

PREPARED BY:
Matthew L. Grabinski, Esq.
Goodlette, Coleman, Johnson, Yovanovich & Koester, P.A.
4001 Tamiami Trail North, Suite 300
Naples, Florida 34103

Retn:
GOODLETTE COLEMAN ET AL
4001 TAMAMI TR N #300
NAPLES FL 34103

**THIRD AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
LELY RESORT**

THIS THIRD AMENDMENT ("Amendment") to the Declaration of Covenants, Conditions and Restrictions for Lely Resort is made and executed this 5th day of November, 2008, by STOCK DEVELOPMENT, LLC, a Florida limited liability company (referred to as "Declarant").

WHEREAS, Declarant's predecessor recorded the Declaration of General Covenants, Conditions and Restrictions for Lely Resort in Official Records Book 1513, at Page 835, as amended in Official Records Book 1906, at Page 1178 ("First Amendment"), and as amended in Official Records Book 3405, at Page 884 ("Second Amendment") all of the Public Records of Collier County, Florida, and as may be further amended (collectively referred to herein as "Declaration"), which encumbers all of the property described therein which is located within the development known as Lely Resort, Collier County, Florida ("Lely Resort");

WHEREAS, Declarant holds all the rights, title and interest as Declarant under the Declaration and is the developer of Lely Resort pursuant to the Second Amendment;

WHEREAS, Pursuant to Article III, Paragraph 3.23 "Water Management and Drainage Areas", the applicable South Florida Water Management District ("SFWMD") Permit No. 11-00429-S, Application No. 041228-19; Permit No. 11-00429-S, Application No. 050121-13; Permit No. 11-00429-S-13, Application No. 040928-13; Permit No. 11-00429-S-14, Application No. 040928-15; Permit No. 11-00429-S-15, Application 040928-14; Permit Nos. 11-00429-S-16, Application No. 041229-9; Permit No. 11-00429-S-16, Application No. 060323-5, and Permit No. 11-00429-S-16, Application No. 060615-9 were to be attached to the Declaration as Exhibits thereto;

WHEREAS, Declarant has determined that certain other amendments to the provisions of the Declaration are necessary in relation thereto, as more fully set forth herein;

WHEREAS, Declarant has the power to amend the Declaration as set forth in Section 10.03 thereof;

NOW THEREFORE, in accordance with Section 10.03 of the Declaration, the SFWMD Permits named above are attached hereto as Exhibits "A-H", copies of which (and any future SFWMD permit actions) shall be maintained by the Association's Registered Agent for the Association's benefit and Declarant further amends the Declaration as follows:

Article I, Paragraph 1.01 "Common Areas" is hereby amended and restated in its entirety as follows:

1.01 "Common Areas" shall mean and refer to those areas of land shown on any recorded subdivision plat, or which are otherwise dedicated, conveyed, leased, or for which a license is granted to the Master Property Owners Association and which are intended to be devoted to the common use and enjoyment of the Members and Owners. The Common Areas shall specifically include all Conservation Areas, Wetlands and all storm water management systems that serve the Property.

Article IV, Paragraph 4.03 is hereby amended and restated in its entirety as follows:

4.03 The Master Property Owners Association shall be responsible for the operation, maintenance, repair, and if necessary, the replacement of the following:

(a) Such security systems, guardhouses and other security facilities which shall be operated and maintained for the benefit of the Plots, except any security system, guardhouse or security facility established primarily for the benefit of a Neighborhood.

(b) Surface water and storm water management systems.

(c) Any common or other areas conveyed, dedicated, leased to or used by the Master Property Owners Association, including any improvements on such Common Areas.

(d) The conservation and/or wetland area(s) set out on the Plot(s) shall be declared Common Areas, shall be the perpetual responsibility of the Master Property Owners Association and may, in no way, be altered from their natural state. Activities prohibited within the conservation area include, but are not limited to, construction or placing of buildings on or above the ground; dumping or placing soil or other substances such as trash; removal or destruction of trees, shrubs or other vegetation; excavation, dredging or removal of soil material; diking or fencing; and any other activities detrimental to drainage, flood control, water conservation, erosion control or fish and wildlife habitat conservation or preservation. Wetland mitigation monitoring shall be required and it shall be the Master Property Owners Association's responsibility to complete the task successfully, including meeting all conditions associated with mitigation, maintenance and monitoring.

(e) The South Florida Water Management District shall have the right to take enforcement action, including a civil action for an injunction and penalties against the Master Property Owners Association to compel it to correct any outstanding problems with the surface water management system facilities or in mitigation or conservation areas under the responsibility or control of the Master Property Owners Association.

The following shall be added to the Declaration and incorporated therein under Article IV:

4.04 "Wetland Mitigation" If wetland mitigation or monitoring is required, the Master Property Owners Association shall be responsible to carry out this obligation and complete the task successfully, including meeting all conditions associated with wetland mitigation, maintenance and monitoring.

4.05 "Existence" The Master Property Owners Association exists in perpetuity; however, if the Master Property Owners Association is dissolved, the property and assets of the Master Property Owners Association including, but not limited to, the property consisting of the surface water management system, shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Master Property Owners Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or organization to be devoted to such similar purposes.

EXCEPT AS AMENDED hereby, all terms and provisions of the Declaration shall remain in full force and effect.

IN WITNESS WHEREOF, the Developer has executed this Third Amendment to the Declaration on the year and date first stated above.

WITNESSES:

[Signature]
Print Name: Michael DeSmidt

[Signature]
Print Name: Keith Gelder

DECLARANT:

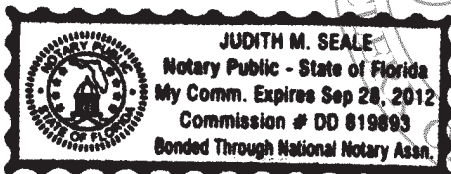
STOCK DEVELOPMENT, LLC, a
Florida limited liability company

By: [Signature]
Print Name: Brian Stock
Its: Manager

STATE OF FLORIDA
COUNTY OF COLLIER

The foregoing instrument was acknowledged before me this 5th day of November, 2008, by Brian Stock, as CEO of Stock Development, LLC, a Florida limited liability company, who is personally known to me or produced _____ as identification, and who did not take an oath.

(SEAL)



[Signature]
Notary Public
Print Name: Judith M. Seale
Commission Expires 9/28/2012

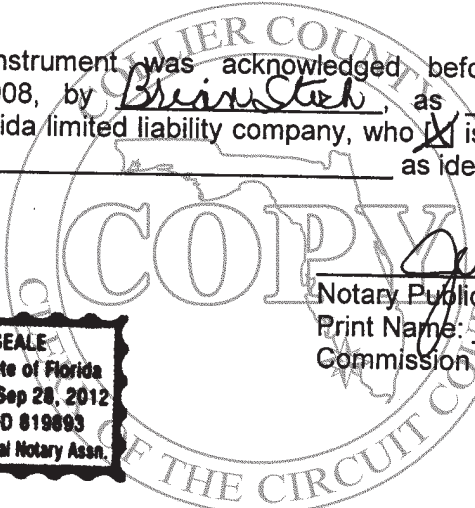
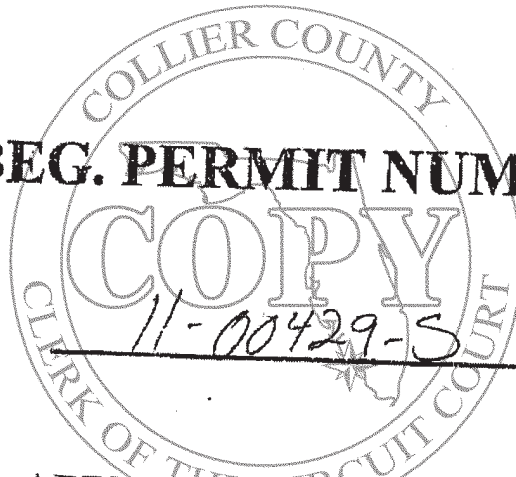


EXHIBIT A
Prestwick Place
Permit No. 11-00429-S; Application No. 041228-19

**SOUTH FLORIDA WATER
MANAGEMENT DISTRICT**

BEG. PERMIT NUMBER:



APPLICATION NUMBER:

041228-19

11-00429-S
Prestwick Place
20-April-2005
041228-19



SOUTH FLORIDA WATER MANAGEMENT DISTRICT
 ENVIRONMENTAL RESOURCE
 STANDARD GENERAL PERMIT NO. 11-00429-S
 DATE ISSUED: April 20, 2005

Form #0941
 08/95

PERMITTEE: STOCK DEVELOPMENT LLC
 4501 TAMiami TRAIL NORTH STE 300
 NAPLES, FL 34103

PROJECT DESCRIPTION: This application is a request for a General Permit Modification authorizing construction and operation of a surface water management system serving a 32.99 acre single family residential development known as Prestwick Place with discharge into the Henderson Creek via an existing SWM system. The application includes a 9.57 acre expansion of existing Lake 34.

PROJECT LOCATION: COLLIER COUNTY, SEC 28 TWP 50S RGE 26E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 041228-19, dated December 28, 2004. This action is taken pursuant to Rule 40E-1.803 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages: 2-4 of 8).
3. the attached 18 Special Conditions (See Pages: 5-6 of 9) and
4. the attached 3 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 20th day of April, 2005, in accordance with Section 120.60(3), Florida Statutes.

BY: 
 Jacqueline Rippe, P.E.
 Director

Lower West Coast Service Center

Certified mail number 7003 0500 0204 6164

GENERAL CONDITIONS

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and applications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C, unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0980 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Certification - For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.859, F.A.C. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and

GENERAL CONDITIONS

maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of

GENERAL CONDITIONS

ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.



SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on April 20, 2010.
2. Operation of the surface water management system shall be the responsibility of LELY RESORT MASTER PROPERTY OWNER'S ASSOCIATION.
3. Discharge Facilities: Through previously permitted facilities.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth, unless shown on the plans.
8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
9. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediment/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. All special conditions and exhibits previously stipulated by permit number 11-00429-S remain in effect unless otherwise revised and shall apply to this modification.
13. Plan sheets 1-15 and 17-21 signed, sealed and dated by Christopher R. Mitchell, P.E. on December 27, 2004 and sheet 16 signed, sealed, and dated by Christopher R. Mitchell on January 24, 2006 are incorporated by reference into this Environmental Resource Permit modification and will be retained in this permit file.
14. The permittee shall utilize the criteria contained in the Urban Stormwater Management Program (Exhibit Nos. 3.0 - 3.5) for post-construction activities.
15. The Permittee shall utilize the criteria contained in the Construction Pollution Prevention Plan (Exhibit Nos. 2.0-2.8) and on the applicable approved construction drawings for the duration of the projects construction activities.
16. Exhibits Nos. 2.0-2.8 and 3.0-3.5 incorporated by reference and shall be retained in the permit file.

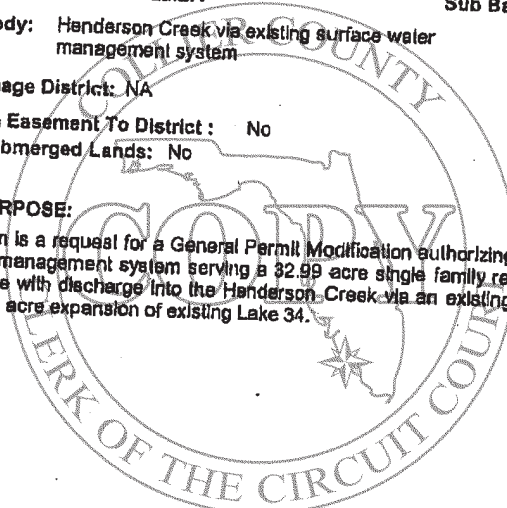
Last Date For Agency Action: 21-MAY-2005

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Prestwick Place
 Permit No.: 11-00429-S
 Application No.: 041228-19 Associated File: 060128-9 WU
 Application Type: Environmental Resource (General Permit Modification)
 Location: Collier County, S28/T50S/R26E
 Permittee: Stock Development Llc
 Operating Entity: Lely Resort Master Property Owners Association
 Project Area: 42.56 acres
 Project Land Use: Residential
 Drainage Basin: WEST COLLIER Sub Basin: Henderson Creek
 Receiving Body: Henderson Creek via existing surface water management system Class: CLASS III
 Special Drainage District: NA
 Conservation Easement To District: No
 Sovereign Submerged Lands: No

PROJECT PURPOSE:

This application is a request for a General Permit Modification authorizing construction and operation of a surface water management system serving a 32.99 acre single family residential development known as Prestwick Place with discharge into the Henderson Creek via an existing SWM system. The application includes a 9.57 acre expansion of existing Lake 34.



PROJECT EVALUATION:

PROJECT SITE DESCRIPTION:

The site is located within Basin A3 of the previously permitted Lely Resort PUD (Permit # 11-00429-S) on the south side of Lely High School Boulevard adjacent to Lely High School, Northeast of U.S.41, South of Rattlesnake Hammock Road and west of C.R.951 in Section 28, Township, 56S, Range 26E in Collier County. A location map is attached as Exhibit 1.0.

The site discharges into existing lake 34 along the eastern boundary of the project. The lake is part of the master surface water management system.

The site is comprised of undeveloped land. Wetland impacts for the entire development have been previously permitted and mitigated for. No additional wetland impacts to those previously permitted are anticipated with this application.

PROPOSED PROJECT:

The proposed project consists of 97 single family residential lots, 6.99 acres of additional lakes and associated infrastructure within the Lely Resort. Construction includes shoreline reshaping and a 9.57 acre expansion of existing Lake 34. Stormwater runoff from the site is conveyed via drainage structures, pipes, and swales to the surface water management system (existing Lake #34). The surface water management lake discharges through the previously permitted control structure. All water quality and attenuation requirements for the project are provided within the master surface water management system.

