



Florida Department of Environmental Protection

Majory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000ida 32399-2400

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard, Jr.
Secretary

October 19, 2011

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 -Phase 1
Subject: Minor Modification
Modification No.: 0296895-002

Dear Mr. Summa:

This letter acknowledges receipt of the U.S. Army Corps of Engineers (Corps) October 11, 2011 request to modify the requirements for turbidity monitoring during construction for the Site 1 Impoundment Project, in accordance with the Comprehensive Everglades Restoration Plan Regulation Act (CERPRA) Permit (file no. 0296895-001). The Corps has requested acknowledgement of variation in background conditions in the L-40 Canal, and revisions to the limit of 0 NTU above background at the compliance sampling location.

Department staff concurs based upon the information submitted that the proposed modification is not expected to result in any adverse environmental impacts or water quality degradation, and hereby approves the requested modification. The requested modification to the permit is to be applied to the construction phase of the Site-1 Impoundment Project only. This modification does not apply to other phases of this project, or to any other location, other than the L-40 Canal, as described in the permit.

Additionally, the Department shall incorporate a minor technical change due to a Departmental change of address. 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.

SPECIFIC CONDITIONS:

1. **Addresses.** Reports and notices submitted to the Department in accordance with this permit, unless otherwise specified, shall be submitted to the Department's ~~Division of Environmental Assessment and Restoration, Restoration Planning and Permitting Section, 2600 Blair Stone Road, MS 3560, Tallahassee, Florida 32399 2400, telephone number (850) 245 8346~~ Office of Ecosystem Projects, Program Coordination and Regulation Section, 3900 Commonwealth Blvd, MS 24, Tallahassee, Florida 32399-3000, telephone number (850) 245-3191. Electronic copies and notices required by this permit shall also be sent to RPPS_Comp@dep.state.fl.us.

SPECIFIC CONDITIONS:

Construction

19. **Turbidity Monitoring.** Effective means of turbidity control, such as, but not limited to, turbidity curtains shall be employed during all construction activities that may create turbidity so that turbidity shall not exceed 0 NTU above background in receiving waters that are classified as OFW and 29 NTUs above background in Class III receiving waters unless authorized by the Department in accordance with Rule 62-4.244. During the construction phase of this project, and within the L-40 Canal only, a range of up to, but not exceeding, 1.5 NTU above background turbidity is allowed, to account for variability within the canal. Turbidity controls shall be maintained around the construction work area, which is not to extend into the marsh of the LNWR, in order to confine turbidity generated by the construction activities within the work area. All turbidity control devices and/or preventive operation procedures shall remain in place until all turbidity has subsided and the turbidity level at the compliance sampling site meets state standards.

Sampling and analyses shall be performed as required by Chapter 62-160, F.A.C. Turbidity monitoring equipment and personnel trained to use it shall be available on site at all times during construction activities that could result in project-generated turbidity levels beyond the construction work area that have the potential to be discharged to the receiving water body. During construction, turbidity levels shall be monitored at least twice daily, with samples taken at a minimum of once every four hours, as follows:

- a. Monitoring samples shall be taken at the following locations, as a minimum:
 1. Background Sample(s)
 - i. L-40 Canal (Background Turbidity): Located within the L-40 Canal, at least 100 feet upstream of the construction work area and clearly outside of the influence of construction activities.
 - ii. Hillsboro Canal (Background Turbidity): Located within the Hillsboro Canal, at least 100 feet upstream of the construction work area and clearly outside the influence of any construction activities. Depending on construction sequencing, this station may be relocated or replaced by another monitoring station once construction activities are near or within the sample site limits.
 - iii. L-36 Borrow Canal (Background Turbidity): Located within the L-36 Borrow Canal, at least 100 feet upstream of the construction work area and clearly outside of the influence of any construction activities.
 2. Compliance Sample(s)
 - i. L-40 Canal (Compliance Turbidity): Located within the L-40 Canal, no more than 164 feet (50 meters) downstream of or radial to the construction work area(s) within the densest portion of any visible turbidity plume.
 - ii. Hillsboro Canal (Compliance Turbidity): Located within the Hillsboro Canal, downstream of the construction work area directly outside of the turbidity curtains and within the densest portion of any visible turbidity plume.
 - iii. L-36 Borrow Canal (Compliance Turbidity): Located within the L-36 Borrow Canal, downstream of the construction work area directly outside of the turbidity curtains and within the densest portion of any visible turbidity plume. Depending on construction sequencing and flow direction within the L-36 Borrow Canal, these compliance stations may be relocated or replaced by other stations associated with adjacent activities.

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b. Turbidity monitoring results shall be compiled daily and summarized quarterly (every three calendar months) by project component, beginning with the first calendar month in which construction or maintenance projects occur that could generate turbidity in receiving waters and continuing until all construction, dredging, and/or excavation is completed. Monitoring data with supporting documents shall be submitted to the Department quarterly, to the addresses identified in Specific Condition No. 1, during the period of actual construction. If no construction occurs that could generate turbidity during the quarterly monitoring period, the report shall be so noted. The reports shall clearly identify the following information:

- Permit number;
- Dates and time of sampling and analysis;
- Statement describing the methods used in collection, handling, storage and analysis of the samples;
- Statement of compliance/non-compliance with the requirements of Specific Condition 19 and 20;
- Clear description of project component activities taking place at the time of sampling;
- Map indicating the sampling locations;
- Name of individual collecting samples; and a,
- Statement by the individual responsible for implementation of the sampling program concerning the authenticity, precision, limits of detection and accuracy of the data.

Monitoring reports shall also include the following information for each sample that is taken:

- Water depth;
- Depth of sample;
- Weather conditions; and
- Water level stage in the canal and direction of flow.

In the event that project generated turbidity levels exceed [1.5 NTU above background in the L-40 Canal](#), 0 NTU above background in waters that are classified as OFWs (other than the L-40), or 29 NTUs above background in any other receiving waters, project activities contributing to elevated turbidity shall immediately cease unless otherwise authorized by Specific Condition No. 19, and the Department shall be notified within 24 hours. Work shall not resume until the work can be conducted in compliance with these turbidity limits where applicable.

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

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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.

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.

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The Permittee, or any other party within the meaning of section 373.114(1)(a) of the Florida Statutes, may also seek appellate review of this order before the Land and Water Adjudicatory Commission under section 373.114(1) of the Florida Statutes. Requests for the review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department and on any person named in this order, as described in section 373.114(1)(a), within 20 days from the date when the final order is filed with the Clerk of the Department.

This letter of approval does not alter the original expiration date, the Permittee's need to comply with the permit's general and specific conditions, or the monitoring requirements of this permit, except as stated herein. This modification letter must be attached to the original permit. By copy of this letter, we are notifying all necessary parties of the modification.

If you have any questions regarding this modification, please contact Christopher Weller at (850) 245-3191, or electronically at Christopher.Weller@dep.state.fl.us. When referring to this application, please use the permit number indicated above.

Sincerely,

Greg Knecht
Director
Office of Ecosystem Projects

GK/ctw

ec: James J. McAdams, USACE
Glenn Gannon, USACE
Ingrid Sotelo, USACE
Aaron Lassiter, USACE
Melissa Martin, USFWS
Robin Deaton, SFMWD
Ernie Marks, FDEP
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