



Jonathan P. Steverson  
Executive Director

## Northwest Florida Water Management District

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Carr Building, Suite 225, 3800 Commonwealth Blvd., MS LS225,  
Tallahassee, Florida 32399  
(850) 921-2986 (Fax) 921-3082

May 1, 2013

Katherine Burke  
Leon County Board of County Commissioners  
Public Works  
2280 Miccosukee Road  
Tallahassee, FL 32308

Received  
05/02/13  
Leon County Board

Re: Notice of Final Agency Action - Approval  
Individual Environmental Resource Permit  
Project Name: Killearn Lakes Greenways - Southbrook Floodplain Enhancement  
Permit Number: 1482

Dear Katherine Burke:

Enclosed is the approved Environmental Resource Permit authorized by the Northwest Florida Water Management District for the above referenced application on May 1, 2013. Please be sure to read the enclosed permit and all exhibits in their entirety, paying close attention to reporting and other permit conditions that may require additional action by you or your representatives, before, during, and after the completion of the permitted activity. For your convenience, required information may be submitted via the internet at [http://www.nwfwmd.state.fl.us/permits/erp/epermit\\_home.html](http://www.nwfwmd.state.fl.us/permits/erp/epermit_home.html) or in writing to this office at:

Northwest Florida Water Management District  
Carr Building, Suite 225 3800 Commonwealth Blvd., MS LS225  
Tallahassee, FL 32399

Please be advised that you are required to fully execute and submit the following documents:

- "Construction Commencement Notice" [form 62-346.900(3)] - Submitted to the District no later than 48 hours prior to commencement of any part of the activity authorized by the enclosed permit.
- "As-Built Certification By a Registered Professional" [form 62-346.900(4)] - Submitted to the District no later than 30 days after the activity has been completed
- "Request for Conversion of an Environmental Resource Permit Construction Phase to Operation and Maintenance Phase" [form 62-346.900(6)] - Submitted to the District concurrent with the submittal of the "As-Built Certification by a Registered Professional."

Copies of these and other ERP forms are available for download on the District website at [http://www.nwfwmd.state.fl.us/permits/erp/erp\\_downloads.htm#erp\\_forms](http://www.nwfwmd.state.fl.us/permits/erp/erp_downloads.htm#erp_forms).

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Chair  
Panama City

JERRY PATE  
Vice Chair  
Pensacola

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Tallahassee

NICK PATRONIS  
Panama City Beach

BO SPRING  
Port Saint Joe

Katherine Burke

May 1, 2013

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Please be advised that the District has not published a notice in a newspaper of local circulation advising the public that a permit has been issued for this activity. Publication, using the District form, notifies the public of their rights to challenge the issuance of this permit. If proper notice is given by publication, third parties have a 21-day time limit to file a petition opposing the issuance of the permit. If you do not publish, a party's right to challenge the issuance of the permit may extend indefinitely. If you wish to have certainty that the period for filing such a challenge is closed, then you may publish, at your expense, such a notice in a newspaper of general circulation. A copy of the form of the notice and a list of newspapers of general circulation is attached for your information. If you choose to publish such a notice, please submit a copy to the District for our records.

**The issuance of an Environmental Resource Permit for this activity does not eliminate the need to obtain all necessary permits or approvals from other agencies.**

Should you have any questions regarding your permit, its conditions, or additional forms or information you need to submit, please contact your permit reviewer, Craig McCammon, at 850-921-2986, or by e-mail: [Craig.McCammon@nfwfmd.state.fl.us](mailto:Craig.McCammon@nfwfmd.state.fl.us).

Sincerely,



Michael Bateman  
Deputy Chief, Bureau of Environmental Resource Regulation

cc: Catherine Breland

Enc:

Environmental Resource Permit Number: 1482  
Construction Commencement Notice [Form 62-346.900(3)]  
As-Built Certification by a registered Professional [Form 62-346.900(4)]  
Request for Conversion of an Environmental Permit Construction Phase to  
Operation and Maintenance Phase [62-346.900(6)]  
Notice of Rights  
Sample Newspaper Notice

**NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT**

**PERMIT NUMBER:** 1482

**DATE ISSUED:** May 1, 2013

**PROJECT NAME:** Killearn Lakes Greenways - Southbrook Floodplain Enhancement

**CONSTRUCTION PHASE EXPIRATION DATE:** May 1, 2018

**A PERMIT AUTHORIZING:**

The retrofit improvements to the Killearn Lakes Plantation stormwater collection and conveyance system from Bull Headley Road to Chadwick Way.