LAND USE:

The project consists of 32.99 acres of roadway and lot construction, and 5.13 acres of new lake construction. The remaining 9.57 acres consists of expanding existing lake 34 within the Lely Resort Project. The project is broken down as follows:

Construction:
Project:

	This Phase	Total Project	
Building Coverage	6.92		acres
Lake	14.70		acres
Open Space	14.17	2086.00	acres
Pavement	6.77	806.50	acres
Total:	42.56	2892.50	

WATER QUANTITY :

Discharge Rate :

The proposed project is consistent with the land use and site grading assumptions from the design of the surface water management system. Therefore, the surface water management system for this project has not been designed to limit discharge for the design event to a specified rate.

WATER QUALITY :

No adverse water quality impacts are anticipated as a result of the proposed project.

Endangered Species:

The project site does not contain preferred habitat for wetland-dependent endangered or threatened wildlife species or species of special concern. No wetland-dependent endangered/threatened species or species of special concern were observed onsite, and submitted information indicates that potential use of the site by such species is minimal. This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if, in the future, endangered/threatened species or species of special concern are discovered on the site.

CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

RELATED CONCERNS:

Water Use Permit Status:

The applicant has indicated that dewatering is required for construction of this project. Water use permit application number 050128-9 is being processed concurrently for this project. Water Use Permit No. 11-00041-W has been previously authorized for landscape irrigation.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation, unless the work qualifies for a No-Notice Short-Term Dewatering permit pursuant to Chapter 40E-20.302(3) or is exempt pursuant to Section 40E-2.051, FAC.

Historical/Archeological Resources:

The District has not received correspondence from the Florida Department of State, Division of Historical Resources indicating that the agency has no objections to the issuance of this permit.

DCA/CZM Consistency Review:

The District has not received a finding of inconsistency from the Florida Department of Environmental Protection or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

Enforcement:

There has been no enforcement activity associated with this application.

STAFF REVIEW:

DIVISION APPROVAL:

NATURAL RESOURCE MANAGEMENT:

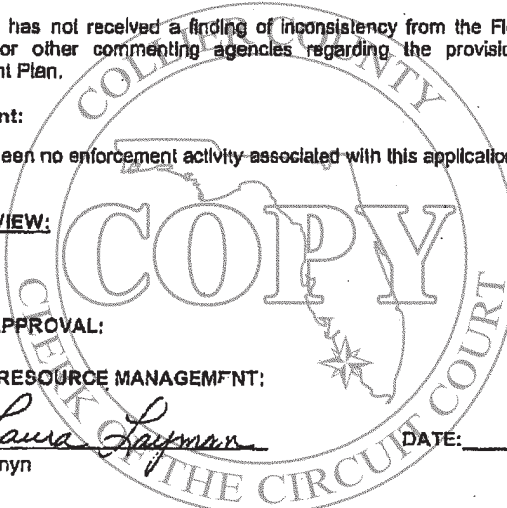
For Laura Layman
Edward Cronyn

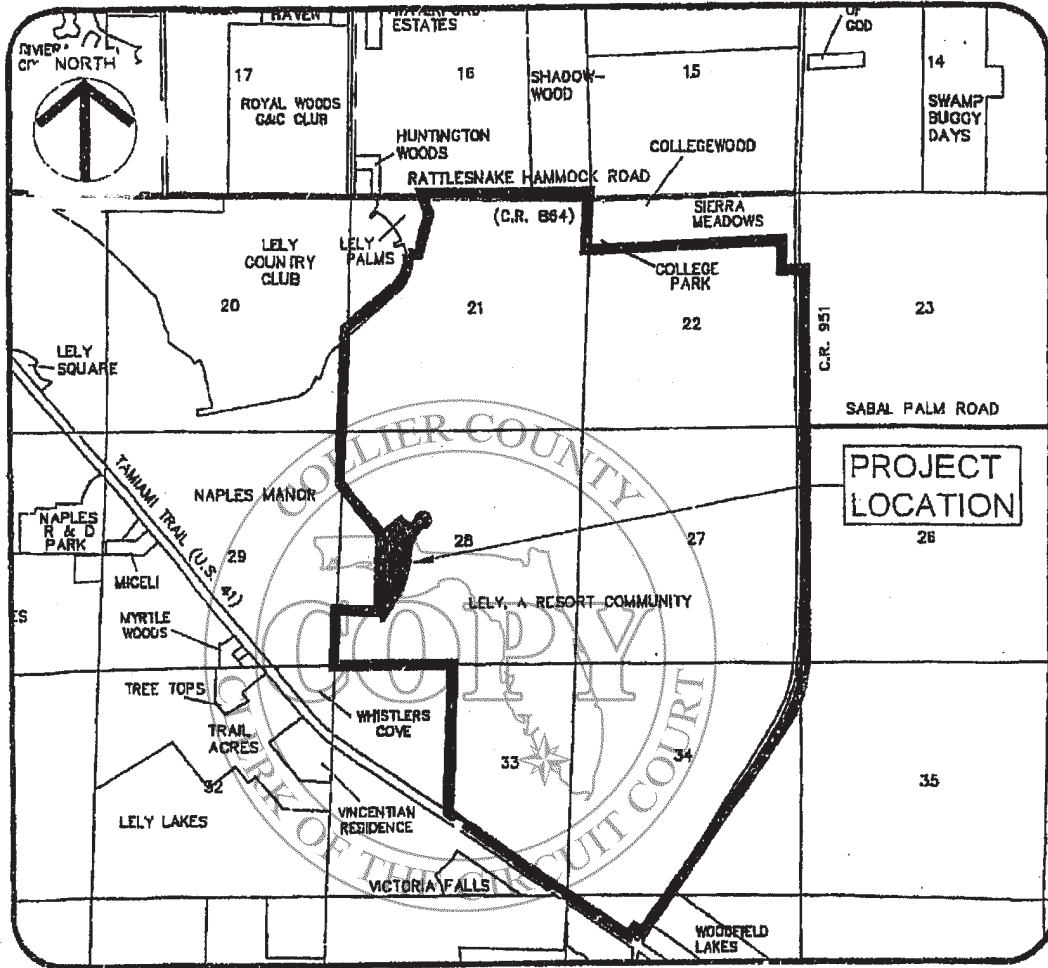
DATE: 4/12/05

SURFACE WATER MANAGEMENT:

W.A.F.
William Foley, P.E.

DATE: 4/12/05





PROJECT LOCATION MAP

NO SCALE

APPLICATION NUMBER
04 1228 - 19 #

EXHIBIT

ADDL/REVISED SUBMITTAL

10 JAN 24 2005

PORT MYERS SERVICE CENTER

**PRESTWICK PLACE
CONSTRUCTION POLLUTION PREVENTION PLAN**

SITE DESCRIPTION	
Project Name and Location: (Latitude, Longitude, or Address)	Prestwick Place South of Wildflower Way, East of Lely High School Blvd., Naples, FL Latitude 26° 4' 56" Longitude 81° 40' 41"
Owner Name and Address:	Stock Development 4501 Tamiami Trail N., Suite 300 Naples, FL 34103
Description: (Purpose and Types of Soil Disturbing Activities)	Construction of a Single Family Residential Community
Runoff Coefficient	The final coefficient of runoff for the site will be c = 0.67
Site Area	The site is approximately 32.99 acres.
Sequence of Major Activities	The order of activities will be as follows: <ol style="list-style-type: none"> 1. Install Erosion Control Around Wetlands and as needed to prevent soil from leaving the site. 2. Clear and Grub Uplands and Impacted wetlands. 3. Construct Detention Lakes and stockpile excavated material. 4. Continue clearing and grade roadways. 5. Install wastewater collection system. 6. Install Storm Sewer. 7. Install Water Distribution System. 8. Construct roadways, sidewalks and cart paths. 9. Final grade and install permanent grasses and plantings. All disturbed areas are to be reseeded or sodded. 10. Remove Erosion Control when stabilization has been established to prevent soil from leaving the site.
Name of Receiving Waters	Henderson Creek via the Lely Master Surface Water Management System.

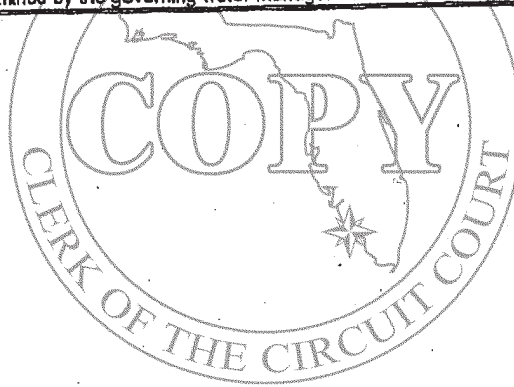
APPLICATION NUMBER:

04 1 2 2 8 - 1 9 #

ADD/REVISED SUBMITTAL
JAN 24 2005
FORT MYERS SERVICE CENTER

EXHIBIT
20

CONTROLS	
Erosion and Sediment Controls	
Stabilization Practices	
<p>Temporary Stabilization - Stock piles and disturbed portions of the site where construction activity temporarily ceases for a least 21 days will be stabilized with temporary seed and mulch no later than 21 days from the last construction activity in that area. The temporary seed shall be Rye (grain) applied at the rate of 120 pounds per acre. Prior to seeding, 1,000 pounds of 10-10-10 fertilizer shall be applied to each acre to be stabilized. After seeding, each area shall be mulched with 4,000 pounds per acre of straw. The straw mulch is to be tacked into place by a disk with blades set nearly straight. Areas of the site which are to be paved will be temporarily stabilized with primed limerock base.</p>	
<p>Permanent Stabilization - Disturbed portions of the site where construction activities permanently ceases shall be stabilized with permanent seed or sod as soon as possible after the last construction activity.</p>	
Structural Practices	
<p>Detention Lakes - will be constructed throughout the project for collection of surface water runoff and pretreatment prior to discharge off-site.</p>	
Storm Water Management	
<p>Storm water drainage will be provided by sheet flow, swales, valley gutter, drainage structures, storm sewer and detention lakes. The areas which are not developed will be graded to promote drainage. The wet detention basins will be stabilized and planted with vegetation in compliance with state and local requirements. The surface water management system has been designed by a professional engineer to limit discharge rates from a 25 year 3 day storm event to the allowable discharge predetermined by the governing water management district. The outfall of the system will be stabilized.</p>	



APPLICATION NUMBER

04 1228 - 19#

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FORT MYERS SERVICE CENTER

EXHIBIT

2.1

OTHER CONTROLS

Waste Disposal

Waste Materials

All waste materials will be collected and stored. Removal will be by a licensed solid waste management company in Collier County. The dumpsters will meet all state and local solid waste management regulations. All trash and construction debris from the site will be deposited in the dumpsters. The dumpster will be emptied a minimum of once a week or more often if necessary, and the trash will be hauled to the licensed solid waste disposal facility. No construction waste materials will be buried onsite. All personnel will be instructed regarding the correct procedure for waste disposal. Notices stating these practices will be posted in the office trailer and Project Superintendent will be responsible for seeing that these procedures are followed. In addition, Material Safety Data Sheets will be on site for all items used.

Hazardous Waste

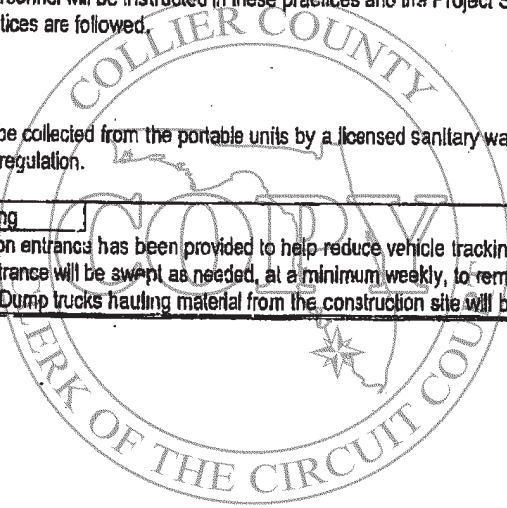
All hazardous waste materials will be disposed of in the manner specified by local or State regulations or by the manufacturer. Site personnel will be instructed in these practices and the Project Superintendent will be responsible for seeing that these practices are followed.

Sanitary Waste

All sanitary waste will be collected from the portable units by a licensed sanitary waste management contractor in accordance with local regulation.

Off-site Vehicle Tracking

A stabilized construction entrance has been provided to help reduce vehicle tracking of sediments. The paved street adjacent to the site entrance will be swept as needed, at a minimum weekly, to remove any excess mud, dirt or rock tracked from the site. Dump trucks hauling material from the construction site will be covered with a tarpaulin.



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EXHIBIT 2.2

TIMING OF CONTROLS/MEASURES

As indicated in the Sequence of Major Activities, the erosion control devices, stabilized construction entrance and detention basins will be constructed prior to clearing and grading of any other portions of the site except for stockpile purposes. Areas where construction activity temporarily ceases for more the 21 days will be stabilized with a temporary seed and mulch within 21 days of the last disturbance. Once construction activity ceases permanently in an area, that area will be stabilized with permanent sod or seed and mulch. Erosion control devices will be removed upon the completion of construction and or stabilization of grasses, etc.

CERTIFICATION OF COMPLIANCE WITH FEDERAL, STATE, AND LOCAL REGULATIONS

The storm water pollution prevention plan reflects the South Florida Water Management District (SFWMD) and Collier County regulations for storm water management. To ensure compliance, this plan was prepared in accordance with the SFWMD Basis of Review Manual, A Collier County Plans and Plat Permit and a SFWMD General Permit Modification will be obtained prior to construction.

