

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 interests 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 principals 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:
- The name and address of each agency affected and each agency's file or identification number, if known;
 - 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;
 - A statement of when and how the petitioner received notice of the agency decision;
 - A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
 - A demand for relief.

28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL

- (3) Requests for hearing filed in accordance with this rule shall include:
- The name and address of the party making the request, for purposes of service;
 - 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
 - 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:

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

- How the rule or order sought to be reviewed affects the interests of the party seeking review

- 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;

- 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

- 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

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

- 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

- 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.

- 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 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 0860 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, 1985 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 a violation 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

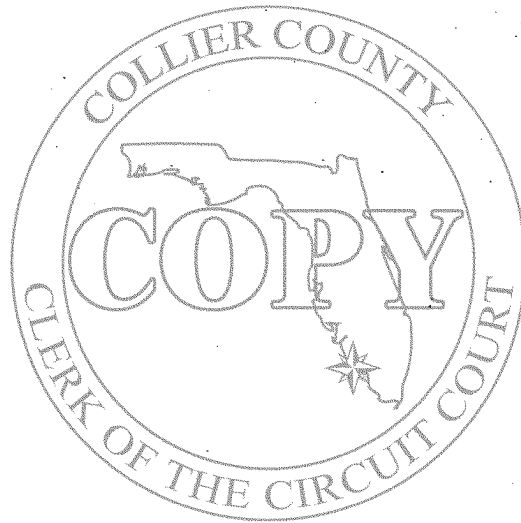
maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is 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 Rules 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 73.421(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-1.6106 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 its 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.
9. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

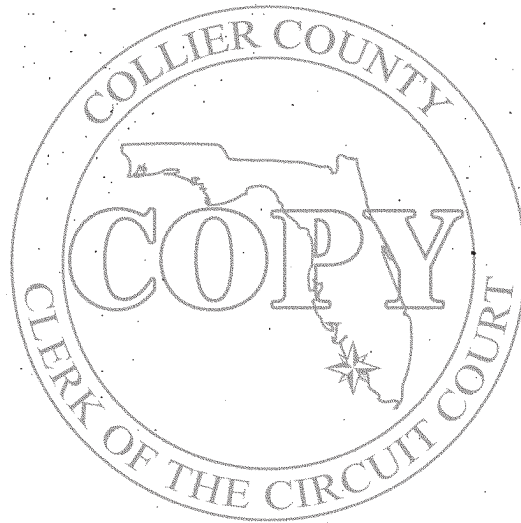


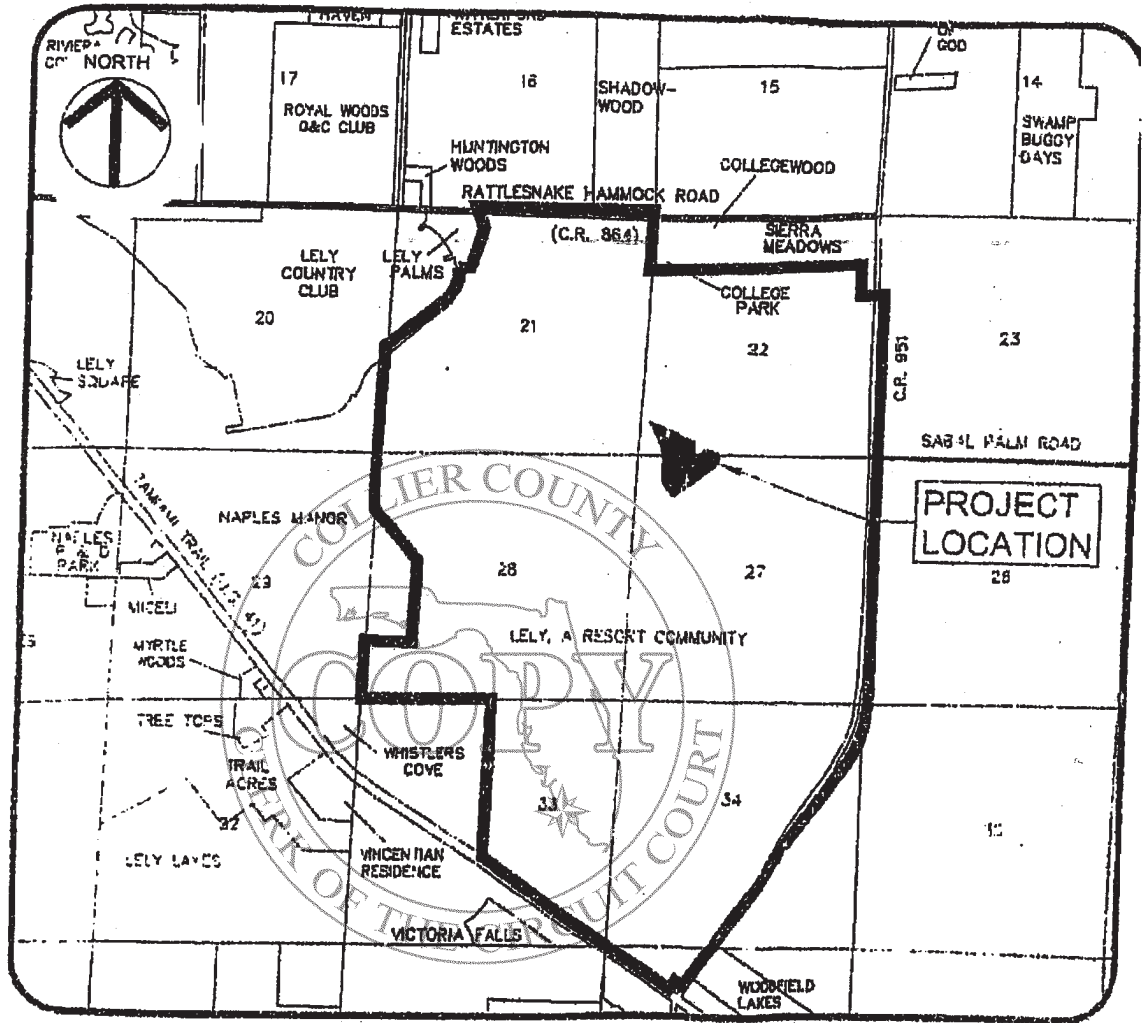
SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on 4-Nov-2009.
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 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.
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 dated September 27, 2004 signed and sealed by Christopher R. Mitchell, P.E. from Waldrop Engineering, P.A. have been included in this permit modification and will be retained in the permit file.
14. The permittee shall utilize the criteria contained in the Urban Stormwater Management Program (Exhibit Nos. 4.0 - 4.5) for post-construction activities.
15. The Permittee shall utilize the criteria contained in the Construction Pollution Prevention Plan (Exhibit Nos. 5.0-5.9) and on the applicable approved construction drawings for the duration of the projects construction activities.

SPECIAL CONDITIONS

18. Exhibits Nos. 4.0-4.5 and 5.0-5.9 incorporated by reference and shall be retained in the permit file.





PROJECT LOCATION MAP

NO SCALE

EXHIBIT 1.0

Last Date For Agency Action: 27-NOV-2004

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Lely Resort - Tract 28
Permit No.: 11-00429-S
Application No.: 040928-13
Application Type: Environmental Resource (General Permit Modification)
Location: Collier County, S22,27/TE9S/R26E
Permittee: Stack 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

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 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.