As part of the retrofit improvements to the Killearn Lakes Plantation stormwater collection and conveyance system, this permit authorizes the permanent impacts of 4.085 acres of wetlands, temporarily clear 1.534 acres of wetlands, and permanently impact 0.366 acres of other surface waters for the purpose of increasing the drainage capacity within the green space located behind residential homes in the Killearn Lakes neighborhood. The proposed construction includes a defined, reshaped channel with appropriate side slopes, direction and functionality. To off-set the impacts to wetlands, this permit authorizes the creation of 3.846 acres of fresh water marsh wetland, the enhancement of 4.085 acres of wetlands which currently function as a low quality, hydrologically altered mixed forested wetland and will be enhanced as a freshwater marsh, the restoration of 0.263 acres of freshwater marsh, and 0.47 acres of enhanced upland buffer areas around the wetland mitigation areas. The creation consists of scraping down 3.846 acres of uplands adjacent to the existing wetland areas. The restoration and enhancement areas consist of hydrologically stabilizing the upstream and downstream wetland areas and revegetating the areas with a dominance of herbaceous plant species and ringed with hardwood tree species. The upland enhancement areas consist of 0.47 acres of exotic species removal and some planting.

**LOCATION:**

City: Tallahassee

County: Leon

Address: Killearn Lakes neighborhood, from Bull Headley Road to Chadwick Way

Section(s): 5

Township(s): 2N

Range(s): 1E

Latitude: 30° 36' 40" N

Longitude: 84° 14' 59" W

**ISSUED TO:**

Applicant

Leon County Board of County Commissioners

2280 Miccosukee Road

Tallahassee, FL 32308

Permittee agrees to hold and save the Northwest Florida Water Management District and its successors harmless from any and all damages, claims, or liabilities which may arise from permit issuance. Said application, including all plans and specifications attached thereto, is by reference made a part hereof.

This permit does not convey to any permittee any property rights nor any rights or privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee.

This permit is issued pursuant to Part IV of Chapter 373, Florida Statute (F.S.), and Chapter 62-346,

Florida Administrative Code, (F.A.C.), and may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes.

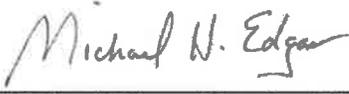
This permit also constitutes certification compliance with water quality standards under Section 401 of the Clean Water Act, 33 U.S. Code 1341.

**PERMIT IS CONDITIONED UPON:**

See conditions on attached "Exhibit A", dated May 1, 2013

See conditions on attached "Exhibit B", dated May 1, 2013

**AUTHORIZED BY:** Northwest Florida Water Management District  
Division of Resource Regulation

By: 

Michael Edgar, Director, Division of Resource Regulation

**Exhibit A**  
*Specific Conditions*

The following conditions are in addition to those listed in exhibit B, as provided for in subsection 62-346.381(2), Florida Administrative Code (F.A.C.).

**General Specific Conditions**

1. Once project construction has been deemed complete, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before the transfer to the Operation and Maintenance phase, all obsolete erosion control materials shall be removed.
2. Record-keeping. The permittee shall be responsible for keeping records documenting that relevant permit conditions are met. This documentation shall include, at a minimum, the date of each inspection, the name and qualifications of the inspector, any maintenance actions taken, and a determination by the inspector as to whether the system is operating as intended.

**Other Specific Conditions**

3. Termination of monitoring for the wetland mitigation area shall be coordinated with the District by:
  - a. notifying the District in writing when the criteria set forth in the Wetland Mitigation Success Criteria Condition have been achieved;
  - b. suspending all maintenance activities in the wetland mitigation area including, but not limited to, irrigation and addition or removal of vegetation; and,
  - c. submitting a monitoring report to the District one year following the written notification and suspension of maintenance activities.
4. Upon receipt of the monitoring report, the District will evaluate the wetland mitigation site to determine if the Mitigation Success Criteria Conditions have been met and maintained. The District will notify the Permittee in writing of the evaluation results. The Permittee shall perform corrective actions for any portions of the wetland mitigation area that fails to maintain the criteria set forth in the Wetland Mitigation Success Criteria Conditions.
5. The mitigation will be considered successful when the following criteria is met for five consecutive growing seasons; (1) Natural vegetative recruitment has occurred over 80% of the current wetland within the project limits, (2) Exotic species and Nuisance species make up no greater than 5% coverage of the mitigation area, and (3) All trash is removed from the wetlands.
6. Mitigation activities as described in the approved mitigation plan must commence with 60 day of permit issuance and be completed within five (5) months of the permitted construction activities. Mitigation for this project consists of wetland creation, wetland enhancement, wetland restoration, and upland buffer plantings.
7. Creation activities include the scrape down of the upstream area, channel area, and downstream area. The depth of scrape-down in the upstream area will be met by lowering the elevation of the existing upland which is 117 feet to 118 feet NGVD to 114 feet NGVD which is the proposed wetland elevation. The depth of scrape-down in the channel area will be met by lowering the elevation of the existing upland which is 109 feet to 110 feet NGVD to 108 feet

**Exhibit A (cont'd)**

NGVD within the upstream portions of the channel and lowering the elevation of the existing upland which is 107 NGVD to 104 feet NGVD within the downstream portions of the channel which is the proposed wetland elevation. The depth of scrape-down in the downstream area will be met by lowering the elevation of the existing upland which is 102 feet NGVD to 99 feet NGVD which is the proposed wetland elevation.

