



FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

MARJORY STONEMAN DOUGLAS BUILDING
3900 COMMONWEALTH BOULEVARD
TALLAHASSEE, FLORIDA 32399-3000

RICK SCOTT
GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

July 10, 2013

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

Project: Ten Mile Creek Water Preserve Area Critical Project
Subject: Minor Modification – Permit Renewal
Modification No.: 0192879-015

Dear Mr. Summa,

The Florida Department of Environmental Protection (Department) received the U.S. Army Corps of Engineers' (Corps) June 14, 2013 request to modify the expiration date of the Ten Mile Creek Water Preserve Area Critical Project permit (File No. 0192879-001). Per the request, the Corps is seeking to renew the existing permit for a period of five years. In addition, the Department would like to provide the current Department mailing address in Specific Condition No. 3.

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 remain the unchanged.

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

ATTENTION:
Ms. Marie G. BurnsEric P. Summa
Chief, Environmental Branch
Planning Division

Permit Number: 0192879-001
Project: Ten Mile Creek Water
Preserve Area Critical Project
County: St. Lucie

Date of Issue: August 13, 20038/13/03
Renewal Dates: 8/13/08, 7/10/13
Expiration Date: August 13, 20137/10/18

SPECIFIC CONDITIONS:

- Addresses.** Reports and notices submitted to the Department in accordance with this permit shall be submitted to the Department's Division of Water Resource Management, Water Quality Standards and Special Projects Program, 2600 Blair Stone Road, MS 3560, Tallahassee, Florida, 32399-2400, telephone no. (850) 245-8416, and to the Department's Southeast District Office, Environmental Affairs Program, 400 North Congress Avenue, Suite 200, West Palm Beach, Florida, 33401, telephone no. (561) 681-6600. Office of Ecosystem Projects, 3900 Commonwealth Boulevard, Mail Station 24, Tallahassee, Florida, 32399-2400, telephone number (850) 245-3166. Electronic copies of reports and notices required by this permit shall also be sent to RPPS_Comp@dep.state.fl.us.

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NOTICE OF RIGHTS

The Department will issue this modification unless a timely petition for an administrative hearing is filed pursuant to 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.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) in accordance with sections 120.569 and 120.57, 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.

Petitions by the applicant or any of the parties listed below must be filed within twenty-one days of receipt of this written notice. Petitions filed by any other persons must be filed within twenty-one days of publication of the notice or receipt of the written notice, whichever occurs first. Under Section 120.60(3), Florida Statutes, however, any person who asked the Department for notice of agency action may file a petition within twenty-one days of receipt of such notice, regardless of the date of publication. The petitioner shall mail a copy of the petition to the applicant 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, 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.

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 this 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 in 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

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Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, FL 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 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 addresses a copy of the direct written notice.

Attn: Rhapsodie Osborne
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 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 and attachment must be attached to the original permit.

If you have any questions regarding this minor modification to the issued permit, please contact Rhapsodie Osborne at (850) 245-2148 or electronically at Rhapsodie.A.Osborne@dep.state.fl.us. When referring to this application, please use the file number indicated above.

Sincerely,



Ernie Marks
Director
Office of Ecosystem Projects

EM/dn/ro

ATTACHMENT:
Public Notice

Executed in Tallahassee, Florida.

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FILING AND ACKNOWLEDGMENT

FILED, on this date, under Section 120.52(7) of the Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.


Clerk

7/10/2013
Date

ELECTRONIC COPIES FURNISHED TO:

Eric Summa, USACE
James McAdams, USACE
Tamela Kinsey, USACE
Temperince Morgan, SFWMD
Nimmy Jeyakumar, SFWMD
Rebecca Elliott, FDACS
Sharon Kocis, USFWS
DCPPermits@deo.state.fl.us
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Ernie Marks, FDEP
Frank Powell, FDEP
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Rhapsodie Osborne, FDEP
Joss Nageon de Lestang, FDEP
Paul Julian, FDEP
Jerilyn Ashworth, FDEP
Chad Kennedy, FDEP
Kelli Edson, FDEP
Marissa Krueger, FDEP
Bill Rueckert, FDEP
Judy Warrick, FDEP
Kristine Morris, FDEP
Kenny Hayman, FDEP
Patrick Gillespie, FDEP

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF AGENCY ACTION

The Department of Environmental Protection (Department) gives notice that the following permit renewal, requested by the U.S. Army Corps of Engineers (Corps), was approved pursuant to subsection 373.1502, Florida Statutes, on July 10, 2013. The permit (File No. 0192879-015) is for the renewal of the original construction authorization of the Ten Mile Creek Water Preserve Area Project. The project is located adjacent to Ten Mile Creek (Class III Waters) in the vicinity of the Gordy Road Structure, which is in St. Lucie County, Sections 25, 26, 27, 34, 35, and 36, Township 35 South, Range 39 East. Specifically, the reservoir and treatment wetland are situated south of Ten Mile Creek and State Road 70, immediately west of the I-95/Florida Turnpike intersection in St. Lucie County, and north of Midway Road. The Department's determination authorizes the Corps to continue activities authorized under the construction permit for an additional five years, as of the above date.

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.