Florida Department of
Environmental Protection
South District Office
P.O. Box 2549
Fort Myers, FL 33902-2549

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

Permittee/Authorized Entity:
Florida Fish and Wildlife Conservation Commission
620 S. Meridian Street
Tallahassee, Florida 32399

Fisheating Creek Trail Restoration
Cowbone Marsh Hydrologic Restoration

Authorized Agent:
Mahmoud S. Madkour, Ph.D., P.E.
Florida Fish and Wildlife Conservation Commission
620 S. Meridian Street
Tallahassee, Florida 32399
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Environmental Resource Permit
State-owned Submerged Lands Authorization – Granted

U.S. Army Corps of Engineers Authorization – Separate Corps Authorization Required

File No.: 22-0303652-002
Modification of Permit No.: 22-0303652-001
Lease No.: 4257

Permit Issuance Date: May 6, 2011
Modification Date: September 10, 2012
Permit Construction Phase Expiration Date: May 6, 2016

Consolidated Environmental Resource Permit and State-owned Submerged Lands Authorization

Permittee: Florida Fish and Wildlife Conservation Commission
File No.: 22-0303652-002, modification of Permit No: 22-0303652-001

For the purposes of this modification, additions are shown in underline, and deletions are ~~stricken through~~.

PROJECT LOCATION

The activities authorized by this Permit and state-owned submerged lands authorization are located within Fisheating Creek Wildlife Management Area, and Parcel A27-40-31-A00-0010-0000 Sections 27, 28, 32, and 33, Township 40 South, Range 31 East, Glades County, as shown on attachments.

AUTHORIZATIONS

Fisheating Creek Trail Restoration and Cowbone Marsh Hydrologic Restoration

Project Description

~~The permittee is authorized to install 6 earthen check dams, at equidistant intervals from the existing weir to the cut channel mouth and to remove the existing temporary weir within Fisheating Creek, a Class III Waterbody and to temporarily deposit vegetative debris associated with the ongoing management of the navigation trail within unnamed wetlands, the landward extent of Fisheating Creek.~~ The Permittee was originally authorized to install 6 earthen check dams and to temporarily deposit vegetative debris within Fisheating Creek. This permit is now modified to maintain those authorized activities. Additionally, to complete the restoration of Cowbone Marsh, the permittee is authorized to backfill the channel to match the surrounding grade (+/- 6-inches) with approximately 27,000 cubic yards of material, commencing at the downstream end and working upstream. To accomplish this restoration, this permit also authorizes the construction of a temporary access road, approximately 1.164 miles, through uplands and wetlands, the construction of a 100-foot square staging area in wetlands, within the Fisheating Creek Wildlife Management Area, and the construction of a borrow pit within uplands, approximately 2 acres in size and up to 30 feet deep, on Parcel A27-40-31-A00-0010-0000, owned by a private entity. Authorized activities are depicted on the attached drawings.

The project described above may be conducted only in accordance with the terms, conditions and attachments contained in this permit. The issuance of this permit does not infer, nor guarantee, nor imply that future permits or modifications will be granted by the Department.

Please be advised that this permit does not constitute the issuance of a NPDES Stormwater Permit or acceptance of an NPDES Stormwater Pollution Prevention Plan. For additional information regarding this matter please contact the NPDES Stormwater Notices Center toll free at (866) 336-6312 or Department personnel in Tallahassee at (850) 245-7522.

Sovereignty Submerged Lands Authorization

The activity is located on submerged lands owned by the State of Florida. It therefore also requires authorization, from the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), pursuant to Article X, Section 11 of the Florida Constitution, and Sections 253.002 and 253.77, Florida Statutes (F.S.).

As staff to the Board of Trustees, the Department has determined that the activity qualifies for a Letter of Consent, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein.

In addition, your project falls within the boundaries of lands subject to Board of Trustees Lease Agreement No. 4257 ("Lease"). Pursuant to paragraph No. 4, "Purpose" of the Lease: "Lessee shall manage the leased premises only for the establishment and operation of the Fisheating Creek Wildlife Management Area, along with other related uses necessary for the accomplishment of this purpose as designated in the Management Plan required by paragraph 7 of this lease. Provided, however, that all management activities shall be in strict compliance with the terms and conditions of the Settlement Agreement in Board of Trustees of the Internal Improvement Trust Fund of the State of Florida et al. v Lykes Bros., Inc., No. CA 93-136 (Fla. 20th Cir. Ct., ("Settlement Agreement") attached hereto as Exhibit "B"."

