



FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

MARJORY STONEMAN DOUGLAS BUILDING
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TALLAHASSEE, FLORIDA 32399-3000

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JONATHAN P. STEVERSON
SECRETARY

April 8, 2015

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

Subject: Minor Modification – Permit Renewal
Project: Kissimmee River Restoration
Phase: Reach 3 Backfill, Contract 12
File No.: 0272794-007

Dear Mr. Summa,

The Florida Department of Environmental Protection (Department/FDEP) received the United States Army Corps of Engineers (Corps) March 12, 2015 request to modify the expiration date of the Kissimmee River Restoration (KRR) Project for the Reach 3 Backfill, Contract 12 Phase (File No. 0272794-007). Per the request, the Corps is seeking to renew the existing permit for a period of five years.

In addition to the requested above, the Department would like to take this opportunity to make the following changes:

- update the Department contact information in Specific Condition No. 1
- update Specific Condition No. 6 Instructions to Construction Personnel and/or Contractors
- add Specific Condition No. 8 Site Inspections
- replace Specific Condition Nos. 8 and 9 with updated Specific Condition No. 9 NPDES Generic Permit For Stormwater Discharge from Large and Small Construction Activities and Generic Permit for Discharge of Ground Water from Dewatering Operations
- update Specific Condition No. 11 Construction and Maintenance Best Management Practices (BMP)

The Department has reviewed the submitted information and hereby grants a five year extension and approves the following changes to the referenced permit. The issued permit shall be modified as follows utilizing [strikethroughs](#) for deletions and [underlines](#) for additions. Sections of the permit not shown below shall remain unchanged.

CONSOLIDATED ENVIRONMENTAL RESOURCE PERMIT AND STATE-OWNED SUBMERGED LANDS AUTHORIZATION

PERMITTEE:
U.S. Army Corps of Engineers,
Jacksonville District
701 San Marco Boulevard
Jacksonville, FL 32207

ATTENTION:
Mr. Eric P. Summa
Chief, Environmental Branch
Planning Division

Permit Number: 0272794-~~004007~~
Project: Kissimmee River Restoration
Phase: ~~(KRR)~~ Reach 3 Backfill,
Contract 12
County: Okeechobee and Highlands

Date of Original
Permit Issuance: November 7, 2011
Date of Permit Renewal: April 8, 2015
Construction Phase
Expiration Date: ~~November 7, 2016~~
[November 7, 2021](#)

Permittee: U.S. Army Corps of Engineers
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SPECIFIC CONDITIONS:

1. **Addresses.** Reports and notices submitted to the Department in accordance with this permit, unless otherwise specified, shall be submitted to the Office of Ecosystem Projects ([OEP](#)), [Program Coordination and Regulation Section](#), 3900 Commonwealth Boulevard, MS 24, Tallahassee, Florida, 32399-3000, telephone no. (850) 245-31942228. Electronic copies of reports and notices required by this permit shall be sent to RPPS_Comp@dep.state.fl.us.

