



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
P. O. BOX 4970
JACKSONVILLE, FLORIDA 32232-0019

February 1, 2008

Regulatory Division
Special Projects/Enforcement Branch
Enforcement Section
SAJ-2003-2336 (IP-TEH)

Mr. John R. Sierra, Jr.
Sierra Properties
509 Guisando De Avila, STE 200
Tampa, Florida 33613

SECOND NOTICE OF NONCOMPLIANCE

Dear Mr. Sierra:

During a recent inspection of the Cypress Creek Town Center construction site, U.S. Army Corps of Engineers (Corps) staff documented that you have again failed to comply with the terms and conditions of your Department of the Army (DA) permit. DA permit No. 2003-2336 (IP-TEH) authorized you to perform work in jurisdictional wetlands associated with the Cypress Creek Town Center commercial complex. The project is located at the junction of State Road 56 and I-75, Pasco County, Florida. The site is adjacent to Cypress Creek, a regulated water of the United States.

Corps personnel inspected the site on January 24, 2009, and determined that you have discharged turbid water to Cypress Creek, which is a failure to comply with General Conditions 2 and 5 of your Federal permit. General Condition 2 of your Corps permit requires that you maintain your site in good condition and in conformance with the terms and other conditions of the permit. General Condition 5 requires you to comply with your state water quality certification, which did not allow offsite discharges.

As District Engineer, it is my responsibility to issue this Notice of Noncompliance. My staff is conducting an investigation to determine the most appropriate enforcement action to address the alleged violation.

Among the enforcement options available are actions in Federal District Court for fines and/or injunctions requiring work cessation and restoration. The court may also require that the restoration be performed by a third party and be funded through a money judgment against the permittee.

On an administrative level, the permit may be suspended, revoked, or modified and administrative penalties may be assessed. The administrative penalty proceeding requires notice to the Southwest Florida Water Management District and to all interested persons, any of whom can submit comments. As the permittee, you may request an administrative hearing. Anyone who responds during the comment period may also request a hearing. The Corps may levy a Class I Administrative penalty in an amount not exceeding \$27,500 in a case such as this.

You are advised to acknowledge receipt of this letter within 15 days. At that time, you may provide to us any information concerning why the terms and conditions of your Department of the Army permit have not been complied with.

If you have questions regarding this notice, please contact Thomas Farrell at the letterhead address or by telephone at 813-769-7072.

Sincerely,


Paul L. Grosskruger ^{For:}
Colonel, U.S. Army
District Engineer