As staff to the Board of Trustees, the Department has determined that the activity is consistent with the Management Plan referenced in the Lease and does not violate the conditions of the Settlement Agreement, as long as the work performed is located within the boundaries as described herein and is consistent with the terms and conditions herein.

Federal Authorization

A copy of this permit has been sent to the U.S. Army Corps of Engineers (USACE). The USACE may require a separate permit. Failure to obtain any required federal permits prior to construction could subject you to enforcement action by that agency.

Water Quality Certification

This permit constitutes certification of compliance with state water quality standards under Section 401 of the Clean Water Act, 33 U.S.C. 1341.

Other Authorizations

You are advised that authorizations or permits for this project may be required by other federal, state or local entities including but not limited to local governments and homeowner's associations. This permit does not relieve you from the requirements to obtain all other required permits or authorizations.

In addition, you are advised that your project may require additional authorizations or permits from the municipality/county in which the project is located. Please be sure to contact the local county building and environmental department to obtain these required authorizations.

PERMIT/SOVEREIGNTY SUBMERGED LANDS CONDITIONS
The activities described herein must be conducted in accordance with:

- **The Specific Conditions**
- **The General Conditions**
- **The General Consent Conditions for Sovereignty Submerged Lands Authorization**
- **The limits, conditions and locations of work shown in the attached drawings**
- **The term limits of this authorization**

You are advised to read and understand these conditions and drawings prior to commencing the authorized activities, and to ensure the work is conducted in conformance with all the terms, conditions, and drawings. If you are utilizing a contractor, the contractor also should read and understand these conditions and drawings prior to commencing the authorized activities. Failure to comply with these conditions, including any mitigation requirements, shall constitute grounds for revocation of the Permit and appropriate enforcement action by the Department.

Operation of the facility is not authorized except when determined to be in conformance with all applicable rules and this permit/certification/authorization and sovereignty submerged lands authorization, as specifically described above.

SPECIFIC CONDITIONS - PRIOR TO CONSTRUCTION

1. If the permit attachments conflict with the specific conditions herein, then the specific conditions shall prevail.

2. The Department has determined that, pursuant to Section 373.413(4), F.S., and Section 62-343.090(2)(k), F.A.C., you (the Permittee) are required to publish at your own expense the enclosed Notice of Permit. The notice is required to be published one time within thirty (30) days from date of issuance of this permit modification, in the legal ad section of a newspaper of general circulation in the area affected. For the purpose of this rule, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S.,

in the county where the activity is to take place. The Permittee shall reference Permit No 28-0303652-002, when providing proof of publication to:

Department of Environmental Protection
South District Office
Submerged Lands and Environmental Resource Permitting
P.O. Box 2549
Fort Myers, Florida 33902-2549

The proof of publication shall be provided to the above address within seven (7) days of publication. Failure to publish the notice and provide proof of publication within the allotted time shall be grounds for revocation of the permit.

3. **Within 60 days prior to the commencement of the permitted activities, the permittee shall designate an Environmental Compliance Officer ("ECO")** who will be responsible to observe all aspects of construction, ensure their compliance with the conditions of this authorization and with water quality standards as set forth in Chapter 62-302, F.A.C. The permittee shall submit the name and telephone number of the ECO to the South District Office prior to commencement of construction for Department review and approval. The permittee shall keep the Department informed of all changes to the ECO.

4. Prior to the commencement of construction, the Permittee shall obtain any necessary authorization from the current landowner for those activities located outside of those lands managed by the Permittee.

5. The permittee shall ensure that the permit conditions are explained to all construction personnel working on the project and shall give a copy of this permit to each contractor and subcontractor before the authorized work begins. Prior to construction, the permittee shall schedule a pre-construction meeting for attendance by the contractor(s), representative from the Department, and other environmental regulatory agencies, as applicable.

6. The issuance of this Permit does not constitute coverage under the National Pollutant Discharge Elimination System (NPDES) Generic Permit for Stormwater Discharges from Large and Small Construction Activities (CGP) pursuant to Rule 62-621.300(4)(a), F.A.C. Permittee is advised to contact the Department's NPDES Stormwater Program at (850) 245-7522 or toll free at (866) 336-6312 or to download application information at http://www.dep.state.fl.us/water/stormwater/npdes/construction3.htm#permit prior to the commencement of any construction.

7. The issuance of this permit does not constitute coverage under the NPDES General Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity pursuant to Rule 62-621.300(2), F.A.C. or any other NPDES General Permit. If any offsite discharges will occur due to construction dewatering activities, then coverage under the aforementioned General Permit may be required and the permittee is advised to review Rule 62-621.300(2), F.A.C.

