

**BY-LAWS**  
**OF**  
**SANDHILL PRESERVE AT ARBOR MEADOWS**  
**HOMEOWNERS' ASSOCIATION, INC.**

103723

Sandhill Preserve at Arbor Meadows  
By-Laws

1/26/05

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**BY-LAWS  
OF  
SANDHILL PRESERVE AT ARBOR MEADOWS HOMEOWNERS' ASSOCIATION, INC.**

1. **Name and Location.** The name of the corporation is SANDHILL PRESERVE AT ARBOR MEADOWS HOMEOWNERS' ASSOCIATION, INC. ("**Association**"). The principal office of the corporation shall be located at 120 Fairway Woods Boulevard, Orlando, Florida 32824, or at such other location determined by the Board of Directors (the "**Board**") from time to time.

2. **Definitions.** The definitions contained in the Declaration for Sandhill Preserve (the "**Declaration**") relating to the residential community known as Sandhill Preserve, recorded, or to be recorded, in the Public Records of Orange County, Florida, are incorporated herein by reference and made a part hereof. In addition to the terms defined in the Declaration, the following terms shall have the meanings set forth below:

"**Annual Members Meeting**" shall have the meaning assigned to such term in Section 3.2 of these By-Laws.

"**Articles**" shall mean the Articles of Incorporation for Association, as amended from time to time.

"**By-Laws**" shall mean these By-Laws, together with all amendments and modifications thereof.

"**Declaration**" shall mean the Declaration as modified from time to time.

"**Developer**" shall mean Landstar Development Corporation, and any of its designees, successors and assigns who receive a written assignment of all or some of the rights of Developer hereunder. Such assignment need not be recorded in the Public Records in order to be effective. In the event of such a partial assignment, the assignee shall not be deemed Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

"**Master Association**" shall mean Arbor Meadows at Meadow Woods Master Association, Inc., a Florida not-for-profit corporation, its successors and assigns.

"**Master Declaration**" shall mean the Declaration for Arbor Meadows at Meadow Woods recorded in Official Records Book \_\_\_\_\_, at Page \_\_\_\_\_ of the Public Records of Orange County, Florida, as the same may be amended from time to time.

"**Member**" shall mean a member of Association.

"**Minutes**" shall mean the minutes of all Member and Board meetings, which shall be in the form required by the Florida Statutes. In the absence of governing Florida Statutes, the Board shall determine the form of the minutes.

"**Official Records**" shall mean all records required to be maintained by Association pursuant to Section 720.303(4) of the Florida Statutes, as amended from time to time.

"**Special Members Meeting**" shall have the meaning assigned to such term in Section 3.3 of these By-Laws.

"**Turnover Date**" shall have the meaning set forth in the Declaration.

"**Voting Interests**" shall mean the voting rights held by the Members.

3. **Members.**



3.1 Voting Interests. Each Owner and any Builder and Developer shall be a Member of Association. No person who holds an interest in a Home only as security for the performance of an obligation shall be a Member of Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Home. There shall be one vote appurtenant to each Home. For the purposes of determining who may exercise the Voting Interest associated with each Home, the following rules shall govern:

3.1.1 Home Owned By Husband and Wife. Either the husband or wife (but not both) may exercise the Voting Interest with respect to a Home. In the event the husband and wife cannot agree, neither may exercise the Voting Interest.

3.1.2 Trusts. In the event that any trust owns a home, Association shall have no obligation to review the trust agreement with respect to such trust. If the Home is owned by Robert Smith, as Trustee, Robert Smith shall be deemed the Owner of the Home for all Association purposes. If the Home is owned by Robert Smith as Trustee for the Laura Jones Trust, then Robert Smith shall be deemed the Member with respect to the Home for all Association purposes. If the Home is owned by the Laura Jones Trust, and the deed does not reference a trustee, then Laura Jones shall be deemed the Member with respect to the Home for all Association purposes. If the Home is owned by the Jones Family Trust, the Jones Family Trust may not exercise its Voting Interest unless it presents to Association, in the form of an attorney opinion letter or affidavit reasonably acceptable to Association, the identification of the person who should be treated as the Member with respect to the Home for all Association purposes. If Robert Smith and Laura Jones, as Trustees, hold title to a Home, either trustee may exercise the Voting Interest associated with such Home. In the event of a conflict between trustees, the Voting Interest for the Home in question cannot be exercised. In the event that any other form of trust ownership is presented to Association, the decision of the Board as to who may exercise the Voting Interest with respect to any Home shall be final. Association shall have no obligation to obtain an attorney opinion letter in making its decision, which may be made on any reasonable basis whatsoever.

3.1.3 Corporations. If a Home is owned by a corporation, the corporation shall designate a person, an officer, employee, or agent who shall be treated as the Member who can exercise the Voting Interest associated with such Home.

3.1.4 Partnerships. If a Home is owned by a limited partnership, any one of the general partners may exercise the Voting Interest associated with such Home. By way of example, if the general partner of a limited partnership is a corporation, then the provisions hereof governing corporations shall govern which person can act on behalf of the corporation as general partner of such limited partnership. If a Home is owned by a general partnership, any one of the general partners may exercise the Voting Interest associated with such Home. In the event of a conflict among general partners entitled to exercise a Voting Interest, the Voting Interest for such Home cannot be exercised.

3.1.5 Multiple Individuals. If a Home is owned by more than one individual, any one of such individuals may exercise the Voting Interest with respect to such Home. In the event that there is a conflict among such individuals, the Voting Interest for such Home cannot be exercised.

3.1.6 Liability of Association. Association may act in reliance upon any writing or instrument or signature, whether original or facsimile, which Association, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instruction in connection with the provisions hereof has been duly authorized to do so. So long as Association acts in good faith, Association shall have no liability or obligation with respect to the exercise of Voting Interests, and no election shall be invalidated (in the absence of fraud) on the basis that Association permitted or denied any person the right to exercise a Voting Interest. In addition, the Board may impose additional requirements respecting the exercise of Voting Interests (e.g., the execution of a Voting Certificate).

3.2 Annual Meetings. The annual meeting of the Members (the "Annual Members Meeting") shall be held at least once each calendar year on a date, at a time, and at a place to be determined by the Board.



3.3 Special Meetings of the Members. Special meetings of the Members (a "Special Members Meeting") may be called by the President, a majority of the Board, or upon written request of ten percent (10%) of the Voting Interests of the Members. The business to be conducted at a Special Members Meeting shall be limited to the extent required by Florida Statutes.

3.4 Notice of Members Meetings. Written notice of each Members meeting shall be given by, or at the direction of, any officer of the Board or any management company retained by Association. A copy of the notice shall be mailed to each Member entitled to vote, postage prepaid, not less than ten (10) days before the meeting (provided, however, in the case of an emergency, two (2) days' notice will be deemed sufficient). The notice shall be addressed to the Member's address last appearing on the books of Association. The notice shall specify the place, day, and hour of the meeting and, in the case of a Special Members Meeting, the purpose of the meeting. Alternatively, and to the extent not prohibited by the Florida Statutes, the Board may adopt from time to time, other procedures for giving notice to the Members of the Annual Members Meeting or a Special Members Meeting. By way of example, and not of limitation, such notice may be included in a newsletter sent to each Member by the Association.

3.5 Quorum of Members. Until and including the Turnover Date, a quorum shall be established by Developer's presence, in person or by proxy, at any meeting. After the Turnover Date, a quorum shall be established by the presence, in person or by proxy, of the Members entitled to cast twenty percent (20%) of the Voting Interests, except as otherwise provided in the Articles, the Declaration, or these By-Laws. Notwithstanding any provision herein to the contrary, in the event that technology permits Members to participate in Members Meetings and vote on matters electronically, then the Board shall have authority, without the joinder of any other party, to revise this provision to establish appropriate quorum requirements.

3.6 Adjournment of Members Meetings. If, however, a quorum shall not be present at any Members meeting, the meeting may be adjourned as provided in the Florida Statutes. In the absence of a provision in the Florida Statutes, the Members present shall have power to adjourn the meeting and reschedule it on another date.

