

**BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF:

Stormwater Treatment Area 2 (STA-2)
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

Administrative Order No. AO-010-EV

NPDES Permit No. FL0177946-003-IW7A
EFA Permit No. 0126704-008

**ADMINISTRATIVE ORDER ESTABLISHING COMPLIANCE SCHEDULE
PURSUANT TO SECTIONS 403.088(2)(f), 403.061(8), 403.151, and 373.4592, FLORIDA STATUTES**

I. STATUTORY AUTHORITY

The Department of Environmental Protection (Department) administers Florida's National Pollution Discharge Elimination System Program (NPDES) permitting and enforcement program under Sections 403.088 and 403.0885, Florida Statutes (F.S.), and Chapters 62-4, 62-302, 62-620, 62-650, and 62-660, Florida Administrative Code (F.A.C.). The Department also has permitting and enforcement authority in connection with the Everglades Construction Project (ECP) pursuant to Subsections (9) and (10) of the Everglades Forever Act (EFA), Section 373.4592, F.S. The Department has jurisdiction over the matters addressed in this Administrative Order (Order). The Department issues this Order under the authority of Sections 403.088 and 403.151, F.S., as well as Subsections 373.4592(10) and (11)(a), and 403.061(8), F.S.

The Department makes the following findings of fact.

II. FINDINGS OF FACT

1. It has been determined that Stormwater Treatment Area 2 and the Compartment B Build-Out, will require a National Pollutant Discharge Elimination System (NPDES) Permit for operations, pursuant to the State of Florida's federally approved NPDES program and Section 403.0885, F.S.
2. In 1994, the Florida Legislature passed the Everglades Forever Act (EFA), Section 373.4592, F.S. This landmark piece of legislation identifies the importance of the Everglades ecosystem, recognizes that the Everglades ecosystem is endangered as a result of adverse changes in water quality and in the quantity, distribution, and timing of flows, and mandates the implementation of the Everglades Construction Project (ECP) as an important component of Everglades restoration. EFA permits are required for the construction, operation, and maintenance of the ECP, pursuant to Subsections 373.4592(9) and (10), F.S.
3. STA-2 is a component of the ECP included in the Everglades restoration effort, pursuant to Subsection 373.4592(4), F.S.
4. The South Florida Water Management District (District) is the Local Sponsor of the Congressionally-mandated Central and Southern Florida Project for Flood Control and Other Purposes, and must operate STA-2 as necessary to fulfill its obligations as Local Sponsor, including, but not limited to, providing flood control and water supply throughout South Florida.

5. Subsection 373.4592(1), F.S., recognizes that waters flowing into the Everglades Protection Area contain excessive levels of phosphorus. The primary objective of the ECP is to reduce the levels of excess nutrients flowing into the Everglades Protection Area from the northern tributaries, in accordance with Subsections 373.4592(1)(d) and (g), F.S. This objective is also consistent with state anti-degradation requirements, which acknowledge excessive nutrients as one of the most severe water quality problems facing the state.
6. Based upon information from the Everglades Nutrient Removal (ENR) Project and performance data that has been collected to date from six existing STAs (*i.e.*, STA-1W, STA-1E, STA-2, STA-3/4, STA-5 and STA-6), the STA-2 facility is likely to continue to produce substantial reductions in loads and concentrations of phosphorus being delivered to the Everglades Protection Area.
7. The Florida Legislature has defined Best Available Phosphorus Reduction Technology (BAPRT) as a combination of BMPs and STAs, including a continuing research and monitoring program, to reduce outflow concentrations of phosphorus so as to achieve the phosphorus criterion in the Everglades Protection Area (Subsection 373.4592(2)(a), F.S.). These phosphorus reductions are being achieved through the iterative adaptive implementation of the Everglades Protection Area Tributary Basins Long Term Plan for Achieving Water Quality Goals, October 27, 2003, (Long-Term Plan) and subsequent revisions. The Florida Legislature, in Subsection 373.4592(3)(b), F.S., has determined that the combination of BMPs and STAs contained within the Long-Term Plan constitutes the best available phosphorus reduction technology for achieving the phosphorus criterion in the Everglades Protection Area.
8. Pursuant to Subsection 373.4592(4)(e)2, F.S. the Department adopted a 10 parts per billion (ppb) numeric criterion for phosphorus in the Everglades Protection Area, which was approved by the U.S. Environmental Protection Agency (USEPA) on January 24, 2005. The compliance methodology for determining achievement of the phosphorus numeric criterion was revised and adopted by the Department on May 5, 2005, and the revised rule (62-302.540 F.A.C.) was approved by the USEPA on July 27, 2005.

