



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

June 6, 2008

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

Subject: Minor Modification – Revised Mercury Monitoring Plans
Projects: STA 3-4 (EFA permit No. 0192895)
STA 5 (EFA permit No. 0131842)
STA 6 (EFA permit No. 0236905)
EFA Modification Nos.: 0192895-011-EM, 0131842-010-EM and 0236905-004-EM

Dear Ms. Vince,

The Florida Department of Environmental Protection (Department) has reviewed the South Florida Water Management District's (District) request to modify the Everglades Forever Act (EFA) permits for Stormwater Treatment Areas (STA) 3 / 4 (EFA permit No. 0192895), STA 5 (EFA permit No. 0131842-006) and STA 6 (EFA Permit No. 0236905-001). The request was originally received May 1, 2008, and amended on May 16, 2008. The District specifically requested that the mercury monitoring plans for the referenced STAs be updated to reduce mercury monitoring to be consistent with the mercury monitoring plan for STA 2 and with the Department's Protocol for Mercury Monitoring (*"A Protocol for Monitoring Mercury and Other Toxicants"*, February 13, 2006). The District provided the Department with documentation justifying such a reduction.

Upon review of the information submitted by the District, the Department determined that these modifications will not have any adverse environmental impacts. In addition, Department staff finds that the request to modify the mercury monitoring for the specified STAs is consistent with the approved mercury monitoring protocol.

The Department hereby approves the following changes:

- Replacement of the existing mercury monitoring plans with the revised mercury monitoring plans (attached) to allow for a reduction in monitoring for mercury.

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Therefore, the permits shall be modified by replacing the existing exhibits that describe the mercury monitoring plan with the revised mercury monitoring plans (Attachments 1, 2 and 3), as follows:

STA 3 / 4 (EFA permit # 0192895) – Attachment 1

The existing “Exhibit C” mentioned in Section 29 (B) (2) and in Table 2 (Routine Monitoring Program) of the permit shall be replaced with the revised “Exhibit C”, dated May 1, 2008, included with this letter as Attachment 1.

In addition, Section 29 (B) (2) of the issued permit (as modified March 19, 2004), shall be modified as follows, using ~~striketrough~~ for deletions (sections of the permit not shown below remain the same):

~~Until treatment cell 3 of STA-3/4 meets Condition (2) ii of Exhibit C, the permittee shall operate and monitor the cell in accordance with the “Expanded Mercury Operation and Monitoring Program.” dated March 19th 2004, which is hereby incorporated by reference and made part of this permit as Exhibit E.~~

STA 5 (EFA permit # 0131842-006) – Attachment 2

The existing “Exhibit D” mentioned in Section 26 (A) (3) and in the Table (STA-5 Routine Monitoring Program) of the permit shall be replaced with the revised “Exhibit D”, dated May 16, 2008, included with this letter as Attachment 2.

STA 6 (EFA permit # 0236905-001) – Attachment 3

The existing “Exhibit D” mentioned in Section 24 (A) (2) and in Table 1 (STA-6 Routine Monitoring Program) of the permit shall be replaced with the revised “Exhibit D”, dated May 16, 2008, included with this letter as Attachment 3.

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

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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; and,
- (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.

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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.

The permittee, or any other party within the meaning of section 373.114(1)(a) of the Florida Statutes, may also seek appellate review of this order before the Land and Water Adjudicatory Commission under section 373.114(1) of the Florida Statutes. Requests for the review before the

Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department and on any person named in this order, as described in section 373.114(1)(a), within 20 days from the date when the final order is 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 along with the appropriate revised exhibit 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 Stacey Feken at (850) 245-8421 or Doreen Irwin at (850) 245-8348.

Sincerely,



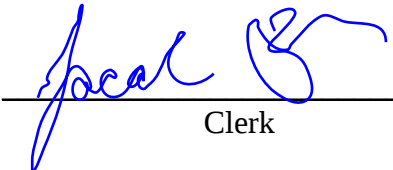
Ernest Marks
Bureau of Standards & Special Projects
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 3560
Tallahassee, FL 32399-2400

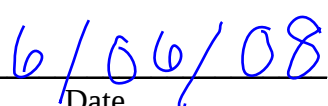
EM/swf/di

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FILING AND ACKNOWLEDGMENT

FILED, on this date, with the designated Department Clerk, receipt of which is hereby acknowledged.


Clerk


Date

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
Michael Stevens, U.S. Department of the Interior (fax)
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
Samuel B. Reiner, II, Esq., Lehtinen O' Donnell, Vargas & Reiner, P.A.
Michelle W. Smith, Esq., Earl, Blank, Cavanaugh & Stotts

ELECTRONIC COPIES FURNISHED TO:

Sharon Kocis, USFWS
Ron Bearzotti, SFWMD, West Palm Beach
Deb Drum, SFWMD, West Palm Beach
Jim Galloway, SFWMD, West Palm Beach
Tom Kosier, SFWMD, West Palm Beach
Georgia Vince, SFWMD, West Palm Beach
Tracey Piccone, SFWMD, West Palm Beach
Rich Virgil, SFWMD, West Palm Beach
Darryl Joyner, FDEP
John Outland, FDEP
Frank Nearhoof, FDEP
Kenneth Hayman, FDEP
Ernie Marks, FDEP
Stacey Feken, FDEP
Doreen Irwin, FDEP

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Inger Hansen, FDEP

Holly Andreotta, FDEP

Tracy Robb, FDEP