8. Best management practices (primarily turbidity screens) for erosion and turbidity control shall be implemented prior to construction and maintained at all times during construction and operation of the permitted activity to prevent siltation and turbid discharges in excess of State water quality standards pursuant to Chapter 62-302, F.A.C. The permittee shall be responsible for ensuring that erosion and turbidity control devices and procedures are inspected and maintained daily during all phases of construction authorized by this permit until all areas that were disturbed during construction are sufficiently stabilized to prevent erosion, siltation, and turbid discharges. ~~This permit authorizes the relocation of the existing temporary weir at points downstream of the check dams, if necessary, to prevent siltation and turbid discharges in excess of State water quality standards pursuant to Chapter 62-302, F.A.C. The existing temporary weir is not authorized to stay permanently within Fisheating Creek and shall be removed in accordance with Specific Condition 4~~.

SPECIFIC CONDITIONS – CONSTRUCTION ACTIVITIES

9. The project shall comply with applicable State Water Quality Standards, namely:
   a. Rule 62-302.500, F.A.C. – Surface Waters: Minimum Criteria, General Criteria; and
   b. Rule 62-302.530, F.A.C. – Table: Surface Water Quality Criteria, Class III Waters.

10. The construction of the temporary access road and staging area shall be constructed from interlocking composite mats in wetland areas. This permit does not authorize any permanent wetland impacts at these locations.

11. The check dams shall be ~~constructed of~~ maintained with natural and synthetic materials consisting of sand bags, marine-grade plywood, coconut matting, palm trees and pressure treated lumber.

12. Storage of construction materials may occur ~~adjacent to each check dam location~~ within the proposed staging area and within the channel after it has been backfilled. ~~All other construction activities associated with the construction of the check dams restoration project shall occur within the existing backfilled channel. The sandbag wing walls are authorized to extend into the marsh in order to prevent erosion around the ends of the check dam in accordance with the specifications as shown on the attached~~

~~permit drawings.~~

~~13. Upon completion of construction of the six check dams, the existing temporary weir shall be permanently removed from Fisheating Creek. All portions of the weir shall be removed and relocated to uplands for appropriate disposal.~~ The temporary weir has been successfully removed.

14. Herbaceous debris associated with the ongoing management of the navigation trail, including herbiciding and removing vegetation, is authorized to be temporarily stored in wetlands for a maximum of 6 months. The herbaceous debris shall be removed from the wetland areas adjacent to the navigation trail during the wet season when access is not restricted. ~~The debris may be deposited between check dam locations to facilitate the restoration.~~ Any temporary impacts to wetland areas associated with debris removal, outside of the navigation trail, shall be restored to existing grade within 30 days of project completion.

15. Those properties adjacent to the navigational channel that are considered surface waters or wetlands, as defined in Chapter 62-340, F.A.C., and not subject to impacts authorized by this permit shall be left in their natural state. These areas shall not be used for parking, equipment storage, building supply storage or as a staging area for construction. These areas shall not be filled or cleared without prior written consent from the Department in the form of an Environmental Resource Permit or a modification of this permit.

SPECIFIC CONDITIONS - POST-CONSTRUCTION

16. The Permittee is hereby relieved from the requirement to submit as-built drawings prepared by a registered professional, as required by General Condition number 6, except where the services of a registered professional are used in the construction of the system. However, the Permittee is still required, **within ~~thirty (30)~~ sixty (60) days of completion of construction**, to submit a written notice to the Department of the date construction was completed, together with a copy of the permit drawings, modified as appropriate, to reflect the actual condition of the restoration activities ~~as-built structure~~. Such condition also shall not relieve the Permittee from the responsibility for submitting all other information required by this permit.

SPECIFIC CONDITIONS – MONITORING/REPORTING REQUIREMENTS

17. The Cowbone Marsh system and Fisheating Creek project area shall be monitored in accordance with the attached ~~hydrologic restoration plan.~~ "Cowbone Marsh Cut Restoration Plan, August 7, 2012". Any modifications to this plan require modification of this permit. In addition to the monitoring specified in the restoration plan, the quarterly monitoring shall also identify and record the percent coverage of

exotic or undesirable species found within the footprint of the restored road. Exotic and undesirable (native invasive) species shall be treated if they exceed the percent coverage of the adjacent marsh by 10%. The results of this monitoring shall be included with the monitoring reports and shallow follow the same Compliance Reporting Schedule as specified in Specific Condition 19.