Although the NPDES and EFA permits for STA-2 (Permit No. FL0177946-003-IW7A and 0126704-008) require compliance with the water quality standard for phosphorus, pursuant to Rule 62-302.540, Florida Administrative Code (F.A.C.), the STA-2 discharges may not be able to immediately achieve the permit effluent limit. This Order provides a reasonable period of time for the District to achieve compliance with the permit effluent limit.

9. The Long-Term Plan contains a planning objective of achieving compliance with the phosphorus criterion in the EPA. The October 27, 2003 version of the Long-Term Plan was subsequently revised to include further refinements to the recommended water quality improvement measures consistent with the iterative adaptive implementation process described in the plan. Post-2006 improvements, enhancements, and strategies, which will continue through 2016, are also included within the Long-Term Plan.
10. To address water quality standards and facilitate restoration of the Everglades ecosystem, the EFA, as amended in 2003, requires the Department and the District, by December 31, 2006, to take such action as may be necessary to implement the pre-2006 projects and strategies of the Long-Term Plan so that water delivered to the Everglades Protection Area achieves state water quality standards in all parts of the Everglades Protection Area. Post-2006 improvements, enhancements, and strategies, which will continue through 2016, are also included within the Long-Term Plan.
11. The improvements and enhancements in the Long-Term Plan include structural, operational and vegetation enhancements to STA-2. In accordance with approved revisions to the Long-Term Plan, additional enhancements to STA-2 may occur as part of the adaptive implementation process envisioned in the Long-Term Plan.

12. Portions of STA-2 were initially constructed and had been operated to achieve a long-term flow weighted mean of 50 ppb, the Technology Based Effluent Limitation (TBEL) for which is set forth in Exhibit F (Nearhoof *et al*, 2005). Performance projections for the Routine Operations phase indicate that the authorized operational components of the facility (Cells 1-4) shall be capable of achieving a TBEL as set forth in Exhibit A, consistent with the iterative implementation of BAPRT. During the term of this Order, cells 1-4 of STA-2 will be assessed as to its progress toward achieving and maintaining the TBEL set forth in Exhibit A, its subsequent revisions and the Water Quality Based Effluent Limitation (WQBEL) established by the Department.
13. Subsection 403.088(2)(e), F.S., states that if a discharge will not meet permit conditions or applicable statutes and rules, the Department may issue, renew, or reissue the operation permit if:
- a. The applicant is constructing, installing, or placing into operation, or has submitted plans and a reasonable schedule for constructing, installing, or placing into operation, an approved pollution abatement facility or alternative waste disposal system
 - b. The applicant needs permission to pollute the waters within the state for a period of time necessary to complete research, planning, construction, installation, or operation of an approved and acceptable pollution abatement facility or alternative waste disposal system
 - c. There is no present, reasonable, alternative means of disposing of the waste other than by discharging it into the waters of the state
 - d. The granting of an operation permit will be in the public interest
 - e. The discharge will not be unreasonably destructive to the quality of the receiving waters

The Department finds that the proposed discharges from STA-2 meet all of the above-mentioned statutory criteria.

14. Based upon information submitted by the District, the operation and maintenance of the STA-2 project complies with the requirements of Section 403.088, F.S., as follows:
- a. The District has plans and a reasonable schedule for implementing BAPRT and collecting soil and water column phosphorus data to determine if the discharge is having an adverse impact on water quality.
 - b. The District needs permission to discharge from the STA-2 facility in order to continue Everglades restoration and the removal of pollutants from the watershed, while it also continues to provide water to the Everglades Protection Area and to implement the Everglades research and monitoring program consistent with the overall water quality improvement strategies identified in the Process Development and Engineering (PDE) component of the Long-Term Plan.
 - c. There is no present, reasonable, alternative means to this discharge, other than by discharging it into the waters of the state.
 - d. The granting of this permit will be in the public interest, in accordance with Subsection 373.4592(9)(a), F.S., as the permitted facility is a treatment wetland that is expected to provide significant removal of phosphorus from the contributing basins; and,
 - e. The granting of this permit will not allow discharge of waters unreasonably destructive to the quality of the receiving waters. In fact, since the facility is removing pollutants, including phosphorus, the discharges authorized by the accompanying NPDES Permit No. FL0177946-003-IW7A and EFA Permit No. 0126704-008 are seen as beneficial to the quality of downstream waters.