MAINTENANCE/INSPECTION PROCEDURES

Erosion and Sediment Control Inspection and Maintenance Practices

These are the inspection and maintenance practices that will be used to maintain erosion and sediment controls.

- Less than three quarters of the site will be denuded at one time
- All control measures will be inspected at least once each week and following any storm event of 0.25 inches or greater.
- All measures will be maintained in good working order; if a repair is necessary, it will be initiated within 24 hours of report.
- Built up sediment will be removed from silt fence when it has reached one-half the height of the fence.
- Silt fence will be inspected for depth of sediment, tears, to see if the fabric is securely attached to the fence posts, and to see that the fence posts are firmly in the ground.
- The perimeter berm will be inspected and any breaches promptly repaired.
- Temporary and permanent grassing and planting will be inspected for bare spots, washouts, and healthy growth.
- A maintenance inspection report will be made after each inspection. A copy of the report form to be completed by the inspector is attached.
- The Project Superintendent will select three individuals who will be responsible for inspections, maintenance and repair activities, and filling out the inspection and maintenance report.
- Personnel selected for inspection and maintenance responsibilities will receive training the Project Superintendent. They will be trained in all the inspection and maintenance practices necessary for keeping the erosion and sediment controls used onsite in good working order.

NON-STORM WATER DISCHARGES

It is expected that the following non-storm water discharges will occur from the site during the construction period:

- Pavement wash waters (where no spills or leaks of toxic or hazardous materials have occurred).
- Uncontaminated groundwater (from dewatering excavation).

All non-storm water discharges will be directed to the detention lakes prior to discharge.

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EXHIBIT

REVISOR'S SUBMITTAL

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INVENTORY FOR POLLUTION PREVENTION PLAN

The materials or substances listed below are expected to be present onsite during construction:

- Concrete
- Detergents
- Paints (enamel and latex)
- Metal Studs
- Asphaltic Concrete
- Tar
- Fertilizers
- Petroleum Based Products
- Cleaning Solvents
- Wood
- Masonry Block
- Roofing Shingles

SPILL PREVENTION

Material Management Practices

The following are the material management practices that will be used to reduce the risk of spill or other accidental exposure of materials and substances to storm water runoff. Material Safety Data Sheets will be onsite for all items used.

Good Housekeeping

The following good housekeeping practices will be followed onsite during the construction project.

- An effort will be made to store only enough product required to do the job.
- All materials stored onsite will be stored in a neat, orderly manner in the appropriate containers and, if possible, under a roof or other enclosure.
- Products will be kept in their original containers with the original manufacturer's label.
- Substances will not be mixed with one another unless recommended by the manufacturer.
- Whenever possible, all of a product will be used up before disposing of a container.
- Manufacturers' recommendations for proper use and disposal will be followed.
- The Project Superintendent will inspect weekly to ensure proper use and disposal of materials onsite.

Hazardous Products

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These practices are used to reduce the risks associated with hazardous materials.

- Products will be kept in original containers unless they are not re-sealable.
- Original labels and material safety data will be retained; they contain important product information.
- If surplus product must be disposed of, manufacturers or local and State recommended methods for proper disposal will be followed.

Product Specific Practices

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The following product specific practices will be followed onsite:

JAN 24 2005

Petroleum Products

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All onsite vehicles will be monitored for leaks and receive regular preventive maintenance to reduce the chance of leakage. Petroleum products will be stored in tightly sealed containers which are clearly labeled. Any asphalt substances used onsite will be applied according to the manufacturer's recommendations.

Tarps will be utilized for vehicle/equipment maintenance to prevent runoff of petroleum spills.

EXHIBIT 24

Fertilizers

Fertilizers used will be applied only in minimum amounts recommended by the manufacturer. Once applied, fertilizer will be worked into the soil to limit exposure to storm water. Storage will be in a covered shed away from run off areas. The contents of any partially used bags of fertilizer will be transferred to a sealable plastic bin to avoid spills.

Paints

All containers will be tightly sealed and stored when not required for use. Excess paint will not be discharged to the storm sewer system but will be properly disposed of according to the manufacturers' instructions or Federal, State and local regulations.

Concrete Trucks

Concrete trucks will be allowed to wash out or discharge surplus concrete or drum wash on the site at a predetermined location. The water will be detained to let the concrete settle prior to discharging into the surface water system. The remaining hard aggregate will be hauled off (not buried on site).

Spill Control Practices

In addition to the good housekeeping and material management practices discussed in the previous sections of the plan, the following practices will be followed for spill prevention and cleanup.

- Manufacturers' recommended methods for spill cleanup will be clearly posted and site personnel will be made aware of the procedures and the locations of the information and cleanup supplies.
- Materials and equipment necessary for spill cleanup will be kept in the material storage area onsite. Equipment and materials will include but not be limited to brooms, dust pans, mops, rags, gloves, goggles, kitty litter, sand, sawdust, and plastic and metal trash containers specifically for this purpose.
- All spills will be cleaned up immediately after discovery.
- The spill area will be kept well ventilated and personnel will wear appropriate protective clothing to prevent injury from contact with hazardous substances.
- Spills of toxic or hazardous material will be report to the appropriate State or local government agency, regardless of the size.
- The spill prevention plan will be adjusted to include measures to prevent this type of spill from reoccurring and how to clean up the spill if there is another one. A description of the spill, what caused it, and the cleanup measures will also be included.
- The Project Superintendent responsible for the day-to-day site operations, will be spill prevention and cleanup coordinator. He will designate at least three other site personnel who will receive spill prevention and cleanup training. These individuals will each become responsible for a particular phase of prevention and cleanup. The names of responsible spill personnel will be posted in the material storage area and in the office trailer onsite.

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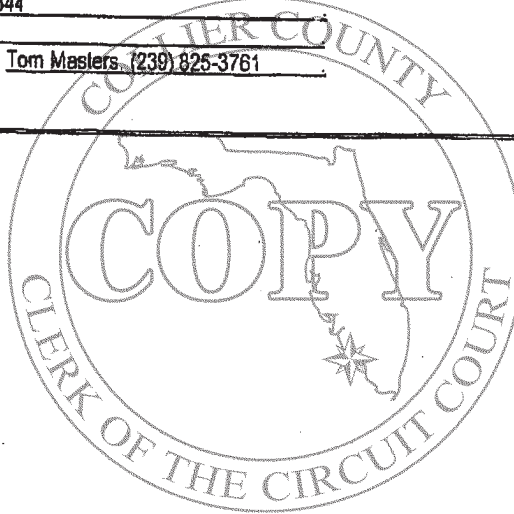
EXHIBIT 25

POLLUTION PREVENTION PLAN CERTIFICATIONS

OWNER'S CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signature _____
Date _____
Name/Title Tom Masters
Company Stock Development
Address 4501 Tamiami Trail North, Suite 300
Naples, FL 34103
Phone (239) 592-7344
Fax (239) 592-7541
Emergency Contact: Tom Masters (239) 825-3761



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EXHIBIT 2.4

CONTRACTOR'S CERTIFICATION

I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associates with industrial activity from the construction site identified as part of this certification.

Signature	For	Responsible for
Name and Title	Company Name Address	Earthwork and Paving Contractor
Date	Phones Number	
Name and Title	Company Name Address	Water, Sewer, Irrigation, and Storm Sewer Contractor
Date	Phones Number	
Name and Title	Company Name Address	Temporary and Permanent Stabilization
Date	Phones Number	
Name and Title	Company Name Address	Stabilized Construction Entrance, Perimeter Berms, Detention Lakes.
Date	Phones Number	

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EXHIBIT 2.2

January 24, 2005

URBAN STORMWATER MANAGEMENT PROGRAM

ADD/REVISED SUBMITTAL

JAN 24 2005

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1.0 Introduction

This document provides details of the Urban Stormwater Management Program for Prestwick Place in Lely Resort in Collier County. This Plan discusses non-structural controls, intended to improve the quality of stormwater runoff by reducing the generation and accumulation of potential stormwater runoff contaminants at or near the respective sources for each constituent, along with significant structural components of the primary stormwater treatment system. Although many of the methodologies and procedures outlined in this document are general Best Management Practices (BMP's) which can be useful in attenuating pollutants in many types of urbanized settings, the implementation of these practices has been optimized, to the maximum extent possible, to reflect the unique character of Prestwick Place and the surrounding hydrologic features.

Pollution prevention guidelines are provided for the areas of (1) nutrient and pesticide management; (2) street sweeping; (3) solid waste management; (4) operation and maintenance of the stormwater management and treatment system; (5) routine water quality testing; and (6) construction activities. A discussion of each of these activities is given in the following sections.

2.0 Nutrient and Pesticide Management

Nutrient and pesticide management consists of a series of practices designed to manage the use of fertilizers and pesticides so as to minimize loss of these compounds into stormwater runoff and the resulting water quality impacts on adjacent waterbodies. Implementation of a management plan will also maximize the effectiveness of the nutrients and pesticides that are applied.

Each homeowner must commit themselves to the practice of responsible and careful landscape design and maintenance of each lot to prevent contamination of surface waters. The guidelines included in this section are intended to help homeowners make educated environmental choices regarding the maintenance of individual yards within the community. These maintenance and management guidelines are meant to promote an attractive neighborhood that preserves the health of adjacent waterways and environmental features.

2.1 General Requirements

A landscape plan must be developed for each residence. The plan must be comprehensive in nature and follow the landscape design guidelines established by the Homeowners Association and must promote revegetation of each lot as quickly as possible.

Commercial applicators of chemical lawn products must register with the Homeowners Association annually and provide a copy of their current occupational license, proof of business liability insurance, and proof of compliance with applicable education and licensing requirements. Individual employees working under the direction of a licensed commercial applicator are exempt from the educational requirements.

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Only registered commercial applicators and individual lot owners are permitted to apply chemicals within the property on a private lot. All chemical products must be used in accordance with the manufacturer's recommendations. The application of any chemical product within five (5) feet of any surface water including but not limited to ponds, lakes, drainage ditches or canals, is prohibited. The use of any chemical product in a manner that will allow airborne or waterborne entry of such products into surface water is prohibited. This rule shall not apply to the use of chemical agents, by certified lake management specialists, for the control of algae and vegetation within the stormwater lakes or ponds.

2.2 Nutrient Management Program

Management and application of nutrients and fertilizers in Prestwick Place will adhere to the following guidelines:

- A. All fertilizers shall be stored in a dry storage area protected from rainfall and ponding.
- B. No fertilizer containing in excess of 2% phosphate/phosphorus (P_2O_5) per guaranteed analysis label (as defined by Chapter 576, Florida Statutes) shall be applied to turf grass unless justified by a soil test.
- C. Fertilizer containing in excess of 2% phosphate/phosphorus (P_2O_5) per guaranteed analysis label shall not be applied within 5 feet of the edge of water or within 5 feet of a drainage facility.
- D. All fertilizer shall be applied such that spreading of fertilizer on all impervious surfaces is minimized.
- E. Liquid fertilizers containing in excess of 2% phosphate/phosphorus (P_2O_5) per guaranteed analysis label shall not be applied through an irrigation system within 10 feet of the edge of water or within 10 feet of a drainage facility.
- F. Liquid fertilizers containing in excess of 2% phosphate/phosphorus (P_2O_5) per guaranteed analysis label shall not be applied through high or medium mist application or directed spray application within 10 feet of the edge of water or within 10 feet of a drainage facility.

2.3 Pest Management Program

Proper maintenance of plants and turf areas will minimize the ability of pests to successfully attack landscaping. Several general guidelines follow:

- A. Apply fertilizer and water only when needed and in moderate amounts. Excessive amounts of either can cause rapid growth that is attractive to insects and disease.
- B. Mow St. Augustine grass to a height of 3-4 inches. If cut shorter, the plants may become stressed and more vulnerable to pest infestation. Each mowing should remove no more than one-third of the leaf blade, and those cuttings should remain on the lawn to decompose.
- C. It is recommended that pesticides, fungicides, and herbicides be used only in response to a specific problem and in the manner and amount recommended by the manufacturer to address the specific problem. Broad application of pesticides, fungicides and herbicides as a preventative measure is strongly discouraged.

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3.1

The use of pesticides, fungicides, or herbicides is limited to products that meet the following criteria:

- A. Must be consistent with the USDA-NRCS Soil Rating for Selecting Pesticides
- B. Must have the minimum potential for leaching into groundwater or loss from runoff
- C. Products must be EPA-approved
- D. The half-life of products used shall not exceed seventy (70) days

3.0 Street Sweeping

This practice involves sweeping and vacuuming the primary streets to remove dry weather accumulation of pollutants, especially particulate matter, before wash-off of these pollutants can occur during a storm event. This practice reduces the potential for pollution impacts on receiving waterbodies by removing particulate matter and associated chemical constituents. Although street cleaning operations are frequently conducted primarily for aesthetic purposes, the primary objective of the street sweeping program for Prestwick Place is to improve the quality of stormwater runoff generated from impervious traffic areas. Street sweeping activities can be particularly effective during periods of high leaf fall by removing solid leaf material and the associated nutrient loadings from roadside areas where they could easily become transported within stormwater flow.

Street sweeping operations will be performed in Prestwick Place at a minimum frequency of one event every other month. A licensed vendor using a vacuum-type sweeping device will perform all street sweeping activities. Sweeping activities during each event will include all primary street surfaces. Disposal of the collected solid residual will be the responsibility of the street sweeping vendor.

4.0 Solid Waste Management

In general, solid waste management involves issues related to the management and handling of urban refuse, litter and leaves that will minimize the impact of these constituents as water pollutants.

