



# Florida Department of Environmental Protection

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Central District Office  
3319 Maguire Boulevard, Suite 232  
Orlando, Florida 32803-3767

Michael W. Sole  
Secretary

## NOTICE OF GENERAL PERMIT

St. Johns River Water Management District  
C/o Lance D. Hart  
SJRWMD  
Post Office Box 1429  
Palatka, Florida 32178

File No.: 05-133404-005  
Applicant: SJRWMD



Dear Mr. Hart:

This is to acknowledge receipt of your notice on December 17, 2007 of intent to use a Noticed General Permit to restore wetlands within upper St. John's River basin as detailed and described in Attachment 1. The project is part of the SWIM plan, pursuant to Rule 62-341.485, F.A.C and was originally authorized under permit number 05-133404-001. The projects are located within the St. John's Marsh Conservation Area (SJMCA), the St. John's Water Management Area (SJWMA), Three Forks Marsh Conservation Area (TFMCA), the C-1 canal and retention areas, and the Jane Green Detention Area in Brevard, Indian River, and Osceola Counties, Florida. All work must comply with the attached drawings and conditions.

### (1) REGULATORY REVIEW - GRANTED

Based on the forms, drawings, and documents submitted/revised with your notice, it appears that the project meets the requirements for the Noticed General Permit listed above. Any activities performed under a Noticed General Permit are subject to general conditions required in Rule 62-341.215, F.A.C. (attached), and the specific conditions of Rule 62-341.485, F.A.C. (attached). Any deviations from these conditions may subject the permittee to enforcement action and possible penalties.

Please be advised that the construction phase of the Noticed General Permit must be completed within five years from the date the notice to use the Noticed General Permit was received by the Department. If you wish to continue this Noticed General Permit beyond the expiration date, you must notify the Department at least 30 days before its expiration.

### (2) PROPRIETARY REVIEW- GRANTED

In addition, your project occurs on state-owned, sovereign, submerged land and will require authorization from the Board of Trustees of the Internal Improvement Trust Fund, to use public property. As staff to the Board of Trustees, we have reviewed the project as described in your submittal, and as long as the work performed is located within the boundaries as described and is consistent with the criteria attached, we

find your project qualifies for a consent to use sovereign, submerged lands. **As such, consider this letter to also constitute authorization from the Board of Trustees of the Internal Improvement Trust Fund, pursuant to Chapter 253.77, Florida Statutes to perform the activity.**

**(3) SPGP – REVIEW - PENDING**

Your project has been reviewed for compliance with a State Programmatic General Permit (SPGP). Your proposed activity as outlined on the attached drawings may **NOT be in compliance with the U.S. Army Corps of Engineers (Corps) State Programmatic General Permit (SPGP)**. A copy of your notice also has been sent to the U.S. Army of Engineers (USACOE) for review. The USACOE may require a separate permit. **Failure to obtain this authorization prior to construction could subject you to enforcement action by that agency.** For further information, you should contact the USACOE at (321) 453-0210.

Authority for review - an agreement with the U.S. Army Corps of Engineers entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection State Programmatic General Permit, Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.

**NOTICE OF RIGHTS  
OF SUBSTANTIALLY AFFECTED PERSONS**

Be advised that your neighbors and other parties who may be substantially affected by the proposed activity allowed under this determination of approval of Noticed General Permit have a right to request an administrative hearing on the Department's decision that the proposed activity qualifies for this Noticed General Permit. If an administrative hearing is timely requested by a substantially affected person, the finding that the proposed activity qualifies for this Noticed General Permit must be reconsidered, and it is possible that the hearing or mediation could result in a determination that the proposed activity does *not* qualify for the Noticed General Permit. Under rule 28-106.111 of the Florida Administrative Code, a request for such an administrative hearing must be filed with the Department's Clerk in the Office of General Counsel within 21 days of either: (a) publication of notice in a newspaper of general circulation in the county where the activity is to take place; or (b) the substantially affected person's receipt of written notice which includes the information contained in Attachment (A).

The Department will not publish notice of this determination. *Publication of this notice by you is optional and not required for you to proceed.* However, in the event that an administrative hearing is held and the Department's determination is reversed, proceeding with the proposed activity before the time period for requesting an administrative hearing has expired would mean that the activity was conducted without the required permits.

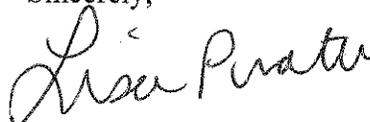
If you wish to limit the time within which *all* substantially affected persons may request an administrative hearing, you may elect to publish, at your own expense, the enclosed notice (Attachment A) one time only in the legal advertisement section of a newspaper of general circulation in the county where the activity is to take place.

