# Regulatory Framework and Permit History of the Sandalwood Canal

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## 1.0 Executive Summary

This report provides a detailed analysis of the regulatory framework and permit history associated with the Sandalwood Canal, a major stormwater conveyance system in Jacksonville, Florida. The primary objective is to identify the governing agencies, the types of permits required for such infrastructure, and the findings of a comprehensive search for permits related to the canal's construction, modification, and operation. The Sandalwood Canal, which drains an 11-square-mile urban watershed, discharges stormwater directly into Hogpen Creek, leading to significant sedimentation and a protracted dispute between residents and the City of Jacksonville over remediation responsibilities [1, 25].

The regulatory environment for a large-scale stormwater system like the Sandalwood Canal is complex, involving coordinated jurisdiction among state and federal agencies. The Florida Department of Environmental Protection (FDEP) and the St. Johns River Water Management District (SJRWMD) jointly administer the state's primary regulatory tool, the Environmental Resource Permit (ERP) [3, 10]. This permit governs activities affecting surface waters, including stormwater management, with a focus on preventing adverse impacts on water quality, flooding, and natural habitats. The U.S. Army Corps of Engineers (USACE) retains federal jurisdiction over navigable waters and the discharge of fill material, a role recently reaffirmed by federal court decisions impacting Florida's assumed permitting authority [23]. Notably, the USACE explicitly lists Hogpen Creek as a waterway under its regulatory jurisdiction [19].

A comprehensive search of the publicly accessible databases of the FDEP, SJRWMD, and USACE did not yield any specific permits titled "Sandalwood Canal." The absence of a readily identifiable permit may be attributable to several factors, including the canal's age, which may predate modern digital record-keeping; permits being issued under broader, less specific project names (such as the "Hodges Blvd./ Sandalwood Canal project"); or the possibility that some maintenance activities qualified for regulatory exemptions [1, 2].

Despite the lack of a named permit, the existing regulatory structure has significant implications. The core principles of the ERP program mandate that stormwater systems must not cause or contribute to violations of state water quality standards, including those related to turbidity and sediment deposition [3, 10]. The City of Jacksonville, as the operator of the canal, which functions as part of its Municipal Separate Storm Sewer System (MS4), is subject to these regulations [5]. This report details the specific permit requirements, the jurisdictional roles of each agency, and analyzes the regulatory context of the ongoing environmental issues in Hogpen Creek.

## 2.0 Governing Agencies and Jurisdictional Authority

The regulation of stormwater canals in Florida is a multi-layered process with responsibilities distributed among state and federal agencies. The primary entities with jurisdiction over a system like the Sandalwood Canal and its receiving waters are the Florida Department of Environmental Protection (FDEP), the St. Johns River Water Management District (SJRWMD), and the U.S. Army Corps of Engineers (USACE).

## 2.1 Florida Department of Environmental Protection (FDEP)

As Florida's lead environmental agency, the FDEP plays a central role in water resource protection. Its authority stems from multiple programs designed to manage stormwater and protect surface waters. The FDEP jointly administers the Environmental Resource Permit (ERP) program with the state's five water management districts [3, 10]. This program is the cornerstone of state-level regulation for activities that alter surface water flows, such as constructing canals, dredging, and filling.

Furthermore, the FDEP administers the National Pollutant Discharge Elimination System (NPDES) Stormwater Program in Florida [5]. This program regulates point-source discharges from construction sites, industrial facilities, and Municipal Separate Storm Sewer Systems (MS4s). The City of Jacksonville operates an MS4, and an engineered conveyance like the Sandalwood Canal is an integral part of this system. Under the MS4 permit, the city is responsible for implementing measures to reduce pollutants in stormwater discharges to the maximum extent practicable, which includes controlling sediment [5].

In a significant but legally contested move, the FDEP assumed administration of the federal Clean Water Act Section 404 program in December 2020 [23]. This "State 404 Program" was intended to streamline permitting by integrating the federal requirements for dredge and fill activities with the state's ERP process. However, a federal court order in February 2024 vacated the state's authority to issue these permits, returning primary Section 404 jurisdiction to the USACE pending further litigation [22, 23].

## 2.2 St. Johns River Water Management District (SJRWMD)

The SJRWMD is the regional body responsible for managing water resources within its 18-county jurisdiction, which includes Duval County. It works in concert with the FDEP to implement the ERP program [12]. While the FDEP sets the overarching policy, the SJRWMD applies specific design and performance standards tailored to the hydrological characteristics of its region. These standards are detailed in the SJRWMD's Applicant's Handbook Volume II and address criteria for flood protection, stormwater treatment, and special basin considerations [6, 12]. For any project involving the Sandalwood Canal, the applicant would need to demonstrate compliance with both state-level rules and the SJRWMD's more localized requirements to secure an ERP. The district's permitting portal is a primary tool for submitting and searching for ERP applications within its territory [14].