8. Wetland plantings within the upstream and downstream storage area consist of *Iris virginica*, *Hibiscus moscheutos*, *Paspalum floridanum*, *Panicum anceps*, *Panicum longifolium*, *Vernonia gigantea*, *Eupatorium perfoliatum*, and *Solidago fistulosa*. These areas will be planted by using Florida wet meadow mix and will be applied at 15 pounds per acre. The upstream wetland buffers will be planted with *Quercus michauxii* and *Magnolia gradiflora* on 20 foot centers. The downstream wetland buffer will be planted with *Acer rubrum*, *Magnolia virginiana*, and *Baccharis halimifolia* on 15 foot centers.
9. Wetland plantings within the upstream and downstream channel areas consist of *Panicum clandestinum*, *Elymus virginicus*, *Carex vulpinoidea*, *Agrostis perennans*, and *Agrostis scabra*. These areas will be planted by using native detention area seed mix and will be applied at 20 pounds per acre. The upstream and downstream channel wetland buffers will be planted with *Cercis Canadensis*, *Morella cerifera*, and *Illicium floridanum* on 15 foot centers.
10. Enhancement activities include improvement to quality and quantity of water by regulating water levels and water flows within the mitigation area thus reducing sedimentation and erosion by allowing water to be held in the mitigation areas for an extended period of time and by reducing velocities within the mitigation area.
11. Following the District's determination that the wetland mitigation has been successfully completed, the Permittee shall operate and maintain the wetland mitigation area such that they remain in their current or intended condition for the life of the surface water management facility. The Permittee must perform corrective actions for any portions of the wetland mitigation area where conditions no longer meet the criteria set forth in the Wetland Mitigation Success Criteria Conditions.
12. The Permittee's failure to comply with the terms and conditions of this permit pertaining to the successful completion of all mitigation activities in accordance with the mitigation plan shall be deemed a violation of Chapter 62-346, Florida Administrative Code.
13. Narrative progress reports shall be submitted once a year to the Northwest Florida Water Management District (Tallahassee Field Office, Carr Building, Suite 2-D, 3800 Commonwealth Boulevard, MS LS225, Tallahassee, Florida 32399) indicating the status of the mitigation. The cover page shall indicate the permit number, project name and the Permittee name. The first annual progress report shall be submitted 60 days from the date of permit issuance, and reports shall continue to be submitted until all work authorized by the permit has been completed and mitigation has been deemed successful by the District. The report shall include the following information:
  - a. Date mitigation creation, enhancement, and restoration activity begun; if creation, enhancement, and restoration activities have not begun on-site, please so indicate.
  - b. Brief description of the extent of mitigation creations, enhancements and restorations completed since the previous report or since the permit was issued. Show on copies of the permit drawings those areas where enhancements have been completed.
  - c. Brief description of the extent of mitigation creations, enhancements and restorations anticipated in the next year. Indicate on copies of the permit drawings those areas where it is anticipated that work will be done.

**Exhibit A (cont'd)**

d. The progress of the permitted mitigation plan. The reports shall include; photographs taken from the creation, enhancement and restoration areas, some of which must be in the vegetation sampling areas, a description of problems encountered and solutions undertaken, and anticipated work for the next six months.

14. This report shall include on the first page, just below the title, the certification of the following statement by the individual who supervised preparation of the report: "This report represents a true and accurate description of the activities conducted during the six month period covered by this report."
15. If during the progress of this project prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures or early colonial or American settlement are encountered at any time within the project site area, the permitted project should cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The Permittee, or other designee, shall contact the Florida Department of State, Division of Historical Resources, Review and Compliance Section at (850) 245-6333 as well as the appropriate permitting agency office. Project activities should not resume without verbal and/or written authorization from the Division of Historical Resources. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section Chapter 872.05, Florida Statutes.
16. If during the progress of this project sediment and erosion controls fail, the permitted project should cease all activities. The Permittee, or other designee, shall contact the NFWMD within 24 hours of the event at (850) 921-2986.
17. The limits of construction line shall be staked and no work shall be conducted outside of the limits of construction. No activity shall occur in wetlands outside of the limits of construction. No materials, stockpiles, or equipment shall be stored or staged in wetlands or other surface waters within the limits of construction or any adjacent wetlands or other surface water areas outside of the construction limits.
18. The permitted limits of construction, as shown on the approved construction drawings, shall be clearly delineated on the site prior to and throughout construction. The permitted delineation line shall endure throughout the construction period and be readily discernible to construction and District personnel.
19. The wetland boundaries, as shown on the approved construction drawings, shall be clearly delineated on the site prior to initial clearing or grading activities. This delineation shall endure throughout the construction period and be readily discernible to construction and District personnel.
20. Wetland boundaries shown on the approved construction drawings and identified as "Wetland Verified by District" shall be binding upon the Permittee and the District.
21. The responsibility to determine if the mitigation is meeting the permit specified success criteria shall not fall solely on the District. In the event that the permittee becomes aware that the mitigation is not meeting the success criteria and probably will not meet them (based on site observation or review of monitoring reports), then the permittee shall, submit an alternative mitigation plan to the District for review and approval that contains reasons why the particular mitigation site is not clearly trending towards success and propose actions which will ensure success. Additionally, a proposed schedule for implementation and completion of all of the provisions of the alternative mitigation plan must be submitted. Upon approval, the