If you wish to limit the time within which any *specific* person(s) may request an administrative hearing, you may provide such person(s), by certified mail, a copy of this determination, including Attachment A. For the purposes of publication, a newspaper of general circulation means a newspaper meeting the requirements of sections 50.011 and 50.031 of the Florida Statutes. In the event you do publish this notice, within seven days of publication, you must provide to the following address a certification or affidavit of publication issued by the newspaper. If you provide direct written notice to any person as noted above, you must provide to the following address a copy of the direct written notice.

**Department of Environmental Protection**  
**3319 Maguire Boulevard, Suite 232**  
**Orlando, FL 32803-3767**

If you revise your project after submitting the initial joint application, please contact us as soon as possible. Also, if you have any questions, please contact Kimberly Eisele at the letterhead address or call 407/ 893-7866, between the hours of 7:00 a.m. and 3:30 p.m. When referring to this project, please use the file number listed above.

Sincerely,



Lisa Prather  
Environmental Manager  
Submerged Lands and Environmental  
Resources Program

Date: Jan. 8, 2008.

  
LP/kje/dv

Enclosures:

General Conditions  
Specific Conditions for NGP 62-341.485, F.A.C.  
Copy of Drawings

cc: U.S. Army Corps of Engineers, Tamy Dabu (e)  
Brevard Co. DNR (e)  
Osceola County Environmental  
Indian River County Planning

**NOTICE OF GENERAL PERMIT**

**Attachment A**

In the Matter of an Application  
for a Noticed General Permit by:

**St. Johns River Water Management District (SJRWMD)**

**File No: 05-133404-005**

**Brevard County**

The Department of Environmental Protection gives notice that it has determined that restoration of wetlands within upper St. John's River basin as detailed and described in Attachment 1, by St. Johns River Water Management District (SJRWMD) qualifies for the Noticed General Permit established under Rule 62-341.485, F.A.C.

The Department's determination shall become final unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57 of the Florida Statutes. The time and procedure for petitioning for a hearing are set forth below. Upon the timely filing of a petition, this determination will not be effective until further order of the Department.

A person whose substantial interests are affected by the Department's 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 by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. The petitioner shall also mail a copy of the petition to the applicant at the address indicated above at the time of filing.

Petitions must be filed within 21 days of publication or receipt of this written notice, except that a petition by any person entitled to written notice under section 120.60(3) of the Florida Statutes must be filed within 21 days of receipt of the written notice. 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. 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 must contain the following information:

- (a) The name, address, and telephone number of each petitioner; the Department permit identification number and the county in which the subject matter or activity is located;
- (b) A statement of how and when each petitioner received notice of the Department action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department action;

