



Interoffice Memorandum

November 7, 2022

TO: Mayor Jerry L. Demings  
-AND-  
County Commissioners

FROM: Joseph Kunkel, P. E., Director, Public Works Department *Joseph Kunkel*

CONTACT PERSON: Dale V. Mudrak, P. E., Manager  
Development Engineering Division *Dale V. Mudrak*

PHONE NUMBER: (407) 836-7904

SUBJ: **Public Hearing**  
**Applicant: Vic McCall, Bishop & Buttrey, Inc.**  
**Bishop & Buttrey Christmas Creek Ranch Borrow Pit #186**  
**Excavation Permit #21-E5-0014**

This Public Hearing is to consider the Borrow Pit Excavation Permit No. 21-E5-0014. This permit would allow for an approximate 19 acre borrow pit on a 162 acre parcel. The excavation will occur in three separate pits approximately 5-9 acres in size. Each pit is to be restored per code after the completion of the excavation. A soil cement batch plant is not proposed

The total soil volume to be excavated is approximately 350,000 cubic yards of clean fill material to various approved project sites inside and outside of Orange County limits. Project length is approximately 18 months. A soil cement batch plant is not proposed.

The A-2 zoned property is located north of Wheeler Road and east of Fort Christmas Road. The borrow pit Parcel ID Number is 16-22-33-0000-00-001.

Staff recommends approval of the Bishop & Buttrey Christmas Creek Ranch Borrow Pit 3186 subject to the conditions listed under the Borrow Pit Staff Report.

**Action Requested: Approval of the Bishop & Buttrey Christmas Creek Ranch Borrow Pit #186 and authorization to issue Borrow Pit Excavation Permit No. 21-E5-0014. District 5.**

DVM/cmck

Attachments

**1. REQUEST**

This public hearing is to consider the approval of Bishop & Buttrey Christmas Creek Ranch Borrow Pit #186 under Borrow Pit Excavation Permit No. 21-E5-0014. This will create three borrow pits for an approximate total of 19 acres. The total soil volume to be excavated is approximately 350,000 cubic yards of clean fill material to various approved project sites inside and outside of Orange County limits. Project length is approximately 18 months.

**2. GENERAL INFORMATION**

<b>APPLICANT</b>	Vic McMcCall, General Manager, Bishop & Buttrey, Inc.
<b>PROJECT NAME</b>	Bishop & Buttrey Christmas Creek Ranch Borrow Pit #186
<b>LOCATION</b>	23965 Wheeler Road North of Wheeler Road and east of Fort Christmas Road
<b>PARCEL ID.</b>	16-22-33-0000-00-001
<b>TRACT SIZE</b>	162 gross acres 19 acres split between three borrow pits
<b>EXCAVATION PERMIT</b>	Borrow Pit Excavation Permit No. 21-E5-0014 will be submitted to the Board of County Commissioners for a Public Hearing. Orange County Code Chapter 16 states that the Board take action on this permit at a Public Hearing with notice to abutting property owners.
<b>PUBLIC NOTIFICATION</b>	The notification area for this public hearing extended beyond 2700 feet of the parcel. An approximate total of 32 notices in the mailing area. A total of two community meetings were held on June 13, 2022 and October 17, 2022 and are summarized in the report below.
<b>PROPOSED USE</b>	To create three separate borrow pits for an approximate total of 19 acres. The total to be excavated is approximately 350,000 cubic yards of clean fill material to various approved project sites inside and outside of Orange County limits.

## COMMUNITY MEETINGS SUMMARY

A total of two community meetings were held on June 13, 2022 and October 17, 2022, 2022 at East Rive High School and Bithlo Community Park. Staff, Applicant, and approximately 60 residents were in attendance. The residents had concerns regarding traffic, road pavement and bridge impacts, wetlands, noise, and the potential for drinking water wells contamination and water level impacts. The Applicant has responded to each of these concerns.

## STAFF ANALYSIS AND RECOMENDATION

### Background

The applicant, Bishop & Buttrey, LLC has applied for a Borrow Pit Excavation Permit No.21-E5-0012, for a new borrow pit proposed to be located in northeast Orange County. District 5.

This permit would allow for an approximate 19 acres split between three borrow pits on a 162 acre parcel. The total soil volume to be excavated is approximately 350,000 cubic yards of clean fill material to various approved project sites inside and outside of Orange County limits. Project length is approximately 18 months. A soil cement batch plant is not proposed.