15. The Department has determined that the improvements and enhancements to STA-2, the iterative adaptive implementation process of the Long-Term Plan, and the compliance process contained within this Order are the most environmentally appropriate and expeditious means of achieving compliance with the phosphorus criterion in the Everglades Protection Area. The Department has also determined that these activities provide the basis for a 7 year compliance schedule.

III. ORDER

Based on the foregoing findings of fact, **IT IS ORDERED,**

16. In Lieu of the annual average discharge limitation for phosphorus required under Condition I.A.5 in the NPDES Permit No. FL0177946-003-IW7A and Table 1 of EFA permit No. 0126704-008; the permittee shall comply with the following reporting requirements and conditions as set forth in this Order. No discharges from the Compartment B Build-Out portion of STA-2 are authorized under the State's NPDES program at this time. Discharge of water from Compartment B Build-Out shall require a revision to the existing NPDES and EFA permits prior to discharges commencing.
17. This Administrative Order, upon issuance, shall supersede and replace the originally issued AO-010-EV. Only those discharges authorized by NPDES Permit FL0177946-003-IW7A and EFA Permit No. 0126704-008 are authorized through this Order. Operation of the North Build-Out Area (NBO, Cells 5-6), in combination or independent of the existing Cell 4, and the South Build-Out Area (SBO) of Compartment B Build-Out will require a separate authorization for operations under the existing permits. If any provision of this Order conflicts with the conditions in NPDES Permit FL0177946-003-IW7A or EFA Permit No. 0126704-008, then the terms of this Order shall prevail for the duration of the Order.

Part I: Actions

18. The District shall continue to implement the activities pertaining to STA-2 identified in the Process Development and Engineering (PDE) component of the October 2003 Long-Term Plan and subsequent revisions. The permittee shall take such actions as are necessary, and which have been approved by the Department, to implement additional improvements, enhancements, and strategies identified through the PDE component of the Long-Term Plan that are relevant to STA-2 and that will further result in achieving the optimal performance of the facility. Any approved changes to the Long-Term Plan identified for implementation through the PDE component shall be reviewed to determine whether a revision to the permit(s) and/or this Order is required.
19. In accordance with the Long-Term Plan, as may be amended with Department approval, the District shall proceed with the planning, design and construction of additional regional water management projects, internal improvements and enhancements that, when fully implemented, shall result in the improved performance of STA-2 (See Table 1). These projects are described below:

a. STA-2 Internal Improvements and Enhancements.

Internal improvements and enhancements currently approved under the Long-Term Plan include:

- i. Construction of Cell 4 was completed under the previous STA-2 EFA and NPDES permits. Upon achieving the Start-up test, Cell 4 would normally have entered the Stabilization Phase; however, since the Start-up criteria were met on July 17, 2007 and the permits authorizing discharge were not issued until September 2007, due to extended drought conditions, Cell 4 did not begin flow-through, and therefore did not enter Stabilization Phase until February 2008. It is assumed that the Stabilization Phase for Cell 4 shall not extend beyond February 2010, which is equal to 24 months after entering the Stabilization Phase.

ii. It is anticipated that construction of the Cells 1 and 2 improvements and enhancements shall begin once Cell 4 has passed through the Stabilization Phase. Construction includes approximately 3.3 miles of interior levee; the subdivision of Cell 1 into Cells 1A and 1B; Cell 2 into Cells 2A and 2B; a forward-pumping station along the new interior Cell 2 levee to permit withdrawal from upstream emergent marsh cell to maintain stages in the downstream SAV cell; conversion of emergent vegetation to SAV in the downstream portions of Cells 1B and 2B; and herbicide treatment of Cells 1B and 2B (conversion of remaining emergent vegetation) for removal of emergent macrophyte vegetation to permit development of SAV.