3.7 Action of Members. Decisions that require a vote of the Members must be made by a concurrence of a majority of the Voting Interests present in person or by proxy, represented at a meeting at which a quorum has been obtained unless provided otherwise in the Declaration, the Articles, or these By-Laws.

3.8 Proxies. At all meetings, Members may vote their Voting Interests in person or by proxy. All proxies shall comply with the provisions of Section 720.306(6) of the Florida Statutes, as amended from time to time, be in writing, and be filed with the Secretary at, or prior to, the meeting. Every proxy shall be revocable prior to the meeting for which it is given.

4. Board of Directors.

4.1 Number. The affairs of Association shall be managed by a Board consisting of no less than three (3) persons and no more than nine (9) persons. Board members appointed by Developer need not be Members of Association. Board members elected by the other Members must be Members of Association.

4.2 Term of Office. The election of Directors shall take place after Developer no longer has the authority to appoint the Board and shall take place at the Annual Members Meeting or on the Turnover Date. Directors shall be elected for a term ending upon the election of new Directors at the following Annual Members Meeting (except that the term of the Board appointed by the Developer shall extend until the date designated by Developer, or until the Turnover Date).

4.3 Removal. Any vacancy created by the resignation or removal of a Board member appointed by Developer may be replaced by Developer. Developer may replace or remove any Board member appointed by Developer in Developer's sole and absolute discretion. In the event of death or resignation of a Director elected by the Members, the remaining Directors may fill such vacancy. Directors may be removed with or without cause by the vote or agreement in writing of Members holding a majority of the Voting Interests.

4.4 Compensation. No Director shall receive compensation for any service rendered as a Director to Association; provided, however, any Director may be reimbursed for actual expenses incurred as a Director.

4.5 Action Taken Without a Meeting. Except to the extent prohibited by law, the Board shall have the right to take any action without a meeting by obtaining the written approval of the required number of Directors. Any action so approved shall have the same effect as though taken at a meeting of Directors.

4.6 Appointment and Election of Directors. Until the Turnover Date, the Developer shall have the unrestricted power to appoint all Directors of Association. From and after the Turnover Date, or such earlier date determined by Developer in its sole and absolute discretion, the Members shall elect all Directors of Association at or in conjunction with the Annual Members Meeting of the Members.

4.7 Election. Election to the Board shall be by secret written ballot, unless unanimously waived by all Members present. The persons receiving the largest numbers of votes shall be elected. Cumulative voting is not permitted.

4.8 Fiduciary Duty of Directors. Directors shall act in good faith in the performance of all duties.

5. Meeting of Directors.

5.1 Regular Meetings. Regular meetings of the Board shall be held on a schedule adopted by the Board from time to time. Meetings shall be held at such place and hour and date as may be fixed, from time to time, by resolution of the Board.

5.2 Special Meetings. Special meetings of the Board shall be held when called by the President, or by any two (2) Directors. Each Director shall be given not less than two (2) days notice except in the event of an emergency. Notice may be waived. Attendance shall be a waiver of notice. Telephone conference meetings are permitted.

5.3 Emergencies. In the event of an emergency involving immediate danger of injury or death to any person or damage to property, if a meeting of the Board cannot be immediately convened to determine a course of action, the President or, in his absence, any other officer or director, shall be authorized to take such action on behalf of Association as shall be reasonably required to appropriately respond to the emergency situation, including the expenditure of Association funds in the minimum amount as may be reasonably required under the circumstances. The authority of officers to act in accordance herewith shall remain in effect until the first to occur of the resolution of the emergency situation or a meeting of the Board convened to act in response thereto.

5.4 Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting, at which a quorum is present, or in writing in lieu thereof, shall be action of the Board.

5.5 Open Meetings. Meetings of the Board shall be open to all Members.

5.6 Voting. Board Members shall cast votes in the manner provided in the Florida Statutes. In the absence of a statutory provision, the Board shall establish the manner in which votes shall be cast.

5.7 Notice of Board Meetings. Notices of meetings of the Board shall be posted in a conspicuous place on the Common Areas at least 48 hours in advance except in an event of an emergency. Alternatively, notice may be given to Members in any other manner provided by Florida Statute. By way of example, and not of limitation, notice may be given in any newsletter distributed to the Members. For the purposes of giving notice, the area for notices to be posted shall be deemed a conspicuous place. Notices of any meetings of the Board at which Assessments against Homes are to be established shall specifically contain a statement that Assessments shall be considered and a statement of the nature of such Assessments.



6. Powers and Duties of the Board.

6.1 Powers. The Board shall, subject to the limitations and reservations set forth in the Declaration and Articles, have the powers reasonably necessary to manage, operate, maintain and discharge the duties of Association, including, but not limited to, the power to cause Association to do the following:

6.1.1 General. Exercise all powers, duties and authority vested in or delegated to Association by law and in these By-Laws, the Articles, and the Declaration, including, without limitation, adopt budgets, levy Assessments, enter into contracts with Telecommunications Providers for Telecommunications Services.

6.1.2 Rules and Regulations. Adopt, publish, promulgate and enforce rules and regulations governing the use of Sandhill Preserve at Arbor Meadows Homeowners' Association, Inc. by the Members, tenants and their guests and invitees, and to establish penalties and/or fines for the infraction thereof subject only to the requirements of the Florida Statutes, if any.

6.1.3 Enforcement. Suspend the right of use of the Common Areas (other than for vehicular and pedestrian ingress and egress and for utilities) of a Member during any period in which such Member shall be in default in the payment of any Assessment or charge levied, or collected, by Association.

6.1.4 Declare Vacancies. Declare the office of a member of the Board to be vacant in the event such Member shall be absent from three (3) consecutive regular Board meetings.

6.1.5 Hire Employees. Employ, on behalf of Association, managers, independent contractors, or such other employees as it deems necessary, to prescribe their duties and delegate to such manager, contractor, or other person or entity, any or all of the duties and functions of Association and/or its officers.

6.1.6 Common Areas. Acquire, sell, operate, lease, manage and otherwise trade and deal with property, real and personal, including the Common Areas, as provided in the Declaration, and with any other matters involving Association or its Members, on behalf of Association or the discharge of its duties, as may be necessary or convenient for the operation and management of Association and in accomplishing the purposes set forth in the Declaration.

6.1.7 Granting of Interest. Grant licenses, easements, permits, leases, or privileges to any individual or entity, which affect Common Areas and to alter, add to, relocate or improve the Common Areas as provided in the Declaration.

6.1.8 Financial Reports. Prepare all financial reports required by the Florida Statutes.

6.1.9 District. Contract with the District for any lawful purpose.

6.2 Vote. The Board shall exercise all powers so granted except where the Declaration, Articles or these By-Laws specifically require a vote of the Members.

6.3 Limitations. Until the Turnover Date, Developer shall have and is hereby granted a right to disapprove or veto any such action, policy, or program proposed or authorized by Association, the Board, the ACC, any committee of Association, or the vote of the Members. This right may be exercised by Developer at any time within ten (10) days following a meeting held pursuant to the terms and provisions hereof. This right to disapprove may be used to veto proposed actions but shall not extend to the requiring of any action or counteraction on behalf of Association, the Board, the ACC or any committee of Association.

7. Delegates. The President of Association shall serve as the Neighborhood Representative (as defined in the Master Declaration) for Sandhill Preserve at meetings of the Master Association. The Vice-President shall serve as the alternate Neighborhood Representative should the President be unavailable for any meeting of the Master Association. At meetings of the Master Association, the Neighborhood Representative shall be the person responsible for casting the votes attributable to all of the Homes within Sandhill Preserve.

8. Obligations of Association. Association, subject to the provisions of the Declaration, Articles, and these By-Laws, shall discharge such duties as necessary to operate Association pursuant to the Declaration, including, but not limited to, the following:

8.1 Official Records. Maintain and make available all Official Records.

8.2 Supervision. Supervise all officers, agents and employees of Association, and to see that their duties are properly performed.

8.3 Assessments and Fines. Fix and collect the amount of the Assessments and fines; take all necessary legal action; and pay, or cause to be paid, all obligations of Association or where Association has agreed to do so, of the Members.

