



South Florida Water Management District
Individual Environmental Resource Permit No. 36-101746-P
Date Issued: July 22, 2019

Permittee: Lee County Board of County Commissioners
1500 Monroe Street
Fort Myers, FL 33901

Project: Yellow Fever Creek Hydrologic Restoration/Gator Slough

Application No. 190201-2

Location: Lee County, See Exhibit 1

Your application for an Individual Environmental Resource Permit is approved. This action is taken based on Chapter 373, Part IV, of Florida Statutes (F.S.) and the rules in Chapter 62-330, Florida Administrative Code (F.A.C.). Unless otherwise stated, this permit constitutes certification of compliance with state water quality standards under section 401 of the Clean Water Act, 33 U.S.C. 1341, and a finding of consistency with the Florida Coastal Management Program. Please read this entire agency action thoroughly and understand its contents.

This permit is subject to:

- Not receiving a filed request for a Chapter 120, F.S., administrative hearing.
- The attached General Conditions for Environmental Resource Permits.
- The attached Special Conditions.
- All referenced Exhibits.

All documents are available online through the District's ePermitting site at www.sfwmd.gov/ePermitting.

If 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.

The District does not publish notices of action. If you wish to limit the time within which a person may request an administrative hearing regarding this action, you are encouraged to publish, at your own expense, a notice of agency action in the legal advertisement section of a newspaper of general circulation in the county or counties where the activity will occur. Legal requirements and instructions for publishing a notice of agency action, as well as a noticing format that can be used, are available upon request. If you publish a notice of agency action, please send a copy of the affidavit of publication provided by the newspaper to the District's West Palm Beach office for retention in this file.

If you have any questions regarding your permit or need any other information, please call us at 1-800-432-2045 or email ERP@sfwmd.gov.

A handwritten signature in blue ink that reads "Melissa Roberts".

Melissa Roberts, P.E.
Administrator, Environmental Resource Bureau

**South Florida Water Management District
Individual Environmental Resource Permit No. 36-101746-P**

Date Issued:	July 22, 2019	Expiration Date:	July 22, 2024
Project Name:	Yellow Fever Creek Hydrologic Restoration/Gator Slough		
Permittee:	Lee County Board of County Commissioners 1500 Monroe Street Fort Myers, FL 33901		
Operating Entity:	Lee County Board of County Commissioners 1500 Monroe Street Fort Myers, FL 33901		
Location:	Lee County		
Permit Acres:	30.55 acres		
Project Land Use:	Natural/Undeveloped		
Special Drainage District:	N/A		
Water Body Classification:	CLASS III CLASS III		
FDEP Water Body ID:	3240A3 3240E		
Wetland and Surface Water Impacts:	1.28 acres		
Conservation Easement to District:	No		
Sovereign Submerged Lands:	No		

Project Summary

This Environmental Resource Permit authorizes Construction and Operation of a 30.55-acre project known as Yellow Fever Creek Hydrologic Restoration / Gator Slough.

This permit authorizes the construction of a pump station facility to transfer water from the Gator Slough drainage system to a new proposed reservoir in the Yellow Fever Creek preserve to reduce freshwater flow to the Matlacha estuaries and to slowly release flow into the headwaters of the Yellow Fever Creek for environmental hydrologic restoration by extending wetland hydro-periods. Site plans and details are attached as Exhibit No. 2.0.

Issuance of this permit constitutes certification of compliance with state water quality standards in accordance with Rule 62-330.062, F.A.C.

Site Description

Yellow Fever Creek is located south of Del Prado Boulevard extension, approximately 1.8 miles west of US 41 in the City of Cape Coral, Lee County, Florida. Refer to Exhibit No. 1.0 for a location map.

The Yellow Fever Creek property is 200 acres of contiguous property publicly owned and

managed by the City of Cape Coral and adjoins 300 acres of Lee County 20/20 conservation lands. These properties contain part of the headwaters of Yellow Fever Creek to the south. The subject parcel contains areas that are part of previously issued Permit No. 36-02618-S for the road construction of Del Prado Boulevard. The project's surrounding land uses are a mixture of residential homes and developments, undeveloped vacant land and forested land.