The currently approved improvements and enhancements for Cells 1 and 2 are scheduled to be flow-capable by December 31, 2012, in accordance with the Long-Term Plan. Upon completion of all of the internal improvements and enhancements associated with Cells 1 and 2, it is assumed that the stabilization phase of the facility would last approximately 24 months and that the facility, excluding the Compartment B Build-Out, shall achieve the TBEL by no later than December 31, 2014.

b. Regional Water Management Projects

i. **Conveyance Improvements and Regional Treatment.** As a result of the findings from the Regional Feasibility Study the District is moving forward with the Everglades Agricultural Area Conveyance and Regional Treatment (ECART) Project, which is discussed below, to provide additional treatment areas and conveyance improvements within the EAA.

- Construction of approximately 3 miles of new canal connecting the West Palm Beach Canal to the Sam Senter Canal
- Expansion of approximately 37 miles of existing canals including the Sam Senter, Ocean, Hillsboro, Cross and North New River Canals
- Construction of 2 new water control structures, one in the West Palm Beach Canal and one in the Hillsboro Canal
- Land acquisition

ii. **Additional Treatment Area.** The District is preparing to construct capital works for approximately 6,890 acres of additional project area in the North Build-Out and South Build-Out Areas of Compartment B Build-Out. This additional treatment area will provide treatment capacity for a portion of the North New River Canal basin that is presently treated in STA-3/4, and also provide treatment for a portion of the waters that presently are treated in STA-1W. The current design for Compartment B Build-Out anticipates the separation of Cell 4 from STA-2, bringing the total treatment area in Compartment B Build-Out to over 8,700 acres. This acreage will work in conjunction or independently of the original treatment area of STA-2 (6,430 acres, Cells 1-3) by proving for the ability to route inflows from the Hillsboro Canal to STA Compartment B Build-Out NBO via the G-337A structure to provide water to the NBO thus assisting in balancing flows and loads to STA 2 Cells 1-3 or when one of the STA 2 cells needs to be taken offline for maintenance. The project will be completed in accordance with the deadlines in the Long-Term Plan. Due to vegetation grow-in and other factors, flow-through operations for the additional treatment area may not occur within the 5-year term of this permit.

The District shall report on the progress of the aforementioned projects, project schedule updates, and estimated timeframes for the implementation of future improvements and enhancements as part of the annual report requirements in Section I.E.7 of NPDES Permit FL0177946-003-IW7A and Specific Condition No. 28 of EFA Permit No. 0126704-008.

Table 1. Schedule of Compliance Activities		
	Activity	Completion Date
	Cell 4 Achieves Stabilization Test ¹	February 2010
	Cells 1 and 2 Improvements and Enhancements (Flow Capable)	December 2012
	Cell 1 and 2 Achieves Stabilization Test	December 2014
Regional Water Management Projects	Conveyance Improvements Completed	2011-2013
	Additional Treatment Area (Compartment B Build-Out) Flow Capable	December 2013
	Compartment B Build-Out Enters Stabilization	February 2015
	Compartment B Build-Out Achieves Stabilization Test	December 2016

¹ See Paragraph 19a

20. The permittee shall conduct monthly monitoring for Total Phosphorus at a series of sites located along two transects downstream of the STA-2 discharge to characterize the effects of the STA-2 discharge on adjacent marsh areas of WCA-2 (Figure 2). Table 2 below identifies nine sampling sites. Of the nine sites, seven are located in areas currently identified as impacted (i.e., sediment TP concentration greater than 500 mg/kg), and two sites (C4 and CA 29) located in areas currently identified as unimpacted. Upon demonstration that an additional sampling site or removal of an existing sampling site is warranted, the permittee may request a modification to the monitoring program as appropriate. The Department shall review and approve such requests on a case by case basis. Any alteration in the monitoring program approved by the Department shall occur in the form of a modification to this Order.