8.4 Enforcement. Enforce the provisions of the Declaration, Articles, these By-Laws, and Rules and Regulations.

9. Officers and Their Duties.

9.1 Officers. The officers of this Association shall be a President, a Vice President, a Secretary, and a Treasurer.

9.2 Election of Officers. Except as set forth below, the election of officers shall be by the Board and shall take place at the first meeting of the Board following each Annual Members Meeting.

9.3 Term. The officers named in the Articles shall serve until their replacement by the Board. The officers of Association shall hold office until their successors are appointed or elected unless such officer shall sooner resign, be removed, or otherwise disqualified to serve.

9.4 Special Appointment. The Board may elect such other officers as the affairs of Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

9.5 Resignation and Removal. Any officer may be removed from office, with or without cause, by the Board. Any officer may resign at any time by giving written notice to the Board. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein. Acceptance of such resignation shall not be necessary to make it effective.

9.6 Vacancies. A vacancy in any office shall be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the replaced officer.

9.7 Multiple Offices. The office of President and Vice-President shall not be held by the same person. All other offices may be held by the same person.

9.8 Duties. The duties of the officers are as follows:

9.8.1 President. The President shall preside at all meetings of Association and Board, sign all leases, mortgages, deeds and other written instruments and perform such other duties as may be required by the Board. The President shall be a member of the Board.

9.8.2 Vice President. The Vice President shall act in the place and stead of the President in the event of the absence, inability or refusal to act of the President, and perform such other duties as may be required by the Board.

9.8.3 Secretary. The Secretary shall record the votes and keep the Minutes of all meetings and proceedings of Association and the Board; keep the corporate seal of Association and affix it on all papers required

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to be sealed; serve notice of meetings of the Board and of Association; keep appropriate current records showing the names of the Members of Association together with their addresses; and perform such other duties as required by the Board.

9.8.4 Treasurer. The Treasurer shall cause to be received and deposited in appropriate bank accounts all monies of Association and shall disburse such funds as directed by the Board; sign, or cause to be signed, all checks, and promissory notes of Association; cause to be kept proper books of account and accounting records required pursuant to the provisions of Section 720.303 of the Florida Statutes cause to be prepared in accordance with generally accepted accounting principles all financial reports required by the Florida Statutes; and perform such other duties as required by the Board.

10. Committees.

10.1 General. The Board may appoint such committees as deemed appropriate. The Board may fill any vacancies on all committees.

10.2 ACC. Developer shall have the sole right to appoint the members of the ACC until the Turnover Date. Upon expiration of the right of Developer to appoint members of the ACC, the Board shall appoint the members of the ACC. As provided under the Declaration, Association shall have the authority and standing to seek enforcement in courts of competent jurisdiction any decisions of the ACC.

11. Records. The official records of Association shall be available for inspection by any Member at the principal office of Association. Copies may be purchased, by a Member, at a reasonable cost.

12. Corporate Seal. Association shall have an impression seal in circular form.

13. Amendments.

13.1 General Restrictions on Amendments. Notwithstanding any other provision herein to the contrary, no amendment to these By-Laws shall affect the rights of Developer unless such amendment receives the prior written consent of Developer which may be withheld for any reason whatsoever. If the prior written approval of any governmental entity or agency having jurisdiction is required by applicable law or governmental regulation for any amendment to these By-Laws, then the prior written consent of such entity or agency must also be obtained. No amendment shall be effective until it is recorded in the Public Records.

13.2 Amendments Prior to and Including the Turnover Date. Prior to and including the Turnover Date, Developer shall have the right to amend these By-Laws as it deems appropriate, without the joinder or consent of any person or entity whatsoever. Developer's right to amend under this provision is to be construed as broadly as possible. In the event that Association shall desire to amend these By-Laws prior to and including the Turnover Date, Association must first obtain Developer's prior written consent to any proposed amendment. Thereafter, an amendment identical to that approved by Developer may be adopted by Association pursuant to the requirements for amendments after the Turnover Date. Thereafter, Developer shall join in such identical amendment so that its consent to the same will be reflected in the Public Records.

13.3 Amendments After the Turnover Date. After the Turnover Date, but subject to the general restrictions on amendments set forth above, these By-Laws may be amended with the approval of (i) sixty-six and two-thirds percent (66 2/3%) of the Board; and (ii) seventy-five percent (75%) of the votes present, in person or by proxy, at a duly noticed meeting of the Members at which there is a quorum. Notwithstanding the foregoing, these By-Laws may be amended after the Turnover Date by sixty-six and two-thirds percent (66 2/3%) of the Board acting alone to change the number of directors on the Board. Such change shall not require the approval of the Members. Any change in the number of directors shall not take effect until the next Annual Members Meeting.

14. Conflict. In the case of any conflict between the Articles and these By-Laws, the Articles shall control. In the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.



15. Fiscal Year. The first fiscal year shall begin on the date of incorporation and end on December 31 of that year. Thereafter, the fiscal year of Association shall begin on the first day of January and end on the 31st day of December of every year.

16. Miscellaneous.

16.1 Florida Statutes. Whenever these By-Laws refers to the Florida Statutes, it shall be deemed to refer to the Florida Statutes as they exist on the date these By-Laws are recorded except to the extent provided otherwise as to any particular provision of the Florida Statutes.

16.2 Severability. Invalidation of any of the provisions of these By-Laws by judgment or court order shall in no way affect any other provision, and the remainder of these By-Laws shall remain in full force and effect.



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
ENVIRONMENTAL RESOURCE  
STANDARD GENERAL PERMIT NO. 48-00113-S  
DATE ISSUED: July 28, 2003**

*File  
HW4534  
ANDRE ✓*

Form #0941  
08/95

**PERMITTEE:** LANDSTAR DEVELOPMENT COMPANY  
120 FAIRWAY WOODS BLVD  
ORLANDO, FL 32824

**PROJECT DESCRIPTION:** Modification for construction and operation of a surface water management system to serve a 51.23 acre residential project known as Meadow Woods Parcel 31.1 and 31.2.

**PROJECT LOCATION:** ORANGE COUNTY, SEC 31 TWP 24S RGE 30E

**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. 030609-12, dated June 9, 2003. 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:

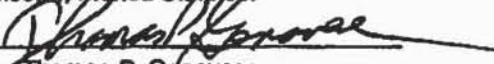
1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages : 2 - 4 of 8 ),
3. the attached 12 Special Conditions (See Pages : 5 - 8 of 8 ) and
4. the attached 9 Exhibit(s).

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 28th day of July, 2003, in accordance with Section 120.60(3), Florida Statutes.

BY:

  
Thomas P. Genovese  
Service Center Director  
Orlando Service Center

Certified mail number 7002 1000 0004 7317 6565

Page 1 of 6

## 40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to Chapter 40E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit,

or

2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.416, 373.419, 373.426 F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4/20/94, 10-3-95



### 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 registered professional engineer or other appropriate individual as authorized by law, utilizing the supplied Environmental Resource Permit Construction Completion/Certification Form Number 0881. 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 is 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" drawing. 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 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

**GENERAL CONDITIONS**

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(4), 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 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

### **GENERAL CONDITIONS**

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 conceptual phase of this permit shall expire on July 28, 2005.  
The construction phase of this permit shall expire on July 28, 2008.

2. Discharge Facilities:

Basin: Basin B6-4b, Structure: 1

1-5.5" dia. CIRCULAR ORIFICE with invert at elev. 80.5' NGVD.  
138 LF of 48" dia. REINFORCED CONCRETE PIPE culvert.  
1-37" W X 79" L drop inlet with crest at elev. 81.1' NGVD.

Receiving body : Existing master system  
Control elev : 80.5 feet NGVD. /80.5 FEET NGVD DRY SEASON.

Basin: Basin B6-4c-e, B6-5e, Structure: 1

1-6.8" dia. CIRCULAR ORIFICE with invert at elev. 80.5' NGVD.  
385 LF of 48" dia. REINFORCED CONCRETE PIPE culvert.  
1-37" W X 79" L drop Inlet with crest at elev. 81.5' NGVD.

Receiving body : Existing wetland  
Control elev : 80.5 feet NGVD. /80.5 FEET NGVD DRY SEASON.