CONSTRUCTION

6. **Instructions to Construction Personnel and/or Contractors.** The [PermitteeCorps](#) shall ensure that [the permit conditions are explained to all construction personnel the contractor/sub-contractor](#) working on the project [are briefed on the permit conditions component](#) and shall give a copy of this permit to each contractor and subcontractor before the authorized work begins. Prior to construction, the [PermitteeCorps](#) shall schedule a pre-construction meeting [and invite for attendance by](#) the contractor(s), and representatives from the [U.S. Army Corps of Engineers](#), the Department, and other environmental regulatory agencies. The Department shall receive at least two weeks' [prior notice of the meeting \(email is the preferred method of notification\)](#). Within 30 days from the Notice-to-Proceed to the contractor or upon [Permittee'sCorps'](#) approval of a proposed construction schedule, whichever occurs first, the [PermitteeCorps](#) shall provide the proposed construction schedule to the Department at the addresses [specified identified](#) in Specific Condition No. 1. [Any modified schedules shall be provided to the Department.](#)
8. **Site Inspections.** [Throughout the construction and operations of the Project, the Department may conduct periodic site inspections to ensure permit compliance and to monitor progress. The Department will coordinate with the Construction Manager or other Corps representative prior to performing any on-site inspections. Representatives of the Department may be accompanied by a third-party inspector and/or consultant at any time. Upon, or prior to, receipt of the written statement of completion and certification, the Department shall conduct substantial and final inspections of the Project as defined in the Specifications. It is anticipated that this activity may be completed in conjunction with other regulatory agencies and may be accomplished in stages as the project progresses.](#)
8. **~~NPDES Generic Permit for Stormwater Discharge from Large and Small Construction Activities.~~** ~~The issuance of this permit does not constitute coverage under the National Pollutant Discharge Elimination System (NPDES) Generic Permit for Stormwater Discharge from Large and Small Construction Activities (CGP) pursuant to Rule 62-621.300(4), F.A.C. Prior to the commencement of any construction, the 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 from the Department's web site at <http://www.dep.state.fl.us/water/stormwater/npdes/construction3.htm#permit>.~~
9. **~~NPDES General Permit for the Discharge of Produced Ground Water from any Non-Contaminated Site Activity.~~** ~~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 62-621.300(2), F.A.C. 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. Before discharge of produced ground water can occur, analytical tests on samples of the proposed discharge water shall be performed to determine if contamination exists. If the analytical results comply with applicable criteria for use of the General Permit, then a short summary of the proposed activity and copy of the analytical tests shall be sent to the address in Specific Condition No. 1 within one week after discharge begins and the Permittee may proceed with the project while abiding by all conditions of the General Permit.~~
9. **NPDES Generic Permit for Stormwater Discharge from Large and Small Construction Activities and Generic Permit for Discharge of Ground Water from Dewatering Operations.** [The issuance of this Permit does not constitute coverage under the National Pollutant Discharge Elimination System \(NPDES\) Generic Permit](#)

for Stormwater Discharge from Large and Small Construction Activities (CGP) pursuant to Rule 62-621.300(4)(a), F.A.C., or from the discharge of groundwater resulting from construction-related dewatering activities pursuant to Rule 62-621.300(2)(a), F.A.C., incorporated by reference in the CGP. If the project activities require either of these generic permits, the Permittee must adhere to all conditions within such permits.