Table 2: Transect Monitoring Locations

Transect 1			
SITE	LAT_DEC	LONG_DEC	Category
N.25	26.45398	-80.45649	Impacted
N1	26.44735	-80.45613	Impacted
N2	26.43897	-80.45402	Impacted ²
N4	26.42263	-80.45038	Impacted
C4	26.39515	-80.46808	Unimpacted
Transect 2			
SITE	LAT_DEC	LONG_DEC	Category
FS0.25	26.34577	-80.52683	Impacted
FS1.0	26.34402	-80.51953	Impacted
FS3.0	26.33773	-80.50045	Impacted
CA 29	26.33036	-80.47837	Unimpacted

21. The District shall conduct a study to determine the relationship between discharges from the ECP components and resulting water quality in the Everglades Protection Area. The design and methodology for this study shall be approved by the Department prior to initiating the study. Subsequent to Department review and approval, the District shall prepare and submit a report of its findings, based on the data collected, by no later than December 31, 2009. Based on the findings of the study and Department concurrence with its results, a WQBEL shall be established pursuant to 62-650 F.A.C., in order for the facility to achieve the phosphorus criterion set forth in 62-302.540 F.A.C.

² Transition site

22. In addition to the requirements in Section I.A.6 of the NPDES Permit and Specific Condition 20 of EFA Permit 0126704-008, the District shall provide an assessment of the inflow volumes and phosphorus loads during the year relative to the anticipated operational envelope in the technical document describing the derivation of the TBEL (Exhibit A, Goforth et al., 2007) as a part of the annual reporting conditions located in Section I.E.7 of the NPDES permit and Specific Condition 28 of the EFA. If annual inflow volumes or phosphorus loads exceed the corresponding average values of the operational envelope during an annual compliance period, and such an exceedance is determined to have caused or contributed to the facility's inability to achieve the effluent limitation, the District shall conduct a review of potential causes.

Part II: Interim Discharge Limits

23. During the Routine and Stabilization phases, authorized discharges from STA-2 via the G-335 Pump Station shall meet TBELs based upon BAPRT. Compliance with the TBEL shall be as defined in Paragraph 24 below. During the Routine and Stabilization phases the STA shall be deemed in compliance if the TBEL is being achieved, in conjunction with all other applicable permit conditions not modified by this Order. During the Stabilization Phase, exceedances of the TBEL may occur; however, the STA shall be deemed in compliance with this Order and the permit(s), as long as the actions described in this condition and in Paragraph 19 of this Order are being taken in conjunction with all other applicable permit conditions not modified by this Order. The TBEL shall be revised as appropriate, consistent with the iterative implementation of BAPRT and consistent with 62-620.620(3), F.A.C., until such time that the TBEL becomes consistent with the permit effluent limit established to achieve the phosphorus criterion in the Everglades Protection Area. The TBEL shall be reviewed subsequent to the completion of construction activities associated with each of the projects in Paragraph 19 of this Order. As part of this review process, the District shall make recommendations as to whether a TBEL revision is warranted based on improved performance of the STA and/or additional data.

A Stabilization Phase shall only occur as a result of the following: subsequent to a new cell or new flow-way achieving the start up test, the implementation of approved Long-Term Plan enhancements that may have adverse impacts on STA performance, a major storm event that compromises the structural integrity or performance of the STA, or planned/unplanned maintenance activities which would cause adverse impacts to the STA's treatment capabilities. If a flow-way is determined to be incapable of operating or performing effectively as a result of the impacts caused by one or more of these circumstances, the District shall submit strategies and timelines within 60 days of a determination or occurrence of one of the aforementioned factors which are identified as being the most effective in restoring the impacted flow-way(s) and achieving the TBEL. The District's strategies and timelines shall be prepared in accordance with General Conditions 17 and/or 23 of NPDES Permit 0177946-003-IW7A. The timely submittal and implementation of these strategies and timelines in conjunction with the Department's review and approval of such submittals and compliance with all other applicable conditions set forth in NPDES Permit No. 0177946-003-IW7A, EFA Permit No. 0126704-008, and this Order shall constitute compliance.