3. Lake side slopes shall be no steeper than 5:1 (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.
4. Operation of the surface water management system shall be the responsibility of HOME OWNERS ASSOCIATION. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
5. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
6. 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.
7. 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.
8. Minimum building floor elevation: BASIN: Basin B6-4b - 84.30 feet NGVD. BASIN:  
Basin B6-4c-e, B6-5e - 83.60 feet NGVD.
9. Minimum road crown elevation: Basin: Basin B6-4b - 82.50 feet NGVD. Basin: Basin  
B6-4c-e, B6-5e - 82.50 feet NGVD.
10. The District reserves the right to require remedial measures to be taken by the permittee if monitoring or other information demonstrates that adverse impacts to onsite or offsite wetlands, upland conservation areas or buffers, or other surface waters have occurred due to project related activities.

**SPECIAL CONDITIONS**

11. Silt screens, hay bales, turbidity screens/barriers or other such sediment control measures shall be utilized during construction. The selected sediment control measure shall be installed landward of the upland buffer zones around all protected wetlands and shall be properly installed. All areas shall be stabilized and vegetated immediately after construction to prevent erosion into the wetlands and upland buffer zones.
12. All special conditions and exhibits previously stipulated by permit number 48-00113-S remain in effect unless otherwise revised and shall apply to this modification.

## 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

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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 15<sup>th</sup> 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

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

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

- (1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;
- (2) a statement of the preliminary agency action;
- (3) an explanation of how the person's substantial interests will be affected by the agency determination; and
- (4) a statement of relief sought.

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

#### VARIANCES AND WAIVERS

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

- (a) the caption shall read:  
Petition for (Variance from) or (Waiver of) Rule (Citation)
- (b) The name, address, telephone number and any facsimile number of the petitioner;

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

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

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

(f) the type of action requested;

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

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

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

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

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

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

#### WAIVER OF RIGHTS

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

#### 28-106.201 INITIATION OF PROCEEDINGS (INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

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

(a) The name and address of each agency affected and each agency's file or identification number, if known;

(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

(c) A statement of when and how the petitioner received notice of the agency decision;

(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;

(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and

(f) A demand for relief.

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**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.

Revised August, 2000



## **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574  
Mailing Address: P.O. Box 246880, West Palm Beach, FL 33416-4680 • [www.sfwmd.gov](http://www.sfwmd.gov)

CON 24 - 06

Environmental Resource Regulation Department

### **POST-CONSTRUCTION REQUIREMENTS**

**For projects requiring permit transfer to the operating entity**

#### **CONSTRUCTION COMPLETION / CONSTRUCTION CERTIFICATION (Form No. 0881)**

- For Environmental Resource / Surface Water Management Permits
- Submit within 30 days of construction completion
- A Florida registered professional engineer must certify that all surface water management system facilities are constructed in substantial conformance with plans and specifications approved by the District
- Required by Sections 373.117 and 373.419, Fla. Stat.
- If another certification form is used by the engineer, it must address all components of the surface water management system and state that the engineer has reviewed the permit and that the constructed system is in substantial conformance with the plans and specifications approved by the District.

#### **REQUEST FOR CONVERSION OF ENVIRONMENTAL RESOURCE / SURFACE WATER MANAGEMENT PERMIT FROM CONSTRUCTION PHASE TO OPERATION PHASE AND TRANSFER OF PERMIT TO THE OPERATING ENTITY (Form No. 0920)**

- For Environmental Resource / Surface Water Management Permits
- Form must be completed and signed by an authorized representative of the operating entity
- Form must include all applications to be transferred
- Required enclosures (listed on Form No. 0920) should be submitted at the same time
- Permit file must contain documentation that all applicable permit conditions have been satisfied.

#### **AFFIDAVIT AND CHECKLIST FOR CONTENT OF ASSOCIATION DOCUMENTS IN COMPLIANCE WITH SFWMD PERMITTING CRITERIA**

- For Environmental Resource / Surface Water Management Permits
- Applies when a homeowner or property owner association, or master association, is the proposed operating entity for a surface water management system
- Submittal of affidavit greatly facilitates the review of the permit transfer
- Provides reasonable assurance that the association meets minimum requirements of Section 9.2, Basis of Review (BOR), to operate and maintain the surface water management system

(Rev 6/02)



**Projects in the following counties should respond to the corresponding  
SFWMD Service Center:**

**Broward, Highlands, Miami-Dade, Martin, Monroe, Okeechobee, Palm Beach, and  
St. Lucie Counties:**

Please respond to the West Palm Beach Service Center.

SFWMD  
Environmental Resource Compliance Division  
MSC 4230  
P.O. Box 24680  
West Palm Beach, FL 33416-4680

(561) 686-8800; (800) 432-2045

**Charlotte, Collier, Glades, Hendry, and Lee Counties:**

Please respond to the Ft. Myers Service Center.

SFWMD  
Environmental Resource Compliance Division  
MSC 4720  
2301 McGregor Blvd.  
Ft. Myers, FL 33901

(941) 338-2929; (800) 248-1201

**Orange, Osceola, and Polk Counties:**

Please respond to the Orlando Service Center.

SFWMD  
Environmental Resource Compliance Division  
MSC 4710  
1707 Orlando Central Parkway, Suite 200  
Orlando, FL 32809

(407) 858-6100; (800) 250-4250

(Rev 6/02)



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

***Environmental Resource/Surface Water Management Permit  
Construction Completion/Construction Certification***

FORM 0881  
08/95

**TO: SOUTH FLORIDA WATER MANAGEMENT DISTRICT**  
**Environmental Resource Compliance Division**

**SUBJECT:**

PERMIT NO. \_\_\_\_\_  
PROJECT NAME: \_\_\_\_\_  
LOCATION: COUNTY \_\_\_\_\_

APPLICATION NO. \_\_\_\_\_  
PHASE: \_\_\_\_\_  
SEC / TWP / RGE \_\_\_\_\_

**The subject surface water management system has been designed, constructed and completed as follows: (use additional sheets if needed):**

Completion Date: Month \_\_\_\_\_ Day \_\_\_\_\_ Year \_\_\_\_\_

**Discharge Structure:**

**PERMITTED**

**EXISTING**

Weir	Width	_____	Crest	_____	Width	_____	Crest	_____
Bleeder	Dimensions	_____	Invert	_____	Dimensions	_____	Invert	_____
Type	_____							

**Retention/Detention Area:** (if applicable)

ID	_____	ID	_____	ID	_____	ID	_____
Size	_____	Size	_____	Size	_____	Size	_____
Side Slopes	_____	Side Slopes	_____	Side Slopes	_____	Side Slopes	_____
	(H:V)		(H:V)		(H:V)		(H:V)

Please indicate the location of the appropriate bench mark(s) used to determine the above information on the record drawings (Reference 40E-4.381(1)(f), Florida Administrative Code). All elevations should be according to National Geodetic Vertical Datum (NGVD) (Reference 2.9 of the *Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District*). \_\_\_\_\_

**I HEREBY NOTIFY THE DISTRICT OF THE COMPLETION OF CONSTRUCTION OF ALL THE COMPONENTS OF THE SURFACE WATER MANAGEMENT FACILITIES FOR THE ABOVE REFERENCED PROJECT AND CERTIFY THAT THEY HAVE BEEN CONSTRUCTED IN SUBSTANTIAL CONFORMANCE WITH THE PLANS AND SPECIFICATIONS PERMITTED BY THE DISTRICT. [A COPY OF THE APPROVED PERMIT DRAWINGS IS ATTACHED WITH DEVIATIONS NOTED, IF APPLICABLE]. I HEREBY AFFIX MY SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_.**

\_\_\_\_\_  
Engineer's Signature and Seal

\_\_\_\_\_  
Name (Please Print) FLA. Registration No.





South Florida Water Management District

Form #0920

08/95

**REQUEST FOR CONVERSION OF  
ENVIRONMENTAL RESOURCE/SURFACE WATER MANAGEMENT PERMIT  
FROM CONSTRUCTION PHASE TO OPERATION PHASE AND  
TRANSFER OF PERMIT TO THE OPERATING ENTITY  
(TO BE COMPLETED AND SUBMITTED BY THE OPERATING ENTITY)**

SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
Environmental Resource Compliance Division

Date \_\_\_\_\_

It is hereby requested that District Environmental Resource/Surface Water Management Permit No. \_\_\_\_\_ under Application No(s). \_\_\_\_\_, authorizing the construction and operation of a surface water management system for the below mentioned project, be converted from the construction phase to the operation phase and be transferred from the construction phase permittee to the operation phase operating entity.