For information on wetland and surface water impacts, please see the Wetlands and Other Surface Water section of this permit.

Ownership, Operation and Maintenance

Perpetual operation and maintenance of the stormwater management system will be the responsibility of Lee County Board of County Commissioners. Please refer to the operating agreement in the permit file between the City of Cape Coral and Lee County. Upon conveyance or division of ownership or control of the property or the system, the permittee must notify the Agency in writing within 30 days, and the new owner must request transfer of the permit.

Engineering Evaluation:

Water Quality

This project will improve wetland hydro-periods at Yellow Fever Creek headwaters, by returning flow to the Yellow Fever Creek that was diverted by land development and that will reduce freshwater flow to Matlacha Pass estuaries. Additionally, this project will provide water quality treatment that provides TMDL (Total Maximum Daily Load) credits TN=532 kg/yr, TP=72 kg/yr, TSS=77,720 kg/yr and BOD=53,421 kg/yr. Refer to Exhibit No. 2.1 for the Water Quality Treatment Credit Ledger.

Certification, Operation, and Maintenance

Pursuant to Chapter 62-330.310, F.A.C., Individual Permits will not be converted from the construction phase to the operation phase until construction completion certification of the project is submitted to and accepted by the District. This includes compliance with all permit conditions, except for any long term maintenance and monitoring requirements. It is suggested that the permittee retain the services of an appropriate professional registered in the State of Florida for periodic observation of construction of the project.

For projects permitted with an operating entity that is different from the permittee, it should be noted that until the construction completion certification is accepted by the District and the permit is transferred to an acceptable operating entity pursuant to Sections 12.1-12.3 of the Applicant's Handbook Volume I and Section 62-330.310, F.A.C., the permittee is liable for operation and maintenance in compliance with the terms and conditions of this permit.

In accordance with Section 373.416(2), F.S., unless revoked or abandoned, all SWM systems and works permitted under Part IV of Chapter 373, F.S., must be operated and maintained in perpetuity.

The efficiency of SWM systems, dams, impoundments, and most other project components will decrease over time without periodic maintenance. The operation and maintenance entity must perform periodic inspections to identify if there are any deficiencies in structural integrity, degradation due to insufficient maintenance, or improper operation of projects that may endanger public health, safety, or welfare, or the water resources. If deficiencies are found, the operation and maintenance entity is responsible for correcting the deficiencies in a timely manner to prevent compromises to flood protection and water quality. See Section 12.4 of the Applicant's Handbook Volume I for Minimum Operation and Maintenance Standards.

**Engineering Evaluation Tables:
Land Use**

Basin	Land Type	Area (ac)	% of Total Basin
Basin	Impervious	0.12	0.39
	lake	8.00	26.19
	Pervious	8.94	29.26
	Wetland	13.49	44.16
	Total:	30.55	100%

Bleeder

Structure #	Structure Type	Count	Type	Dia.(in)	Invert EL (ft NAVD88)	Receiving Body
Outfall Control Structure	Discharge	1	Circular Orifice	6.00	12.00	Proposed swale

Inlets

Structure #	Structure Type	Count	Type	Length (in)	Width (in)	Crest EL (ft NAVD88)	Receiving Body
Outfall Control Structure	SWM	1	FDOT MOD E DROP INLET	54.0	36.0	20.50	Proposed swale
Outfall Control Structure	SWM	1	Rectangular Weir		50.00	20.00	Proposed swale

Culvert

Structure #	Structure Type	Count	Dia.(in)	Length (ft)	Material	Receiving Body
Outfall Control Structure	Discharge	1	24.00	72.0	Reinforced Concrete Pipe	Proposed swale

Environmental Evaluation:

Wetlands and Other Surface Waters

The project area contains a total of 14.74 acres of wetlands. Please see the FLUCCS Map attached as Exhibit 3.0 for wetland locations. The wetlands can generally be described as cypress, hydric pine, restored hydric pine, and mixed wetland forest. Additional wetland descriptions are located in the ePermitting file.