In addition to the reporting associated with the planned changes and upset provisions of NPDES Permit No. FL0177946-003-IW7A, the District shall also provide an annual assessment of the facility and the steps being taken to meet the TBEL as part of the reporting requirements in NPDES Permit Section I.E.7 and Specific Condition 28 of EFA Permit No. 0126704-008. As part of the first annual report following any adverse impact to the facility, and each subsequent year until the facility achieves the TBEL, the 12 month rolling flow-weighted mean TP concentration of the STA outflow shall be assessed as to whether there is a trend in improvement of performance relative to prior years. If the trend analysis that is applied to this data indicates that there is not a trend in improvement of performance, the permittee shall report as to the causes behind the lack of performance improvement. If during a subsequent annual report the trend analysis applied to these data indicate that there is not a trend in improvement of performance after the affected flow-way has been in flow-through operation for 24 months, the annual report shall include any remedial measures necessary to achieve improved facility performance by the end of next year, and shall provide an estimate of when the TBEL shall be achieved.

24. The TBEL described above will be applied as follows:

- a. Compliance shall be tested in each water year (May – April) using data from the monitored representative inflow structures (S-6 and G-328) and outflow structure (G-335), except as noted below. The result of this compliance testing shall be reported by the District as part of the annual reporting requirements in Section I.E. Paragraph 7 of the NPDES permit FL0177946-003-IW7A and Specific Condition 28 of EFA Permit No. 0126704-008. The compliance calculations will exclude flows made for low flow water supply deliveries. Low flow water supply deliveries are deliveries that pass through the Everglades Protection Area to Dade, Broward or Palm Beach County, and the Big Cypress Seminole Indian Reservation for water supply (wellfield recharge and salt water intrusion prevention) purposes. In addition, low flow water supply deliveries are made at times when water levels in the Water Conservation Areas (WCAs) are below the minimum elevations presented below:

- WCA-1 – 14.5 ft. NGVD measured at the 1-8C gauge
- WCA-2 – 10.5 ft. NGVD measured at the headwater (HW) of the S-11B structure
- WCA-3A – 7.5 ft. NGVD measured at HW of S-333 or 11.0 ft at HW of G-409

These stage thresholds will be reviewed as part of any future analyses associated with revisions to the current regulation schedules (WCA-1: May 1995; WCA-2: June 1989; WCA-3A: November 2000). This method will also exclude water supply deliveries to the Loxahatchee National Wildlife Refuge (Refuge) or Everglades National Park (ENP), which have been requested by Refuge, ENP or U.S. Army Corps of Engineers staff and which cannot be treated by an STA prior to delivery.

- b. The TBEL shall not apply in water years when rainfall in the source basins tributary to the STA exceeds the maximum annual basin rainfall that occurred during the period of record used for deriving the TBEL (See Goforth et al., 2007). In addition, the TBEL shall not apply in water years when rainfall in the basin tributary to that STA is less than the minimum annual rainfall that occurred during the period of record used for deriving the TBEL for that STA if supplemental flows are not available to maintain wet conditions in that STA (i.e., greater than 0.1 foot average treatment cell depth). If sufficient supplemental flows are not available to maintain wet conditions, a joint field inspection between the Department and the District will be undertaken to verify if the facility has resulted in dryout conditions that would impact compliance. If a year is excluded based upon these criteria, results from adjacent years shall be treated as consecutive in testing compliance.
- c. The STA will be deemed in compliance unless the annual flow-weighted mean phosphorus concentration at the monitored outflows is greater than the annual limit. For the purpose of assessing compliance, the annual FWM TP concentration will be rounded to the nearest ppb. The annual limit can be calculated using the methods contained on pages 9-12 of the *Technical Support Document for the STA-2 TBEL* (Goforth et al., 2007). The method may be revised in the future as appropriate to reflect lower STA limits. Tables 3 and 4 below contain example calculations of the TBEL based on corresponding phosphorus loading rates (PLR; see Goforth et al. for details on the interim performance periods).

Table 3. WY2006-2009 Interim Period 1 TBELs for STA-2 As a Function of PLR

Phosphorus Loading Rate g/m ² /yr	Annual Phosphorus Limit ppb	Phosphorus Loading Rate g/m ² /yr	Annual Phosphorus Limit ppb	Phosphorus Loading Rate g/m ² /yr	Annual Phosphorus Limit ppb	Phosphorus Loading Rate g/m ² /yr	Annual Phosphorus Limit ppb
1.051	30.4	1.500	32.5	1.900	34.5	2.350	36.9
1.100	30.6	1.550	32.8	1.950	34.8	2.400	37.1
1.150	30.8	1.600	33.0	2.000	35.1	2.450	37.4
1.200	31.1	1.650	33.3	2.050	35.3	2.500	37.6
1.250	31.3	1.665	33.4	2.100	35.6	2.550	37.9
1.300	31.6	1.700	33.5	2.150	35.8	2.600	38.2
1.350	31.8	1.750	33.8	2.200	36.1	2.650	38.4
1.400	32.1	1.800	34.0	2.250	36.3	2.700	38.7
1.450	32.3	1.850	34.3	2.300	36.6	2.736	38.9