**PROJECT:** \_\_\_\_\_

**FROM:** Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**TO:** Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Enclosed is documentary evidence of satisfaction of permit conditions (other than long term monitoring) in accordance with Rule 40E-4.361, Florida Administrative Code (F.A.C.). Also enclosed is a copy of the documents required below, including the document transferring title to the operating entity for the common areas on which the surface water management system is located.

The surface water management facilities are hereby accepted for operation and maintenance in accordance with the engineer's certification and as outlined in the restrictive covenants and articles of incorporation for the operating entity.

The signatory, as representative for the operating entity, hereby agrees that the operating entity will be perpetually bound by all terms and conditions of the permit, including all compliance requirements. Authorization for any proposed modification to the project shall be applied for and obtained prior to conducting such modification.

\_\_\_\_\_  
Operating Entity Name

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title and Telephone Number of Signatory

\_\_\_\_\_  
Printed Name of Signatory

**Enclosure:**

- ☐ Documentary evidence of satisfaction of permit conditions (other than long term monitoring)
- ☐ Copy of recorded transfer of title to surface water management system
- ☐ Copy of plat(s)
- ☐ \_\_\_\_\_

Application No(s). \_\_\_\_\_

Permit No. \_\_\_\_\_

Project Name: \_\_\_\_\_

### AFFIDAVIT

I, \_\_\_\_\_, on behalf of

\_\_\_\_\_ in

\_\_\_\_\_ capacity, hereby attest to the following pertaining to the above project:

**(9.2.3, BOR)** I attest that the Home or Property Owners' or Condominium or Community or Master-Association has the following general powers and attributes set forth in the Articles of Incorporation or other documents on the page numbers indicated:

1. a. All the powers set forth in Section 617, Fla. Stat.	Page no. _____
b. All the powers set forth in Section 718, Fla. Stat.	Page no. _____
OR	
1. The power to:	
a. own and convey property;	Page no. _____
b. operate and maintain common property, specifically the surface water management (SWM) as permitted by the SFWMD including all lakes, retention areas, culverts and related appurtenances;	Page no. _____
c. establish rules and regulations;	Page no. _____
d. assess members and enforce assessments;	Page no. _____
e. to sue and be sued: and	Page no. _____
f. contract for services to provide for operation and maintenance services.	Page no. _____
2. All homeowners, lot owners, property owners, unit owners and golf course(s), if any are members of the Association.	Page no. _____
3. The Association exists in perpetuity; however, if the Association is dissolved, the property consisting of the surface water management system will be conveyed to an appropriate agency of local government. If this is not accepted, then the surface water management system will be dedicated to a similar non-profit corporation.	Page no. _____



**(9.2.4, BOR)** I further attest that the following covenants and restrictions are contained in the Declaration of Protective Covenants, Declaration of Condominium, Deed Restrictions or Articles of Incorporation (documents) on the page numbers indicated:

1. The Association is responsible for the operation and maintenance of the SWM system described in the permit.	Page no. _____
2. The SWM system is: a. owned by the Association; or b. described in the documents as common property.	Page no. _____ Page no. _____
3. The Association is responsible for assessing and collecting fees for the operation, maintenance, and if necessary, replacement of the SWM system.	Page no. _____
4. Any amendment proposed to these documents which would affect the SWM system, conservation areas or water management portions of the common areas will be submitted to the District for a determination of whether the amendment necessitates a modification of the SFWMD permit. If a modification is necessary, the District will so advise the permittee.	Page no. _____
5. The rules and regulations shall remain in effect for a minimum of twenty-five (25) years and shall be automatically renewed thereafter.	Page no. _____
6. If wetland mitigation or monitoring is required the association shall be responsible to carry out this obligation. The rules and regulations state that it shall be the association's responsibility to complete the task successfully, including meeting all (permit) conditions associated with wetland mitigation, maintenance and monitoring.*	Page no. _____
7. a. The SFWMD Permit No. _____ is attached to the documents as Exhibit _____. b. copies of the permit and any future SFWMD permit actions shall be maintained by the Association's Registered Agent for the Association's benefit.*	Page no. _____ Page no. _____
8. The District has the right to take enforcement action, including a civil action for an injunction and penalties against the association to compel it to correct any outstanding problems with the surface water management system facilities or in mitigation or conservation areas under the responsibility or control of the association.	Page no. _____

\* You may strike out this section if it is not applicable.



**(9.2.6, BOR)** If the project is a phased project or has independent associations, I further attest that the following powers and duties are contained in the documents:

1. The (Master) Association has the power to accept into the association subsequent phases, that will utilize the same SWM system; or	Page no. _____
2. a. The documents provide that independent associations have the right to utilize the permitted SWM system;	Page no. _____
b. The documents delineate maintenance responsibilities between the independent associations;	Page no. _____
c. Cross easements for drainage, and ingress and egress for maintenance, copies of which are attached, have been granted between all independent associations utilizing the SWM system.	Page no. _____
d. The golf course owner / operator is a member of the Association and the documents reflect this relationship.	Page no. _____

\_\_\_\_\_  
Signature

State of Florida )  
County of \_\_\_\_\_ ) ss

I HEREBY CERTIFY that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, an officer authorized in the State aforesaid and in the County aforesaid to take acknowledgements by \_\_\_\_\_, who is personally known to me or has produced \_\_\_\_\_ as identification and who did (did not) take an oath.

\_\_\_\_\_  
Notary Public, State of Florida

\* You may strike out this section if it is not applicable.

# **Permit Applicant Homeowner Association Checklist**

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*August 7, 2000*



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Package Explanation

Standard Language for Articles of Incorporation and  
Homeowner/Property Owner Association Documents

Checklist for Association Documents

Affidavit

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### Package Explanation

Section 9.2 of the Basis of Review for Environmental Resource and Surface Water Management Applications (BOR)<sup>1</sup> applies when a Homeowner or Property Owner Association (Association) or a Master Association is proposed. Section 9.2; BOR requires Association documents (Declaration of Protective Covenants, Declaration of Condominium, Deed Restrictions, and Articles of Incorporation [hereinafter referred to as "documents"]) to include certain elements.

Proposed language is attached for incorporation in the documents. Utilization of this suggested language in the documents will satisfy the requirements of Section 9.2, BOR. If you use this language, please complete the attached checklist to indicate where the language is located in the documents.

If your documents have already been prepared, or you do not choose to use the suggested language, the attached checklist may be utilized to aid you in determining if all the requirements of Section 9.2, BOR are included in the documents. If any of the items from the checklist are omitted, the documents should be amended to meet BOR requirements.

As the applicant/permittee you may select the process by which you wish to have the documents reviewed. The first suggested option is to complete the attached checklist and submit the list and the documents to District staff for review. The second suggested option is to complete the attached checklist and submit the checklist and documents, together with an affidavit, which utilizes the attached form, attesting that the checklist has been completed correctly. Completion of the affidavit will facilitate the review of your documents.

Compliance with Section 9.2, BOR does not relieve you of your duty to comply with other applicable provisions of Florida law and permit conditions.

Please feel free to contact your permit reviewer if you have any questions.

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<sup>1</sup> The BOR has been incorporated by reference into the F.A.C. by Rule 40E-4.091, F.A.C.



**CHECKLIST FOR HOMEOWNER/PROPERTY OWNER ASSOCIATION DOCUMENTS**

Application or Permit No. \_\_\_\_\_  
 Project Name \_\_\_\_\_

This checklist is to be used in the review of Homeowner/Property Owner Association (Association) Article of Incorporation, Declaration of Protective Covenants, Deed Restrictions, Declaration of Condominium or other recorded documents (Documents) for compliance with Section 9.2 of the Basis of Review for Environmental Resource or Surface Water Management permits within the South Florida Water Management District (BOR).