**Exhibit A (cont'd)**

- permittee shall implement the contingency plan pursuant to the approved schedule. The permittee is on notice that the failure to meet a single success criterion will prevent the mitigation site from meeting the success criteria of this permit.
22. The permittee shall implement the approved alternative mitigation plan within 60 days of District approval. The approved plan shall be made a part of this permit.
  23. All herbicide application will be conducted by a licensed herbicide applicator and in accordance with all federal, state, and local regulations.
  24. Impacts associated with this permit result in 1.84 units of Functional Loss to wetland habitat. The mitigation associated with this permit results in 2.49 units of Functional Gain of wetland habitat. This results in a net Functional Gain of 0.65 units which can be used as mitigation to offset wetland Functional Loss impacts associated with the Killbuck Lakes Greenways Maintenance/Restoration Phase 1A, NFWFMD ERP application number 1905.
  25. Wetland mitigation success criteria of the Mitigation Area:
    - a. Mitigation is expected to offset adverse impacts to wetlands caused by regulated activities and to achieve viable, sustainable ecological and hydrological wetland functions. Wetlands created, enhanced, and restored for mitigation purposes will be considered successful and will be released from monitoring and reporting requirements when the following criteria are met continuously for a period of at least five (5) years without intervention in the form of irrigation, planting, or the removal of vegetation.
    - b. The mitigation area can be reasonably expected to develop into a FLUCFCS number of 641, Freshwater Marshes, with areas of fringe FLUCFCS number 630, Wetland forested mixed as defined in the FDOT Land Use Coverage manual.
    - c. Topography, water depth and water level fluctuation in the mitigation area are characteristic of the wetland type specified in criterion "b."
    - d. Criterion "b." and "c." shall be achieved within one year of mitigation area creation, enhancement, and restoration. The Permittee shall complete any activities necessary to ensure the successful achievement of the mitigation requirements by the deadline specified. Any request for an extension of the deadline specified shall be accompanied with an explanation and submitted as a permit letter modification to the District for evaluation.
    - e. Species composition of recruiting wetland vegetation are indicative of the wetland type specified in criterion "b."
    - f. Coverage by nuisance, invasive and exotic plant species does not exceed five (5) percent.
  26. Additionally, control of invasive and or exotic plants as identified by the Florida Exotic Pest Plant Council (FLEPPC) shall be conducted. The exotic plants that have been identified within the wetland area include but are not limited to Japanese climbing fern (*Lygodium japonicum*), Chinese privet (*Ligustrum sinense*), glossy privet (*L. lucidum*), scratchthroat (*Ardisia crenata*), heavenly bamboo (*Nandina domestica*), camphor tree (*Cinnamomum camphor*) and tallow (*Sapium sebiferum*). These species will be removed initially manually during the project construction phase by cutting, pulling and uprooting to reduce impacts to the surrounding vegetation. The presence of invasive and or exotic plant species will be evaluated during the annual monitoring reports. If monitoring reports indicate a greater than five (5) percent coverage of invasive and or exotic plant species, selective applications of herbicides will be used. Application of herbicides and methods may vary depending on the size and species of plant being treated. Treatment applications may include foliar spraying, stump treatment and/or basal applications. Any herbicide application that may be used will be verified that they are not harmful to wetland communities.