18. If success criteria are not met as described in the Cowbone Marsh Cut Restoration Plan, August 7, 2012", additional measures as described in the Plan shall be employed. The Permittee shall submit a report to the Department that includes:

a. Date of Inspection;
b. Color photographs from the same locations;
c. Daily rainfall data;
d. The number of plantings replanted (if required) to reach the 95% coverage rate; and,
e. Any corrective measures taken to ensure continued stability of the restored areas and those areas used for access.

19. All restoration and monitoring reports required by the ~~hydrologic restoration plan~~ "Cowbone Marsh Cut Restoration Plan, August 7, 2012" shall be submitted to the Department in accordance with the following Compliance Reporting Schedule: ~~within 30 days of finalizing the report(s)~~.

Monthly Repots (Construction Phase Completed by June 1, 2013)	**As-Built Survey**	**Quarterly Reports (Year One)**	**Biannual Reports (Years 2 and 3)**
15-Dec-12 15-Jan-13 15-Feb-13 15-Mar-13 15-Apr-13 15-May13 15-Jun-13	Within 60 days of project completion or no later than Aug 1, 2013 (if project completed by first dry season)	15-Sept-13 15-Dec-13 15-Mar-14 15-June-14	15-Dec-14 15-Jun-15 15-Dec-15 15-Jun-16
Monthly Reports (If not completed by June 1, 2013. Scheduled as follows or until construction phase has been completed)	**As-Built Survey**	**Quarterly Reports (Year One)**	**Biannual Reports (Years 2 and 3)**
15-Jul-13 15-Aug-13 15-Sep-13 15-Oct-13 15-Nov-13 15-Dec-13	Within 60 days of project completion or no later than Aug 1, 2014 (if project is not completed within	15-Sep-14 15-Dec-14 15-Mar-15 15-Jun15	15-Dec-15 15-Jun-16 15-Dec-16 15-Jun-17

15-Jan-14 15-Feb-14 15-Mar-14 15-Apr-14 15-May-14 15-Jun-14	the first dry season)		

20. All reports and submittals required by this permit shall include the permit number and be submitted to the Department at:

Florida Department of Environmental Protection
South District Office
Submerged Lands and Environmental Resource Permitting
P.O. Box 2549
Fort Myers, Florida 33902-2549

GENERAL CONDITIONS:

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and a violation of Part IV of Chapter 373, (F.S.).

2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by the Department staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.

3. Activities approved by this permit shall be conducted in a manner which does not cause violations of state water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violations of state water quality standards. Temporary erosion control shall be implemented prior to and during construction and permanent control measures shall be completed within seven (7) days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving water-body exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter Six of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter, the permittee shall be responsible for

the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

4. The permittee shall notify the Department of the anticipated construction start date within thirty (30) days of the date that this permit is issued. **At least forty-eight (48) hours prior** to commencement of the activity authorized by this permit, the permittee shall submit to the Department an "Environmental Resource Permit Construction Commencement" notice (Form No. 62-343.900(3), Florida Administrative Code (F.A.C.)) indicating the actual start date and expected completion date.

5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the Department on an annual basis utilizing an "Annual Status Report Form" (Form No. 62-343.900(4), F.A.C.). Status Report Forms shall be submitted the following June of each year.

6. **Within thirty (30) days after completion of construction** of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law utilizing the supplied "Environmental Resource Permit As-Built Certification by a Registered Professional" (Form No. 62-343.900(5), F.A.C.). The Statement of completion and certification shall be based on on-site observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the Department that the system is ready for inspection. Additionally, if deviations from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations note. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor.

7. The operation phase of this permit shall not become effective; until the permittee has complied with the requirements of condition number six (6) above, has **submitted a "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (Form 62-343.900(7), F.A.C.);** the Department determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the Department in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District—August 1995, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the Department, the permittee shall initiate transfer of permit to the approved responsible operation entity if different from the permittee. Until the permit is transferred pursuant

to Rule 62-343.110(1) (d), F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.

9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the Department along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications Within the South Florida Water Management District—August 1995, prior to lot or unit sales or prior to lot or unit sales or prior to the completion of the system, whichever occurs first. Other documents concerning the establishment and authority of the operation entity must be filed with the Secretary of State where appropriate. For those systems which are proposed to be maintained by the county or municipal entities, final operation and maintenance documents must be received by the Department when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.

10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the Department in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.

11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C.

12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees

of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorization from the Board of Trustees prior to commencing activity on sovereignty lands or other state owned lands.