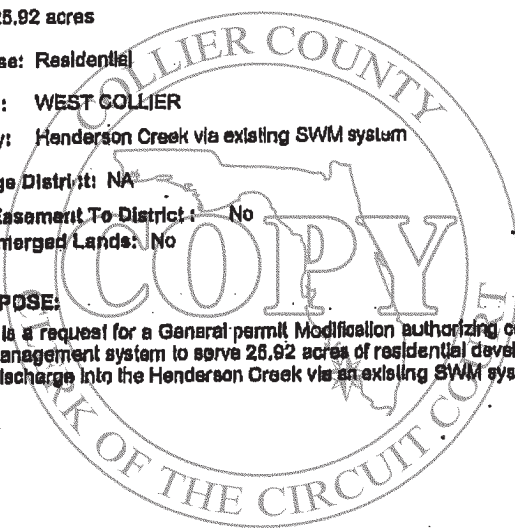


EXHIBIT 2.0

PROJECT EVALUATION:

PROJECT SITE DESCRIPTION:

The project site is located in the northeast quadrant of the Lely Resort development (Permit No. 11-00429-S), specifically encompassing Tract 28 within Basin A5. The site discharges into an existing water management lake (Lake No. 20) that is within the Classics Golf Course, which surrounds the site. A location map is attached as Exhibit No. 1.0.

The minimum finished floor elevation is 9.80 feet NGVD. The minimum road crown elevation is 9.40 feet NGVD. The control elevation is 8.00 feet NGVD.

The project site consists of uplands conceptually authorized for future development. No wetland protection or mitigation areas are located within or affected by the proposed project.

PROPOSED PROJECT:

The proposed project consists of construction of 78 single family units within Lely Resort.

Stormwater runoff from the site is conveyed via drainage structures, pipes and swales to the surface water management system (existing Lake #20 and proposed Lake #1). The wet detention surface water management system 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:

Construction:
Project:

This Phase

Building Coverage	7.81	acres
Pavement	3.21	acres
Lawns	8.48	acres
Water Mgmt Acreage	6.42	acres

Total: 25.92

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 been designed to limit discharge for the design event to a specified rate.

WATER QUALITY :

Water quality is provided by wet detention in the master surface water management system. No adverse water quality impacts are anticipated as a result of the proposed project.

An Urban Stormwater Management Program and Construction Pollution Prevention Plan specifications

and guidelines are part of the required water quality. Construction and daily operation of the project shall be conducted in accordance with Special Condition Nos. 14 - 16 and Exhibits Nos. 4.0-4.5 and 5.0-5.9 which are incorporated by reference and shall be retained in the permit file.

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 on site, 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-4381(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-1.5107, 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 dewatering is not required for construction of 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/Archaeological 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.

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.

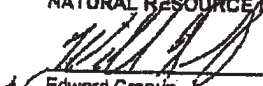
Enforcement:

There has been no enforcement activity associated with this application.

STAFF REVIEW:

DIVISION APPROVAL:

NATURAL RESOURCE MANAGEMENT:

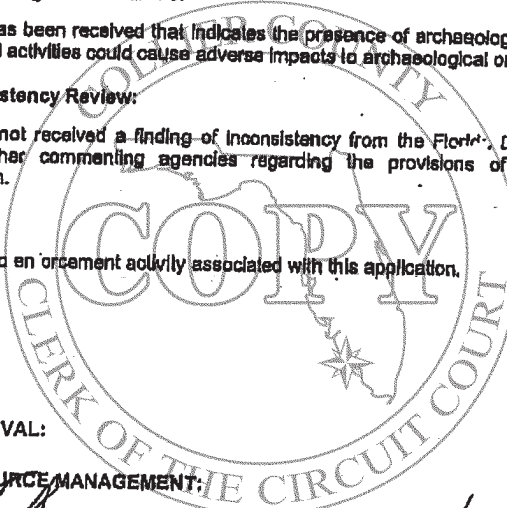

Edward Cronyn

DATE: 11/24/04

SURFACE WATER MANAGEMENT:


William Foley, R.E.

DATE: 11/24/04



South Florida Water Management District
Existing / Proposed Environmental Features Information

Page 1 of 1

erp_existing_site_details.rdf
Run Report on: 01-OCT-04 10:05 AM
Application Number: 040928-13

CSTR MOD LELY RESORT-TRACT 28

Site Id	Acres	Quality	Quality Measure	Habitat	ON-SITE				
					Pre - Development	Post - Development	ON-SITE		
1	25.92	GOOD	N	Pine Flatwoods - Upland	Impact Acres	Undisturbed Acres	Preserved Acres	Enhanced Acres	Restored Acres
Total:	25.92				25.92				

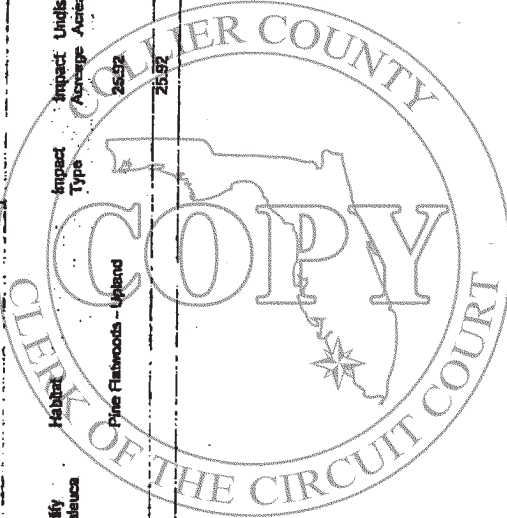


EXHIBIT 3.0

EXHIBIT 3

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 6 feet of the edge of water or within 6 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.

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.

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 channelling.
- 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.

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 siltling 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 Discharged Control Structure or Weir)

The outfall structure should be routinely inspected to determine if any obstructions are present or repairs are needed. 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.

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.