**I. POWERS AND ATTRIBUTES OF THE ASSOCIATION**

Pursuant to Section 9.2.3, BOR, the Articles of Incorporation or other documents of record shall set forth general powers and attributes of the association.

- A. Do the documents state that the Association shall have all the powers set forth in Section 617.0302, F.S. ? \_\_\_\_\_; page number \_\_\_\_\_
- B. If not, do the documents give the Association the following powers?
1. to own and convey property; \_\_\_\_\_; page number \_\_\_\_\_
  2. to operate and maintain common property, including the surface water management system (SWM) permitted in the SFWMD Permit \_\_\_\_\_; page number \_\_\_\_\_
  3. the power to establish rules and regulations \_\_\_\_\_; page number \_\_\_\_\_
  4. to assess members and enforce assessments \_\_\_\_\_; page number \_\_\_\_\_
  5. to sue and be sued \_\_\_\_\_; page number \_\_\_\_\_ and
  6. to contract for services \_\_\_\_\_; page number \_\_\_\_\_
- C. Pursuant to Section 9.2.3(g) and 9.2.6(d), BOR, are all homeowners; lot, property and unit owners; and the golf course (if any) members of the association? \_\_\_\_\_; page number \_\_\_\_\_

**II. LEGAL DESCRIPTION AND EASEMENTS**

- A. Do the documents cover the entire project according to the legal description? \_\_\_\_\_  
 If not, which phase(s) does it cover? \_\_\_\_\_
- B. Is the legal description included as an exhibit? \_\_\_\_\_; Exhibit number \_\_\_\_\_

- C. Is the legal description by plat? \_\_\_\_\_ Are golf courses, if any, platted? \_\_\_\_\_
- D. Where or how will conservation, drainage, access and maintenance easements be dedicated? \_\_\_\_\_
- E. 1. Are drainage, access and maintenance easements defined and reserved/dedicated to the operating entity? <sup>1</sup> \_\_\_\_\_; page number \_\_\_\_\_
2. Does the dedication/reservation state that the easement may not be removed from its intended use by subsequent owners or others? \_\_\_\_\_; page number \_\_\_\_\_
3. If a reservation or dedication to the operating entity is not included in the documents, please identify the document(s) where such a reservation or dedication is made. \_\_\_\_\_
- F. Are conservation easement use restrictions defined and included in the documents?<sup>2</sup> \_\_\_\_\_; page number \_\_\_\_\_

### III. OWNERSHIP AND MAINTENANCE

- A. Pursuant to Section 9.2.4(a), BOR, the documents should state that "It is the responsibility of the Association to operate and maintain the SWM system." Do the documents provide that the association shall operate and maintain the SWM system? \_\_\_\_\_; page number \_\_\_\_\_
- B. Pursuant to Section 9.2.4(b), BOR, do the documents state that the Association owns the common areas and SWM system? \_\_\_\_\_; page number \_\_\_\_\_
- C. Pursuant to Section 9.2.4(c), BOR, there must "be a method of assessing and collecting the assessment for operation and maintenance of the SWM system." Do the documents provide that the association can assess and collect for the operation, maintenance and replacement of the swm system through regular and special assessments? \_\_\_\_\_; page number \_\_\_\_\_

### IV. AMENDMENTS, DURATION AND DISSOLUTION

- A. Section 9.2.4(d), BOR, states: "That any proposed amendment to the Association's documents, that would affect the SWM system (including environmental conservation areas and the water management portions of the common areas) must be submitted

<sup>1</sup> See Section 7.5, BOR.

<sup>2</sup> Although not specifically required by Section 9.2, BOR, the inclusion of conservation easement use restrictions in the documents is considered informative.



to the District for a determination of whether the amendment necessitates a modification of the SWM permit. If a modification is necessary, the District will so advise the permittee."

Is an amendment section included, which requires SFWMD approval if the swm system, environmental conservation areas, and/or water management portions of common areas requested by the permit would be affected? \_\_\_\_; page number \_\_\_\_

- B. Pursuant to Section 9.2.4(e), BOR, "The rules and regulations must be in effect for at least 25 years with automatic renewal periods thereafter." Do the documents have a minimum 25-year duration with automatic renewal periods thereafter? \_\_\_\_; page number \_\_\_\_
- C. Section 9.2.3(h), BOR states: the Association shall exist in perpetuity; however, if the Association is dissolved, the Articles of Incorporation must provide that the property consisting of the surface water management system shall be conveyed to an appropriate agency of local government. If it is not accepted, then the surface water management system must be dedicated to a similar non-profit corporation.
1. Do the documents provide that the Association shall exist in perpetuity? \_\_\_\_; page number \_\_\_\_
  2. If the Association is dissolved, are their provisions requiring the SWM system, property containing the SWM system and water management portions of common areas required to be conveyed to local government determined to be acceptable by the SFWMD? \_\_\_\_; page number \_\_\_\_
  3. If the local government declines to accept the conveyance, do the documents require the SWM system, property containing the SWM system and water management portions of common areas be dedicated to a similar non-profit corporation? \_\_\_\_; page number \_\_\_\_

#### V. MONITORING AND MAINTENANCE

If monitoring and/or maintenance of mitigation areas are required by the permit, please answer the following questions.

Section 9.2.4(f), BOR, states: "If wetland mitigation monitoring will be required and the operational entity will be responsible to carry out this obligation, the rules and regulations shall state that it will be the association's responsibility to complete the task successfully, including meeting all conditions associated with mitigation maintenance and monitoring."

A. If mitigation monitoring will be the responsibility of the Association, do the Association documents indicate that the Association shall be responsible for mitigation monitoring? \_\_\_\_; page number \_\_\_\_

B. Are any requirements pertaining to perpetual mitigation maintenance included in the documents? \_\_\_\_; page number \_\_\_\_

#### VI. ATTACHMENT OF PERMIT(S) AND CONDITIONS

A. Section 9.2.4(g), BOR states that ERP or SWM permits and conditions shall be attached to the rules and regulations as an exhibit. Is the permit(s) referenced as an exhibit to the Association documents? \_\_\_\_; Exhibit number \_\_\_\_

B. Pursuant to Section 9.2.4(g) BOR, is the Association Registered Agent required to maintain copies of all further permitting actions for the benefit of the association? \_\_\_\_; page number \_\_\_\_

#### VII. PHASED PROJECTS OR INDEPENDENT ASSOCIATIONS

A. Pursuant to Section 9.2.6, BOR, if a master association is proposed for a project which will be constructed in phases and subsequent phases will use the same SWM system, does this Association have the ability to accept future phases into the Association? \_\_\_\_; page number \_\_\_\_

B. Pursuant to Section 9.2.6, BOR, if the development contemplates independent associations for different phases, but proposes an interdependent water management system for the different phases, one of the following alternatives should be chosen by the applicant for setting up the operating entities.

A master association may be formed which includes all of the various associations within the project, with the master association having the responsibility and legal ability to operate and maintain the SWM system for the entire project.

or

If no master association is proposed, each entity which will operate and maintain a portion of an integrated SWM system must have cross easements for drainage, ingress and egress capabilities and the ability to enter and maintain the various portions, should any sub association fail to operate and maintain the portion of the SWM system within their boundaries. A definition of operation and maintenance responsibilities between the entities shall be included in any such document.

1. Do the documents provide that the independent associations, if any, have the right to utilize the permitted SWM system? \_\_\_\_; page number \_\_\_\_



2. Do the documents delineate maintenance responsibilities between the parties and grant ingress and egress easements for maintenance? \_\_\_\_; page number \_\_\_\_

**STANDARD LANGUAGE FOR ARTICLES OF INCORPORATION AND  
HOMEOWNER/PROPERTY OWNER ASSOCIATION DOCUMENTS**

**ARTICLES OF INCORPORATION**

Section 9.2.3 of the Basis of Review for Environmental Resource and Surface Water Management Permit Applications within the South Florida Water Management District (BOR) requires the Homeowner/Property Owner Association (Association) to have certain general powers and attributes which must be reflected in the Articles of Incorporation or other documents of record. The following language can be incorporated in the Association documents to meet the requirements of section 9.2.3, BOR:

1. The Association shall have all the powers set forth in Section 617.0302, Fla. Stat. (1997).  
or
1. The Association shall have the following powers:
  - a. to own and convey property;
  - b. to operate and maintain common property, including the surface water management system permitted in South Florida Water Management District Permit Number \_\_\_\_\_.
  - c. the power to establish rules and regulations;
  - d. to assess members and enforce assessments;
  - e. to sue and be sued; and
  - d. to contract for services.
2. All homeowners, lot owners, property owners, unit owners and golf course(s), if any, are members of the association.
3. The Association shall exist in perpetuity. If the Association is dissolved, the surface water management system, property containing the surface water management system and water management portions of common areas shall be conveyed to an agency of local government determined to be acceptable by the South Florida Water Management District. If the local government declines to accept the conveyance, then the surface water management system, property containing the surface water management system and water management portions of common areas shall be dedicated to a similar non-profit corporation.