The project will result in direct impacts to 1.28 acres of wetlands as described in the table below. Exhibit 3.1 identifies the locations of wetlands that will be impacted. Pursuant to Section 10.2.1 of the Applicant's Handbook Volume I (Volume I), the applicant reduced the amount of direct wetland impacts from 1.31 acres initially proposed, to 1.28 acres of direct wetland impacts now being authorized. In addition, on-site wetland impacts will be unavoidable due to the location of the wetlands within the property and the feasibility of construction of the proposed project. Based on these factors and the proposed mitigation plan, the project meets the reduction/elimination criteria of Section 10.2.1 of Volume I.

Pursuant to Section 10.2.7 of Volume I, there are 0.45 acres of secondary wetland impacts associated with the lack of a sufficient 25-foot native upland buffer between the proposed project and on-site wetlands. The secondary wetland impacts are depicted on Exhibit 3.1.

To mitigate for the direct and secondary wetland impacts, the applicant has proposed on-site mitigation. The mitigation plan consists of 13.01 acres of wetland hydrologic enhancement. The 13.01-acre mitigation area consists of an existing cypress wetland located east of the proposed reservoir. This wetland area was previously placed under conservation easement and used as mitigation to offset wetland impacts associated with Application No. 930301-3, Permit No. 36-02618-S for the Del Prado Boulevard Extension project. However, it was determined that the hydrological improvements resulting from the proposed project warranted additional mitigation credit (hydrological lift only), as they are anticipated to improve the existing wetland hydrology. Please see the Mitigation, Maintenance, and Monitoring Plan attached as Exhibit 3.2 for complete details of the proposed mitigation plan and on-site wetland monitoring activities.

The amount of on-site mitigation was determined by using the Uniform Mitigation Assessment Method (UMAM) in Chapter 62-345, F.A.C. The final scores are attached as Exhibit 3.3.

The proposed on-site mitigation is located within the same basin as the impacts; therefore, pursuant to Section 10.2.8 of Volume I, the project will not result in unacceptable cumulative impacts to the Tidal Caloosahatchee Basin.

Fish, Wildlife, and Listed Species

Pursuant to a March 2019 listed species survey, the wetlands to be impacted provide habitat for wetland-dependent species; however, none were found on site. The proposed on-site mitigation will provide or improve habitat for wetland-dependent and aquatic species. No aquatic or wetland-dependent listed species or species having special protection were observed to be using the uplands within the project for nesting or denning. This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if, in the future, endangered or threatened species or species of special concern are discovered on the site.

**Environmental Evaluation Tables:
Summary**

Wetlands and Other Surface Waters: 14.74 acres
 Direct Impacts: 1.28 acres
 Secondary impacts: 0.45 acres
 Net UMAM Functional Loss/ Gain: 0.043 units
 Total Onsite Mitigation Area: 13.01 acres
 Total Offsite Mitigation Area: 0 acres
 Mitigation Provided in Permit No.:

Group 1

Activities in Wetlands or Other Surface Waters, Not Including Mitigation at a Bank

ID	Acres	Action	Community Description	Current Score	With Project Score	UMAM Loss
625R	1.25	Direct Impact	Hydric Pine Flatwoods	0.53	0	-0.663
630	0.03	Direct Impact	Mixed Wetland Hardwoods	0.53	0	-0.016
625	0.02	Secondary Impact	Hydric Pine Flatwoods	0.53	0.4	-0.003
625R	0.08	Secondary Impact	Hydric Pine Flatwoods	0.53	0.4	-0.010
630	0.35	Secondary Impact	Mixed Wetland Hardwoods	0.53	0.4	-0.046
Total: 1.73						-0.738

UMAM Mitigation and Preservation

ID	Acres	Action	Existing Community Description	Proposed Community Description	Current or Without Preserve Score	With Project Score	Time Lag Years.	Risk	P. A. F.	UMAM Gain
621	13.01	Enhancement	Cypress	Cypress	0.67	0.73	1	1	1.0	0.781
Total: 13.01										0.781

Related Concerns:

Historical/ Archeological Resources

On March 1, 2019, the District received a letter from the Florida Department of State, Division of Historical Resources requesting the applicant to perform a systematic, professional archaeological and historical survey. The applicant has arranged to perform the requested archaeological and historical survey for the property prior to construction (please see Special Condition 9). This permit does not release the permittee from complying with any other agencies requirements in the event that historical and/or archaeological resources are found on the site.