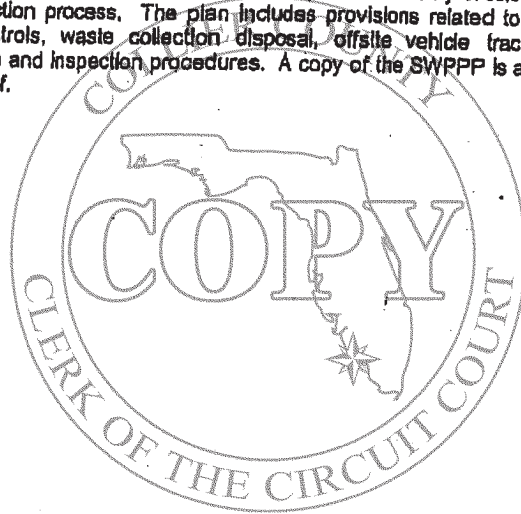


EXHIBIT 4.5

CONSTRUCTION POLLUTION PREVENTION PLAN
for

SITE DESCRIPTION			
Project Name and Location: (Latitude, Longitude, or Address)	Owner Name and Address.		
<p>Description: (Purpose and Types of Soil Disturbing Activities)</p> <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>Soil disturbing activities will include: clearing and grubbing, installing a stabilized construction entrance, perimeter berthing 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:			
<p>Sequence of Major Activities:</p> <p>The order of activities will be as follows:</p> <table border="0"> <tr> <td style="vertical-align: top;"> <ol style="list-style-type: none"> 1. Installation of stabilized construction entrance. 1. Partial clearing and grubbing. 1. Install perimeter berm(s) or silt fences with straw bale barrier(s) adjacent to wetland areas. 1. Continue clearing and grading. 1. Construction storm water management lakes. 1. Stockpile excavated soil. 1. Stabilize denuded areas and stockpiles within 21 days of last construction activity in that area. 1. Install utilities, storm sewer, curb and gutter. </td> <td style="vertical-align: top;"> <ol style="list-style-type: none"> 9. Complete grading, subgrade and base course construction. 9. Complete final paving. 9. Complete landscape grading and install permanent seeding and plantings. 9. When all construction activity is complete and the site is stabilized, remove temporary earth berms, straw bale barriers and filter fences and re-seed any areas disturbed by their removal. </td> </tr> </table>		<ol style="list-style-type: none"> 1. Installation of stabilized construction entrance. 1. Partial clearing and grubbing. 1. Install perimeter berm(s) or silt fences with straw bale barrier(s) adjacent to wetland areas. 1. Continue clearing and grading. 1. Construction storm water management lakes. 1. Stockpile excavated soil. 1. Stabilize denuded areas and stockpiles within 21 days of last construction activity in that area. 1. Install utilities, storm sewer, curb and gutter. 	<ol style="list-style-type: none"> 9. Complete grading, subgrade and base course construction. 9. Complete final paving. 9. Complete landscape grading and install permanent seeding and plantings. 9. When all construction activity is complete and the site is stabilized, remove temporary earth berms, straw bale barriers and filter fences and re-seed any areas disturbed by their removal.
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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 limestone shall be applied to each area to be temporarily stabilized. After seeding, each area shall be mulched with the mulch disks in place. Areas of the site which will be paved will be temporarily stabilized by applying filterrock subgrade 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 Floratam or Bahia sod. Prior to seeding, fertilizer or agricultural limestone shall be applied to each area to be temporarily stabilized. After seeding, each area shall be mulched with the mulch disked into place.</p>			

5.0

CONTROLS (Continued)	
Structural Practices	
<p>Silt Fence / Straw Bale Barrier - will be constructed along those areas of the project border adjacent wetlands. At a minimum, the silt fence and/or straw bale barrier will be placed along all wetland buffers and all Counties of Engineers jurisdictional wetland boundaries.</p> <p>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.</p>	
Storm Water Management	
<p>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.</p> <p>Spreader swales will be used at appropriate locations to disperse flow and dissipate energy of runoff into wetlands. Spreader swales will also be used at appropriate locations to disperse flows discharged from the water management system into receiving flowways. Spreader swales will be heavily planted with native vegetation to help buffer the transition from the manmade lakes to the natural systems.</p>	
DISCHARGE RATES	
OTHER CONTROLS	
<p>Waste disposal:</p> <p>Waste Materials: All waste materials will be collected and stored in a trash dumpster which will meet all local and State solid waste management regulations. All trash and construction debris from the site will be deposited in this dumpster. The dumpster will be emptied as required due to use and/or State and local regulations, with the trash disposed of at the appropriate landfill operation. 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 construction office trailer.</p> <p>Hazardous Waste: All hazardous waste materials will be disposed of in the manner specified by local or State regulation or by the manufacturer. Site personnel will be instructed in these practices.</p> <p>Sanitary Waste: All sanitary waste will be collected from the portable units by a local, licensed City of Fort Myers sanitary waste management contractor, as required by local regulation.</p>	
Offsite Vehicle	Tracking:
<p>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.</p>	
TIMING OF CONTROLS/MEASURES	
<p>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.</p>	
CERTIFICATION OF COMPLIANCE WITH FEDERAL, STATE, AND LOCAL REGULATIONS	
<p>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 40E-4 FAC and Chapter 373 FS.</p>	

5.1

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 prior to discharge.

INVENTORY FOR POLLUTION PREVENTION PLAN

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

- | | |
|-----------------------------|----------------------------|
| • Concrete | • Fertilizers |
| • Detergents | • Petroleum Based Products |
| • Paints (enamel and latex) | • Cleaning Solvents |
| • Metal Studs | • Wood |
| • Asphalt | • Masonry Block |
| • Roofing Shingles | • Clay or concrete bricks |

5.2

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 reusable.
- 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 limit exposure to storm water. Storage will be in a covered shed. 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 manufacturers' instructions and/or state and local regulations.

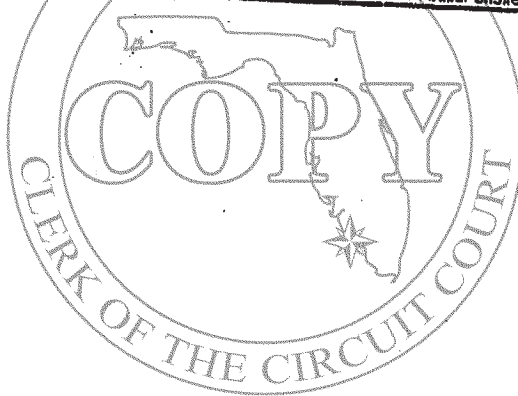
5.3

SPILL PREVENTION (Continued)

Spill Control Practices

In addition to the good housekeeping 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. Site equipment and materials will include—but not be limited to—rags, gloves, goggles, kity litter, card, 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.



5.4

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: _____

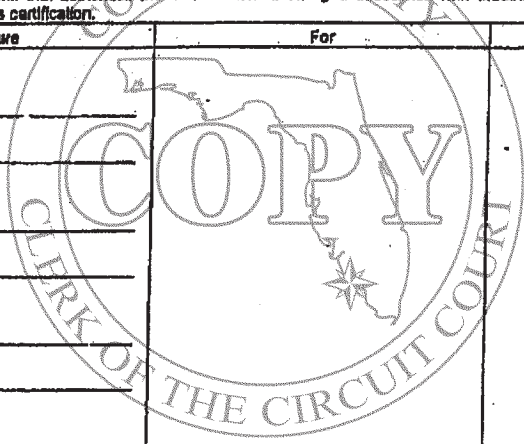
Title: _____

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.

