



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

October 31, 2008

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

Project: Stormwater Treatment Area 3/4 (STA-3/4) Levee Inspection Reports
Subject: Minor Modification
Modification No: 0192895-012

Dear Ms. Vince,

The Florida Department of Environmental Protection (Department) has reviewed the South Florida Water Management District's (District) request for a minor modification to the existing EFA permit No. 0192895. The District's request to modify the inspection and reporting requirements for the levees and structures located in STA-3/4 was received by the Department on September 10, 2008.

Department staff have reviewed the District's modification request and associated documentation submitted September 10, 2008, and determined that the requested modifications will not have any adverse environmental impacts, and that the request to alter inspection and reporting requirements is consistent with the stated goals of providing a sufficient and practicable level of inspection and accountability to achieve a high level of confidence in the safety of the embankments and functionality of the STAs.

The Department hereby approves the following changes to the referenced permit pursuant to your request. The permit will be modified as follows utilizing striketrough for deletions and underlines for additions (sections of the EFA permit No. 0192895 not shown below remain the same):

SPECIFIC CONDITIONS FOR MONITORING PROGRAM:

~~15. Structures Inspection Plan. Within 60 days from permit issuance, the permittee shall submit to the Department for approval, an inspection plan to evaluate the integrity and functionality of all above ground dikes, levees and structures, including pump stations, created under the guidance of a Florida registered professional engineer. A summary report of annual inspections and any necessary work completed to respond to inadequacies that may have been found during inspections shall be included annually in the Everglades Consolidated Report.~~

15. Inspection Reports. The permittee shall submit annual inspection reports to the Department evaluating the integrity and functionality of the above ground dikes/levees and structures, including pump stations. Annual inspection reports shall be prepared by field staff trained by a Professional Engineer and reviewed by the designated superintendent of the area prior to submittal to the Department. The cover letter of the inspection report should summarize site conditions and work that was completed in response to inadequacies that may have been found during regular

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inspections. Every five years, at a minimum, the each permitted facility shall have an inspection by a Professional Engineer registered in the State of Florida, and the subsequent inspection report shall be signed and sealed by that Professional Engineer and submitted to the Department. A Professional Engineer or the District's Dam Safety Officer shall review and approve major repair plans or remedial work associated with inadequacies identified during routine and formal inspections. All reporting shall be submitted to the Department in March with the initial 5-year inspection report for this project due in 2012

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

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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 Alex Mordas (850) 245-8428 or Stacey Feken at (850) 245-8421.

Sincerely,



Ernie Marks
Environmental Administrator
Restoration Planning and Permitting Section
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 3560
Tallahassee, FL 32399-2400

EM/swf/am

FILING AND ACKNOWLEDGMENT

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



10/31/08

Clerk

Date

PARTIES REQUESTING NOTICE:

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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
Leslie Feliciano, Katz Barron

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