**Exhibit A (cont'd)**

27. Restoration activities include returning the areas of other surface waters, which currently function as conveyance only and provide no wetland function, back into wetland areas. This will be accomplished by scraping down and widening the existing other surface waters to match wetland elevations listing in the upstream and downstream channel creation section of the approved mitigation plan.
28. Upland buffers, as shown in the approved mitigation plan, shall be established to further enhance and provide additional for the wetland mitigation areas.
29. Following implementation of the mitigation plan, a baseline monitoring event will be conducted by the permittee within 45 days of construction to show that the plan was implemented as approved. This will include a count of the types and numbers of plants in the created area and a qualitative assessment of the success of the implementation via photos and measurements of the newly-created, enhanced, and restored wetland areas and upland buffers. Plant diversity and dominance will be quantified via Standard vegetation line intercept transects. There will be seven (7) transect areas through the mitigation, two (2) in the upstream creation area, four (4) within the channel creation area, and one (1) in the downstream creation area.
30. In the first growing season (spring) following the baseline event, the permittee will begin two (2) annual monitoring events of the mitigation area for five years in the spring and fall. Monitoring will consist of both quantitative and qualitative analysis. Standard vegetation line intercept transects will be established to assess wetland plant recruitment and to identify any invasive species. Qualitative analyses will be conducted at the same time via assessment of hydrology, soils and wildlife usage of the created and enhanced areas.
31. The wetland and upland mitigation areas, totaling 8.664 acres will be protected within the Killlearn Lakes greenways area within a Leon County drainage easement and will remain in perpetuity. If the county drainage easement limits change, a new mitigation plan must be provided to the district for review and approval. This would constitute a modification to this permit.
32. Unless specified otherwise herein, all information and reports required by this permit shall be submitted to:  
Northwest Florida Water Management District:  
Carr Building, Suite 225  
3800 Commonwealth Boulevard, MS LS225  
Tallahassee, Florida 32399  
The permit number, title of report or information and event (for recurring report or information submittal) shall be identified on all information and reports submitted.
33. Annual reports shall provide documentation that a sufficient number of maintenance inspection/activities were conducted to maintain the mitigation area in compliance according to the Wetland Mitigation Success Criteria Conditions. Note that the performance of maintenance inspections and maintenance activities will normally need to be conducted more frequently than the collection of other monitoring data to maintain the mitigation area in compliance with the Wetland Mitigation Success Criteria Conditions.
34. The mitigation area may be released from monitoring and reporting requirements and be deemed successful at any time during the monitoring period if the Permittee demonstrates that the conditions in the mitigation area have adequately replaced the wetland functions affected by the regulated activity and that the site conditions are sustainable.
35. The Permittee shall monitor and maintain the wetland mitigation area until the criteria set forth

**Exhibit A (cont'd)**

in the Wetland Mitigation Success Criteria Conditions(s) are met. If the District identifies areas of the mitigation which are not meeting the success criteria, the Permittee shall make all necessary corrective actions as determined by the District, which may include, but is not limited to: exotic species removal.

**Exhibit B**

*Conditions for Issuance of an Individual Permit (Rule 62-346.301, F.A.C.),  
Additional Conditions for Issuance of Individual and Conceptual Approval Permits (Rule  
62-346.302, F.A.C.), and  
General and Special Limiting Conditions (Rule 62-346.381, F.A.C.).  
(all Rules Effective November 1, 2010)*

**62-346.301 Conditions for Issuance of Individual Permits.**

(1) In order to obtain an individual permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of a surface water management system:

- (a) Will not cause adverse water quantity impacts to receiving waters and adjacent lands;
- (b) Will not cause adverse flooding to on-site or off-site property;
- (c) Will not cause adverse impacts to existing surface water storage and conveyance capabilities;
- (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters.

(e) Will not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C., including the provisions of Rules 62-4.243, 62-4.244 and 62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.;

(f) Will not cause adverse secondary impacts to the water resources and not otherwise adversely impact the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S.

(g) Will be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed;

(h) Will be conducted by an entity with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued; and

(i) Will comply with any applicable special basin or geographic area criteria rules incorporated by reference in this chapter. When karst features exist on the site of a proposed stormwater management system, in addition to paragraphs (a) through (h) above, the applicant must provide reasonable assurance that untreated stormwater from the proposed system will not reach the Floridan Aquifer through sinkholes, solution pipes, or other karst features.

(2) In instances where an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, mitigation for water quality impacts can consist of water quality enhancement. In these cases, the applicant must implement mitigation measures that are proposed by or acceptable to the applicant that will cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards.

(3) In addition to the criteria in subsections 62-346.301(1) and (2), F.A.C., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for 10 or more vessels that is functionally associated with a boat launching area must provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the public interest test of Section 373.414(1)(a), F.S., including the potential adverse impacts

**Exhibit B (cont'd)**

to manatees.