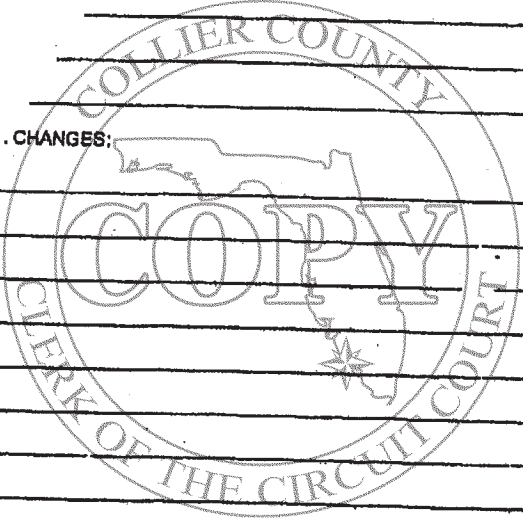
Signature	For	Responsible for
_____	_____	_____
Date: _____	_____	_____
Date: _____	_____	_____
Date: _____	_____	_____
Date: _____	_____	_____



5.5

ON PREVENTION PLAN
or
Maintenance Report Form

ON PREVENTION PLAN:



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 5.9

STAFF REPORT DISTRIBUTION LIST

LELY RESORT - TRACT 28

Application No: 040928-13

Permit No: 11-00429-S

INTERNAL DISTRIBUTION

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

EXTERNAL DISTRIBUTION

- X Permittees - Stock Development Llc
- 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 -
Imperiled 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.F.C. Marisa Morr
- X Water Management Institute - Michael N. Vanatta

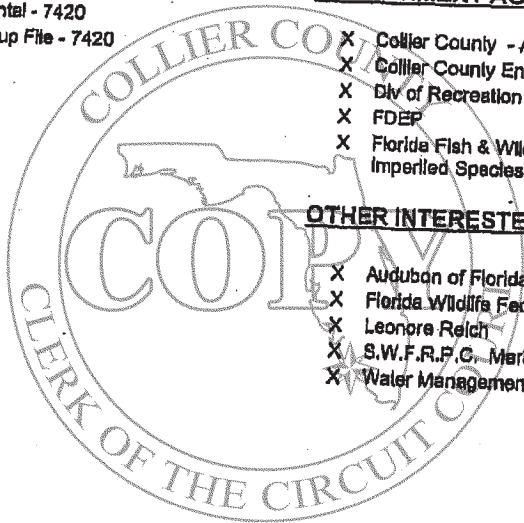


EXHIBIT 2.4

STAFF REPORT DISTRIBUTION LIST

ADDRESSES

Waldrop Engineering Pa
10641 Airport Road North Number 32
Naples FL 34109

Stock Development Llc
4601 Tamiami Trail North Ste 300
Naples FL 34103

Collier County - Agricultural Agent
3301 Tamiami Trail East
Po Box 413044
Naples FL 34111-3044

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
2295 Victoria Avenue
Fort Myers FL 33901

Florida Fish & Wildlife Conservation Commission -
Imperiled Species Mgmt Section
620 South Meridian Street
Tallahassee FL 32389-6000

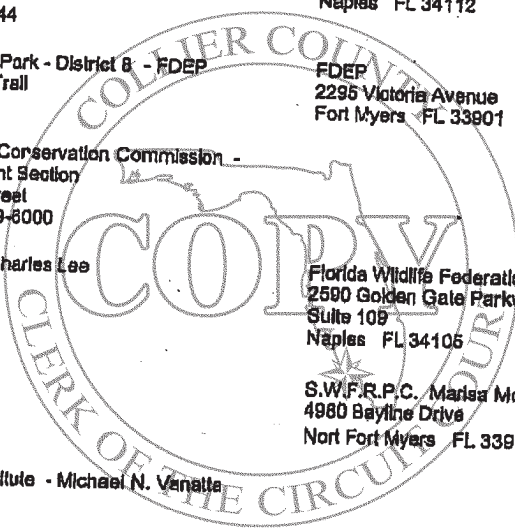
Audubon of Florida - Charles Lee
1101 Audubon Way
Maitland FL 32751

Florida Wildlife Federation - Nancy Anne Payton
2590 Golden Gate Parkway
Suite 109
Naples FL 34106

Leonora 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. Venatta
Po Box 8448
Vero Beach FL 32961



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1
 2 **TOM MASTERS**
 3 **STOCK DEVELOPMENT LLC**
 4 **4501 TAMiami TRAIL NORTH STE 300**
 5 **NAPLES, FL 34103**

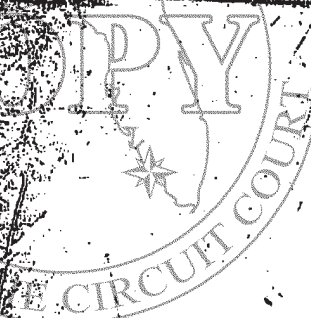


EXHIBIT D
Grand Lely Drive Extension
Permit No. 11-00429-S-14; Application No. 040928-15

STAFF REPORT DISTRIBUTION LIST

GRAND LELY DRIVE EXTENSION

Application No: 040928-15

Permit No: 11-00429-S-14

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- X William Foley, P.E. - 7420
- X C. Tears - 7440
- X ERC Engineering - 7420
- X ERC Environmental - 7420
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- X M. Soto-4240
- X Permit File

EXTERNAL DISTRIBUTION

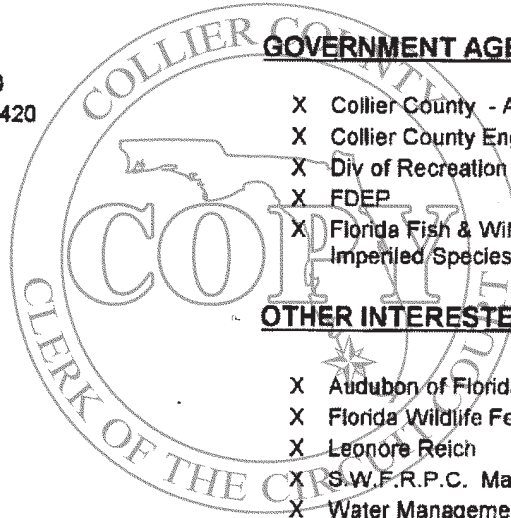
- X Permittee - Stock Development Llc
- X Agent - Waldrop Engineering Pa

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 -
Imperiled 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. Vanatta





**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE
STANDARD GENERAL PERMIT NO. 11-00429-S-14
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 20.26 acres of roadway within a residential development known as Lely Resort with discharge into the Henderson Creek.

PROJECT LOCATION: COLLIER COUNTY, SEC 21, 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. 040928-15, dated September 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 5).
3. the attached 14 Special Conditions (See Pages : 5 - 5 of 5) 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 120.60(3), Florida Statutes.

BY: Jacqueline Rippe
Jacqueline Rippe, P.E.
Director
Lower West Coast Service Center

Certified mail number 7003 1010 0004 2578 0488

Last Date For Agency Action: 27-NOV-2004

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Grand Lely Drive Extension

Permit No.: 11-00429-S-14

Application No.: 040928-15

Application Type: Environmental Resource (General Permit Modification)

Location: Collier County, S21,22,27/T50S/R26E

Permittee : Stock Development Llc

Operating Entity : Lely Resort Master Property Owner'S Association

Project Area: 20.26 acres

Project Land Use: Roadway Within Residential

Drainage Basin: WEST COLLIER

Receiving Body: Henderson Creek via an existing SWM system

Class: CLASS III

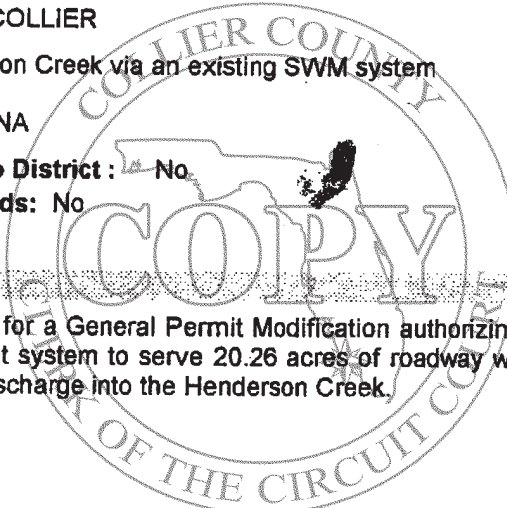
Special Drainage District: NA

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 to serve 20.26 acres of roadway within a residential development known as Lely Resort with discharge into the Henderson Creek.





