



Florida Department of Environmental Protection

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Tallahassee, Florida 32399-2400

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

March 5, 2010

Georgia Vince
Section Leader
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, FL 33406

Project: Stormwater Treatment Area 2 (STA-2)
Subject: Minor Modification STA-2 L-6 Canal Conveyance Design Changes
Modification No: 0126704-013

Dear Ms. Vince,

The Florida Department of Environmental Protection (Department) acknowledges receipt of the South Florida Water Management District's (District) request to modify the Everglades Forever Act (EFA) Permit No. 0126704, on November 20, 2009, the subsequent Response to a Request for Additional Information (RAI) on February 4, 2010, and the request to withdraw consideration of interim operations as outlined in the RAI on March 4, 2010. The District requested that the current design plans for the L-6 canal be modified to convey a greater quantity of water from STA-2 (G-335) and Compartment B (G-436) north through the L-6 canal in the northwest corner of WCA-2A in order to direct flow into the northwestern portion of WCA-2A and improve hydropatterns in this area. STA-2 will continue to operate under the approved operations plan with the understanding that all discharges into the L-6 Borrow Canal will be temporarily redirected south to the WCA-2A during construction of these canal improvements. A separate authorization for operations of Compartment B is required prior to operations of the expanded facility commencing.

Department staff have reviewed the District's modification request and associated documentation for the project design changes and have determined that it is consistent with requirements in Special Condition No.: 4 of the EFA Permit referenced above (with the exception of documentation from the U.S. Fish and Wildlife Service). Prior to any of the proposed conveyance modifications commencing, the District shall submit the required documentation and the results from the canal sediment sampling in the L-6 Borrow Canal (along with any modifications to the disposal methods for this sediment) as required in Special Condition 8. The Department hereby approves the L-6 conveyance design changes as presented in this request and as noted above.

The permit shall be modified utilizing ~~strikethrough~~ for deletions and underlines for additions:

PROJECT COMPONENTS:

XII. WCA 2A Hydropattern Restoration Works

The existing works consist of six ~~existing~~ box culverts, G-336A-F (~~approximately 300 cfs each~~) located along the northern edge of WCA-2A, and ~~an existing~~ a 3,400-foot degraded section (southern levee gap) in the L-6 Borrow Canal Levee located immediately north of the S-7 Pump Station. The six box culverts and the southern levee gap convey water into previously impacted areas of WCA-2A. ~~Flow through the box culverts and the levee gap will be delivered from the G-335 and G-436 Pump Station.~~

To improve conveyance capacity to the north and for operational flexibility, A ~~an~~ existing divide structure, G-336, will be removed and a new divide structure, G-444, will be constructed in the L-6 Borrow Canal south of the ~~G-335 and~~ G-436 Pump Stations. This structure will consist of a ~~double~~ triple roller-gated structure to control stage and flow between the north and south sections of the L-6 Borrow Canal. The L-6 Borrow Canal/Levee will be modified to include excavation of the canal north of the G-335 pump station and fortification of the existing levees on the east and west sides of the canal. An 8,400-foot northern levee gap will be created through the removal of the G-336A-E box culverts and degrading of the eastern levee to increase the delivery of water to northern portion of WCA-2A. The southernmost box culverts, G-336E & F, will be removed and the levee re-built. ~~in accordance with Specific Condition 4 to provide additional conveyance for discharges from the G-436 Pump Station~~

NOTICE OF RIGHTS

The Department will issue this modification unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57 of the Florida Statutes before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below. The optional mediation proceedings described under section 120.573 will not be available.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Petitions must be filed within twenty-one days of receipt of this written notice.

The petitioner shall mail a copy of the petition to the permittee at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination
- (c) A statement of when and how the petitioner received notice of the agency decision

- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate
- (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action
- (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action
- (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in the notice. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation is not available for this proceeding.

Any party to this order has the right to seek judicial review of it under section 120.68 of the Florida Statutes, by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this order if filed with the clerk of the Department.

This letter of approval does not alter the original expiration date, the permittee's need to comply with the permit's general and specific conditions, or the monitoring requirements of this permit, except as stated herein. This modification letter must be attached to the original permit. By copy of this letter, we are notifying all necessary parties of the modification.

If you have any questions concerning this minor modification to the issued permit, please contact Kelli J. Edson (850) 245-8052 or electronically at Kelli.Edson@dep.state.fl.us or Stacey Feken at (850) 245-8421.

Sincerely,



Ernie Marks
Environmental Administrator
Restoration Planning and Permitting Section

EM/tr/kje

FILING AND ACKNOWLEDGMENT

Filed on this date, pursuant to Section 120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged

Patricia Waters 3/5/10

Clerk

Date

ELECTRONIC COPIES FURNISHED TO:

PARTIES REQUESTING NOTICE:

Miccosukee Tribe of Indians of Florida, c/o Dexter Lehtinen, Esq.
Miccosukee Tribe of Indians of Florida, c/o Kelly Brooks, Esq.
United States Sugar Corporation, c/o Bubba Wade
Seminole Tribe of Indians of Florida, c/o Stephen A. Walker, Esq.
Sugar Cane Growers Cooperative, Roth Farms, Inc., and Wedgeworth Farms, Inc.,
c/o William H. Green, Esq.
Keith Saxe, Esq., U. S. Department of Justice
Jay Gelderman, Esq., U.S. Department of Justice
Michael Stevens, U.S. Department of the Interior
Jeffrey J. Ward, Sugar Cane Growers Cooperative
Philip S. Parsons, Landers & Parsons
Helen Hickman, Brown & Caldwell
Tom MacVicar, MacVicar, Frederico, & Lamb
Charles Lee, Florida Audubon Society
Leslie Feliciano, Katz Barron

ADDITIONAL COPIES FURNISHED TO:

Nirmala Jeyakumar, SFWMD
Ron Bearzotti, SFWMD
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