Maintenance of adequate sanitary facilities for temporarily storing refuse on private premises prior to collection is considered the responsibility of the individual homeowner. Local requirements for refuse collection will be brought to the attention of every homeowner at closing for the sale of the property. Information will be distributed as necessary stating specifications for containers, separation of waste by type, where to place containers prior to collection, and established collection schedules.

Fallen tree leaves and other vegetation, along with grass clippings, may become direct water pollutants when they are allowed to accumulate in swales and street gutters. All homeowners will receive periodic educational materials that address proper disposal of leaves and other vegetation to minimize water quality impacts.

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5.0 Stormwater Management and Treatment System

The stormwater management system for Prestwick Place is designed to maximize the attenuation of stormwater generated pollutants prior to discharge to the off-site wetland systems. Operational details and maintenance requirements of the various system components are given in the following sections.

5.1 Wet Detention Lakes and Lake Interconnect Pipes

The basic element of the stormwater management system consists of a series of interconnected wet detention ponds that provide stormwater treatment through a variety of physical, biological, and chemical processes. A wet detention pond acts similar to a natural lake by temporarily detaining stormwater runoff, allowing opportunities for treatment processes to occur, prior to slow controlled discharge of the treated water through the outfall structure. Pollutant removal processes in wet detention systems occur during the quiescent period between storm events. Significant removal processes include gravity settling of particulate matter; biological uptake of nutrients and other ions by aquatic plants, algae and microorganisms; along with natural chemical flocculation and complexation processes.

Maintenance of the wet detention ponds will consist of an annual inspection. During each annual inspection, the following items will be reviewed and corrected as necessary:

- A. Review the banks of the lakes and canals to ensure proper side slope stabilization and inspect for signs of excessive seepage that may indicate areas of excessive groundwater flow and possible subsurface channeling.
- B. Physically evaluate each of the lakes and canals for evidence of excessive sediment accumulation or erosion.
- C. Inspect the planted aquatic vegetation in the littoral zone to ensure that the desired vegetation species, percent coverage, and density are maintained.

At the completion of the inspections, a written inspection report will be prepared, listing any deficiencies that need to be addressed or corrected by the Homeowners Association.

5.2 Stormwater Inlets, Pipes and Culverts

The grates should be unobstructed and the bottom, inside the inlet, should be clean. Check for any accumulation of sediment, trash such as garbage bags, or debris in the culverts connecting these inlets. Flushing out with a high-pressure hose may clean some sediment. Any noted blockage (due to a possible obstruction, or broken pipe, etc.) should prompt further investigation. Crushed or corroded culverts should be replaced with new ones of the same size.

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EX-11

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JAN 24 2005 3.3

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5.3 Swales and Grassed Water Storage Areas

These provide for conveyance and/or above-ground (or surface) storage of stormwater. With age, these areas usually fill in with vegetation and sediment. Swales may need to be regraded and/or revegetated. It is a good idea to compare the existing slope and dimensions of the swale with the permitted design plans prior to the removal of excess sediment or regrading. Areas that show erosion should be stabilized with appropriate material such as sod, planting, rock, sand bags, or other synthetic geotextile material.

Regular mowing of grass swales is essential. These areas also improve water quality by catching sediment and assimilating nutrients, and recharge the underground water table. Remove any undesirable exotic vegetation. Culverts underneath driveways should be checked for blockage, and, if necessary, flushed with a high-pressure hose. After a storm, swales may remain wet for an extended period of time. This is normal and the water will recede gradually.

5.4 Ditches or Canals

Fill material, yard waste, clippings and vegetation, sediment, trash, appliances, garbage bags, shopping carts, tires, cars, etc. should be completely removed. Also check to make sure there are no dead trees or any type of obstructions which could block the drainage flow way.

Maintenance cleaning/excavation must be limited to the same depth, width and side slope as approved in the current permit. Making a ditch deeper or wider may trigger a need for a permit modification. Provisions must also be made to prevent any downstream silt or turbidity (Contact the SFWMD Resource Compliance staff if you are unsure or need clarification.) Be sure to dispose of all removed material properly so it won't affect any other water storage or conveyance system, environmental area, or another owner's property.

5.5 Outfall Structure (also called the Discharge Control Structure or Weir)

There are no outfall structures proposed with this project. This project is a General Permit Modification to the existing permit and the discharge is controlled downstream of this project.

5.6 Earthen Embankments (Dikes and Berms)

Check for proper elevations, width and stabilization. Worn down berms - especially if used by all-terrain vehicles or equestrian traffic - and rainfall - created washouts should be immediately repaired, compacted and re-vegetated.

6.0 Water Quality Testing

This project is a General Permit Modification to the Master permit and does not include any discharge structures. The overall system, including discharge structures and water quality monitoring, is maintained by the Lely Master Property Association.

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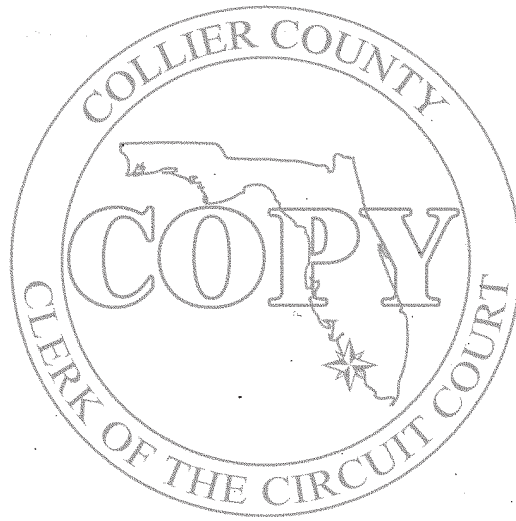
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3.3

OR: 4406 PG: 3611

7.0 Construction Activities

A Stormwater Pollution Prevention Plan (SWPPP) has been prepared for construction activities to minimize activities contamination that may be caused by erosion and sedimentation during the construction process. The plan includes provisions related to soil stabilization, structural erosion controls, waste collection disposal, offsite vehicle tracking, spill prevention and maintenance and inspection procedures. A copy of the SWPPP is attached hereto and made a part of hereof.



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EXHIBIT 3.4

OR: 4406 PG: 3612

STAFF REPORT DISTRIBUTION LIST

PRESTWICK PLACE

Application No: 041228-19

Permit No: 11-00429-S

INTERNAL DISTRIBUTION

- X Catherine Hawkins - 2261
- X Shona M. Gibson - 2261
- X Edward Cronyn - 2261
- X William Foley, P.E. - 2261
- X C. Tears - 2262
- X ERC Engineering - 2261
- X ERC Environmental - 2261
- X Fort Myers Backup File - 2261
- X M. Solo-4240
- X M. White - 2261
- X Permit File

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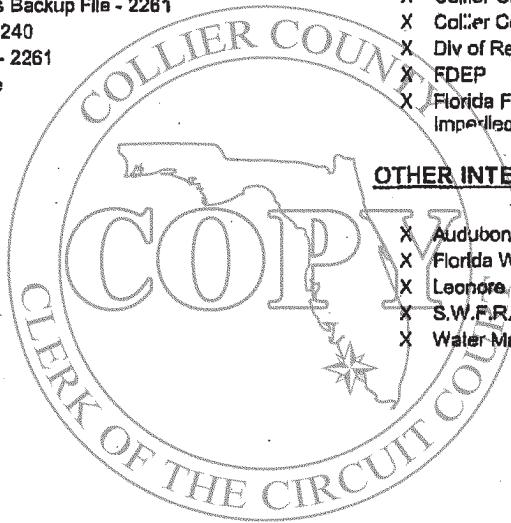
- X Permittee - Stock Development Lic
- X Agent - Waldrop Engineering Pa

GOVERNMENT AGENCIES

- X Collier County - Agricultural Agent
- X Collier County Engineer Engineering Review Services
- X Div of Recreation and Park - District 8 - FDEP
- X FDEP
- X Florida Fish & Wildlife Conservation Commission -
Impaired Species Mgmt Section

OTHER INTERESTED PARTIES

- X Audubon of Florida - Charles Lee
- X Florida Wildlife Federation - Nancy Anne Payton
- X Leonore Reich
- X S.W.F.R.P.C. Marisa Barmby
- X Water Management Institute - Michael N. Venatta



STAFF REPORT DISTRIBUTION LIST

ADDRESSES

Waldrop Engineering Pa
10641 Airport N Unit 32
Naples FL 34109

Stock Development Lic
4501 Tamiami Trail North Ste 360
Naples FL 34103

Collier County - Agricultural Agent
3301 Tamiami Trail East
Po Box 413044
Naples FL 34101-3044

Collier County Engineer Engineering Review Services
3301 Tamiami Trail
Naples FL 34112

Div of Recreation and Park - District B - FDEP
1843 South Tamiami Trail
Osprey FL 34229

FDEP
2295 Victoria Avenue
Fort Myers FL 33901

Florida Fish & Wildlife Conservation Commission -
Imperiled Species Mgmt Section
620 South Meridian Street
Tallahassee FL 32399-6000

Audubon of Florida - Charles Lee
1101 Audubon Way
Maitland FL 32751

Florida Wildlife Federation - Nancy Anne Payton
2580 Golden Gate Parkway
Suite 109
Naples FL 34105

Leonore Reich
713 Reef Point Circle
Naples FL 33963

S.W.F.R.P.C. Marisa Barmby
1926 Victoria Avenue
Fort Myers FL 33917

Water Management Institute - Michael N. Vanatta
Po Box 6446
Vero Beach FL 32961

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CLERK OF THE CIRCUIT COURT

EXHIBIT B

Ole'

Permit No. 11-00429-S; Application No. 050121-13

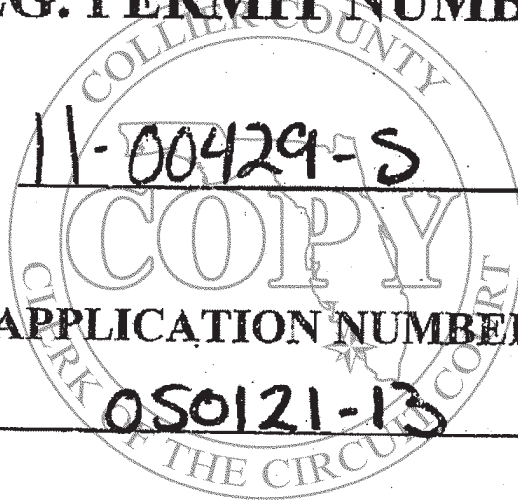
**SOUTH FLORIDA WATER
MANAGEMENT DISTRICT**

BEG. PERMIT NUMBER:

11-00429-S

APPLICATION NUMBER:

050121-13



11-00429-S
050121-13

11-00429-S
050121-13



SOUTH FLORIDA WATER MANAGEMENT DISTRICT
 ENVIRONMENTAL RESOURCE
 STANDARD GENERAL PERMIT NO. 11-00429-S
 DATE ISSUED: March 4, 2005

Form #0941
 08/95

PERMITEE: STOCK DEVELOPMENT LLC
 4501 TAMiami TRAIL STE 300
 NAPLES, FL 34103

PROJECT DESCRIPTION: This application is a request for a General Permit Modification authorizing construction and operation of a surface water management system serving 71.7 acres of multi-family residential development known as Ole at Lely Resort with discharge into the Henderson Creek via an existing SWM system.

PROJECT LOCATION: COLLIER COUNTY, SEC 27 TWP 50S RGE 26E
 SEC 34 TWP 50S RGE 26E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 050121-13, dated January 21, 2005. This action is taken pursuant to Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages: 2-4 of 5).
3. the attached 17 Special Conditions (See Pages: 5-5 of 5) and
4. the attached 4 Exhibits).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 4th day of March, 2005, in accordance with Section 120.60(3), Florida Statutes.

BY: 
 Jacqueline Rippe, P.E.
 Director

Lower West Coast Service Center

Certified mail number 7003 1880 0001 1501 8111

NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

Petition for Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMD Administrative Complaint and Order pursuant to Section 373.118, Fla. Stat. (1997) the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a or b above.

d. State Lands Environmental Resource

Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order

A person whose substantial interests are affected by a SFWMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.511, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action the filing of a petition means that the SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3 Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4 Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

CIRCUIT COURT

5 Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6 Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15th Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7 Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system (dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

DISTRICT COURT OF APPEAL

8 Pursuant to Section 120.88, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

LAND AND WATER ADJUDICATORY COMMISSION

9 A party to a "proceeding below" may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order; and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

PRIVATE PROPERTY RIGHTS PROTECTION ACT

10 A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11 A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (5), Fla. Stat.

MEDIATION

12 A person whose substantial interests are or may be affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or

publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

(1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;

(2) a statement of the preliminary agency action;

(3) an explanation of how the person's substantial interests will be affected by the agency determination; and

(4) a statement of relief sought.

As provided in Section 120.573, Fla. Stat. (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat. and SFWMD Rule 28-106.201(2), Fla. Admin. Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Subsection 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD's action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:

(a) the caption shall read:

Petition for (Variance from) or (Waiver of) Rule (Citation)

(b) The name, address, telephone number and any facsimile number of the petitioner;

(c) The name, address telephone, number and any facsimile number of the attorney or qualified representative of the petitioner, if any;

(d) the applicable rule or portion of the rule;

(e) the citation to the statute the rule is implementing;

(f) the type of action requested;

(g) the specific facts that demonstrate a substantial hardship or violation of principles of fairness that would justify a waiver or variance for the petitioner;

(h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and

(i) a statement of whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(5), Fla. Stat. pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

a) the specific facts that make the situation an emergency; and

b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

28-106.201

INITIATION OF PROCEEDINGS

(INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

(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, as well as the rules and statutes which entitle the petitioner to relief; and

(f) A demand for relief.