Table 4. WY2006-2009 Interim Period 2 TBELs for STA-2 As A Function of PLR

Phosphorus Loading Rate g/m ² /yr	Annual Phosphorus Limit ppb	Phosphorus Loading Rate g/m ² /yr	Annual Phosphorus Limit ppb	Phosphorus Loading Rate g/m ² /yr	Annual Phosphorus Limit ppb	Phosphorus Loading Rate g/m ² /yr	Annual Phosphorus Limit ppb
0.811	22.4	1.200	24.2	1.500	25.7	1.850	27.4
0.850	22.6	1.250	24.5	1.550	25.9	1.900	27.7
0.900	22.8	1.285	24.6	1.600	26.2	1.950	27.9
0.950	23.1	1.300	24.7	1.650	26.4	2.000	28.2
1.000	23.3	1.350	25.0	1.700	26.7	2.050	28.5
1.050	23.5	1.400	25.2	1.750	26.9	2.100	28.7
1.100	23.8	1.450	25.4	1.800	27.2	2.112	28.8
1.150	24.0						

Part III: Miscellaneous

25. The permittee shall construct, operate and maintain STA-2 in compliance with the conditions of NPDES Permit FL0177946-003-IW7A and EFA Permit No. 0126704-008, except as otherwise specified herein.
26. Departmental concurrence shall be obtained prior to initiating Lake Okeechobee regulatory or water supply releases that would result in an exceedance of the maximum levels of flow or phosphorus load contained in the STA operational envelope described in the STA-2 Operations Plan
27. This Order does not operate as, or relieve the permittee of the need for a permit under Section 403.088, F.S. or under Subsection 373.4592(10), F.S.
28. This Order provides a reasonable period of time to come into compliance with the permit effluent limit necessary to ensure compliance with the new phosphorus criterion in the Everglades Protection Area. This Order shall remain in effect until December 31, 2016.
29. The permittee shall notify the Department at the following address or via electronic correspondence within 48 hours of any non-compliance event. The notification shall provide detail on the occurrences leading to such an event and the measures taken to address the non-compliance.

Florida Department of Environmental Protection
2600 Blair Stone Road
Mail Station 3560
Tallahassee, FL. 32399-2400
(850) 245-8346
RPPS_Comp@dep.state.fl.us

30. Discharges to the Everglades Protection Area from STA-2 that comply with the conditions of this Order, in addition to all other permit requirements, shall not be deemed to be in violation of water quality standards. Failure to comply with the requirements of this Order or the accompanying permit shall constitute a violation of this Order and may subject the permittee to enforcement action and/or penalties as provided in Section 403.161, F.S.
32. This Order is a final order of the Department pursuant to Section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition this Order will not be effective until further order of the Department.

PART IV. NOTICE OF RIGHTS

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 by the clerk) in the Office of General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Petitions by the applicant or any of the parties listed below must be filed within twenty-one days of receipt of this written notice. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3) of the Florida Statutes must be filed within twenty-one days of publication of the notice or receipt of the written notice, whichever occurs first.

Under Subsection 120.60(3), of the Florida Statutes, however, any person who asked the Department for notice of agency action may file a petition within twenty-one days of receipt of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant 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, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any; the Department case identification number and the county in which the subject matter or activity is located
- b) A statement of how and when each petitioner received notice of the Department action
- c) A statement of how each petitioner's substantial interests are affected by the Department action
- 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, as well as the rules and statutes which entitle the petitioner to relief
- f) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take

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 this 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 under Section 120.573, F.S., is not available for this proceeding.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

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.

