



Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen Castille
Secretary

June 4th, 2004

Ronald Bearzotti
Senior Environmental Analyst
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

Project: Stormwater Treatment Area 3/4
Subject: Permit Modification to Mercury Condition for Startup
File No.: FDEP No. 0192895-001-GL
FDEP Mod No.: 0192895-004-EM

Dear Mr. Bearzotti:

The Department acknowledges that your request dated May 12, 2004, for a minor modification to Exhibit E of the above permit has been received and reviewed by the Department staff. The request is to fix a typographical error on Table 1 for Total Mercury and Methylmercury by changing the sampling frequency to match-up with the Table 2 requirement to sample mosquito fish tissue at the same location. This modification will eliminate a costly extra monitoring trip by helicopter but still provide adequate documentation of the assurances this monitoring plan originally provided.

The Department hereby approves the following changes to the referenced permit pursuant to your request. The issued permit shall be modified as follows utilizing ~~striketrough~~ for deletions and underlines for additions (sections of the permit not shown below remain the same):

EXHIBIT E

EXPANDED MERCURY OPERATION and MONITORING PROGRAM March 19, 2004

Table 1. Expanded Mercury Monitoring – Water Column

Parameter	Locations	Frequency
Unfiltered total mercury and unfiltered methylmercury in surface water	Inflow (G-370 and G-372, as applicable), and outflow (just downstream of G-381A) ¹	Biweekly (defined as every other week)

Unfiltered total mercury and unfiltered methylmercury in surface water	Existing mid-point in Cell 3 ¹	Every other-week <u>four weeks</u>
Water depth ²	Existing mid-point in Cell 3 ¹	Daily

¹See Figure 1 for map of sampling locations

²Estimated from stage gages at inflow and outflow sites

Table 2. Expanded Mercury Monitoring – Fish Tissue

Parameter	Locations	Frequency
Total mercury in mosquitofish homogenate	Existing mid-point in Cell 3 ¹	Every four weeks
Total mercury in sunfish	Representative interior Cell 3 location	Semiannual
Water depth ²	Existing mid-point in Cell 3 ¹	Daily

¹See Figure 1 for map of sampling locations

²Estimated from stage gages at inflow and outflow sites

Table 3. Expanded Mercury Monitoring (After Cell 3 Dry Out) – Water Column

Parameter	Locations	Frequency
Unfiltered total mercury and unfiltered methylmercury in surface water	Inflow (G-370 and G-372, as applicable) ¹	Biweekly (defined as every other week)
Unfiltered total mercury and unfiltered methylmercury in surface water	Existing mid-point in Cell 3 ¹	Every Other Week
Unfiltered total mercury and unfiltered methylmercury in surface water	Outflow (just downstream of G-381A) ¹	Weekly
Water depth ²	Existing mid-point in Cell 3 ¹	Daily

¹See Figure 1 for map of sampling locations

²Estimated from stage gages at inflow and outflow sites

RIGHTS OF AFFECTED PARTIES

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; 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 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.

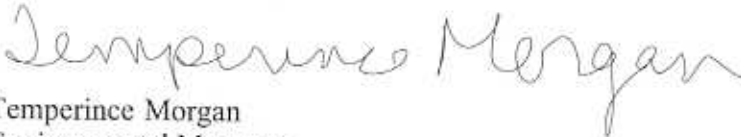
Mediation is not available in this proceeding.

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 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 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.

If you have any questions concerning this Modification Approval to the issued permit, contact me at (850) 245-8424.

Sincerely,



Temperance Morgan
Environmental Manager
Water Quality Standards & Special Projects Program

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FILING AND ACKNOWLEDGMENT

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

 Clerk  Date

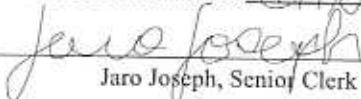
PARTIES REQUESTING NOTICE:

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

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this, including all copies, were mailed or emailed before the close of business on 6/4/01, to the above listed persons.


Jaro Joseph, Senior Clerk

COPIES FURNISHED TO:

Bob Pace, 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
John Childe, Friends of the Everglades
David Reiner, Friends of the Everglades
Col. Robert Carpenter, USACOE, Jacksonville
Richard Bonner, USACOE, Jacksonville
Lloyd Pike, Esq., USACOE, Jacksonville
Richard Harvey, USEPA, West Palm Beach
Philip Mancusi-Ungaro, Esq., USEPA, Atlanta
Roosevelt Childress, USEPA, Atlanta
Gina Fonzi, USEPA, Atlanta
Dan Scheidt, USEPA, Athens
Eric Hughes, USEPA, Jacksonville
Janet Bussell, The Everglades Foundation
Mark Musaus, Loxahatchee National Wildlife Refuge
Mike Zimmerman, Everglades National Park
Ken Haddad, Florida Fish and Wildlife Conservation Commission
Joe Walsh, Florida Fish and Wildlife Conservation Commission, Vero Beach
Steve Coughlin, Florida Fish and Wildlife Conservation Commission, West Palm Beach

ADDITIONAL COPIES FURNISHED TO:

Chris Flack, Governor's Office
Henry Dean, SFWMD, West Palm Beach
Sheryl Wood, SFWMD, West Palm Beach
Gary Goforth, SFWMD, West Palm Beach
Tom Teets, SFWMD, West Palm Beach
Larry Fink, SFWMD, West Palm Beach
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Jennifer Fitzwater, Esq., FDEP, Tallahassee
John Mitnik, SFWMD, West Palm Beach
Shelley Yaun, FDEP, Tallahassee