28-106.301 INITIATION OF PROCEEDINGS
(NOT INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

- (2) All petitions filed under these rules shall contain:
- (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 concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
 - (e) A demand for relief

28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL

- (3) Requests for hearing filed in accordance with this rule shall include:
- (a) The name and address of the party making the request for purposes of service;
 - (b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
 - (c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217

(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity

- (a) How the order or rule conflicts with the requirements, provisions and purposes of Chapter 373, F.S. or rules duly adopted thereunder;

(b) How the rule or order sought to be reviewed affects the interests of the party seeking review;

(c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;

(d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and

(e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

28-107.005 EMERGENCY ACTION

(1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.

(2) The 14-day notice requirement of Section 120.569(2)(b), F.S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

(3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

40E-1.611 EMERGENCY ACTION

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare, the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

GENERAL CONDITIONS

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 5 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Certification - For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and

GENERAL CONDITIONS

maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

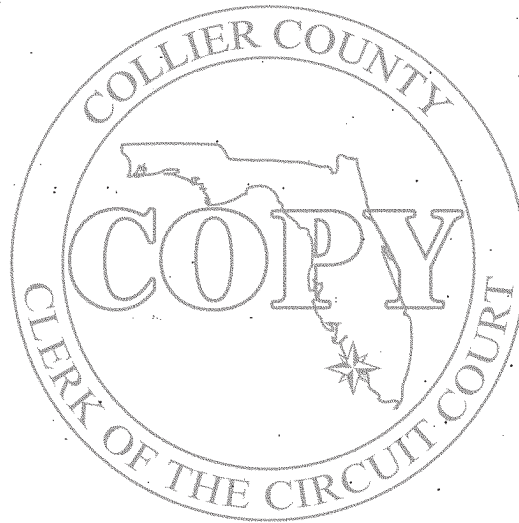
8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the State, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereign lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction of a general permit pursuant to Subsection 40E-20.302(3), F.A.C., unless the work qualifies for a "No Notice" Rule.
14. The permittee shall hold and save the District harmless from any claims, or liabilities, which may arise by reason of the construction, alteration, operation, or use of any system authorized by the permit. The permittee shall also hold and save the District harmless from any claims, or liabilities, which may arise by reason of the removal, abandonment, alteration, or use of any system authorized by the permit.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of

Application No. 050121-13
Page 4 of 5

GENERAL CONDITIONS

ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

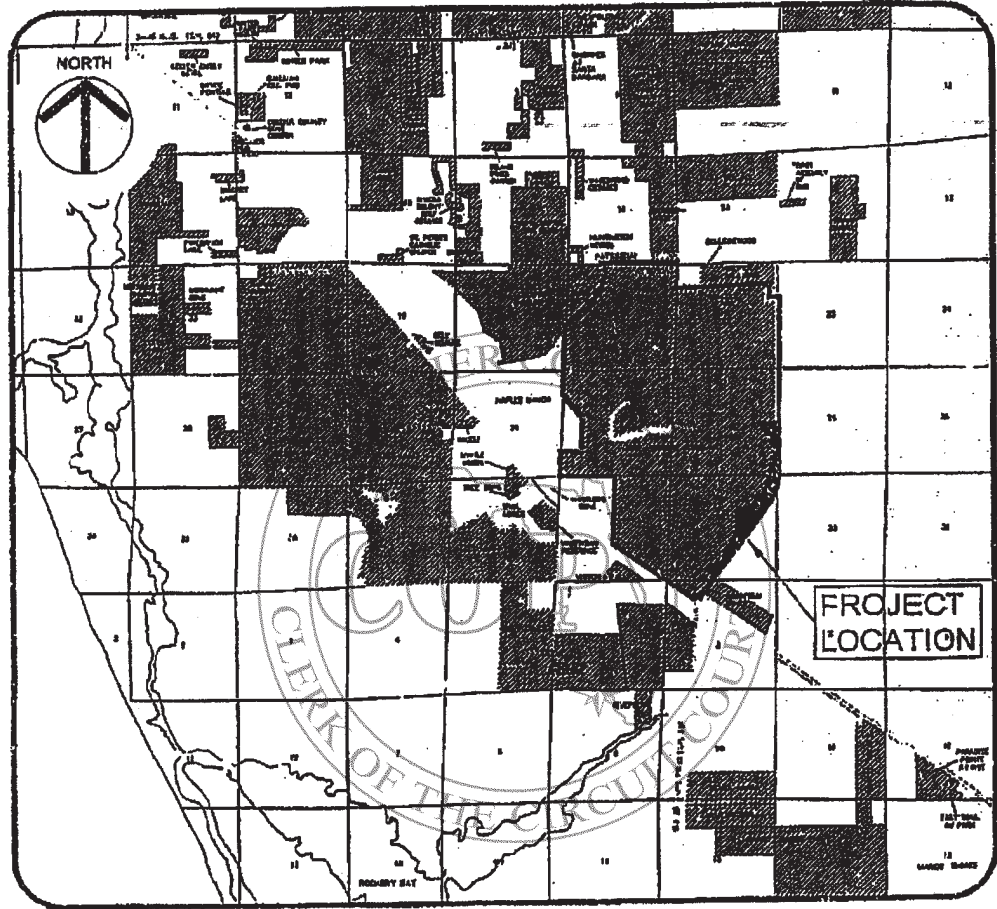


SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on March 4, 2010.
2. Operation of the surface water management system shall be the responsibility of LELY RESORT MASTER PROPERTY OWNER'S ASSOCIATION.
3. Discharge Facilities: Through previously permitted facilities.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
8. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
9. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
10. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
11. Minimum building floor elevation: 8.3' NGVD.
12. Minimum road crown elevation: 8.9' NGVD.
13. Minimum parking lot elevation: 6.9' NGVD.
14. All special conditions and exhibits previously stipulated by permit number 11-00429-S remain in effect unless otherwise revised and shall apply to this modification.
15. Plan sheets 2, 3, 6 through 22, 25, 26, 27 & 31, signed, sealed and dated by Ronald Dale Waldrop, P.E. on January 20, 2005 are incorporated by reference into this General Permit modification and will be retained in this permit file.
16. The Permittee shall utilize the criteria contained in the Construction Pollution Prevention Plan (Exhibit Nos. 3.0-3.9) and on the applicable approved construction drawings for the duration of the projects construction activities.
17. The Permittee shall utilize the criteria contained in the Urban Stormwater Management Program (Exhibit 4.0-4.6) for post construction activities.

APPLICATION NUMBER
050121-13

ORIGINAL SUBMITTAL
JAN 21 2005
LWC SERVICE CENTER



PROJECT LOCATION MAP
NO SCALE

EXHIBIT 1.0

Last Date For Agency Action: 22-MAR-2006

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Ole At Lely Resort

Permit No.: 11-00429-S

Application No.: 050121-13

Application Type: Environmental Resource (General Permit Modification)

Location: Collier County, S27/T50S/R26E
S34/T60S/R28E

Permittee: Stock Development Lic

Operating Entity: Lely Resort Master Property Owner's Association

Project Area: 71.7 acres

Project Land Use: Residential

Drainage Basin: WEST COLLIER

Sub Basin: HENDERSON CREEK

Receiving Body: Henderson Creek via existing SWM system

Class: CLASS III

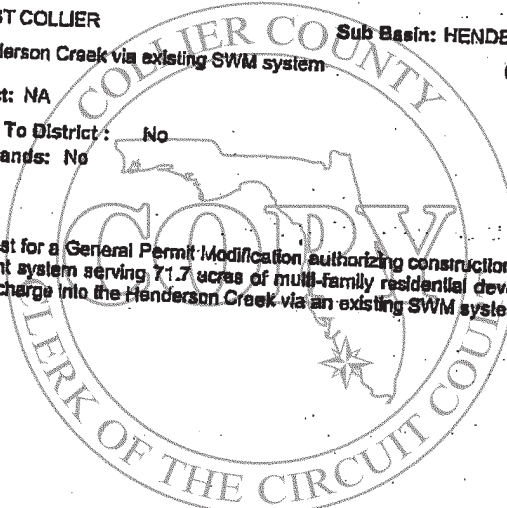
Special Drainage District: NA

Conservation Easement To District: No

Sovereign Submerged Lands: No

PROJECT PURPOSE:

This application is a request for a General Permit Modification authorizing construction and operation of a surface water management system serving 71.7 acres of multi-family residential development known as Ole at Lely Resort with discharge into the Henderson Creek via an existing SWM system.



PROJECT EVALUATION:

PROJECT SITE DESCRIPTION:

The proposed 71.7 acre site is located west of Collier Boulevard (C.R. 951), south of Grand Lely Drive, on the west side of Celeste Drive, within the previously permitted Lely Resort development, in Naples, Collier County, Florida. A location map is attached as Exhibit 1.G.

The project area consists of a partially cleared area and a pine flatwood community with no wetlands on site. There are wetlands located adjacent to the east of the project area that are within an existing wetland conservation area. All wetland impacts have been addressed and mitigation has been provided under the original permit. No adverse environmental impacts to the adjacent wetlands are proposed as a result of project construction.

PROPOSED PROJECT:

The proposed project consists of 71.70 acres of a residential development containing 634 multi-family units, internal roadways, clubhouse, pool, tennis/basketball court, associated parking and a surface water management system. Stormwater runoff sheetflows via catch basins and culverts into the existing Lely Resort master surface water management system which provides the water quality and attenuation requirements during the 25 year, 3 day storm event for this site.

LAND USE:

Construction:
Project:

This Phase

Building Coverage	17.90	acres
Pavement	12.60	acres
Pervious	41.20	acres
Total:	71.70	

WATER QUANTITY :

Discharge Rate :

The proposed project is consistent with the land use and site grading assumptions from the design of the surface water management system. Therefore, the surface water management system for this project has not been designed to limit discharge for the design event to a specified rate.

WATER QUALITY :

The existing Lely Resort master surface water management system provides the water quality requirement for this project. No adverse water quality impacts are anticipated as a result of the proposed project.

EXHIBIT 2.1

Endangered Species:

The project site does not contain preferred habitat for wetland-dependent endangered or threatened wildlife species or species of special concern. No wetland-dependent endangered/threatened species or species of special concern were observed onsite, and submitted information indicates that potential use of the site by such species is minimal. This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if, in the future, endangered/threatened species or species of special concern are discovered on the site.

CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4361(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.8107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

EXHIBIT 2.2

RELATED CONCERNS:

Water Use Permit Status:

The applicant has indicated that irrigation will be from potable water and that dewatering is not required for construction of this project.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation, unless the work qualifies for a No-Notice Short-Term Dewatering permit pursuant to Chapter 40E-20.302(3) or is exempt pursuant to Section 40E-2.051, FAC.

Historical/Archeological Resources:

No information has been received that indicates the presence of archaeological or historical resources or that the proposed activities could cause adverse impacts to archaeological or historical resources.

DCAJCM Consistency Review:

The District has not received a finding of inconsistency from the Florida Department of Environmental Protection or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.

Enforcement:

There has been no enforcement activity associated with this application.

STAFF REVIEW:

DIVISION APPROVAL:

NATURAL RESOURCE MANAGEMENT:

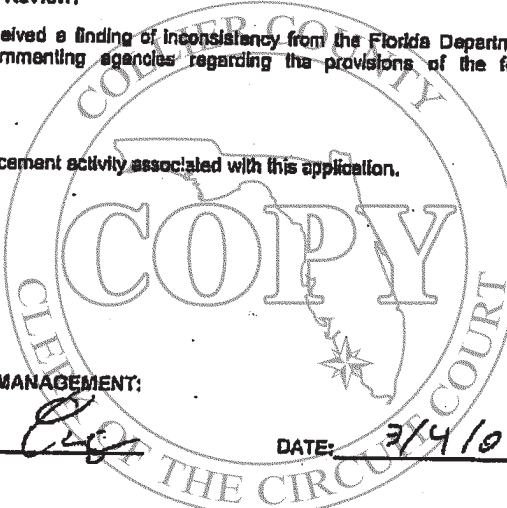

Edward Cronyn

DATE: 3/4/05

SURFACE WATER MANAGEMENT:


William Foley, P.E.