## 2.3 U.S. Army Corps of Engineers (USACE)

The USACE holds federal authority over "waters of the United States." Its regulatory power is primarily derived from two statutes: Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act [18, 24]. Section 10 governs all work or structures in, over, or under "navigable waters of the United States." Section 404 regulates the discharge of dredged or fill material into all waters of the U.S., including wetlands and smaller streams.

While Florida's brief assumption of the Section 404 program shifted some responsibilities, the USACE always retained jurisdiction over traditionally navigable waters, referred to as "federally retained waters" [23]. Following the 2024 court ruling, the USACE is once again the primary permitting authority for Section 404 activities in most of Florida's waters [22, 23]. A critical finding for this report is that the USACE Jacksonville District explicitly lists **Hogpen Creek** as a waterbody over which it exercises regulatory jurisdiction [19]. This means any proposed dredging, filling, or shoreline stabilization in the creek would unequivocally require a permit from the USACE. Additionally, Section 408 of the Rivers and Harbors Act requires USACE permission for any alteration to an existing federal civil works project, which could be relevant if the canal system interacts with any federally managed infrastructure [16].

# 3.0 Applicable Permits and Regulatory Requirements

The construction, alteration, and operation of an 11-mile stormwater canal system are subject to a suite of rigorous permitting requirements designed to mitigate environmental impact. The primary regulatory instruments are the state-issued Environmental Resource Permit and federal permits from the USACE.

## 3.1 Environmental Resource Permit (ERP)

The ERP is the most significant state-level authorization required for a project like the Sandalwood Canal. Administered jointly by the FDEP and SJRWMD, its purpose is to ensure that activities do not cause adverse environmental impacts [3, 10]. The review criteria for an ERP application are comprehensive. An applicant must provide reasonable assurance that the proposed activity will not: cause adverse flooding to on-site or off-site property; cause adverse impacts to water quality or water quantity; degrade receiving waters in violation of state water quality standards; or adversely affect fish, wildlife, and their habitats [10].

A key condition of the ERP program is the requirement for **stormwater treatment** [3]. This involves designing systems (such as wet detention ponds, swales, or other Best Management Practices) to remove a specified percentage of pollutants, including suspended solids and sediments, before the stormwater is discharged. For a massive conveyance like the Sandalwood Canal, which collects runoff from a highly impervious urban watershed, these treatment requirements are critical for protecting the receiving waterbody. Furthermore, since June 2024, new ERP rules have strengthened requirements for the long-term operation, inspection, and maintenance (O&M) of stormwater systems, placing greater emphasis on ensuring their continued functionality [3].

## 3.2 Dredge and Fill Permits

Activities involving the excavation (dredging) or placement of material (filling) in surface waters or wetlands are regulated primarily through the ERP program at the state level and by the USACE at the federal level [4]. Florida Statutes do, however, provide specific exemptions for certain activities. Of particular relevance is the exemption for **maintenance dredging** of existing, man-made canals and channels [15]. This exemption applies if the dredging is limited to restoring the canal to its original, as-built design specifications and if the excavated spoil material is placed in a self-contained upland site [15]. It does not permit the expansion or deepening of a canal beyond its original configuration without a new permit. The City of Jacksonville has previously characterized its past dredging in Hogpen Creek as a one-time construction-related action, but any ongoing maintenance dredging within the canal itself could potentially fall under this exemption, provided all conditions are met [1, 2]. Conversely, new dredging in a natural waterbody like Hogpen Creek to rectify sedimentation would not be exempt and would require full ERP and USACE review [15].

## 3.3 Federal Permits (USACE Section 404 and Section 10)

Given the USACE’s jurisdiction over Hogpen Creek, any activity involving the discharge of dredge or fill material into the creek requires a Section 404 permit [18, 19]. Because Hogpen Creek is a tidal waterbody connected to the Intracoastal Waterway, it is also considered navigable, triggering the need for a Section 10 permit for any work or structures within it [19]. The USACE issues several types of permits. Minor activities with minimal environmental impact may qualify for a General Permit, such as a Nationwide Permit (NWP) or a Regional General Permit (RGP). Larger, more complex projects, such as a major dredging operation, would require an Individual Permit. This involves a much more detailed public interest review process, including public notices, agency consultation, and an analysis of alternatives to avoid and minimize impacts [21, 24].

# 4.0 Permit Search: Methodology and Findings

A comprehensive search for permits associated with the Sandalwood Canal was conducted using the publicly available online databases of the FDEP, SJRWMD, and USACE. The search targeted keywords including “Sandalwood Canal,” “Hogpen Creek,” and related project identifiers in the Jacksonville area.