Water Use Permit Status

The applicant has indicated that irrigation is not required for the proposed project.

The applicant has indicated that dewatering is not required for construction of this project.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation.

General Conditions for Individual Environmental Resource Permits, 62-330.350, F.A.C.

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be in accordance with the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation, June 2007), and the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," (October 1, 2013), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>), incorporated by reference herein, indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C., and shall be submitted electronically or by mail to the Agency. However, for activities involving more than one acre of construction that also require a NPDES stormwater construction general permit, submittal of the Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, DEP Form 62-621.300(4)(b), shall also serve as notice of commencement of construction under this chapter and, in such a case, submittal of Form 62-330.350(1) is not required.
5. Unless the permit is transferred under rule 62-330.340, F.A.C., or transferred to an operating entity under rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms, and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
 - a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex- "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit"[Form 62-330.310(3)]; or
 - b. For all other activities- "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].
 - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
7. If the final operation and maintenance entity is a third party:
 - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as-built certification, whichever comes first, the permittee shall submit, as

- applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.4 of Volume I) as filed with the Florida Department of State, Division of Corporations, and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
- b. Within 30 days of submittal of the as-built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation and Maintenance Entity" [Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.
8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.
9. This permit does not:
- Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
 - Convey to the permittee or create in the permittee any interest in real property;
 - Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
 - Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, 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.
11. The permittee shall hold and save the Agency 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 project authorized by the permit.
12. The permittee shall notify the Agency in writing:
- Immediately if any previously submitted information is discovered to be inaccurate; and
 - Within 30 days of any conveyance or division of ownership or control of the property or the system, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.
13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
14. If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities shall not resume without verbal or written authorization from

the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and the proper authorities notified in accordance with section 872.05, F.S. For project activities subject to prior consultation with the DHR and as an alternative to the above requirements, the permittee may follow procedures for unanticipated discoveries as set forth within a cultural resources assessment survey determined complete and sufficient by DHR and included as a specific permit condition herein.

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 Rule 62-330.201, F.A.C., provides otherwise.
16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.
17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with Rule 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

Special Conditions for Individual Environmental Resource Permits, 62-330.350, F.A.C.

1. The construction authorization for this permit shall expire on the date shown on page 2.
2. Operation and maintenance of the stormwater management system shall be the responsibility of Lee County Board of County Commissioners. The permittee shall notify the Agency in writing within 30 days of any conveyance or division of ownership or control of the property or the system, and the new owner must request transfer of the permit in accordance with Rule 62-330.340, F.A.C.
3. Discharge facilities:

Outfall Control Structure:

1-6" CIRCULAR ORIFICE with invert at elevation 12.0' NAVD
1-54" x 36" Type "E" inlet with grate at elevation 20.50' NAVD

1-50" x 6" RECTANGULAR WEIR with invert at elevation 20.0' NAVD

72 LF of 24" RCP
Receiving body: proposed swale
Control elevation 12.0' NAVD
4. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth.
5. 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.
6. Prior to any future construction not authorized herein, the permittee shall apply for and receive an Individual ERP. As part of the permit application, the applicant for that phase shall provide documentation verifying that the proposed construction is consistent with the design of the master stormwater management system, including the land use and site grading assumptions.
7. Prior to initiating construction activities associated with this Environmental Resource Permit (ERP), the permittee is required to hold a pre-construction meeting with field representatives, consultants, contractors, District Environmental Resource Bureau (ERB) staff, and any other local government entities as necessary. The purpose of the pre-construction meeting is to discuss construction methods, sequencing, best management practices, identify work areas, staking and roping of preserves where applicable, and to facilitate coordination and assistance amongst relevant parties. To schedule a pre-construction meeting, please contact ERB staff from the Fort Myers Service Center at (239) 338-2929 or via e-mail at: pre-con@sfwmd.gov. When sending a request for a pre-construction meeting, please include the application number, permit number, and contact name and phone number.
8. This permit does not authorize the permittee to cause any adverse impact to or "take" of

state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of "take" and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a "take" permit cannot be issued. Requests for further information or review can be sent to: FWCConservationPlanningServices@MyFWC.com.