DATE: 3-3-05



CONSTRUCTION POLLUTION PREVENTION PLAN
for

SITE DESCRIPTION	
Project Name and Location (Latitude Longitude or Address)	Owner Name and Address:
Description (Purpose and Types of Soil Disturbing Activities)	
<p>Construction in this project will generally consist of site clearing, lake excavation, and construction of roadways, utility infrastructure, golf course, and multi-use vertical construction.</p> <p>Site disturbing activities will include clearing and grubbing, installing a stabilized construction entrance, perimeter berming and other erosion and sediment controls, grading, excavation for the storm water management lake, storm sewer, utilities, and building foundations, construction of curb and gutter, road, and parking areas, and preparation for final planting, sodding, seeding and mulching.</p>	
Runoff Coefficient	
Site Area	
Sequence of Major Activities	
The order of activities will be as follows:	
<ul style="list-style-type: none"> 1. Installation of stabilized construction entrance 2. Perimeter clearing and grubbing 3. Install perimeter berm(s) or silt fences with straw bales (barriers) adjacent to wetland areas 4. Complete clearing and grading 5. Complete storm water management lake 6. Storm water stabilized soil 7. Storm water stabilized areas and structures with 12" depth of soil 8. Construction activity in this area 9. Storm sewer, curb and gutter 	<ul style="list-style-type: none"> 9. Complete grading, subgrade and base course construction 8. Complete final paving 5. Complete landscape grading and install permanent seeding and plantings 10. When all construction activity is complete and the areas stabilized, remove temporary earth berm, straw bale barriers and silt fences and remove any areas disturbed by other activities.
Name of Receiving Waters	
CONTROLS	
Erosion and Sediment Controls	
Stabilization Practices	
<p>Temporary Stabilization: Top soil stock piles and disturbed portions of the site where construction activity temporarily ceases for at least 21 days will be stabilized with temporary seed and mulch no later than 14 days from the last construction activity in that area. The seed shall be Bahia, millet, rye, or other fast-growing grasses. Prior to seeding, fertilizer or agricultural lime shall be applied to each area to be temporarily stabilized. After seeding, each area shall be mulched with the mulch disked into place. Areas of the site which will be paved will be temporarily stabilized by applying limestone or lime until bituminous pavement can be applied.</p>	
<p>Permanent Stabilization: Disturbed portions of the site, where construction activities permanently cease, shall be stabilized with sod seed and mulch, landscaping, and/or other equivalent stabilization measures (e.g., rip-rap, geotextiles) no later than 14 days after the date of the last construction activity. The sod shall typically be Florstam or Bahia sod. Prior to seeding, fertilizer or agricultural lime shall be applied to each area to be temporarily stabilized. After seeding, each area shall be mulched with the mulch disked into place.</p>	

EXHIBIT 3.0

CONTROLS (Continued)

Structural Practices

Silt Fence / Straw Bale Barrier - will be constructed along those areas of the project that border adjacent wetlands. At a minimum, the silt fence and/or straw bale barrier will be placed along all wetland buffers and all Corps of Engineers jurisdictional wetland boundaries.

Straw Bale Drop Inlet Sediment Filter - will be placed around all constructed storm drain inlets immediately upon completion of construction and shall remain in-place until the contributing drainage area is stabilized. Alternatively, grate inlets can be covered with filter fabric material until stabilization.

Storm Water Management

The project will utilize a system of lakes to provide the required water quality treatment and attenuation. Discharges from the water management system will be regulated by a series of water control structures. These control structures will be used to maintain water levels in the detention facilities that will maintain or restore the hydroperiod in the wetlands and flowways. The water control structures will also be used to restrict the discharges from the project as described above. Dry pre-treatment will be provided for the golf course maintenance facilities and commercial parking lot runoff prior to discharge into the lake system.

Spreader devices will be used at appropriate locations to disperse flow and dissipate energy of runoff into wetlands. Spreader devices will also be used at appropriate locations to disperse flows discharged from the water management system into receiving flowways. Spreader devices will be heavily planted with native vegetation to help buffer the transition from the manmade lakes to the natural systems.

DISCHARGE RATES

OTHER CONTROLS

Waste disposal

Waste Materials

All waste materials will be collected and stored in a trash dumpster which will meet all local and State land waste management requirements. All waste and construction debris from the site will be deposited in this dumpster. The dumpster will be emptied as required by local, State and local regulations, with the trash disposed of at the appropriate site and location. No construction materials will be disposed of on-site. All debris will be disposed of at the appropriate site for waste disposal.

Paints and Coatings

All paints and coatings will be disposed of in the manner specified by local or State regulations or by the manufacturer's instructions for the disposal of these products.

Mobile Equipment

All mobile equipment will be stored in a secure area by the City of Ft. Myers, same as waste management and disposal regulations.

Off-site Vehicle Tracking

A stabilized construction entrance has been provided to help reduce vehicle tracking of sediments. As they are completed, paved streets will be swept as needed to remove any excess muck, dirt, or rock tracked from the site. Dump trucks hauling material from the construction site will be covered with a tarpaulin.

TIMING OF CONTROLS/MEASURES

Installation of hay bale / silt fence barriers (around wetlands) and stabilized construction entrance will be constructed prior to extensive clearing or grading of any other portions of the site. Areas where construction activity temporarily ceases for more than 21 days will be stabilized with a temporary seed and mulch within 14 days of the last disturbance. Once construction activity ceases permanently in an area, that area will be stabilized with permanent sod, seed and mulch, landscaping, and/or other equivalent stabilization measures (e.g., rip-rap, geotextiles). After the entire site is stabilized, the silt fence / straw bale barriers can be removed.

CERTIFICATION OF COMPLIANCE WITH FEDERAL, STATE, AND LOCAL REGULATIONS

The storm water pollution prevention plan reflects the United States Environmental Protection Agency and the South Florida Water Management District (SFWMD) requirements for storm water management and erosion and sediment control, as established in the Chapter 47E-4 FAC and Chapter 373 FS.

EXHIBIT 3.1

MAINTENANCE/INSPECTION PROCEDURES

Erosion and Sediment Control Inspection and Maintenance Practices

These are the inspection and maintenance practices that will be used to maintain erosion and sediment controls.

- All control measures will be inspected at least once each week and following any storm event of 0.5 inches or greater.
- All measures will be maintained in good working order; if a repair is necessary, it shall be corrected as soon as possible, but in no case later than 7 days after the inspection.
- Built up sediment will be removed from silt fence when it has reached one-half the height of the fence.
- Silt fence will be inspected for depth of sediment, tears, to see if the fabric is securely attached to the fence posts, and to see that the fence posts are firmly in the ground.
- Temporary seeding and permanent sodding and planting will be inspected for bare spots, washouts, and healthy growth.
- A maintenance inspection report will be made after each inspection. A copy of the report form to be completed by the Inspector is attached.
- The Owner will appoint one individual who will be responsible for inspections, maintenance and repair activities, and for completing the inspection and maintenance reports.
- Personnel selected for inspection and maintenance responsibilities will receive training from the site superintendent. They will be trained in all the inspection and maintenance practices necessary for keeping the erosion and sediment controls used onsite in good working order.

Non-Storm Water Discharge

It is expected that the following non-storm water discharges will occur from the site during the construction period.

- Water from water line flushings.
- Pavement wash waters (when no spills or leaks of toxic or hazardous materials have occurred).
- Uncontaminated groundwater (from dewatering excavation).
- All non-storm water discharges will be directed to the storm water management facilities once to discharge.

INVENTORY FOR POLLUTION PREVENTION PLAN

The materials or substances listed below are expected to be present on site during construction.

- | | |
|--|--|
| <ul style="list-style-type: none"> • Concrete • Detergents • Paints (enamel and latex) • Metals: Steels • Asphalt • Roofing Shingles | <ul style="list-style-type: none"> • Fertilizers • Petroleum Based Products • Cleaning Solvents • Wood • Masonry Blocks • Clay or concrete |
|--|--|

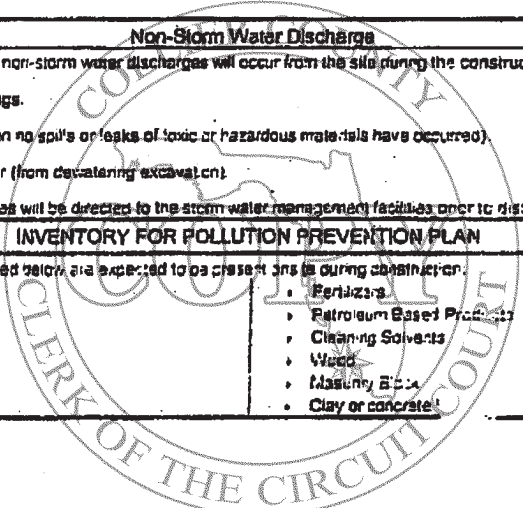


EXHIBIT 3.2

SPILL PREVENTION

Material Management Practices

The following are the materials management practices that will be used to reduce the risk of spills or other accidental exposure of materials and substances to storm water runoff.

Good Housekeeping

The following good housekeeping practices will be followed onsite during the construction project:

- An effort will be made to store only enough product required to do the job.
- All materials stored onsite will be stored in a neat, orderly manner in their appropriate containers, and if possible, under a roof or other enclosure.
- Products will be kept in their original containers with the original manufacturer's label.
- Substances will not be mixed with one another unless recommended by the manufacturer.
- Whenever possible, all of a product will be used up before disposing of the container.
- Manufacturers' recommendations for proper use and disposal will be followed.
- The site superintendent will inspect to ensure proper use and disposal of materials onsite.

Hazardous Products

These practices are used to reduce the risks associated with hazardous materials.

- Products will be kept in original containers unless they are not resealable.
- Original labels and material safety data will be retained; they contain important product information.
- If surplus product must be disposed of, manufacturers' or local and State recommended methods for proper disposal will be followed.

Product Specific Practices

The following product specific practices will be followed onsite:

Petroleum Products

All onsite vehicles will be monitored for leaks and receive regular preventive maintenance to reduce the chance of leakage. Petroleum products will be stored in tightly sealed containers which will be clearly labeled. Any asphalt substances used onsite will be applied in accordance with the manufacturer's recommendations and standard construction practices.

Fertilizers

Fertilizers will be applied only in the minimum amounts recommended by the manufacturer. Once applied fertilizer will be worked into the soil to the extent possible to prevent runoff. Storage will be in a covered shed. The contents of any partially used bags of fertilizer will be transferred to a sealed plastic bag to avoid spills.

Paints

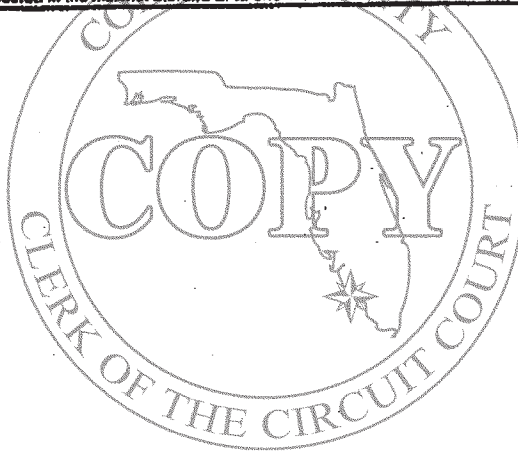
All containers will be tightly sealed and stored when not required for use. Excess paint will not be discharged to the storm sewer system but will be properly disposed of according to manufacturers' instructions and/or state and local regulations.

EXHIBIT 3.3

SPILL PREVENTION (Continued)**Spill Control Practices**

In addition to the good house-keeping and material management practices discussed in the previous sections of this plan, the following practices will be followed for spill prevention and cleanup.

- Manufacturers' recommended methods for spill cleanup will be clearly posted and site personnel will be made aware of the procedures and the location of the information and cleanup supplies.
- Materials and equipment necessary for spill cleanup will be kept in the material storage area onsite. Equipment and materials will include—but not be limited to—rags, gloves, goggles, kitty litter, sand, and plastic and metal trash containers specifically for this purpose.
- All spills will be cleaned up as soon as possible after discovery.
- The spill area will be kept well ventilated and personnel will wear appropriate protective clothing to prevent injury from contact with a hazardous substance.
- Spills of toxic or hazardous material will be reported to the appropriate state or local government agency, regardless of the size.
- The spill prevention plan will be adjusted to include measures to prevent this type of spill from reoccurring and how to clean up the spill if there is another one. A description of the spill, what caused it, and the cleanup measures will also be included.
- The Contractor's site superintendent will be responsible for the day-to-day site operations and will be the spill prevention and cleanup coordinator. He will designate at least two other site personnel who will receive spill prevention and cleanup training. These individuals will each become responsible for a particular phase of prevention and cleanup. The names of responsible spill personnel will be posted in the material storage area and in the office trailer onsite.

**EXHIBIT 3.4**

POLLUTION PREVENTION PLAN CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signed _____

Print Name: _____

Title: _____

Date: _____

CONTRACTOR'S CERTIFICATION

I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with industrial activity from the construction site identified as part of this certification.

Signature	For	Responsible for
_____	_____	_____
Date: _____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
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Date: _____	_____	_____

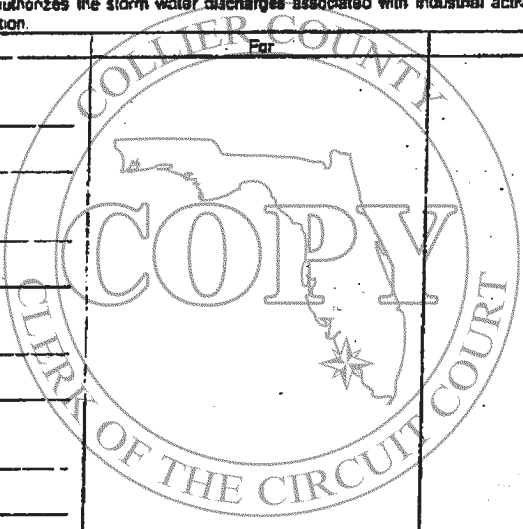


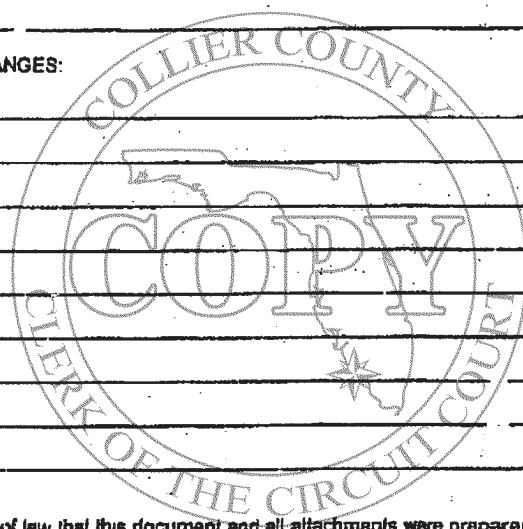
EXHIBIT 3.5

CONSTRUCTION POLLUTION PREVENTION PLAN
for

Inspection And Maintenance Report Form

CHANGES REQUIRED TO THE POLLUTION PREVENTION PLAN:

REASONS FOR CHANGES:



I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations

Signature

Date

EXHIBIT 3.9

April 21, 2004

URBAN STORMWATER MANAGEMENT PROGRAM**1.0 Introduction**

This document provides details of the Urban Stormwater Management Program for the (Project Name) in (location). This Plan discusses non-structural controls, intended to improve the quality of stormwater runoff by reducing the generation and accumulation of potential stormwater runoff contaminants at or near the respective sources for each constituent, along with significant structural components of the primary stormwater treatment system. Although many of the methodologies and procedures outlined in this document are general Best Management Practices (BMP's) which can be useful in attenuating pollutants in many types of urbanized settings, the implementation of these practices has been optimized, to the maximum extent possible, to reflect the unique character of the (Project name) and the surrounding hydrologic features.

