Florida Department of Environmental Protection
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Charlie Crist
Governor

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Michael W. Sole
Secretary

ISSUE INFORMATION COVER SHEET

__x__ ACTION REQUEST (or) ____ FYI ONLY

To: Michael Sole, Secretary
Through Mimi Drew, Deputy Assistant Secretary
Through Bob Ballard, Deputy Assistant Secretary
From: Jon Iglehart, Director, SD
Date: June 18, 2010
Re: Cowbone Marsh navigation trail, Lykes Bros, Settlement

ISSUE: The creation/restoration of a Fisheating Creek navigation trail through Cowbone Marsh being conducted by FWC per a vegetation/muck removal exemption may require a permit and may have secondary impacts.

BACKGROUND: The Lykes Brothers Fisheating Creek settlement established State jurisdiction over large areas of land through the assertion of historic navigation. The settlement required these navigation opportunities to continue. A navigation trail through Cowbone Marsh was identified from a 1929 survey. Approximately two years ago, the Dept was approached by David Guest that the terms of the settlement, in particular the navigational access through Cowbone Marsh, were not being upheld. The management of the settlement areas comes under the purview of the FWC. The FWC responded by identifying the original 1929 survey line through the Marsh, ground staking the line and herbiciding it by aerial means. Earlier this year, a contract was let to cut through the killed vegetation and underlying organic matter to create/restore a navigational access. This activity was initiated moving east to west and nearly completed, but stopped when water levels dropped below the operational means of the cutting vessel (cookiecutter). Mr. Guest subsequently pressed the need to continue to the Governor's office, and Ms. Sawaya-Crane has requested the FWC to move forward.

The project was unknown to the district office until an unrelated over flight by a SFWMD Governing Board member occurred during the week of June 7. Subsequently, both the South Florida Water Management District and a representative for the Lykes Brothers have expressed significant concern about the project, and have asked the district office to ensure it does not continue. District staff conducted a site inspection June 15. At a teleconference Friday June 18, the FWC indicated the project would move

forward to completion as soon as the water depth allowed for the cookecutter vessel to operate.

The 2 mile wide marsh currently divides fisheating creek into two sections, appearing to serve as a dam. Based solely on downstream field observations, may maintain the western water elevation of Fisheating creek as much as 18 inches above the eastern creek elevation. The Marsh consists of consolidated peat over sandy substrate, the thickness of the peat varying from two feet at the western side of the cut to a few inches at the eastern reach. It is vegetated with willow forest at the western side and shifts to herbaceous vegetation moving east.

SUMMARY:
The site inspection revealed significant secondary impacts from the cutting activity conducted thus far. First and foremost, there are significant flows entering the cut from the surface intermittently along several hundred yards of the western end. These overland flows are coursing at about 18 inches above the water level in the cut channel, upstream from the dam placed by the contractor. Since there has been no rain for several weeks (end of dry season), it is surmised that this overland flow is coming from the western portion of Fisheating Creek, only a quarter mile or so from the terminus of the cut thus far. In addition, the cut face is discharging significant volumes of water, draining the wetland system. At the current terminus of the cut, about 50 feet in length and 12 feet in width, it is estimated several hundred gallons a minute are discharging from the cut banks, yet they continue to be stable. There is strong concern that completing the project as conducted thus far will eliminate the existing head differential between the eastern and western sides of Cowbone Marsh. Although this potential drawdown may be both historic and appropriate, it could have significant upstream and downstream (lake Okeechobee) impacts, and should be evaluated.

In addition, a significant portion of the material pulverized by the operation is conveyed downstream. We observed significant siltation, vegetative debris, and up to head sized chunks of peat in Fisheating creek over a mile downstream.

ASK: Converse with FWC to determine if Governor's office and Mr. Guest should be consulted for temporary suspension of project by FWC until review of secondary impacts and possible project modifications can be evaluated.

Four attachments