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

GL2 920

Form #0941
08/95

OR: 4406 PG: 3693

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 20.26 acres of roadway within a residential development known as Lely Resort with discharge into the Henderson Creek.

PROJECT LOCATION: COLLIER COUNTY, SEC 21,22,27 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. 040928-15, dated September 28, 2004. 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 14 Special Conditions (See Pages : 5 - 5 of 5) 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 120.60(3), Florida Statutes.

BY: 

Jacqueline Rippe, P.E.
Director
Lower West Coast Service Center

Certified mail number 7003 1010 0004 2578 0488

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 the 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 the 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 373.119, 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-1.611, 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 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 SFWMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by

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.

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.

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 373.414, 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 (6), 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 principals 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 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 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

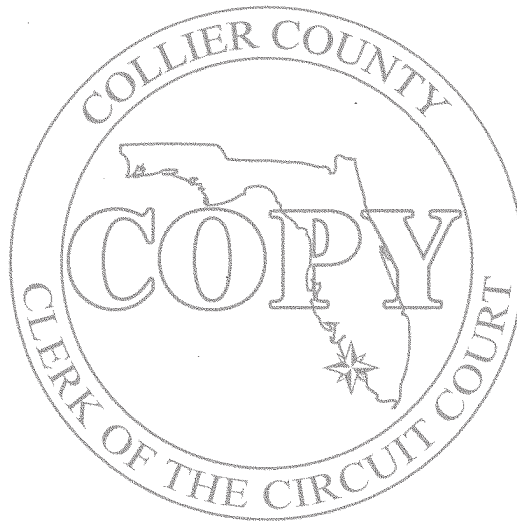
maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is 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 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

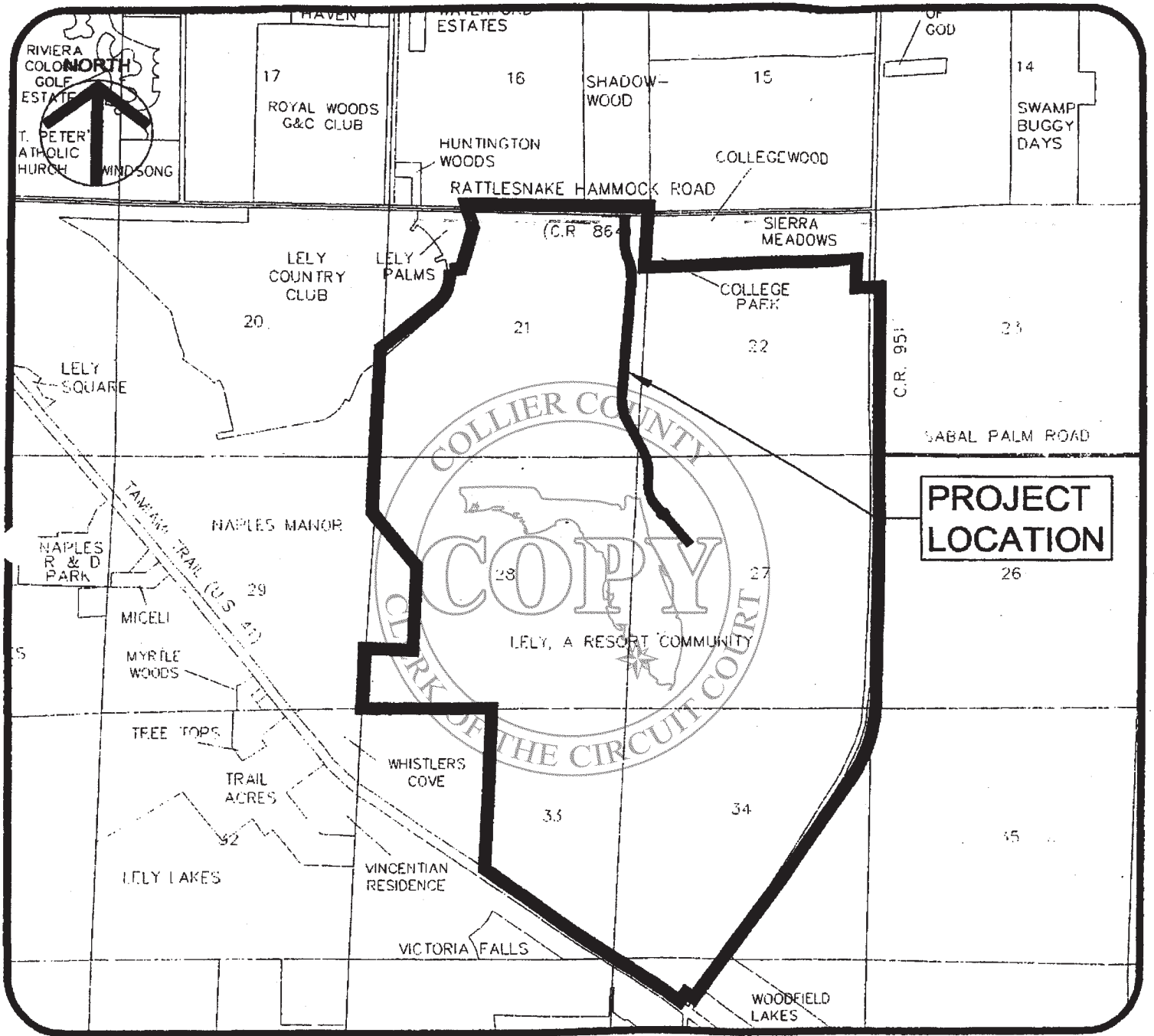
ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective 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 November 24, 2009.
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. 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.
12. Plan sheets 1-19 dated September 27, 2004 signed and sealed by Christopher R. Mitchell, P.E. from Waldrop Engineering, P.A. have been included in this permit modification and will be retained in the permit file.
13. The permittee shall utilize the criteria contained in the Urban Stormwater Management Program (Exhibit Nos. 4.0 - 4.5) for post-construction activities.
14. The Permittee shall utilize the criteria contained in the Construction Pollution Prevention Plan (Exhibit Nos. 5.0-5.9) and on the applicable approved construction drawings for the duration of the projects construction activities.



PROJECT LOCATION MAP

NO SCALE

EXHIBIT I

Last Date For Agency Action: 27-NOV-2004

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Grand Lely Drive Extension

Permit No.: 11-00429-S

Application No.: 040928-15

Application Type: Environmental Resource (General Permit Modification)

Location: Collier County, S21,22,27/T50S/R26E

Permittee : Stock Development Llc

Operating Entity : Lely Resort Master Property Owner'S Association

Project Area: 20.26 acres

Project Land Use: Roadway Within Residential

Drainage Basin: WEST COLLIER

Receiving Body: Henderson Creek via an 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 to serve 20.26 acres of roadway within a residential development known as Lely Resort with discharge into the Henderson Creek.