## 4.1 FDEP and SJRWMD Search

The FDEP’s **Water Permitting Portal** and **Map Direct** GIS tool, along with the SJRWMD’s **ePermit** search portal, were queried for Environmental Resource Permits [7, 14]. These are the primary repositories for ERP applications and permits dating back to approximately 2007, with some older records also available [7]. Despite a thorough search using multiple variations of the canal’s name and location, **no specific ERP was found that was explicitly titled “Sandalwood Canal.”**

This absence of a discrete permit does not necessarily mean the canal is unpermitted. Several factors could explain this result:
1. **Age of the Canal:** Portions of the Sandalwood Canal system were likely constructed in the 1970s, predating modern digital permitting systems and even the current ERP framework. Paper records from that era may be difficult to locate or may not be indexed in online databases.
2. **Permitting Under a Broader Project Name:** The canal’s construction or major modifications may have been permitted as part of a larger development or infrastructure project. For instance, the “Hodges Blvd./Sandalwood Canal project” completed around 2005-2006 would likely have had an associated ERP, but it may have been filed under the road project name or a county public works identifier, not the canal’s name [1, 2].
3. **Conflated Search Terms:** An initial search for “Sandalwood Canal ERP” yielded irrelevant results, linking to a company named Sandalwood Engineering & Ergonomics and their use of Enterprise Resource Planning (ERP) software [26]. This was determined to be a coincidental and misleading search artifact. Another search within the SJRWMD system identified a “Sandalwood Canal” within the St. Johns Improvement District in Indian River County, which is a different location entirely and not relevant to this investigation [27].

## 4.2 USACE Search

The USACE’s Regulatory Request System (RRS) and public data tools were also searched for federal permits [16, 17]. Similar to the state-level search, no permits were found under the name “Sandalwood Canal.” However, the USACE search yielded a critical piece of information: the official documentation from the USACE Jacksonville District confirms that it exercises regulatory authority over **Hogpen Creek** under both Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act [19]. This definitively establishes federal oversight for any work conducted within the creek itself.

## 4.3 Summary of Findings

The research effort did not locate a specific, standalone permit for the Sandalwood Canal in the online records of the FDEP, SJRWMD, or USACE. However, the regulatory framework governing such infrastructure is well-defined. The operation of the canal falls under the City of Jacksonville’s MS4 permit obligations, and its discharges are subject to state water quality standards enforced through the ERP program [5]. Most significantly, the receiving waterbody, Hogpen Creek, is confirmed to be under the direct jurisdiction of the USACE, making any dredging or fill activities within it subject to federal permitting [19]. The lack of a named permit for the canal itself highlights the challenges of researching historical infrastructure projects but does not absolve the operator from compliance with current environmental regulations designed to prevent downstream harm.

## 5.0 Conclusion and Regulatory Implications

This report confirms that the Sandalwood Canal is a major component of the City of Jacksonville's municipal stormwater infrastructure, operating within a complex and well-established regulatory framework. Although a specific, named permit for the canal's original construction could not be located through searches of current digital databases, the legal and regulatory responsibilities associated with its operation are clear.

The core principle underpinning Florida's Environmental Resource Permit program and the federal Clean Water Act is the prevention of environmental degradation. Stormwater management systems are required to be designed and operated in a manner that does not cause or contribute to the violation of state water quality standards in receiving waters. The chronic and severe sedimentation of Hogpen Creek, which residents directly link to discharges from the city-owned Sandalwood Canal, raises significant questions about the system's compliance with this fundamental regulatory mandate [1]. The deposition of sediment that impairs navigation, destroys aquatic habitat, and displaces wildlife like manatees is a tangible form of water quality degradation [1, 28].

The City of Jacksonville, as the operator of an MS4 under the NPDES program, has an ongoing permit obligation to control pollutants from its storm sewer system [5]. The fact that the canal funnels stormwater from an 11-square-mile urban watershed directly into a sensitive tidal creek places a high burden of responsibility on the city to manage the quality of that discharge [1, 25].

The jurisdictional authority of the U.S. Army Corps of Engineers over Hogpen Creek is a critical factor [19]. It establishes a federal nexus for any proposed solution to the sedimentation problem, such as the $4.5 million dredging project being funded by property owners [1]. Any such dredging will require a USACE permit, triggering a rigorous environmental review. This review process could potentially scrutinize the source of the sediment and the ongoing impact of the Sandalwood Canal on the creek's condition.

In conclusion, while a historical permit document for the Sandalwood Canal remains elusive, the existing regulatory structure provides a clear basis for oversight. The operational impacts of the canal on Hogpen Creek fall squarely within the purview of state and federal environmental laws designed to protect Florida's water resources. The conditions in Hogpen Creek suggest a potential long-term failure of the stormwater system to meet its performance expectations, shifting a significant environmental and financial burden from the owner of the infrastructure to the downstream public [1].

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