The applicant submitted a Conservation Area Impact Permit (CAI-21-07-043) Application for the project to Orange County Environmental Protection Division (EPD) on July 15, 2021. A Conservation Area Determination (CAD-19-10-156) was completed for the subject property on August 2, 2022 that identified 14.56 acres of Class I and Class III wetlands and 21.93 acres of Class I and Class III surface waters. Upon completion of the CAD, EPD reviewed the CAI application and made a determination that the applicant has designed the project to avoid and minimize impacts to conservation areas to the greatest extent practicable, however, some minor impacts were unavoidable. On August 9, 2022, EPD issued the CAI Permit for direct impacts to 0.10-acre of Class III surface waters (ditches) associated with the project. Mitigation for the impacts includes the purchase of 0.05 mitigation credits from the TM-Econ Mitigation Bank, Phases 1, 2, and 3

The A-2 zoned property is located north of Wheeler Road and east of Fort Christmas Road. The borrow pit Parcel ID Number is 16-22-33-0000-00-001.

The approved borrow pit plans are in conformance with the requirements in Orange County Code Chapter 16, Excavation and Fill Ordinance.

### Community Meeting

On June 13, 2022 and October 17, 2022 a Community Meetings were held at the East River High School and Bithlo Community Park respectively. Approximately 30 residents along with Staff, and the District 5 Aide were present for the first meeting. A second meeting was held at the District 5 Commissioner's request and approximately 60 residents and Staff were present. The residents had concerns regarding traffic on Wheeler and Fort Christmas Road, safety concerns due to truck drivers not obeying traffic laws, and noise levels.

A traffic study was submitted to Orange County to determine the impacts to the right-of-way which is expected to be minimal. Orange County Field Inspectors and Bishop & Buttrey can remove truck drivers due to reckless driving or other safety issues inside the borrow pit location and public right-of-way. The location of the pit is far enough away that noise levels will be within tolerance of what is required for Orange County code.

All dewatering will be kept on property. In addition, there are wetland areas on site that will not be impacted. The wetland areas will have sufficient buffers surrounding them to avoid impact from the borrow pit.

### STAFF RECOMMENDATION

Staff recommends approval of the Bishop & Buttrey Christmas Creek Ranch Borrow Pit #186 permit subject to the conditions listed under this Borrow Pit staff report.

### REQUESTED ACTION

Approval of the Bishop & Buttrey Christmas Creek Ranch Borrow Pit #186 subject to General Law and the following additional requirements:

1. The approved haul route for the excavation will be from the borrow pit site to Wheeler Road, Wheeler Road west Fort Christmas Road, Fort Christmas Road north and south to approved project sites.
2. Operating and hauling from 7:00 a.m. to 7:00 p.m., Monday through Saturday.
3. Notify Development Engineering Inspection at (407) 836-7920 24 hours prior to commencement of operations.
4. All Excavation/Fill activities shall be in accordance with approved plans and the Orange County Excavation/Fill Ordinance (Chapter 16, Orange County Code).
5. The facility shall be open to the County for the purpose of inspection during normal working hours of the facility and at any other time when work is in progress. During periods of

- inactivity, upon request, the County shall be provided access to the site within one business day.
6. If a violation of any permit condition is discovered by the County at the facility, upon receipt of a notice of violation, the permittee will be required to address the alleged violation(s) to the satisfaction of the County within a timeframe set forth by the County. Failure to do so may result in civil penalties and/or closure of the facility operations as permitted until such time or unless the violations are corrected. The financial assurance provided by the permittee may be used by the County to remedy and cure violations if the permittee is non-responsive in doing so.
  7. Approval of this permit does not constitute either a land-use classification change to Orange County's Comprehensive Plan or a rezoning of any type. Furthermore, solid waste disposal, solid waste management, and the disposal of materials from the construction or demolition of a road or other transportation facility, as contemplated by Section 163.3194 of Florida Statutes, is not in any way a purpose of this permit.
  8. No work authorized under this approval shall begin without compliance with all applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent any applicable laws, ordinances, and regulations are expressly waived or modified by these conditions, or by action by the Board.
  9. Parcel 16-22-33-0000-00-001 shall not be used as a landfill unless approved by the Board of County Commissioners.
  10. Parcel 16-22-33-0000-00-001 shall not operate a soil cement batch plant unless approved by the Board of County Commissioners.
  11. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of a state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
  12. By accepting this permit, the permittee understands and agrees that the permittee will, at all times, (1) comply with all terms and conditions of the permit and any ordinances and regulations relating to the permit; (2) assume all the risk associated with the exercise or attempted exercise of its rights and privileges under this permit; and (3) indemnify, defend, and save harmless Orange County from and against all losses, damages, costs, and expenses arising in any manner on account of the exercise or attempted exercise of the permittee's rights and privileges under this permit, including, but not limited to, any actions or disputes based on claims of negligence, trespass, quiet title, inverse condemnation, and any actions for