(4) The standards and criteria, including the provisions for elimination or reduction of impacts, and the mitigation provisions contained in sections 10.2.1 through 10.2.1.3 and sections 10.3 through 10.3.8, respectively, of Applicant's Handbook Volume I adopted by reference in Rule 62-346.091, F.A.C., shall determine whether the reasonable assurances required by subsection 62-346.301(1) and Rule 62-346.302, F.A.C., have been provided, as applicable. Forms for demonstrating that an applicant has met the financial responsibility requirements of sections 10.3.7 through 10.3.7.9 of Applicant's Handbook Volume I are hereby adopted and incorporated by reference as:

(a) Form 62-346.900(12), "State of Florida Performance Bond To Demonstrate Financial Assurance for Mitigation" November 1, 2010;

(b) Form 62-346.900(13), "State of Florida Irrevocable Letter of Credit To Demonstrate Financial Assurance for Mitigation" November 1, 2010;

(c) Form 62-346.900(14), "Certificate I To \_\_\_\_\_ (Name of Issuing Bank) Irrevocable Letter of Credit No. \_\_\_\_\_" November 1, 2010;

(d) Form 62-346.900(15), "Certificate II To \_\_\_\_\_ (Name of Issuing Bank) Irrevocable Nontransferable Standby Letter of Credit No. \_\_\_\_\_" November 1, 2010;

(e) Form 62-346.900(16), "State of Florida Standby Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation Activities" November 1, 2010;

(f) Form 62-346.900(17), "State of Florida Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation Activities" November 1, 2010.

These forms are contained in Appendix C of the "Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook-Volume I (General and Environmental)," and may be obtained from the locations provided in Rule 62-346.900, F.A.C.

Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.042, 373.409, 373.413, 373.412, 373.4145, 373.416, 373.4132, 373.426, 373.429 FS. History- New 10-1-07, Amended 11-1-10.

**62-346.302 Additional Conditions for Issuance of Individual and Conceptual Approval Permits.**

(1) In addition to the conditions set forth in Rule 62-346.301, F.A.C., in order to obtain an individual (including conceptual approval) permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, and abandonment of a system:

(a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such an activity significantly degrades or is within an Outstanding Florida Water, that the activity will be clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Applicant's Handbook Volume I adopted by reference in Rule 62-346.091, F.A.C.:

1. Whether the activity will adversely affect the public health, safety, or welfare or the property of others;

2. Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;

3. Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;

4. Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;

**Exhibit B (cont'd)**

5. Whether the activity will be of a temporary or permanent nature;
6. Whether the activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of Section 267.061, F.S.; and
7. The current condition and relative value of functions being performed by areas affected by the proposed activity.
  - (b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in sections 10.2.8 through 10.2.8.2 of Applicant's Handbook Volume I.
  - (c) Located in, adjacent to or in close proximity to Class II waters or located in Class II waters or Class III waters classified by the Department of Agriculture and Consumer Services as approved, restricted, conditionally approved, or conditionally restricted for shellfish harvesting as set forth or incorporated by reference in Chapter 5L-1, F.A.C. (July 29, 2008), will comply with the additional criteria in section 10.2.5 of Applicant's Handbook Volume I.
  - (d) Which constitute vertical seawalls in estuaries or lagoons, will comply with the additional criteria provided in section 10.2.6 of Applicant's Handbook Volume I.
- (2) When determining whether a permit applicant has provided reasonable assurances that the Department's permitting standards will be met, the Department shall take into consideration the applicant's violation of any Department rules adopted pursuant to Sections 403.91 through 403.929, F.S., (1984 Supp.), as amended, or any Department rules adopted pursuant to Part IV, Chapter 373, F.S., relating to any other project or activity and efforts taken by the applicant to resolve these violations.

Rulemaking Authority 373.026(7), 373.043, 373.414(9), 403.805(1) FS. Law Implemented 373.042, 373.413, 373.414, 373.416, 373.426, 380.23 FS. History-New 11-1-10.

**62-346.381 General and Special Limiting Conditions.**

- (1) The following general conditions shall be applicable to and binding on all individual permits issued pursuant to this chapter, unless the conditions are not applicable to the activity authorized by the permit, or where the conditions must be modified to accommodate unique, project-specific conditions.
  - (a) All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity may constitute grounds for revocation or enforcement action by the Department, unless a modification has been applied for and approved in accordance with Rule 62-346.100, F.A.C.
  - (b) 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 during the construction phase. The complete permit shall be available for review at the work site upon request by the Department staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit. A weather-resistant sign, measuring at least 8 1/2 inches by 11 inches, and including the permit number (in lettering that is easily visible from the access road) shall be placed on the property facing the road.
  - (c) Activities approved by this permit shall be conducted in a manner that does not cause violations of state water quality standards.
  - (d) Immediately prior to, during construction, and for the period of time after construction to allow for stabilization of all disturbed areas, the permittee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens to retain sediment on-site and to prevent violations of state water quality standards. These

**Exhibit B (cont'd)**

devices shall be installed, used, and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work, and shall remain in place at all locations until construction is completed and soils are permanently stabilized. All best management practices shall be in accordance with the guidelines and specifications described in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Transportation and Florida Department of Environmental Protection, 2007), unless a project-specific erosion and sediment control plan is approved as part of the permit. If project-specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual, Prepared for Florida Department of Transportation & Florida Department of Environmental Protection by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as practicable. Once project construction has been deemed complete, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before conversion of the permit to the operation and maintenance phase, all silt screens and fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

(e) Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased.