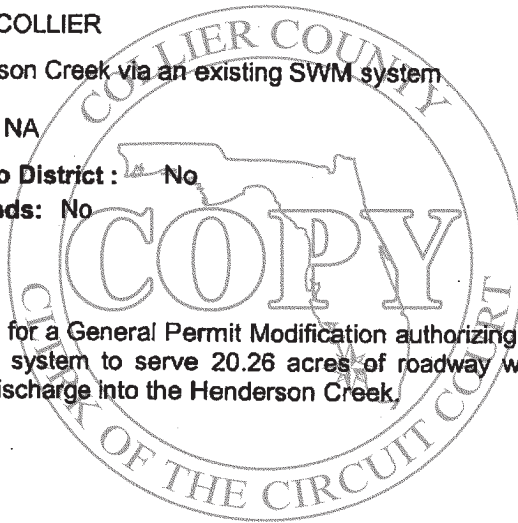


EXHIBIT 2.0

PROJECT EVALUATION:

PROJECT SITE DESCRIPTION:

The project site is located in the northern half of the conceptually approved Lely Resort development (Permit No. 11-00429-S), extending from Lely Resort Boulevard north to C.R. 824. The site discharges into the previously permitted existing water management system. A location map is attached as Exhibit 1.0.

The project site consists of uplands conceptually authorized for future development. No wetland protection or mitigation areas are located within or affected by the proposed project.

PROPOSED PROJECT:

The proposed project consists of the extension of Grand Lely Drive from Lely Resort Boulevard to Rattlesnake Hammock Road to the north. The project will consist of a roadway including sidewalk and associated drainage.

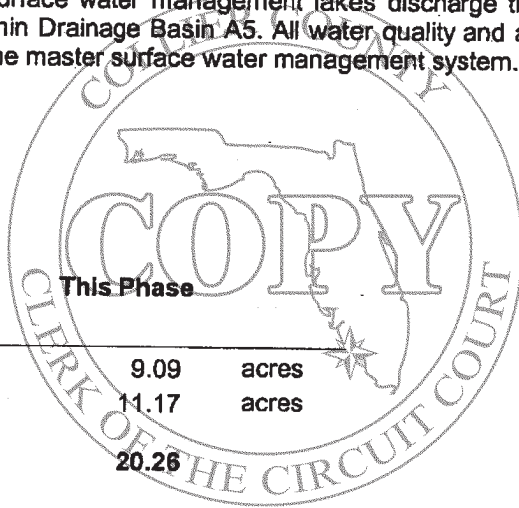
Stormwater runoff from the site is conveyed via drainage structures, pipes, and swales to surface water management lakes. The surface water management lakes discharge through the previously permitted control structure located within Drainage Basin A5. All water quality and attenuation requirements for the project are provided within the master surface water management system.

LAND USE:

Construction:

Project:

Pavement	9.09	acres
Pervious	11.17	acres
Total:	20.26	



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 :

Water quality is provided by wet detention in the master surface water management system. No adverse water quality impacts are anticipated as a result of the proposed project.

An Urban Stormwater Management Program and Construction Pollution Prevention Plan specifications and guidelines are part of the required water quality. Construction and daily operation of the project shall be conducted in accordance with Special Condition Nos. 12 - 14 and Exhibits Nos. 4.0-4.5 and 5.0-5.9 which are incorporated by reference and shall be retained in the permit file.

EXHIBIT 2.1

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.

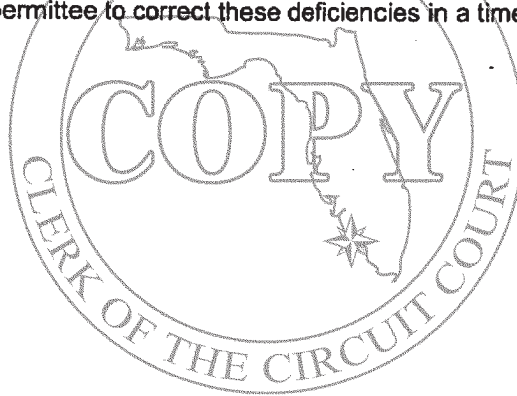


EXHIBIT 2.2

RELATED CONCERNS:

Water Use Permit Status:

The applicant has indicated 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.

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:

[Signature]
for Edward Cronyn

DATE: 11/23/04

SURFACE WATER MANAGEMENT:

[Signature]
William Foley, P.E.

DATE: 11/23/04

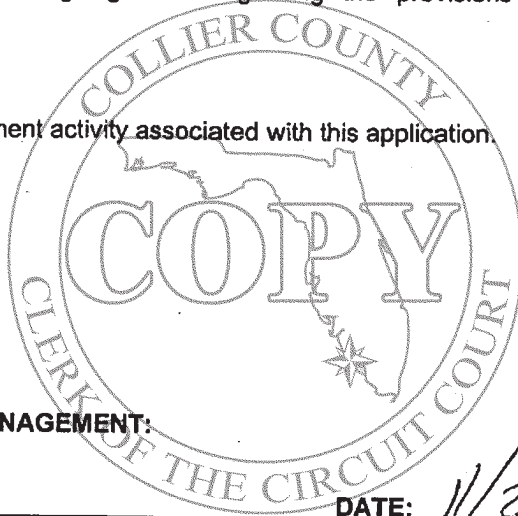


EXHIBIT 2.3

South Florida Water Management District
Existing / Proposed Environmental Features Information

Page 1 of 1

erp_existing_site_details.rdf
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Application Number: 040928-15



URBAN STORMWATER MANAGEMENT PROGRAM

OR: 4406 PG: 3708

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.

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 silting 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 Discharged Control Structure or Weir)

The outfall structure should be routinely inspected to determine if any obstructions are present or repairs are needed. 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.

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.

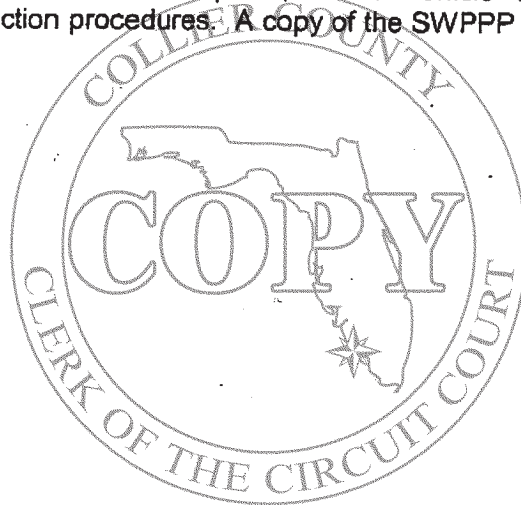


EXHIBIT 4.5

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>Soil 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:			
<ol style="list-style-type: none"> 1. Installation of stabilized construction entrance. 1. Partial clearing and grubbing. 1. Install perimeter berm(s) or silt fences with straw bale barrier(s) adjacent to wetland areas. 1. Continue clearing and grading. 1. Construction storm water management lakes 1. Stockpile excavated soil. 1. Stabilize denuded areas and stockpiles within 21 days of last construction activity in that area. 1. Install utilities, storm sewer, curb and gutter. 	<ol style="list-style-type: none"> 9. Complete grading, subgrade and base course construction. 9. Complete final paving. 9. Complete landscape grading and install permanent seeding and plantings. 9. When all construction activity is complete and the site is stabilized, remove temporary earth berms, straw bale barriers and filter fences and re-seed any areas disturbed by their removal. 		
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 cease 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 limestone 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 limerock subgrade 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 Floratam or Bahia sod. Prior to seeding, fertilizer or agricultural limestone shall be applied to each area to be temporarily stabilized. After seeding, each area shall be mulched with the mulch disked into place.</p>			

5.0

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 swales will be used at appropriate locations to disperse flow and dissipate energy of runoff into wetlands. Spreader swales will also be used at appropriate locations to disperse flows discharged from the water management system into receiving flowways. Spreader swales 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 solid waste management regulations. All trash and construction debris from the site will be deposited in this dumpster. The dumpster will be emptied as required due to use and/or State and local regulations, with the trash disposed of at the appropriate landfill operation. 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 construction office trailer.