**DECLARATION OF PROTECTIVE COVENANTS, DEED RESTRICTIONS,  
DECLARATION OF CONDOMINIUM OR OTHER RECORDED DOCUMENT**

Section 9.2.4, BOR requires that the Declaration of Protective Covenants, Deed Restrictions, Declaration of Condominium or other recorded document setting forth the association's rules and restrictions (hereinafter referred to as "documents"), contain certain covenants and restrictions. The following language may be inserted into the Association documents to meet the requirements of section 9.2.4, BOR:

1. The Association hereby accepts responsibility for the operation and maintenance of the surface water management system described in SFWMD application or permit number(s) \_\_\_\_\_.

2. The surface water management system is owned by the Association.

3. The Association is responsible for assessing and collecting fees for the operation, maintenance, and, if necessary, replacement of the surface water management system. Fees shall be assessed and collected through \_\_\_\_\_ (designate the method).

4. Any amendment proposed to these documents which would affect the surface water management system, conservation areas or water management portions of common areas shall be submitted to the South Florida Water Management District for review prior to finalization of the amendment. The South Florida Water Management District shall determine if the proposed amendment will require a modification of the environmental resource or surface water management permit. If a permit modification is necessary, the modification must be approved by the South Florida Water Management District prior to the amendment of this document.

5. This document shall remain in effect for twenty-five (25) years.<sup>1</sup> This document shall be automatically renewed thereafter.

6. Monitoring and maintenance of the mitigation area, described in South Florida Water Management District Permit Number(s) \_\_\_\_\_, shall be the responsibility of the Association. The Association must successfully complete the mitigation and satisfy permit conditions. The success criteria are described in the permit, which is attached as an exhibit hereto.<sup>2</sup>

7. The Environmental Resource or Surface Water Management Permit is made a part of this document and attached hereto as exhibit \_\_\_\_\_. Copies of the permit and any future permit actions of the South Florida Water Management District shall be maintained by the Registered Agent of the Association for the benefit of the Association.

#### CONSERVATION EASEMENTS

It is suggested that conservation easement use restrictions appear in the HOA documents as follows:

"The following activities are prohibited in or on the Conservation Easement described on Exhibit \_\_\_\_\_:

a. Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground;

<sup>1</sup> Twenty-five years is the minimum duration.

<sup>2</sup> This provision should be included if the Association will have the responsibility for maintenance and/or the completion of mitigation, satisfaction of permit conditions or monitoring.



b. Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste, or unsightly or offensive materials;

c. Removal or destruction of trees, shrubs, or other vegetation, except for the removal of exotic vegetation in accordance with a District approved maintenance plan;

d. Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface;

e. Surface use except for purposes that permit the land or water area to remain in its natural condition;

f. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation including, but not limited to, ditching, diking and fencing;

g. Acts or uses detrimental to such aforementioned retention of land or water areas;

h. Acts or uses within Grantor's regulatory jurisdiction which are detrimental to the preservation of any features or aspects of the Property having historical or archaeological significance."

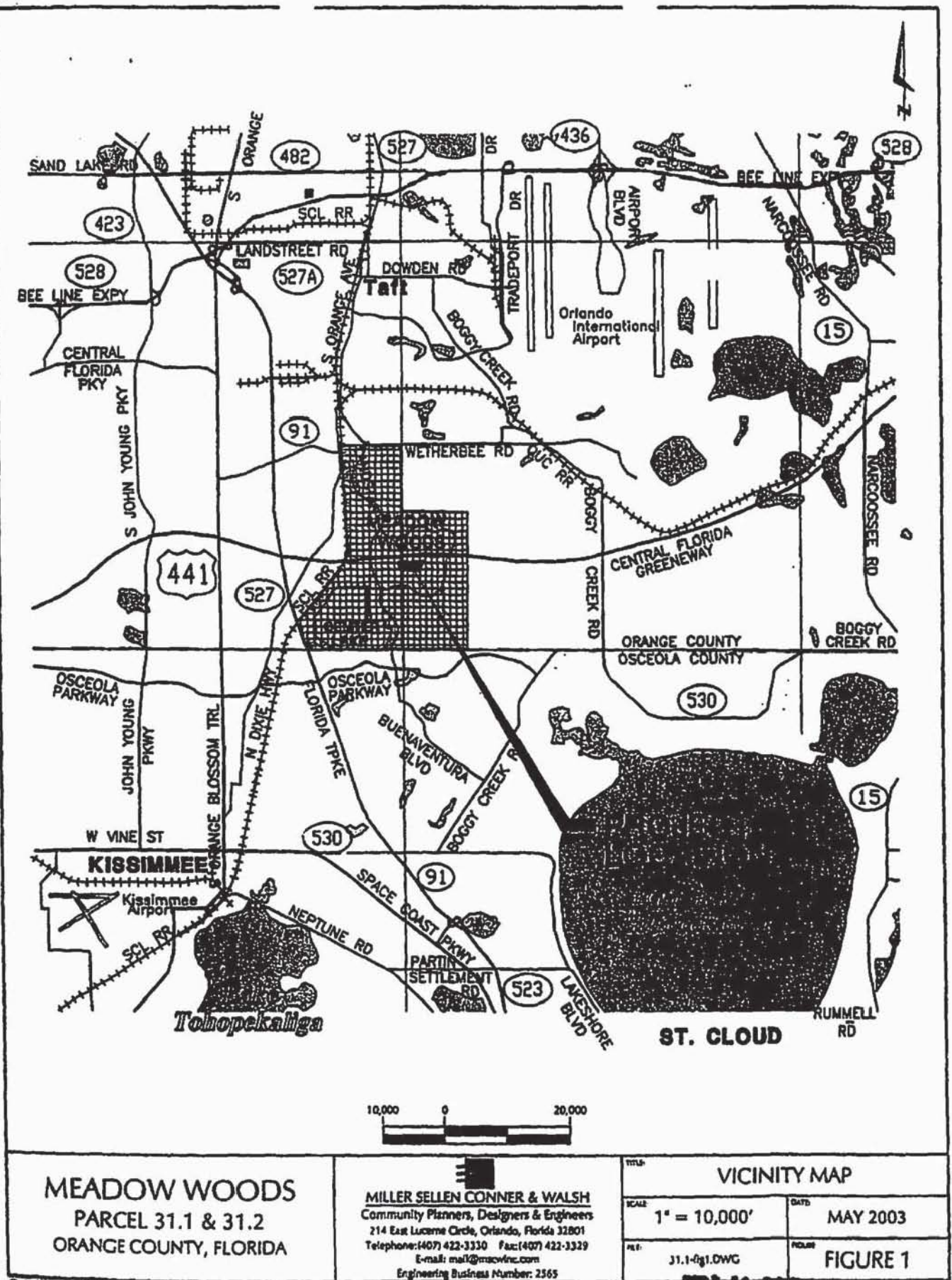
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## **Additional Documents Required Prior to Construction Completion Certification**

Prior to or simultaneous with the submittal of the construction completion/construction certification statement, the following additional documents will be required:

1. filed copy of the articles of incorporation;
2. recorded copy of deed restrictions and associated exhibits;
3. copy of the certificate of incorporation;
4. copies of all plats; and
5. a signed written statement from the proposed transferee that it has reviewed the District permit and project design and will be bound by all terms and conditions of the permit, including all compliance requirements, for the duration of the permit.