injunctive or declaratory relief. Accordingly, the permittee shall pay and reimburse Orange County for all damages, attorney fees, and costs that Orange County may incur as a result of any threatened litigation, actual litigation, trials, appeals arising in any manner from the issuance of this permit, and the permittee's exercise or attempted exercise of its rights and privileges under the permit.

13. No direct or secondary impacts to the wetlands are authorized by this permit, notwithstanding the impacts authorized by CAI-21-07-043.
14. If any nests, burrows, dens or other indications of the presence of imperiled species are found on the project site, the permittee shall provide EPD with a wildlife management plan to protect the values of the habitat for any identified species. At a minimum, the permittee shall also provide a gopher tortoise relocation permit for the site issued by the Florida Fish and Wildlife Conservation Commission and a post-relocation report as documentation that gopher tortoise have been relocated from the project site to an authorized recipient site. The relocation permit and post-relocation report must be submitted prior to commencement of any activities authorized by the borrow pit permit, including disturbance to soils or vegetation.



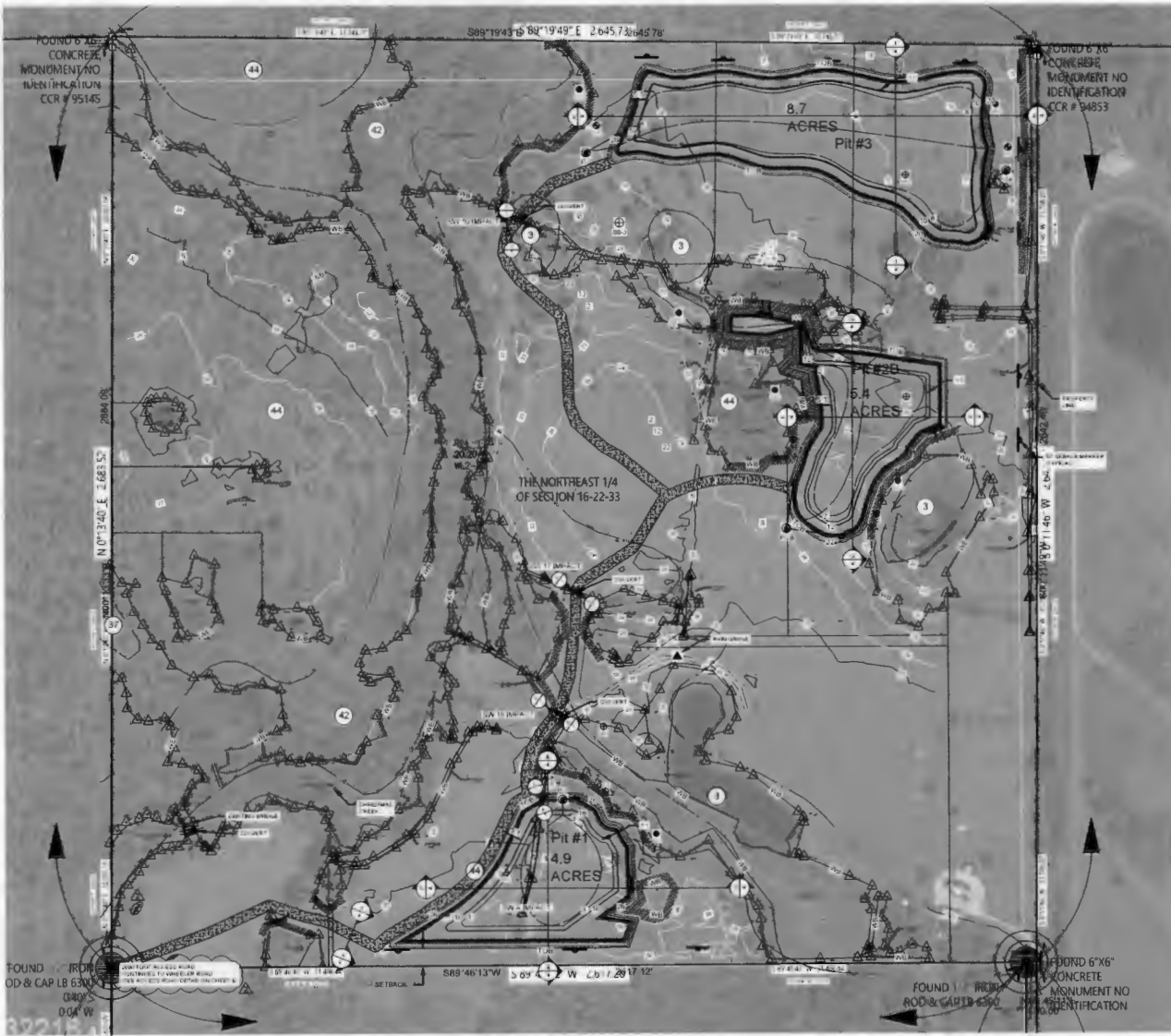
SOURCE: GOOGLE EARTH, 2019

<p><b>GROVE</b>  <small>CONSTRUCTION SERVICES</small>          CA LICENSE # 7902          6140 Edgewater Dr., Suite F          ORLANDO, FL 32810          P: 407 298-2282</p>	<p><b>NEARBY          LAND USES</b></p>	<p><b>BISHOP &amp; BUTTREY,          INCORPORATED          PIT # 186 - EXCAVATION          CHRISTMAS, FLORIDA</b></p>	<table border="1"> <tr> <td><b>PROJECT #</b></td> </tr> <tr> <td>291431</td> </tr> <tr> <td><b>FIGURE</b></td> </tr> <tr> <td>1</td> </tr> </table>	<b>PROJECT #</b>	291431	<b>FIGURE</b>	1