9. Prior to the start of construction, the permittee shall retain the services of a professional archaeologist and perform an archaeological survey as requested in the March 1, 2019 letter from Florida Department of State, Division of Historical Resources (DHR). Please see the ePermitting file for a copy of this letter.

Written concurrence from DHR on the findings of the report is required prior to the commencement of construction. If historical/archaeological artifacts are discovered, site alteration activities shall be postponed until such time as the Florida Department of State, Division of Historical Resources grants authorization to commence work.

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.
11. A mitigation program for Yellow Fever Creek Hydrologic Restoration/Gator Slough shall be implemented in accordance with Exhibit No. 3.2. The permittee shall hydrologically enhance 13.01 acres of wetlands.
12. Prior to the commencement of construction, the perimeter of protected wetland/buffer zones/upland preservation areas/conservation areas/ reservoir alignment shall be staked/roped/fenced to prevent encroachment into the protected areas. Using Global Positioning System (GPS) technology, the perimeter of the preserve area(s) shall be identified for future reference. The data shall be differentially corrected and accurate to less than a meter (+/- one meter or better). Electronic copies of the GPS data shall be provided to the District's Environmental Resource Compliance staff. The permittee shall notify the District's Environmental Resource Compliance staff in writing upon completion of staking/roping/fencing and schedule an inspection of this work. The staking/roping/fencing shall be subject to District staff approval. The permittee shall modify the staking/roping/fencing if District staff determines that it is insufficient or is not in conformance with the intent of this permit. The staking/roping/fencing shall remain in place until all adjacent construction activities are complete.
13. Activities associated with the implementation of the mitigation, monitoring and maintenance plan(s) shall be completed in accordance with the work schedule. Any deviation from these time frames must be coordinated with the District's Environmental Resource Compliance staff, and may require a minor modification to this permit. Such requests must be made in writing and shall include (1) reason for the change, (2) proposed start/finish and/or completion dates; and (3) progress report on the status of the project development or mitigation effort.
14. A monitoring program shall be implemented in accordance with Exhibit No. 3.2. The monitoring program shall extend for a period of 5 years with annual reports submitted to District staff. At the end of the 5 year monitoring program the entire mitigation area

should indicate evidence of improved hydrology.

In addition, perpetual maintenance of the permitted wetland vegetative success criteria shall be conducted pursuant to Application No. 930301-3, Permit No. 36-02618-S.

15. Prior to construction, and in accordance with the work schedule herein, a baseline monitoring report shall be submitted, documenting the existing hydrologic condition of the wetland mitigation area.

Project Work Schedule for Permit No. 36-101746-P

The following activities are requirements of this Permit and shall be completed in accordance with the Project Work Schedule below. Please refer to both General and Special Conditions for more information. Any deviation from these time frames will require prior approval from the District's Environmental Resources Bureau and may require a minor modification to this permit. Such requests must be made in writing and shall include: (1) reason for the change, (2) proposed start/finish and/or completion dates, and (3) progress report on the status of the project.