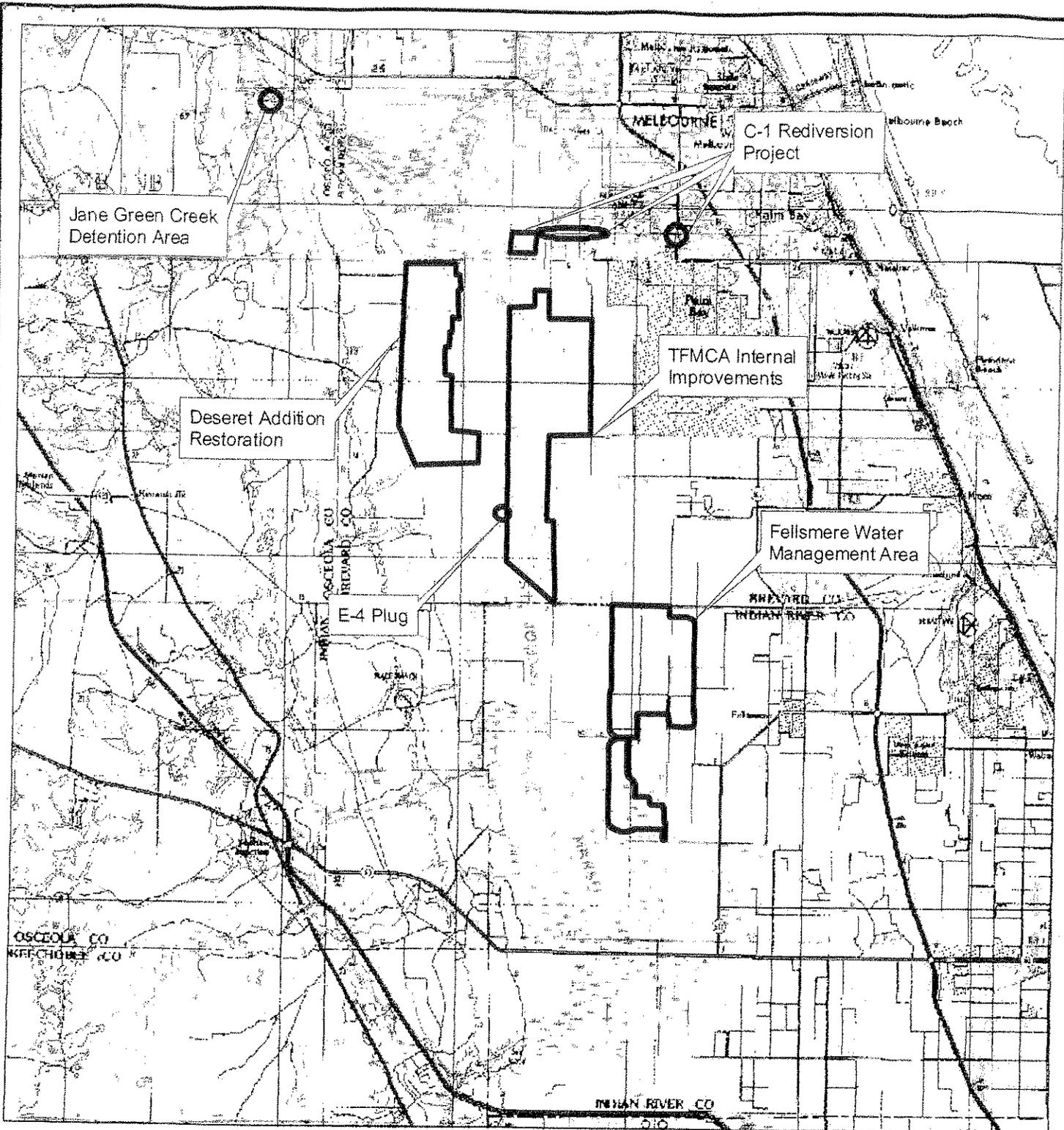
- (d) A statement of the material facts disputed by the petitioner, if any;
- (e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;
- (f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

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.

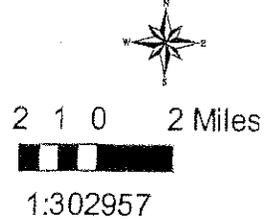
Because the administrative hearing process is designed to re-determine the Department's determination, the filing of a petition means that the Department's final determination may be different from the determination stated in this notice. Persons whose substantial interests may be affected by any change in the Department's determination have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation under section 120.573 of the Florida Statutes is not available for this proceeding.

The application is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, **please make an appointment** at the letterhead address or call (407) 893-3307.



**Upper St. Johns River Basin  
Proposed Projects**



**Attachment 2**

 Project Feature

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*05-133104-005*

The St. Johns River Water Management District prepares and uses this information for its own purposes and this information may not be suitable for other purposes. This information is provided as is. Further documentation of this data can be obtained by contacting: St. Johns River Water Management District, Geographic Information Systems, Program Management, P.O. Box 1429, 4049 Reid Street Palatka, Florida 32178-1429 Tel: (386) 329-4176.

*DEC 17 2007 05-133404005*

## Attachment 1

### USJRBP Proposed Construction

St. Johns Marsh Conservation Area (SJMCA) – Proposed work for hydrologic restoration in this area includes the construction a canal plug with gated culverts in the C-40 canal, the restoration of the Deseret Addition and the filling of existing canals to improve the hydrology of the marsh and prevent over drainage during low water periods. . Estimated dredge area: 0 acres. Estimated fill area: 30.7 acres

St. Johns Water Management Area (SJWMA) – Proposed construction adjacent to this area includes levees, water control structures, and internal improvements (interior ditch filling and culvert and fence removal) in the Fellsmere Water Management Area (10,000 acres of former pasture and row crop land directly adjacent and to the east of SJWMA). Estimated dredge area: 0 acres. Estimated fill area: 182 acres

Three Forks Marsh Conservation Area (TFMCA) – The proposed construction in this area includes the construction of the following components; S-257 outlet structure, C-1 Retention Area South Levee and associated borrow, S-255 and S-256 flowway plugs and levee degrading, S-96B diversion canal and tie-back levee, and L-74N flowway. Estimated dredge area: 150 acres. Estimated fill area: 78 acres.

C-1 Re-diversion Project – The proposed work in the C-1 Re-diversion Project includes construction of S-262, Intermediate Water Control Structures, pump stations, internal conveyance improvements to C-1 canal and excavation within the C-1 Retention Area for increase storage. Estimated dredge area: 37 acres. Estimated fill area: 1 acre.