(f) At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the Department a fully executed Form 62-346.900(3), "Construction Commencement Notice," incorporated by reference herein, indicating the expected start and completion dates. Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C.

(g) Within 30 days after completion of construction of the whole system, or independent portion of the system, the permittee shall notify the Department that construction has been completed and the system is ready for inspection by submitting one of the following forms to the Department office that issued the permit:

1. For systems other than those that serve an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex, Form 62-346.900(4), "As-Built Certification by a Registered Professional." If the registered professional has certified that the system has been built substantially in compliance with the plans and specifications in the permit, and that such system is ready for inspection, the permittee shall also submit Form 62-346.900(6), "Request for Conversion of Environmental Resource Individual Permit Construction Phase to Operation and Maintenance Phase." The system shall not be used and operated for its permitted purpose until the Department has approved the request to authorize the operation phase, in accordance with Rule 62-346.095, F.A.C. The "As-Built Certification" shall be for the purpose of determining if the work was completed in substantial compliance with permitted plans and specifications. The certification shall include as-built drawings in the form of the permitted drawings that clearly show any substantial deviations made during construction. The plans must be clearly labeled as "as-built" or "record" drawings.

2. For systems that serve an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex, Form 62-346.900(5), "Construction Completion and Inspection Certification for a System Serving an Individual, Private Single-Family Dwelling Unit."

(h) 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 the

**Exhibit B (cont'd)**

facility, or the site infrastructure located within the area served by that portion or phase of the system.

(i) The permittee shall remain liable for compliance with the operation and maintenance of the system in accordance with the terms and conditions of the permit for the life of the system, unless such permit is transferred to an acceptable responsible entity in accordance with Rules 62-346.095 and 62-346.130, F.A.C. Once transfer of the permit has been approved by the Department, the transferee shall be liable for compliance with all the terms and conditions of the operation and maintenance phase of the permit for the life of the system.

(j) Should any other regulatory agency require changes to the permitted system, the permittee shall notify the Department in writing of the changes prior to implementation so that the Department can determine whether a permit modification is appropriate.

(k) 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 that is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in this permit or Chapter 62-346, F.A.C. Permittees having the right to exercise the power of eminent domain or who had a contract to purchase the property subject to this permit shall not commence any work under this permit until the permittee has provided the Department with proof of transfer of ownership of the property in the name of the permittee. If such transfer of ownership does not occur, the permittee shall surrender this permit, and the permit shall be null and void.

(l) Pursuant to Section 373.422, F.S., prior to conducting any activities on sovereign submerged lands, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.

(m) The permittee shall hold and save the Department harmless from any and all damages, claims, or liabilities that may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any system authorized by the permit.

(n) The permittee shall notify the Department in writing at least 30 days prior to 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. Where ownership of the land subject to the permit was demonstrated through a long-term lease, the lessee must have transferred ownership and control of the permitted system to the current landowner or new lessee, effective prior to or on the date of expiration of the lease. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 62-346.095 and 62-346.130, F.A.C.

(o) Upon reasonable notice to the permittee, Department staff with proper identification shall have permission to enter, inspect, sample and test the system to ensure conformity with the plans and specifications authorized in the permit.

(p) If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the Department.

(q) The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.

(r) The issuance of this permit does not relieve the permittee from the responsibility to obtain any other required federal, state, and local authorizations.

(s) The permittee is advised that, pursuant to Section 556.105, F.S., excavating contractors are required to provide certain information concerning the excavation that may affect underground facilities through the one-call notification system not less than two, nor more than five, business days before beginning any excavation.

(2) In addition to those general conditions set forth in subsection (1) above, the Department shall impose on any individual permit granted under this chapter such reasonable project-specific special

**Exhibit B (cont'd)**

conditions as are necessary to assure that the permitted system will not be harmful to the water resources, as set forth in Rules 62-346.301 and 62-346.302, as applicable, F.A.C., and the Applicant's Handbook Volumes I and II.

Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.117, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.418, 373.419, 373.422, 373.423, 373.426, 373.428, 403.0877 FS. History-New 10-1-07, Amended 11-1-10.



