



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard, Jr.
Secretary

March 22, 2012

Eric P. Summa
Chief, Environmental Branch
Planning Division
U.S. Army Corps of Engineers, Jacksonville District
701 San Marco Blvd.
Jacksonville, FL 32207-0019

Project: Site 1 Impoundment
Subject: Minor Modification – Time Extension for Mixing Zone
Modification No.: 296895-003

Dear Mr. Summa,

The Florida Department of Environmental Protection (Department) has reviewed the U.S. Army Corps of Engineers (Corps) request to modify the existing Site 1 Impoundment Comprehensive Everglades Restoration Plan Regulation Act permit (Permit No. 0296895) received March 7, 2012. The Corps requests a time extension for the current 50 meter mixing zone in the L-40 Canal. The Corps anticipates they will need the mixing zone through the end of dewatering activities, which are estimated to be completed mid to late 2013.

Department staff has reviewed the Corps modification request and associated documentation, and hereby approves the requested minor modification to the referenced permit. The issued permit shall be modified as follows utilizing striketroughs for deletions and underlines for additions (sections of the CERPRA permit No. 0188365 not shown below remain the same):

SPECIFIC CONDITIONS:

19. **Mixing Zone.** A 50-meter (164 feet) temporary mixing zone for turbidity in the L-40 Canal downstream of the construction work area is hereby authorized for a period ~~not to exceed one year~~ not to exceed the permit expiration date, or within two weeks after all construction activities which may result in turbidity are completed, whichever is earlier, in accordance with Rule 62-4.242 and 62-4.244, F.A.C. ~~during construction activities.~~ Zero A maximum of 1.5 nephelometric turbidity units (NTU) above background for turbidity shall be achieved within a 50-meter mixing zone in surface waters downstream of the construction work area. Failure to achieve the OFW requirements for turbidity at the 50-meter boundary or boundaries shall result in the temporary suspension of construction. Construction shall resume only once OFW requirements for turbidity are met at the 50-meter boundary or boundaries and steps are taken to prevent exceedance from occurring. Compliance with the mixing zone criteria shall be measured twice daily during construction of the Site 1 Impoundment Project. Notification of any non-compliance event shall be submitted electronically within 24 hours of such event to the address in Specific Condition No. 1. The Department may, as a result of any non-compliance event, require the Corps to perform flow and

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stage monitoring at the boundary or boundaries of the mixing zone. Compliance with the authorized mixing zone shall be reported in the quarterly reports required by Specific Condition No. 20. Expansion of the temporary mixing zone, ~~or extension of the time limit beyond one year,~~ may be authorized upon Department receipt of information that warrants such changes and modification of this permit condition.

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; and,
- (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.

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.

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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.

The Department will not publish notice of this determination (Attachment 1). Publication of this notice is by you is optional and is 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 authorization.

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 1) in the legal advertisement section of a newspaper of general circulation in the county where the activity is to take place. A single publication will suffice.

For the purposes of publication, a newspaper of general circulation means a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S. In the event you do publish this notice, within seven days of publication, you must provide to the following address proof of publication issued by the newspaper as provided in Section 50.051, F.S. If you provide direct written notice to any person(s) as noted above, you must provide to the following addresses a copy of the direct written notice.

Florida Department of Environmental Protection
Program Coordination and Regulation Section
Office of Ecosystem Projects
3900 Commonwealth Boulevard, MS 24
Tallahassee, FL 32399-3000

Electronic copies of reports and notices required by this permit shall be sent to RPPS_Comp@dep.state.fl.us

Please retain this letter for your files as it reflects final agency action barring any administrative hearings which rule otherwise. The activities may be inspected by authorized state personnel in the future to insure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapters 373, 403, 253, and 258, F.S., as applicable.

If you have any questions regarding this modification, please contact Christopher Weller at (850) 245-8428, or electronically at Christopher.Weller@dep.state.fl.us or Stacey Feken at (850) 245-3176. When referring to this application, please use the permit number indicated above.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF AGENCY ACTION

The Department of Environmental Protection (Department) gives notice that the following permit modification, requested by the U.S. Army Corps of Engineers (Corps), was approved pursuant to subsection 373.1502, Florida Statutes, on March 13, 2012. The permit (FDEP File Number 0296895-003) is for construction of the Site-1 Impoundment. The approved permit modification authorizes the Corps to continue application of a 50 meter mixing zone to meet compliance requirements for Class III water bodies concerning turbidity monitoring. The Site-1 Impoundment project is located in southwest Palm Beach County, west of the City of Boca Raton within Sections 19, 20, 21, 21 and portions of 28 and 29, Township 47 South, Range 41 East.

A person whose substantial interests are affected by the Department's decision may petition for an administrative proceeding (hearing) in accordance with Sections 120.569 and 120.57, Florida Statutes (F.S.). The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail station 35, Tallahassee, Florida 32399-3000, within twenty-one days of publication of this notice. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. Any subsequent intervention will be only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-5.207 of the Florida Administrative Code.

The petition shall contain the following information: (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department File Number and the county in which the project is proposed; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by Petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement of which rules of statutes petitioner contends require reversal or modification of the Department's action petitioner wants the Department to take with respect to the Department's action or proposed action.

The file containing the application for the above determination is available for public inspection during normal business hours, 8:00a.m. to 5:00p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, 3900 Commonwealth Boulevard, MS 24.