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**EXHIBIT 1**



Last Date For Agency Action: 08-AUG-03

**GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT**

**Project Name:** Meadow Woods Parcels 31.1 And 31.2

**Permit No.:** 48-00113-S

**Application No.:** 030609-12

**Application Type:** Environmental Resource (General Permit Modification)

**Location:** Orange County, S31/T24S/R30E

**Permittee :** Landstar Development Company

**Operating Entity :** Home Owners Association

**Project Area:** 51.23 acres

**Project Land Use:** Residential

**Drainage Basin:** BOGGY CREEK

**Receiving Body:** Existing master system

**Class:** CLASS III

**Special Drainage District:** NA

**Conservation Easement To District :** No

**Sovereign Submerged Lands:** No

**PROJECT PURPOSE:**

Modification of an Environmental Resource Permit to authorize construction and operation of a surface water management system to serve a 51.23 acre residential project known as Meadow Woods Parcel 31.1 and 31.2. Staff recommends approval with conditions.

## **PROJECT EVALUATION:**

### **PROJECT SITE DESCRIPTION:**

The site is located east of Landstar Boulevard and south of the Greenway.

A portion of the master surface water management, Pond 31.2, serving the project area was permitted in conjunction with Application No. 000201-20 issued on September 14, 2000. The site contains the existing pond, partially mass graded areas, uplands, and adjacent wetlands.

The project site consists of pine flatwoods and grasslands. There are no wetlands, unique uplands or other surface waters located within the project area. A portion of the site is adjacent to Wetlands 65 and 64, but does not extend into or otherwise affect the established upland buffer zones or wetlands. The project is consistent with the master Meadow Woods development plan. Best management plans for erosion control will be implemented during construction activities.

### **PROPOSED PROJECT:**

Construction proposed consists of the water management system serving the entrance road, Parcel 31.1, 31.2 and Pond 63 expansion containing 51.23 acres. Future development areas are also served by this system making the contributing drainage area 79.81 acres. The drainage area excludes the adjacent wetlands and approximately 1.25 acres of rear yard area that drains to the wetlands via an upland vegetated buffer.

The water management system for the entrance road, Parcel 31.1 and 31.2 consists of inlets and culverts directing runoff to three wet detention ponds. These ponds provide water quality treatment prior to discharging to the adjacent wetlands that provide the required attenuation upstream of the final discharge off-site. Discharge to the wetlands is via spreader swales that reduce the velocities to less than two feet per second.

The project is divided into three basins, Basins B6-4b, B6-4c and B6-4d. The pond in Basin B6-4c is existing and was previously permitted (App. No. 000201-20). The location of the pond was shifted to the north during construction to comply with the proposed development plan of Parcel 31.2. In addition these ponds provide water quality treatment for the future development areas of Basins B6-4b, B6-4c and B6-4d. Also being constructed with this modification is the expansion at the southwest corner of existing Pond 63. This pond was previously permitted (App No. 000201-20) and is approximately 18.8 acres and will be expanded by 3.1 acres to 21.9 acres.

This modification is consistent with the Meadow Woods conceptual approval.

### **LAND USE:**

The land use information is for this modification and includes the expansion of existing Pond 63.

#### **Construction:**

##### **Project:**

	<b>This Phase</b>	<b>Total Project</b>	
Building Coverage	9.45	9.45	acres
Pavement	8.67	8.67	acres
Pervious	23.11	23.11	acres
Water Mgmt Acreage	10.00	10.00	acres

	This Phase	Total Project
<b>Total:</b>	<b>51.23</b>	<b>51.23</b>

#### **WATER QUANTITY**

##### **Discharge Rate :**

As shown in the table below, the proposed project discharge is within the allowable limit for the area. Discharge is to existing wetlands that provide attenuation prior to discharge off-site. Discharge from Wetland 69 is 137 cfs which is less than the permitted 360.1 cfs.

Discharge Storm Frequency : 25 YEAR-1 DAY

Design Rainfall : 8.6 inches

Basin	Allow Disch (cfs)	Method Of Determination	Peak Disch (cfs)	Peak Stage ( ft, NGVD)
Basin B6-4b	35	Previously Permitted	31.5	82.5
Basin B6-4c-e, B6-5e	62	Previously Permitted	59.7	82.3

##### **Finished Floors :**

Building Storm Frequency : 100 YEAR-1 DAY

Design Rainfall : 10.6 inches

Basin	Peak Stage ( ft, NGVD)	Proposed Min. Finished Floors ( ft, NGVD)	FEMA Elevation ( ft, NGVD)
Basin B6-4b	82.8	84.3	82
Basin B6-4c-e, B6-5e	82.7	83.6	82

##### **Road Design :**

Road Storm Frequency : 10 YEAR-1 DAY

Design Rainfall: 7 inches

Basin	Peak Stage ( ft, NGVD)	Proposed Min. Road Crown ( ft, NGVD)
Basin B6-4b	82.4	82.5
Basin B6-4c-e, B6-5e	82.2	82.5

##### **Flood Plain/Compensating Storage:**

This project results in approximately 5.4 acre feet of encroachment into the 100 year floodplain. Compensating storage is provided in the detention ponds between the control elevation of 80.5' NGVD and the 100 year flood stage of 82' NGVD.

Displaced Volume	Compensating Volume	100-Year Stage Elevation
5.4 ac-ft	6.5 ac-ft	82 ft-NGVD



**Control Elevation :**

Basin	Area (Acres)	Ctrl Elev ( ft, NGVD)	WSWT Ctrl Elev ( ft, NGVD)	Method Of Determination
Basin B6-4b	26.46	80.5/80.5	80.50	Master System
Basin B6-4c-e, B6-5e	53.35	80.5/80.5	80.50	Master System

**Receiving Body :**

Basin	Str.#	Receiving Body
Basin B6-4b	1	Existing master system
Basin B6-4c-E, B6-5e	1	Existing wetland

**Discharge Structures:** Note: The units for all the elevation values of structures are ( ft, NGVD)**Culverts:**

Basin	Str#	Count	Type	Width	Length	Dia.
Basin B6-4b	1	1	Reinforced Concrete Pipe		138'	48"
Basin B6-4c-e, B6-5e	1	1	Reinforced Concrete Pipe		385'	48"

**Inlets:**

Basin	Str#	Count	Type	Width	Length	Dia.	Crest Elev.
Basin B6-4b	1	1	Inlet	37"	79"		81.1
Basin B6-4c-e, B6-5e	1	1	Inlet	37"	79"		81.5

**Water Quality Structures:** Note: The units for all the elevation values of structures are ( ft, NGVD)**Bleeders:**

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Invert Angle	Invert El
Basin B6-4b	1	1	Circular Orifice				5.5"		80.5
Basin B6-4c-e, B6-5e	1	1	Circular Orifice				6.8"		80.5

**WATER QUALITY:**

No adverse water quality impacts are anticipated as a result of the proposed project. Water quality treatment in excess of the first inch of runoff is provided in the wet detention ponds. This includes water quality treatment for the first inch of runoff from the future development areas to the north in Basins B6-4b, B6-4e and B6-5e.

Basin	Treatment Method	Vol Req'd (ac-ft)	Vol Prov'd (ac-ft)
Basin B6-4b	Treatment Wet Detention	3.04 acres 4.48	4.48

**Endangered Species:**

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

species of special concern are discovered on the site.

#### **CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM**

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

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

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

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



**RELATED CONCERNS:**

**Water Use Permit Status:**

The applicant has indicated that public water supply will be used as a source for irrigation water for the project.

The applicant has indicated that dewatering is required for construction of this project. Prior to commencing any construction dewatering a dewatering permit shall be obtained from the District.

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 general permit issued pursuant to Section 40E-20 FAC.

**Historical/Archeological Resources:**

The District has received correspondence from the Florida Department of State, Division of Historical Resources indicating that the agency has no objections to the issuance of this permit.

**DCA/CZM Consistency Review:**

The District has not received a finding of inconsistency from the Florida Department of Community Affairs 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:**

**SURFACE WATER MANAGEMENT:**

  
Edward W. Yaun, P.E.

DATE: 7/23/03

**NATURAL RESOURCE MANAGEMENT:**

  
Marc S. Ady

DATE: 7/23/03