Hazardous Waste:

All hazardous waste materials will be disposed of in the manner specified by local or State regulation or by the manufacturer. Site personnel will be instructed in these practices.

Sanitary Waste:

All sanitary waste will be collected from the portable units by a local, licensed, City of Fort Myers sanitary waste management contractor, as required by local regulation.

Offsite Vehicle Tracking:

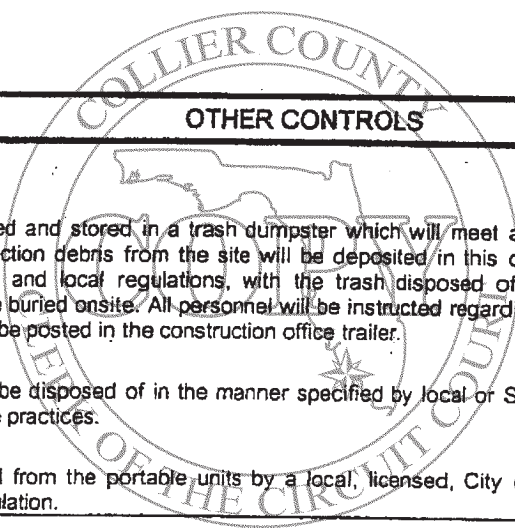
A stabilized construction entrance has been provided to help reduce vehicle tracking of sediments. As they are completed, paved streets will be swept as needed to remove any excess muck, dirt, or rock tracked from the site. Dump trucks hauling material from the construction site will be covered with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

TIMING OF CONTROLS/MEASURES

Installation of hay bail / 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 (SFWWD) requirements for storm water management and erosion and sediment control, as established in the Chapter 40E-4 FAC and Chapter 373 FS.



5.1

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 prior to discharge.

INVENTORY FOR POLLUTION PREVENTION PLAN

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

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

5.2

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:

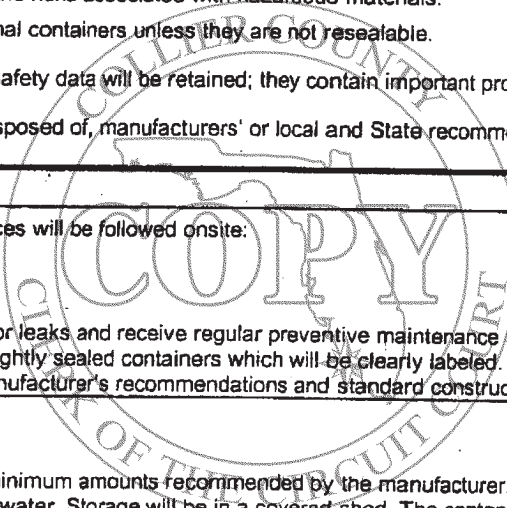
All onsite vehicles will be monitored for leaks and receive regular preventive maintenance to reduce the chance of leakage. Petroleum products will be stored in tightly sealed containers which will be clearly labeled. Any asphalt substances used onsite will be applied in accordance with the manufacturer's 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 limit exposure to storm water. Storage will be in a covered shed. 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 manufacturers' instructions and/or state and local regulations.



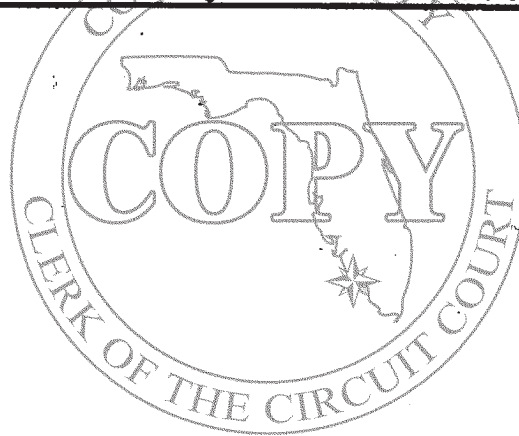
5.3

SPILL PREVENTION (Continued)

Spill Control Practices

In addition to the good housekeeping 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.



5.4

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.

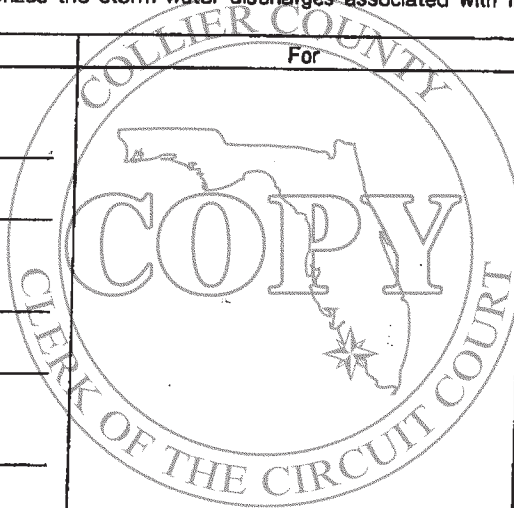
Signature	For	Responsible for

Date: _____		

Date: _____		

Date: _____		

Date: _____		



5.5

CONSTRUCTION POLLUTION PREVENTION PLAN
for

Inspection And Maintenance Report Form

(To be completed every 7 days and within 24 hours of a rainfall event of 0.5 inches or more)

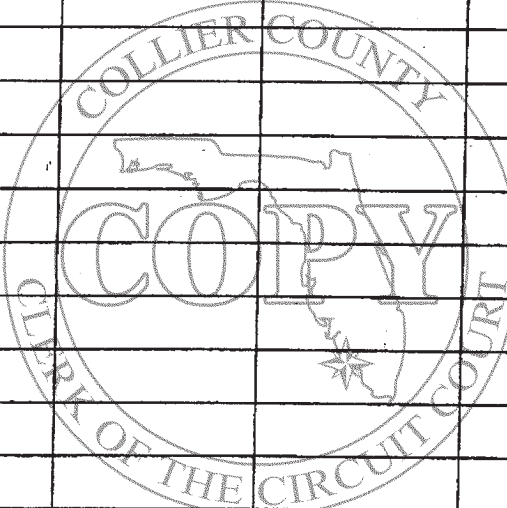
INSPECTOR: _____ DATE: _____

INSPECTOR'S QUALIFICATIONS: _____

Days since last rainfall: _____ Amount of last rainfall _____ inches

STABILIZATION MEASURES

Area	Date Since Last Disturbed	Date of Next Disturbance	Stabilized? (yes / no)	Stabilized With	Condition