13. The permittee is advised that the rules of the South Florida Water Management District require the permittee to obtain a water use permit from the South Florida Water management District prior to construction dewatering, unless the work qualifies for a general permit pursuant to Rule 40E-20.302(4), F.A.C., also known as the "No Notice" rule.

14. The permittee shall hold and save the Department harmless from any and all damages, claims or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by this permit.

15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding unless a specific condition of this permit or a formal determination under Section 373.421(2). F.S., provides otherwise.

16. The permittee shall notify the Department in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rule 62-343.130, F.A.C. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

17. Upon reasonable notice to the permittee, Department authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.

18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate Department office.

19. The permittee shall immediately notify the Department in writing of and previously submitted information that is later discovered to be inaccurate.

GENERAL CONDITIONS FOR SOVEREIGNTY SUBMERGED LANDS AUTHORIZATION

Any use of sovereignty submerged lands is subject to the following general conditions are binding upon the permittee and are enforceable under Chapter 253, F.S., and, as applicable, Chapter 258, F.S.:

1. Sovereignty submerged lands may be used only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use will constitute a violation. Violation of the authorization shall result in suspension or revocation of the permittee's use of the sovereignty submerged land unless cured to the satisfaction of the Board of Trustees.

2. Authorization under Rule 18-21.005, F.A.C., convey no title to sovereignty submerged land or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.

3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S., and Chapter 18-14, F.A.C.

4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.

5. Construction, use, or operation of the structure or activity will not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.

6. Structures or activities shall not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.

7. Structures or activities will not create a navigational hazard.

8. Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.

9. Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.

10. The permittee agrees to indemnify, defend and hold harmless the Board of Trustees and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty submerged lands or the permittee's use and construction of structures on sovereignty submerged lands. This

duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.

11. Failure by the Board of Trustees to enforce any violation of a provision of the authorization or waiver by the Board of Trustees of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure to enforce or a waiver prevent the Board of Trustees from enforcing the unenforced or waived provision in the event of a violation of that provision.

12. Permittee binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the permittee or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board of Trustees after written notice to the permittee or its successors or assigns. Upon receipt of such notice, the permittee or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.

13. All costs incurred by the Board of Trustees in enforcing the terms and conditions of the authorization will be paid by the permittee. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The permittee will notify the Board of Trustees in writing of any change of address at least ten days before the change becomes effective.

14. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant that prohibits the activity.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. 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.

<u>Petition for Administrative Hearing</u>
A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57,

F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing 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 are or 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 that the petitioner contends warrant reversal or modification of the agency's proposed action; and

(f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and

(g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the permittee at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the permittee must be filed with 14 days of receipt of this written notice. Petitions filed by any persons other than the permittee, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 14 days of publication of the notice or within 14 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition with 14 days of receipt of such notice, regardless of the date of publication. The failure 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, F.S., 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, F.A.C.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

FLAWAC Review

The permittee, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the order is filed with the Clerk of the Department.

Judicial Review

Any party to this action has the right to seek judicial review pursuant to section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, 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.

[THIS SECTION INTENTIONALLY LEFT BLANK]

The Notice of Appeal must be filed with 30 days from the date this action is filed with the Clerk of the Department.

Executed in Lee County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Jon M. Iglehart
District Director
South District Office

JMI/mm

Attachments:
Notice of Permit Issuance, 1 page
Project Drawings and Design Specs., ~~4 pages~~ 24 pages
Cowbone Marsh Hydrologic Restoration Plan, ~~49 pages~~ 161 pages
Commencement notice /62-343.900(3)*
Annual status report/62-343.900(4)*
As-built certification/62-343.900(5)*
Inspection certification/62-343.900(6)*
Transfer construction to operation phase/ 62-343.900(7)*
Application for transfer of an ERP permit/62-343.900(8)*
*Can be downloaded at: http://www.dep.state.fl.us/water/wetlands/erp/forms.htm

To view the permit modification with attachments, copy the link below, open Windows Explorer, and paste it into the address bar:
http://publicfiles.dep.state.fl.us/SDRO/ERP/Cowbone%20Marsh%20Final%20Mod/

Copies furnished to:
DEP, Office of General Counsel
U.S. Army Corps of Engineers, File # 2008-4055
FWC, Imperiled Species Management Section
Glades County Property Appraiser
Bureau of Public Land Administration, Lease Agreement No. 4257

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this permit and authorization to use sovereignty submerged lands, including all copies, were mailed before the close of business on **September 11, 2012,** to the above listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, under 120.52(7) of the Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Marie Vidrine
Clerk

September 11, 2012
Date