<b>PROJECT #</b>							
291431							
<b>FIGURE</b>							
1							





1"=150'



FOUND 6"X6" CONCRETE MONUMENT NO IDENTIFICATION CCR # 95145

FOUND 6"X6" CONCRETE MONUMENT NO IDENTIFICATION CCR # 94853

FOUND IRON ROD & CAP LB 6300

FOUND IRON ROD & CAP LB 6300

FOUND 6"X6" CONCRETE MONUMENT NO IDENTIFICATION

**SOILS**

Map Unit Symbol	Map Unit Name
3	Besinger fine sand, frequently pebbles, 0 to 1 percent slopes
37	St. Johns fine sand
42	Sandhill muck
44	Savanna-Stuyvesant, wet, fine sand, 0 to 2 percent slopes

**PUMP TABLE**

PIT #	PUMP #
1	P-1
2A	P-2A
2B	P-2B
3	P-3 / P-3A
4	P-4

**LEGEND**

- 7--- PROPOSED TOPOGRAPHIC CONTOUR, FT. MVD
- ⊕ SPT BORING LOCATION (LOCATE PER GPR)
- PROPERTY LINE
- WETLAND DELINEATION LINE (OCFPO & SURVAD 4/2021)
- EXISTING TOPOGRAPHIC CONTOURS, FT. MVD (1/18)
- Pit #2 PIT NUMBER
- RECHARGE TRENCH
- PIT HALL ROAD
- CROSS-SECTION LINE
- TOP OF BANK
- Soil Type Classification Line
- Soil Type Number
- ACREAGE
- 50-FOOT SETBACK BARRIER AT 500' O.C.
- EROSION CONTROL BERM
- PIT ACCESS ROAD
- PIT BOUNDARY MARKER (3 PVC PIPE)
- DEWATERING PUMP
- SPREADER BARGE
- ROCK
- STAFF GAGE
- PITCHMETER
- UPLAND BUFFER



**GROVES**  
ENGINEERING, INC.  
1000 W. UNIVERSITY BLVD.  
SUITE 100  
ORLANDO, FL 32817  
TEL: 407.251.1111  
WWW.GROVES-ENGINEERING.COM

DATE: 02/20/2022  
DRAWN BY: JMG  
CHECKED BY: JMG  
PROJECT NO.: 201431

DATE	BY	REVISION
02/20/2022	JMG	ISSUED FOR PERMITS
02/20/2022	JMG	REVISED

**SITE PLAN**  
**BISHOP & BUTTERY, INCORPORATED**  
**PIT # 186 - EXCAVATION**  
**CHRISTMAS, FLORIDA**

PROJECT NO. 201431  
SHEET 3