Stabilized required: _____

To be performed by: _____ on or before: _____

5.6

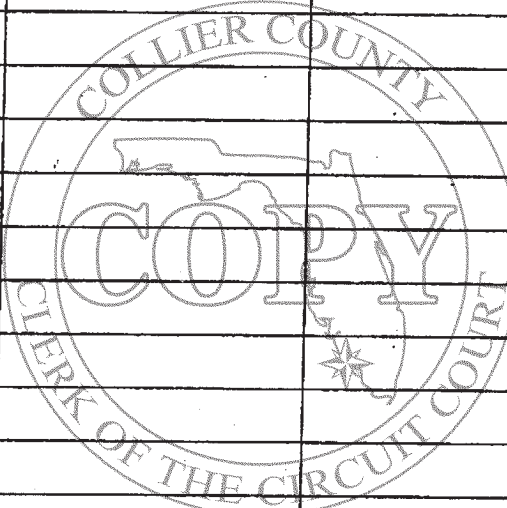
CONSTRUCTION POLLUTION PREVENTION PLAN
for

Inspection And Maintenance Report Form
Structural Controls

DATE: _____

SILT FENCE / STRAW BALE BARRIER

From	To	Is Silt Fence / Straw Bale Barrier in place?	Is there evidence of washout or over-topping?



Maintenance required for silt fence / straw bale barrier:

To be performed by: _____ on or before: _____

5.7

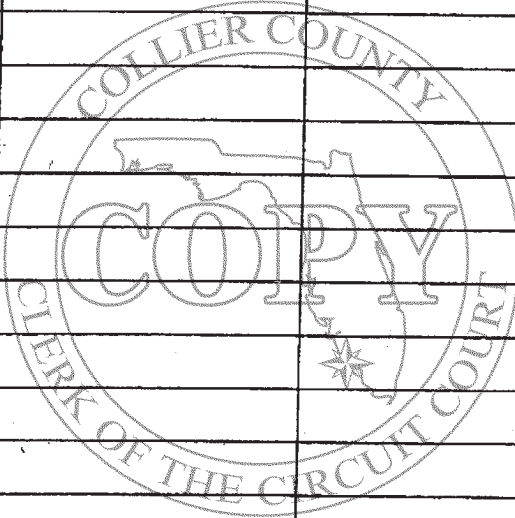
CONSTRUCTION POLLUTION PREVENTION PLAN
for

Inspection And Maintenance Report Form
Structural Controls

DATE: _____

EARTHEN PERIMETER BERM

From	To	Is berm stabilized ?	Is there evidence of washout or over-topping?



Maintenance required for perimeter berm:

To be performed by: _____ on or before: _____

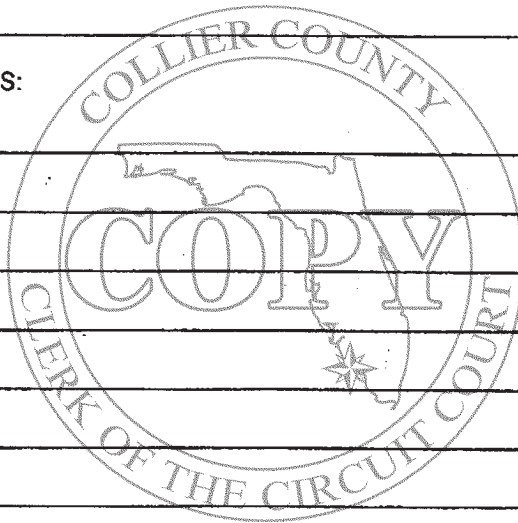
EXHIBIT 5.8

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 5.9

STAFF REPORT DISTRIBUTION LIST

GRAND LELY, DRIVE EXTENSION

Application No: 040928-15

Permit No: 11-00429-S

INTERNAL DISTRIBUTION

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

EXTERNAL DISTRIBUTION

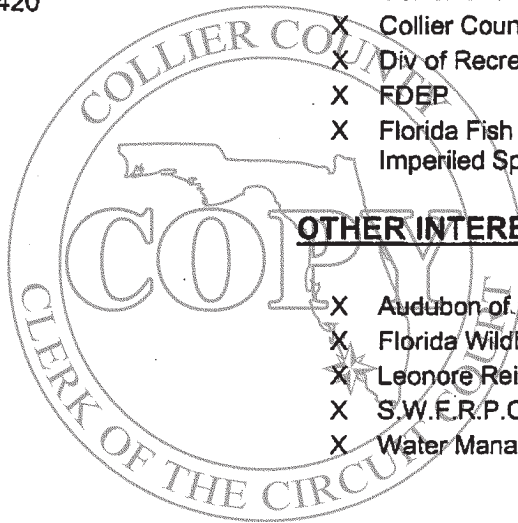
- X Permittee - Stock Development Llc
- X Agent - Waldrop Engineering Pa

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 -
Imperiled 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. Vanatta



STAFF REPORT DISTRIBUTION LIST

ADDRESSES

Waldrop Engineering Pa
10641 Airport Road Number 32
Naples FL 34109

Stock Development Llc
4501 Tamiami Trail North Ste 300
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 8 - 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
Tallahass e 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
Nort Fort Myers FL 33917

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

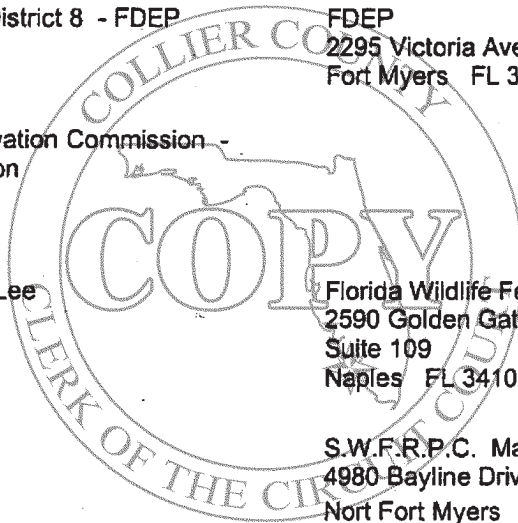


EXHIBIT E
Sussex Place a/k/a Tract 27
Permit No. 11-00429-S-15; Application No. 040928-14



SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE
STANDARD GENERAL PERMIT NO. 11-00429-S
DATE ISSUED: November 23, 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 8.21 acres of residential development known as Lely Resort - Tract 27 with discharge into the Henderson Creek via an existing SWM system.

PROJECT LOCATION: COLLIER COUNTY, SEC 21,22 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. 040928-14, dated September 28, 2004. 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 16 Special Conditions (See Pages : 5 - 5 of 5) 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 23rd day of November, 2004, in accordance with Section 120.60(3), Florida Statutes.

BY: 
Jacqueline Rippe, P.E.
Director
Lower West Coast Service Center

Certified mail number 7003 1010 0004 2578 0495

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-1.611, 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 the 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 the 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 373.119, 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-1.611, 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 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 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 120.68, 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 (6), 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 principals 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.

28-107.006 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 120.589(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 120.589, 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 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 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 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