultimate facts asserted in good faith, and potentially including good faith argument for the application, extension, or modification of existing law, or the establishment of new law, include that the Applicant has not provided reasonable assurance regarding the matters identified in paragraph 54 above.

STATUTES AND RULES

56. The statutes and rules which entitle St. Johns Riverkeeper to relief include, but are not limited to, the following:

- a. Sections 120.569 and 120.57, Florida Statutes;
- b. Section 373.414, Florida Statutes;
- c. Section 403.201, Florida Statutes;

- d. Rule 62B-49, Florida Administrative Code;
- e. Rule 62-4.070, Florida Administrative Code;
- f. Rule 62-4.242, Florida Administrative Code;
- g. Rule 62-4.244, Florida Administrative Code;
- h. Rule 62-110.104, Florida Administrative Code;
- i. Rule 62-302.300, Florida Administrative Code;
- j. Rule 62-302.530, Florida Administrative Code;
- k. Rule 62-302.700, Florida Administrative Code; and
- l. Chapter 62-330, Florida Administrative Code.

WHEREFORE, Petitioner respectfully requests the following:

- A. A formal administrative hearing before the Division of Administrative Hearings;
- B. A final order denying the proposed ERP for the Army Corps of Engineers Jacksonville Harbor Navigation Channel Project and the proposed Variance, File Nos. 0129277-017-BI and 0129277-018-BV.
- C. Attorney's fees and costs pursuant to Florida Statutes, Section 120.57; and
- D. Any other relief deemed necessary and proper.

Respectfully submitted this 1st day of April, 2016.

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By: /s/ Jane West
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