Pollution prevention guidelines are provided for the areas of (1) nutrient and pesticide management; (2) street sweeping; (3) solid waste management; (4) operation and maintenance of the stormwater management and treatment system; (5) routine water quality testing; and (6) construction activities. A discussion of each of these activities is given in the following sections.

2.0 Nutrient and Pesticide Management

Nutrient and pesticide management consists of a series of practices designed to manage the use of fertilizers and pesticides so as to minimize loss of these compounds into stormwater runoff and the resulting water quality impacts on adjacent waterbodies. Implementation of a management plan will also maximize the effectiveness of the nutrients and pesticides that are applied.

Each homeowner must commit themselves to the practice of responsible and careful landscape design and maintenance of each lot to prevent contamination of surface waters. The guidelines included in this section are intended to help homeowners make educated environmental choices regarding the maintenance of individual yards within the community. These maintenance and management guidelines are meant to promote an attractive neighborhood that preserves the health of adjacent waterways and environmental features.

2.1 General Requirements

A landscape plan must be developed for each residence. The plan must be comprehensive in nature and follow the landscape design guidelines established by the Homeowners Association and must promote revegetation of each lot as quickly as possible.

Commercial applicators of chemical lawn products must register with the Homeowners Association annually and provide a copy of their current occupational license, proof of business liability insurance, and proof of compliance with applicable education and licensing requirements. Individual employees working under the direction of a licensed commercial applicator are exempt from the educational requirements.

EXHIBIT 4.0

Only registered commercial applicators and individual lot owners are permitted to apply chemicals within the property on a private lot. All chemical products must be used in accordance with the manufacturer's recommendations. The application of any chemical product within five (5) feet of any surface water including but not limited to ponds, lakes, drainage ditches or canals, is prohibited. The use of any chemical product in a manner that will allow airborne or waterborne entry of such products into surface water is prohibited. This rule shall not apply to the use of chemical agents, by certified lake management specialists, for the control of algae and vegetation within the stormwater lakes or ponds.

2.2 Nutrient Management Program

Management and application of nutrients and fertilizers in the (Project Name) will adhere to the following guidelines:

- A. All fertilizers shall be stored in a dry storage area protected from rainfall and ponding.
- B. No fertilizer containing in excess of 2% phosphate/phosphorus (P_2O_5) per guaranteed analysis label (as defined by Chapter 576, Florida Statutes) shall be applied to turf grass unless justified by a soil test.
- C. Fertilizer containing in excess of 2% phosphate/phosphorus (P_2O_5) per guaranteed analysis label shall not be applied within 5 feet of the edge of water or within 5 feet of a drainage facility.
- D. All fertilizer shall be applied such that spreading of fertilizer on all impervious surfaces is minimized.
- E. Liquid fertilizers containing in excess of 2% phosphate/phosphorus (P_2O_5) per guaranteed analysis label shall not be applied through an irrigation system within 10 feet of the edge of water or within 10 feet of a drainage facility.
- F. Liquid fertilizers containing in excess of 2% phosphate/phosphorus (P_2O_5) per guaranteed analysis label shall not be applied through high or medium mist application or directed spray application within 10 feet of the edge of water or within 10 feet of a drainage facility.

2.3 Pest Management Program

Proper maintenance of plants and turf areas will minimize the ability of pests to successfully attack landscaping. Several general guidelines follow:

- A. Apply fertilizer and water only when needed and in moderate amounts. Excessive amounts of either can cause rapid growth that is attractive to insects and disease.
- B. Mow St. Augustine grass to a height of 3-4 inches. If cut shorter, the plants may become stressed and more vulnerable to pest infestation. Each mowing should remove no more than one-third of the leaf blade, and those cuttings should remain on the lawn to decompose.
- C. It is recommended that pesticides, fungicides, and herbicides be used only in response to a specific problem and in the manner and amount recommended by the manufacturer to address the specific problem. Broad application of pesticides, fungicides and herbicides as a preventative measure is strongly discouraged.

EXHIBIT 4.1

The use of pesticides, fungicides, or herbicides is limited to products that meet the following criteria

- A. Must be consistent with the USDA-NRCS Soil Rating for Selecting Pesticides
- B. Must have the minimum potential for leaching into groundwater or loss from runoff
- C. Products must be EPA-approved
- D. The half-life of products used shall not exceed seventy (70) days

3.0 Street Sweeping

This practice involves sweeping and vacuuming the primary streets to remove dry weather accumulation of pollutants, especially particulate matter, before wash-off of these pollutants can occur during a storm event. This practice reduces the potential for pollution impacts on receiving waterbodies by removing particulate matter and associated chemical constituents. Although street cleaning operations are frequently conducted primarily for aesthetic purposes, the primary objective of the street sweeping program for the (Project Name) is to improve the quality of stormwater runoff generated from impervious traffic areas. Street sweeping activities can be particularly effective during periods of high leaf fall by removing solid leaf material and the associated nutrient loadings from roadside areas where they could easily become transported within stormwater flow.

Street sweeping operations will be performed in the (Project Name) at a minimum frequency of one event every other month. A licensed vendor using a vacuum-type sweeping device will perform all street sweeping activities. Sweeping activities during each event will include all primary street surfaces. Disposal of the collected solid residual will be the responsibility of the street sweeping vendor.

4.0 Solid Waste Management

In general, solid waste management involves issues related to the management and handling of urban refuse, litter and leaves that will minimize the impact of these constituents as water pollutants.

Maintenance of adequate sanitary facilities for temporarily storing refuse on private premises prior to collection is considered the responsibility of the individual homeowner. Local requirements for refuse collection will be brought to the attention of every homeowner at closing for the sale of the property. Information will be distributed as necessary stating specifications for containers, separation of waste by type, where to place containers prior to collection, and established collection schedules.

Fallen tree leaves and other vegetation, along with grass clippings, may become direct water pollutants when they are allowed to accumulate in swales and street gutters. All homeowners will receive periodic educational materials that address proper disposal of leaves and other vegetation to minimize water quality impacts.

EXHIBIT 4.2

5.0 Stormwater Management and Treatment System

The stormwater management system for the (Project Name) is designed to maximize the attenuation of stormwater generated pollutants prior to discharge to the off-site wetland systems. Operational details and maintenance requirements of the various system components are given in the following sections.

5.1 Wet Detention Lakes and Lake Interconnect Pipes

The basic element of the stormwater management system consists of a series of interconnected wet detention ponds that provide stormwater treatment through a variety of physical, biological, and chemical processes. A wet detention pond acts similar to a natural lake by temporarily detaining stormwater runoff, allowing opportunities for treatment processes to occur, prior to slow controlled discharge of the treated water through the outfall structure. Pollutant removal processes in wet detention systems occur during the quiescent period between storm events. Significant removal processes include gravity settling of particulate matter; biological uptake of nutrients and other ions by aquatic plants, algae and microorganisms; along with natural chemical flocculation and complexation processes.

Maintenance of the wet detention ponds will consist of an annual inspection. During each annual inspection, the following items will be reviewed and corrected as necessary:

- A Inspect the outfall structure and orifices to ensure free-flowing conditions and overall engineering stability of the outfall system.
- B Review the banks of the lakes and canals to ensure proper side slope stabilization and inspect for signs of excessive seepage that may indicate areas of excessive groundwater flow and possible subsurface channeling.
- C Physically evaluate each of the lakes and canals for evidence of excessive sediment accumulation or erosion.
- D Inspect the planted aquatic vegetation in the littoral zone to ensure that the desired vegetation species, percent coverage, and density are maintained.

At the completion of the inspections, a written inspection report will be prepared, listing any deficiencies that need to be addressed or corrected by the Homeowners Association.

5.2 Stormwater Inlets, Pipes and Culverts

The grates should be unobstructed and the bottom, inside the inlet, should be clean. Check for any accumulation of sediment, trash such as garbage bags, or debris in the culverts connecting these inlets. Flushing out with a high-pressure hose may clean some sediment. Any noted blockage (due to a possible obstruction, or broken pipe, etc.) should prompt further investigation. Crushed or corroded culverts should be replaced with new ones of the same size.

EXHIBIT 4.3

5.3 Swales and Grassed Water Storage Areas

These provide for conveyance and/or above-ground (or surface) storage of stormwater. With age, these areas usually fill in with vegetation and sediment. Swales may need to be regraded and/or revegetated. It is a good idea to compare the existing slope and dimensions of the swale with the permitted design plans prior to the removal of excess sediment or regrading. Areas that show erosion should be stabilized with appropriate material such as sod, planting, rock, sand bags, or other synthetic geotextile material.

Regular mowing of grass swales is essential. These areas also improve water quality by catching sediment and assimilating nutrients, and recharge the underground water table. Remove any undesirable exotic vegetation. Culverts underneath driveways should be checked for blockage and, if necessary, flushed with a high-pressure hose. After a storm, swales may remain wet for an extended period of time. This is normal and the water will recede gradually.

5.4 Ditches or Canals

Fill material, yard waste, clippings and vegetation, sediment, trash, appliances, garbage bags, shopping carts, tires, cars, etc. should be completely removed. Also check to make sure there are no dead trees or any type of obstructions which could block the drainage flow way.

Maintenance cleaning/excavation must be limited to the same depth, width and side slope as approved in the current permit. Making a ditch deeper or wider may trigger a need for a permit modification. Provisions must also be made to prevent any downstream silling or turbidity. (Consult the GFWMD Resource Compliance staff if you are unsure or need clarification.) Be sure to dispose of all removed material properly so it won't affect any other water storage or discharge station, wetland area, or another owner's property.

5.5 Outfall Structure (also called the Discharge Control Structure or Weir)

The outfall structure should be routinely inspected to determine if any obstructions are present or create a hazard. Trash or vegetation impeding water flow through the structure should be removed. The structure should have a "baffle" or trash collector to prevent flow blockage and also hold back any floating oils from moving downstream. Elevations and dimensions should be verified annually with all current permit information. Periodic inspections should then be regularly conducted to make sure these structures maintain the proper water levels and the ability to discharge.

5.6 Earthen Embankments (Dikes and Berms)

Check for proper elevations, width and stabilization. Worn down berms - especially if used by all-terrain vehicles or equestrian traffic - and rainfall - created washouts should be immediately repaired, compacted and re-vegetated.

EXHIBIT 4.4

6.0 Water Quality Testing

To ensure proper operation of the overall treatment system, monitoring will be performed at one outfall (SW-1) from the (Project Name) if there is a flow over the weirs. According to the proposed Water Quality Monitoring Plan, monitoring may occur 3 times a year, once during the dry season (February/March) and twice during the wet season (August/September). A manual grab sample will be collected at the SW-1 outfall location and analyzed for various constituents and parameters as described in the Surface Water Quality Monitoring Plan. Trained and certified personnel will perform sample collection and laboratory analysis. The results of the laboratory analyses will be submitted to South Florida Water Management District as part of an annual water quality monitoring report by December 31 of each year.

7.0 Construction Activities

A Stormwater Pollution Prevention Plan (SWPPP) has been prepared for construction activities to minimize activities contamination, that may be caused by erosion and sedimentation during the construction process. The plan includes provisions related to soil stabilization, structural erosion controls, waste collection disposal, offsite vehicle tracking, spill prevention and maintenance and inspection procedures. A copy of the SWPPP is attached hereto and made a part of hereof.