Jane Green Detention Area – The proposed work in the Jane Green Detention Area consists of removing dense vegetation within the historic Jane Green Creek that has accumulated as a result of extended hydroperiods. This activity, in conjunction with the structural modifications to the S-161 structure being completed by the US Army Corps of Engineers, will re-establish conveyance of the historic creek channel and restore a more natural hydroperiod to the hard wood swamp. Estimated dredge area: 0 acres. Estimated fill area: 0 acres.

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05-133404-005

RESOURCE PERMITS

**62-341.485 General Permit to Water Management Districts for Environmental Restoration or Enhancement.**

(1) A general permit is hereby granted to the water management districts for the construction, alteration, operation, maintenance, removal and abandonment of systems to implement Department or District environmental restoration or enhancement projects.

(2) In order to qualify for this general permit, the environmental restoration or enhancement project must comply with any one of the following procedures:

(a) the project is part of a Surface Water Improvement and Management Plan developed pursuant to Section 373.453, F.S., that is reviewed by the Department and approved by a water management district in accordance with Section 373.456, F.S.;

(b) the project is approved by the Water Management District Governing Board or the Secretary of the Department after conducting at least one public meeting; or

(c) the project is wholly or partially funded by the Department through the Pollution Recovery Trust Fund pursuant to Section 403.165, F.S., or the Water Resource Restoration and Preservation Act pursuant to Section 403.0165, F.S.

(3) This general permit shall be subject to the following specific conditions:

(a) a project under this general permit shall not significantly impede navigation; and

(b) all erodible ground areas and slopes disturbed during construction shall be revegetated with sod, mulch, seed, wetland species, or otherwise appropriately stabilized within 72 hours after completion of the activity authorized under this general permit and at any other time as necessary to prevent violations of state water quality standards.

Specific Authority 373.026, 373.043, 373.044, 373.118, 373.406, 403.814, FS.

Law Implemented 373.026, 373.043, 373.046, 373.118, 373.403, 373.413, 373.416, 373.418, 373.419, 373.422, 373.423, 373.426, 403.814, FS.

History -- New 10-3-95.

62-341.215 General Conditions for All Noticed General Permits.

(1) The terms, conditions, requirements, limitations, and restrictions set forth in this section are general permit conditions and are binding upon the permittee for all noticed general permits in this chapter. These conditions are enforceable under Part IV of Chapter 373, F.S.

(2) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit. A violation of the permit is a violation of Part IV of Chapter 373, F.S., and may result in suspension or revocation of the permittee's right to conduct such activity under the general permit. The Department also may begin legal proceedings seeking penalties or other remedies as provided by law for any violation of these conditions.

(3) This general permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any construction, alteration, operation, maintenance, removal or abandonment authorized by this permit.

(4) This general 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 general permit as provided by Chapter 62-330, F.A.C.

(5) The general permit does not relieve the permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property. It does not allow the permittee to cause pollution in contravention of Florida Statutes and Department rules.

(6) 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 authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.

(7) The authorization to conduct activities pursuant to a general permit may be modified, suspended or revoked in accordance with Chapter 120, F.S., and Section 373.429, F.S.

(8) This permit shall not be transferred to a third party except pursuant to Section 62-343.130, F.A.C. The permittee transferring the general permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located.

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

(10) The permittee shall maintain any permitted system in accordance with the plans submitted to the Department and authorized in this general permit.

(11) A permittee's right to conduct a specific noticed activity under this noticed general permit is authorized for a duration of five years.

(12) Construction, alteration, operation, maintenance, removal and abandonment approved by this general permit shall be conducted in a manner which does not cause violations of state water quality standards, including any antidegradation provisions of Sections 62-4.242(1)(a) and (b), 62-4.242(2) and (3), and 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters. The permittee shall implement best management practices for erosion, turbidity, and other pollution control to prevent violation of state water quality standards. Temporary erosion control measures such as sodding, mulching, and seeding shall be implemented and shall be maintained on all erodible ground areas prior to and during construction. Permanent erosion control measures such as sodding and planting of wetland species shall be completed within seven days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into wetlands and other surface waters exists due to the permitted activity. Turbidity barriers shall remain in place and shall be maintained in a functional condition at all locations until construction is completed and soils are stabilized and vegetation has been established. 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.

~~(13) 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 the general permit.~~

(14) The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.

Specific Authority 373.026, 373.043, 373.044, 373.118, 373.406, 403.813, 403.814, FS.

Law Implemented 373.026, 373.043, 373.046, 373.118, 373.403, 373.413, 373.416, 373.418, 373.419, 373.422, 373.423, 373.426, 403.813, 403.814, FS.

History -- New 10-3-95.