# *Notice of Rights*

***The following information addresses the procedures to be followed if you desire an administrative hearing or other review of the agency action.***

## PETITION FOR FORMAL ADMINISTRATIVE PROCEEDINGS

Any person whose substantial interests are or may be affected by the action described in the enclosed Notice of Agency Action, may petition for an administrative hearing in accordance with the requirements of section 28-106.201, Florida Administrative Code, or may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes, before the deadline for filing a petition. Pursuit of mediation will not adversely affect the right to administrative proceedings in the event mediation does not result in a settlement. Petitions for an administrative hearing must be filed with the Agency Clerk of the Northwest Florida Water Management District, 81 Water Management Drive, Havana, Florida 32333-9700 by the deadline specified in the attached cover letter. Failure to file a petition within this time period shall constitute a waiver of any rights such person may have to request an administrative determination (hearing) under sections 120.569 and 120.57, Florida Statutes, concerning the subject permit application. Petitions which are not filed in accordance with the above provisions are subject to dismissal.

## DISTRICT COURT OF APPEAL

A party who is adversely affected by final agency action on the permit application and who has exhausted available administrative remedies is entitled to judicial review in the District Court of Appeal pursuant to section 120.68, Florida Statutes. Review under section 120.68, Florida Statutes, is initiated by filing a Notice of Appeal in the appropriate District Court of Appeal in accordance with Florida Rule of Appellate Procedure 9.110.

**SECTION 28-106.201, FLORIDA ADMINISTRATIVE CODE,**  
**INITIATION OF PROCEEDINGS**

- (1) Unless otherwise provided by statute, initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8½ by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.
- (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, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;
  - (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
  - (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.
- (3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Specific Authority 120.54(3), (5), F.S.

Law Implemented 120.54(5), 120.569, 120.57, F.S., 28-106.201, F.A.C.

History – New 4-1-97, Amended 9-17-98, Chapter 28 revised 1-15-2007.

## NOTICING PUBLICATION INFORMATION

The District's action regarding the issuance or denial of a permit, a petition or qualification for an exemption only becomes closed to future legal challenges from members of the public ("third parties"), if 1) "third parties" have been properly notified of the District's action regarding the permit or exemption, and 2) no "third party" objects to the District's action within a specific period of time following the notification.

Notification of "third parties" is provided through publication of certain information in a newspaper of general circulation in the county where the proposed activities are to occur. Publication of notice informs "third parties" of their right to have a 21-day time limit in which to file a petition opposing the District's action. However, if no notice to "third parties" is published, there is no time limit to a party's right to challenge the District's action. The District has not published a notice to "third parties" that it has taken final action on your application. If you want to ensure that the period of time in which a petition opposing the District's action regarding your application is limited to the time frame state above, you may publish, at your own expense, a notice in a newspaper of general circulation. A copy of the Notice of Agency Action the District uses for publication is attached. You may use this format or create your own, as long as the essential information is included.

If you do decide to publish a Notice of Final Agency Action, please provide the District a copy of the Proof of Publication when you receive it. That will provide us notice that action on this permit application is closed after the 21 days following publication.

Notice to the Tallahassee Democrat Legal Ads  
tdlegals@tallahassee.com Contact person: Cassandra Moore  
Please publish the following legal notice one time only on the earliest available date.  
This should be an in-column ad and not a display ad.  
Fax proof copy to Katherine Burke at  
Contact me, Katherine Burke, at 850-606-1500 for payment instructions.  
I will need a Proof of Publication.

Notice of Final Agency Action Taken by the  
Northwest Florida Water Management District

Notice is given that stormwater permit number 1482 was issued on May 1, 2013, to Leon County Board of County Commissioners for a project to increase the stormwater drainage capacity within the green space located behind residential homes in the Killlearn Lakes neighborhood, from Bull Headley Road to Chadwick Way. The proposed construction includes a defined, reshaped channel with appropriate side slopes, direction and functionality.

The file containing the application for this permit is available for inspection Monday through Friday (except for legal holidays), 8:00 a.m. to 5:00 p.m. at the Northwest Florida Water Management District's ERP Office, Carr Building, Suite 225 3800 Commonwealth Blvd., MS LS225, Tallahassee, FL 32399.

A person whose substantial interests are affected by the District permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57 F.S., or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, and Rules 28-106.111 and 28-106.401-404, Florida Administrative Code. Petitions must comply with the requirements of Florida Administrative Code, Chapter 28-106 and be filed with (received by) the District Clerk located at District Headquarters, 81 Water Management Drive, Havana, FL 32333-4712. Petitions for administrative hearing on the above application must be filed within twenty-one (21) days of publication of this notice or within twenty-six (26) days of the District depositing notice of this intent in the mail for those persons to whom the District mails actual notice. Failure to file a petition within this time period shall constitute a waiver of any right(s) such person(s) may have to request an administrative determination (hearing) under Sections 120.569 and 129.57, F.S., concerning the subject permit. Petitions which are not filed in accordance with the above provisions are subject to dismissal.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the District's final action may be different from the position taken by it in this notice of intent. Persons whose substantial interests will be affected by any such final decision of the District on the application have the right to petition to become a party to the proceedings, the accordance with the requirements set forth above.