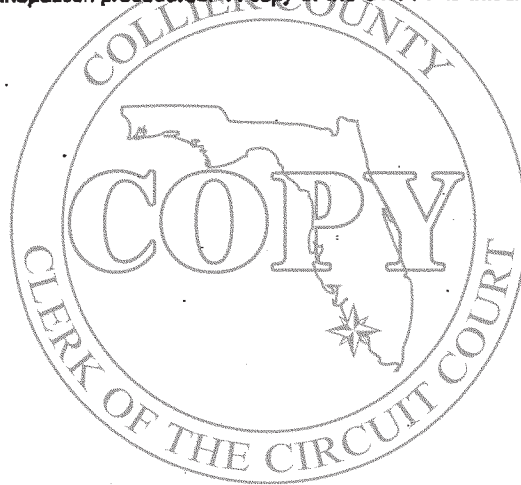


EXHIBIT 4.5

STAFF REPORT DISTRIBUTION LIST

OLE AT LELY RESORT

Application No: 050121-13

Permit No: 11-00429-S

INTERNAL DISTRIBUTION

- X Jewelene S. Harris - 2261
- X Pierre Fortunat - 2261
- X Edward Cronyn - 2231
- X William Foley, P.E. - 2261
- X C. Tears - 2262
- X ERC Engineering - 2261
- X ERC Environmental - 2261
- X Fort Myers Backup File - 2261
- X M. Solo - 4240
- X M. White - 2261
- X Permit File

EXTERNAL DISTRIBUTION

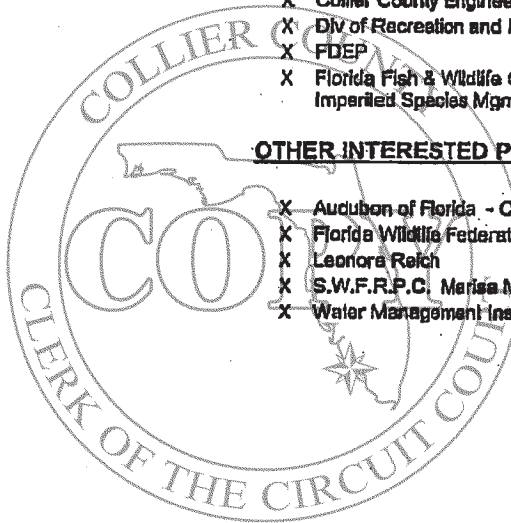
- X Permittee - Stock Development Lic
- X Agent - Waldrop Engineering

GOVERNMENT AGENCIES

- X Collier County - Agricultural Agent
- X Collier County Engineer Engineering Review Services
- X Div of Recreation and Park - District 8 - FDEP
- X FDEP
- X Florida Fish & Wildlife Conservation Commission - Impaired Species Mgmt Section

OTHER INTERESTED PARTIES

- X Audubon of Florida - Charles Lee
- X Florida Wildlife Federation - Nancy Anne Payton
- X Leonora Reich
- X S.W.F.R.P.C. Marisa Morr
- X Water Management Institute - Michael N. Vanatta



STAFF REPORT DISTRIBUTION LIST

ADDRESSES

Waldrop Engineering
10641 Airport Rd N. # 32
Naples FL 34109

Stock Development, Llc
4501 Tamiami Trail Ste 300
Naples FL 34109

Collier County - Agricultural Agent
3301 Tamiami Trail East
Po Box 413044
Naples FL 34101-3044

Collier County Engineer Engineering Review Services
3301 Tamiami Trail
Naples FL 34112

Div of Recreation and Park - District 8 - FDEP
1843 South Tamiami Trail
Osprey FL 34229

FDEP
2296 Victoria Avenue
Fort Myers FL 33901

Florida Fish & Wildlife Conservation Commission -
Imperiled Species Mgmt Section
620 South Meridian Street
Tallahassee FL 32399-6000

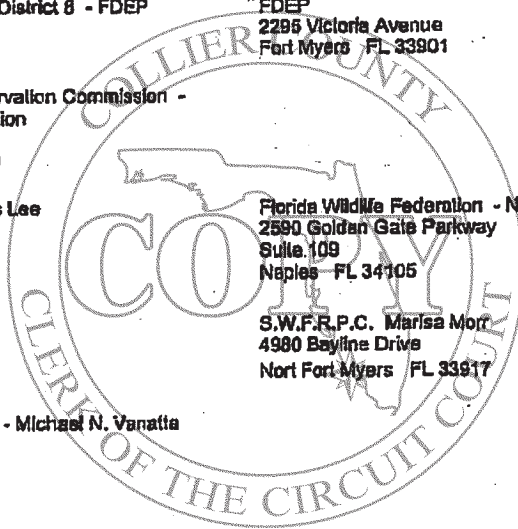
Audubon of Florida - Charles Lee
1101 Audubon Way
Maitland FL 32751

Florida Wildlife Federation - Nancy Anne Payton
2590 Golden Gate Parkway
Suite 109
Naples FL 34105

Leonore Reich
713 Reef Point Circle
Naples FL 33963

S.W.F.R.P.C. Marisa Morr
4980 Bayline Drive
North Fort Myers FL 33917

Water Management Institute - Michael N. Vanatta
Po Box 6446
Vero Beach FL 32961

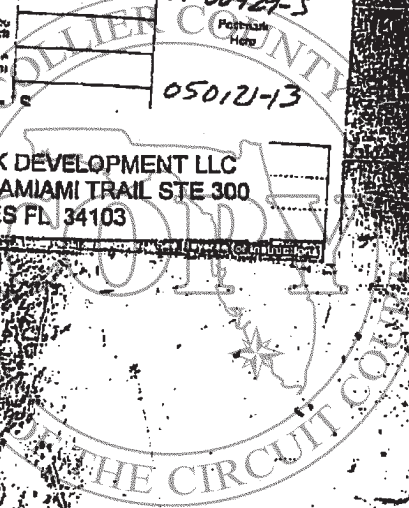


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Registered Delivery Fee (Required for Registered Mail)	Postmark Here
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STOCK DEVELOPMENT LLC
 4501 TAMiami TRAIL STE 300
 NAPLES FL 34103

7003 168 1000 09PT 0001



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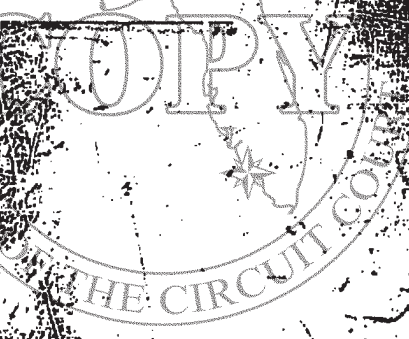


EXHIBIT C
Ashton Place – Tract 28
Permit No. 11-00429-S-13; Application No. 040928-13

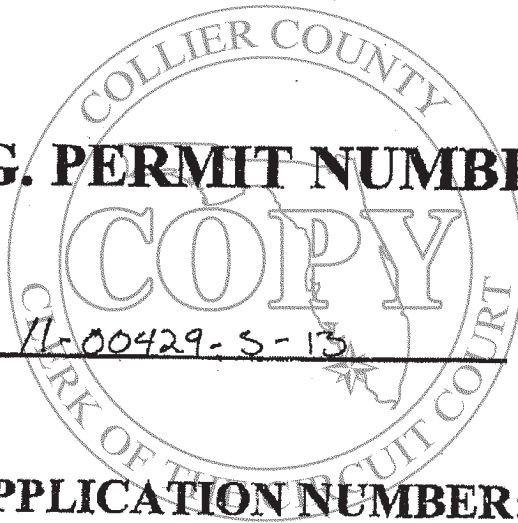
**SOUTH FLORIDA WATER
MANAGEMENT DISTRICT**

BEG. PERMIT NUMBER:

11-00429-S-13

APPLICATION NUMBER:

040928-13



LELY RESORT - TRACT 28

11-00429-S-13



SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE
STANDARD GENERAL PERMIT NO. 11-00429-S-13
DATE ISSUED: November 24, 2004

Form #0941
08/95

Corrected Copy

PERMITTEE: STOCK DEVELOPMENT LLC
4501 TAMiami TRAIL NORTH STE 300
NAPLES, FL 34103

Revised date: Nov. 30, 2004

PROJECT DESCRIPTION: This application is a request for a General permit Modification authorizing construction and operation of a surface water management system to serve 15.92 acres of residential development known as Lely Resort - Tract 28 with discharge into the Henderson Creek via an existing SWM system.

PROJECT LOCATION: COLLIER COUNTY, SEC 22.27 TWP 50S RGE 26E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit application No. 040928-13 dated September 28, 2004. This action is taken pursuant to Rule 40E-1.803 and Chapter 40E-43 Florida Administrative Code (F.A.C.)

Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes administrative hearing.
2. the attached 19 General Conditions (See Pages: 2-4 of 6).
3. the attached 16 Special Conditions (See Pages: 5-8 of 6) and
4. the attached 5 Exhibits.

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 24th day of November, 2004, in accordance with Section 120.80(3), Florida Statutes.

By: Jaqueline Rippe
 Jaqueline Rippe, P.E.
 Director
 Lower West Coast Service Center

Certified mail number 7003 1010 0054 2578 0501

Last Date For Agency Action: 27-NOV-2004

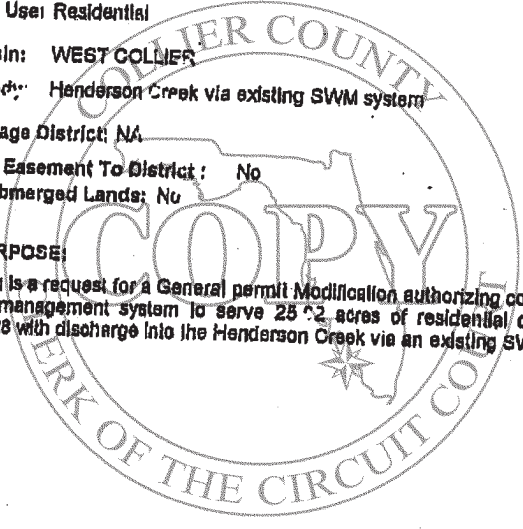
GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Lely Resort - Tract 28
Permit No.: 11-00428-S-13
Application No.: 040828-13
Application Type: Environmental Resources (General Permit Modification)
Location: Collier County, S22,27/T50S/R28E
Permittee: Stock Development Llc
Operating Entity: Lely Resort Master Property Owner's Association
Project Area: 25.92 acres

Project Land Use: Residential
Drainage Basin: WEST COLLIER
Receiving Body: Henderson Creek via existing SWM system
Special Drainage District: NA
Conservation Easement To District: No
Sovereign Submerged Lands: No

Class: CLASS III

PROJECT PURPOSE:
This application is a request for a General permit Modification authorizing construction and operation of a surface water management system to serve 25.92 acres of residential development known as Lely Resort - Tract 28 with discharge into the Henderson Creek via an existing SWM system.



STAFF REPORT DISTRIBUTION LIST

LELY RESORT - TRACT 28

Application No: 040928-13

Permit No: 11-00428-S-13

INTERNAL DISTRIBUTION

- X Barbara Conny - 4250
- X Pierre Fortunat - 7420
- X Edward Cronyn - 7420
- X William Foley, P.E. - 7420
- X C. Tears - 7440
- X ERC Engineering - 7420
- X ERC Environmental - 7420
- X Fort Myers Rackup File - 7420
- X M. Soto-4240
- X Permit File

EXTERNAL DISTRIBUTION

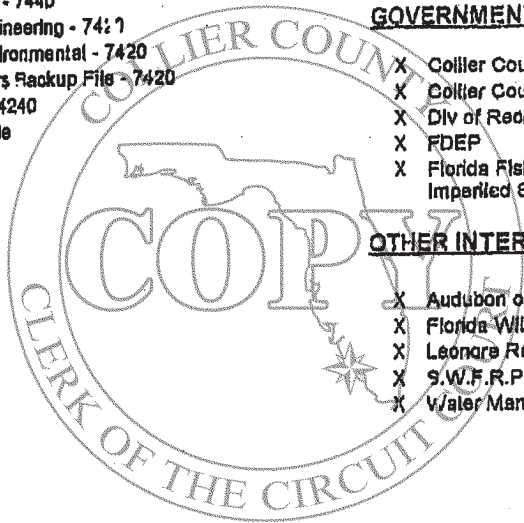
- X Permittee - Stock Development Lic
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GOVERNMENT AGENCIES

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- X FDEP
- X Florida Fish & Wildlife Conservation Commission - Impaired Species Mgmt Section

OTHER INTERESTED PARTIES

- X Audubon of Florida - Charles Lee
- X Florida Wildlife Federation - Nancy Anne Payton
- X Leonore Reich
- X S.W.F.R.P.C. Marisa Morr
- X Water Management Institute - Michael N. Vanetta





SOUTH FLORIDA WATER MANAGEMENT DISTRICT
 ENVIRONMENTAL RESOURCE
 STANDARD GENERAL PERMIT NO. 11-00429-S
 DATE ISSUED: November 24, 2004

Form #0941
08/95

PERMITTEE: STOCK DEVELOPMENT LLC
 4501 TAMiami TRAIL NORTH STE 300
 NAPLES, FL 34103

PROJECT DESCRIPTION: This application is a request for a General permit Modification authorizing construction and operation of a surface water management system to serve 25.92 acres of residential development known as Lely Resort - Tract 28 with discharge into the Henderson Creek via an existing SWM system.

PROJECT LOCATION: COLLIER COUNTY, SEC 22.27 TWP 50S RGE 26E

PERMIT DURATION: See Special Condition No:1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 040928-13, dated September 28, 2004. This action is taken pursuant to Rule 40E-1.603 and Chapter 40E-10, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages: 2 - 4 of 6),
3. the attached 18 Special Conditions (See Pages: 5 - 6 of 6) and
4. the attached 5 Exhibit(s).

Should you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights," we will assume that you concur with the District's action.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 24th day of November, 2004, in accordance with Section 120.80(3), Florida Statutes.

BY: 

Ms. Jacqueline Rione, P.E.

Director

Lower West Coast Service Center

Certified mail number 7003 1010 0004 2578 0501

NOTICE OF RIGHTS

Section 120.369(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

Petition for Administrative Proceedings

1. A person whose substantial interests are affected by the South Florida Water Management District's (SFWMDC) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Code, (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions must be filed upon receipt of the original documents by the SFWMDC Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMDC decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMDC has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

Informal Administrative Hearing: If there are no issues of material fact in dispute the affected person seeking an informal hearing on a SFWMDC decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMDC has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMDC Administrative Complaint and Order, pursuant to Section 373.118, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for a hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMDC's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order: A person whose substantial interests are affected by a SFWMDC Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat., as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMDC Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.511, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMDC issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat. within 21 days of either written notice through mail or posting or publication of notice that the SFWMDC has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of the which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action the filing of a petition means that the SFWMDC's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.100(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.11(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

CIRCUIT COURT

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD's final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15th Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

DISTRICT COURT OF APPEAL

8. Pursuant to Section 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a "proceeding" below may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD's final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP's order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD's final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD's order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (8), Fla. Stat.

MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD's action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.11(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or