- ~~11. **Construction Best Management Practices.** During construction the Permittee shall use best management techniques for erosion and sedimentation control. All graded areas shall be stabilized and vegetated immediately after construction to prevent erosion. The Permittee shall take all reasonable precautions to minimize the suspension and transport of soils, levee materials, and roadway materials into waters adjacent to or downstream of the construction site. When working within or immediately adjacent to existing surface waters of the Kissimmee River and its tributaries, turbidity barriers/curtains or other appropriate measures shall be installed and anchored in the riverbed to prevent turbidity from escaping from the areas being dredged or other work areas.~~
11. **Construction and Maintenance Best Management Practices (BMP).** The Permittee shall develop and submit a BMP Plan to the Department for review and approval to the addresses specified in Specific Condition No. 1, at least 30 days prior to commencement of any construction activities and the pre-construction meeting referenced in the Specific Condition No. 6 for each feature, contract or phase. Acceptable BMP Plan formats may include Erosion Control Plans, Storm Water Pollution Prevention Plans (SWPPP), or an Environmental Protection Plan. Modifications to the BMP Plan may necessitate further review and approval by the Department. This BMP Plan shall address the following:
- A. **Environmental Resources.** In accordance with Specific Condition No. 2, the BMP Plan shall describe the methods used to protect environmental resources, including fish and wildlife, to ensure that there shall be no unauthorized impacts to listed species, wetlands, or water quality as a direct result of construction activities. In accordance with Specific Condition No. 3, the BMP Plan should also describe how impacts to wetland resources will be avoided and minimized, including limiting temporary wetland impacts to the extent practicable.
- B. **Turbidity Control.** At all times during construction and maintenance activities that could generate project-generated turbidity, the Permittee shall use best management techniques for erosion and sedimentation control. The BMP plan must include details regarding the use of sediment controls to minimize the suspension and transport of soils, levee materials, and roadway materials into waters adjacent to or downstream of the construction site. Sediment barriers shall remain in place until all adjacent construction activities are complete.
- C. **Adjacent Wetlands.** Wetlands adjacent to construction activities shall be staked and fenced off with construction fencing or other effective physical barriers to prevent encroachment into these wetlands prior to the commencement of construction. All areas of exposed soils shall be isolated from wetlands and surface waters to prevent erosion and deposition of sediments into these wetlands during permitted construction activities. All excavated or dredged material shall be placed strategically within the permitted stockpile/soil disposal areas to prevent the transport of any material into wetlands and surface waters both during and after completion of the construction.
- D. **Inspections.** Once installation of the erosion controls identified through the plan(s) have been completed, the Permittee shall contact the Department at the addresses specified in Specific Condition No. 1 to determine whether inspections by the Department of the installed controls are necessary.
- E. **Site Stabilization.** The Permittee shall initiate stabilization measures within 7 calendar days after construction activities have temporarily or permanently ceased to prevent erosion for any portion of the site. All screens, silt fences, sheet pile, and other turbidity control devices and preventive operation procedures shall remain in place for the duration of the project and maintained until all turbidity has subsided, the project site has been stabilized, and the turbidity level at the point of discharge from the construction or maintenance

work area to receiving waters meets state standards. Once these conditions are met, turbidity and erosion control devices shall be removed within a timely manner.

F. Vegetation Removal and Temporary Wetland Impacts. Limits and extent of clearing and grubbing shall consider minimizing or avoiding impacts to native vegetation, either within or immediately adjacent to the project area.

G. Stockpiles/Soil Disposal Areas. Vegetative and demolition debris, as well as unwanted excavated material shall be properly disposed.

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 hearing process may result in a modification of the agency action or even denial of the application.

Petition for Administrative Hearing

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, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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, 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 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 applicant 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 applicant must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 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 within 21 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

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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 time 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.

FLWAC Review

The applicant, or any party within the meaning of Sections 373.114(1)(a) or 373.4275, F.S., may seek appellate review of this order before the Land and Water Adjudicatory Commission under Sections 373.114(1) or 373.4275, F.S., to determine if the order is consistent with the provisions and purposes of Chapter 373, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed in accordance with Section 373.114, F.S., and Chapter 42-2, F.A.C., and served on the Department and on any person named in the order within 20 days after the order is filed with the Clerk of the Department.

Judicial Review

Once this decision becomes final, 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. The Notice of Appeal must be filed within 30 days from the date this action is filed with the Clerk of the Department.

The Department will not publish notice of this determination. Publication of this notice 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 address a copy of the direct written notice.

Attn: Tanja Hinton
Florida Department of Environmental Protection
Office of Ecosystem Projects
3900 Commonwealth Blvd., MS 24
Tallahassee, Florida, 32399

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

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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.

This modification letter does not alter the Permittee's need to comply with the permit's general and specific conditions, except as stated herein. This letter must be attached to the original permit.

If you have any questions regarding this permit modification, please contact Tanja Hinton at (850) 245-2974 or electronically at Tanja.Hinton@dep.state.fl.us. When referring to this permit, please use the file number indicated above.

Executed in Tallahassee, Florida.

**STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**



Edward C. Smith, Director
Office of Ecosystem Projects

ECS/jp/th

Attachment:
Public Notice

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

 4/8/15
Clerk Date

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Electronic Copies Furnished To:

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