DONE AND ORDERED on this 17th day of March 2009, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

 3/17/09

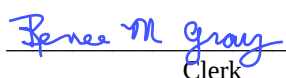
Jerry Brooks, Director

Division of Environmental Assessment and Restoration

JB/em/swf/kje

FILING AND ACKNOWLEDGEMENT

Filed on this date, under section 120.52(11) of the F.S., with the designated clerk, receipt of which is acknowledged.

 3/17/09
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:

Jon Stevenson, Governor's Office
Jeff Koons, Commissioner, Palm Beach County
Pam Repp, U.S. Fish and Wildlife Service
Sharon Kocis, U.S. Fish and Wildlife Service
Jim Quinn, FL. Dept. of Community Affairs
Charles Oravetz, Nat. Marine Fisheries Service
Laura Kammerer, FL. Dept. of State- Historical Resources
Don Klima, U.S. Advisory Council on Historic Preservation
Johanna Mattson, Dept. of Community Affairs
Ray Eubanks, Dept. of Community Affairs
Laura Kammerer, Dept. of State, Div. of Historical Resources
Ray Scott, Dept. of Agriculture and Consumer Services
Rebecca Elliot, Dept. of Agriculture and Consumer Services
John Childe, Friends of the Everglades
David Reiner, Friends of the Everglades
Col. Paul Grosskruger, USACOE, Jacksonville
Philip Mancusi-Ungaro, Esq., USEPA, Atlanta
Mark Nuhfer, USEPA, Atlanta
Gina Fonzi, USEPA, Atlanta
Dan Scheidt, USEPA, Athens
Eric Hughes, USEPA, Jacksonville
Janet Bussell, The Everglades Foundation
Sylvia Pelizza, Loxahatchee National Wildlife Refuge
Mark Musaus, Loxahatchee National Wildlife Refuge
Mike Zimmerman, Everglades National Park
Mary Ann Poole, Florida Fish and Wildlife Conservation Commission
Joe Walsh, Florida Fish and Wildlife Conservation Commission, Vero Beach
Mike Anderson, Florida Fish and Wildlife Conservation Commission, West Palm Beach
Sheryl Wood, SFWMD, West Palm Beach
Gary Goforth, Gary Goforth Inc., Stuart
Joe Albers, SFWMD, West Palm
Ken Ammon, SFWMD, West Palm
Terrie Bates, SFWMD West Palm
Ron Bearzotti, SFWMD West Palm
Kirk Burns, SFWMD West Palm
Linda Crean, SFWMD West Palm
Deb Drum, SFWMD, West Palm
George Hwa, SFWMD, West Palm
Nicole Howard, SFWMD, West Palm
Delia Ivanoff, SFWMD, West Palm

Julianne LaRock, SFWMD West Palm
Neil Larson, SWMD, West Palm
Pam Lehr, SFWMD, West Palm
Linda Lindstrom, SFWMD West Palm
Paul Linton, SFWMD, West Palm
Jeremy McBryan, SFWMD, West Palm
Chip Merriam, SFWMD West Palm
Tracey Piccone, SFWMD West Palm
Kathy Pietro, SFWMD West Palm
Dean Powell, SFWMD West Palm
Garth Redfield, SFWMD, West Palm
Sherry Scott, SFWMD West Palm
Sean Sculley, SFWMD, West Palm
Susan Sylvester, SFWMD, West Palm
Stuart VanHorn, SFWMD, West Palm
Georgia Vince, SFWMD, West Palm
Eric Summa, USACE
Jim McAdams, USACE, Jacksonville
Alisa Zarbo, USACE, Jacksonville
Lauren Aiello, FDEP
Brian Dougherty, FDEP
Judy Warrick, FDEP, Division of State Lands
Steve Watson, FDEP Division of Recreation and Parks
Tracy Robb, FDEP, West Palm Beach
Greg Knecht, FDEP, Tallahassee
Kenneth Hayman, FDEP, Tallahassee
Daryll Joyner, FDEP, Tallahassee
Ernie Marks, FDEP, Tallahassee
Frank Nearhoof, FDEP, Tallahassee
Stacey Feken, FDEP, Tallahassee
Tom Atkeson, FDEP, Tallahassee
John Outland, FDEP, Tallahassee
Chad Kennedy, FDEP, Tallahassee
Dianne Hughes, FDEP, Tallahassee
Inger Hansen, FDEP, West Palm Beach
Kelli Edson, FDEP, Tallahassee