Condition No.	Date Added	Description	Due Date	Date Satisfied
GC 4	07/22/2019	Construction Commencement Notice	48 hours prior to Construction	
GC 6	07/22/2019	Submit Certification	30 Days After Construction Completion	
GC 7	07/22/2019	Submit Operation Entity Documentation	Within 30 days of Certification	
SC 7	07/22/2019	Pre-Construction Meeting	Prior to Construction	
SC 9	07/22/2019	Submit Archeological Survey/Concurrence from DHR	Prior to Construction	
SC 14	07/22/2019	Submit Monitoring Reports 1	Annually for 5 years	
SC 14		Submit Monitoring Reports 2	1 year after previous submission	
SC 14		Submit Monitoring Reports 3	1 year after previous submission	
SC 14		Submit Monitoring Reports 4	1 year after previous submission	
SC 14		Submit Monitoring Reports 5	1 year after previous submission	
SC 15	07/22/2019	Submit Baseline Monitoring Report	Prior to Construction	

GC = General Condition

SC = Special Condition

Distribution List

Jeff Pearson, City Of Cape Coral

Ronald Kerfoot, AIM Engineering

Anura Karuna-Muni, Lee County Natural Resources

Audubon of Florida - Charles Lee

Div of Recreation and Park - District 4

US Army Corps of Engineers - Permit Section

Exhibits

The following exhibits to this permit are incorporated by reference. The exhibits can be viewed by clicking on the links below or by visiting the District's ePermitting website at <http://my.sfwmd.gov/ePermitting> and searching under this application number 190201-2.

[Exhibit No. 1.0 Location Map](#)

[Exhibit No. 2.0 Plans](#)

[Exhibit No. 2.1 Water Quality Treatment Credit Ledger](#)

[Exhibit No. 3.0 FLUCCS Map](#)

[Exhibit No. 3.1 Impact Map](#)

[Exhibit No. 3.2- Mitigation and Monitoring Plan](#)

[Exhibit No. 3.3 UMAM Scores](#)

NOTICE OF RIGHTS

As required by Sections 120.569 and 120.60(3), Fla. Stat., the following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all of the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a SFWMD decision which affects or may affect their substantial interests shall file a petition for hearing with the Office of the District Clerk of the SFWMD, in accordance with the filing instructions set forth herein, within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: (1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or (2) within 14 days of service of an Administrative Order pursuant to Section 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of written notice through mail, electronic mail, or posting that the SFWMD has or intends to take final agency action, or publication of notice that the SFWMD has or intends to take final agency action. Any person who receives written notice of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

If the District takes final agency action which materially differs from the noticed intended agency decision, persons who may be substantially affected shall, unless otherwise provided by law, have an additional Rule 28-106.111, Fla. Admin. Code, point of entry.

Any person to whom an emergency order is directed pursuant to Section 373.119(2), Fla. Stat., shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and that the SFWMD and any other parties agree to or oppose the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

FILING INSTRUCTIONS

A petition for administrative hearing must be filed with the Office of the District Clerk of the SFWMD. Filings with the Office of the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted. A petition for administrative hearing or other document is deemed filed upon receipt during normal business hours by the Office of the District Clerk at SFWMD headquarters in West Palm Beach, Florida. The District's normal business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Any document received by the Office of the District Clerk after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day.

Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the District Clerk, 3301 Gun Club Road, West Palm Beach, Florida 33406.
- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the SFWMD's security desk does not constitute filing. It will be necessary to request that the SFWMD's security officer contact the Office of the District Clerk. An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by e-mail must be transmitted to the Office of the District Clerk at clerk@sfwmd.gov. The filing date for a document transmitted by electronic mail shall be the date the Office of the District Clerk receives the complete document. A party who files a document by e-mail shall (1) represent that the original physically signed document will be retained by that party for the duration of the proceeding and of any subsequent appeal or subsequent proceeding in that cause and that the party shall produce it upon the request of other parties; and (2) be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed.

INITIATION OF ADMINISTRATIVE HEARING

Pursuant to Sections 120.54(5)(b)4. and 120.569(2)(c), Fla. Stat., and Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, SFWMD file number or any other SFWMD identification number, if known.
2. The name, address, any email address, any facsimile number, and telephone number of the petitioner and petitioner's representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the SFWMD's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the SFWMD's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the SFWMD to take with respect to the SFWMD's proposed action.

MEDIATION

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401–.405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Section 120.68, Fla. Stat., and in accordance with Florida Rule of Appellate Procedure 9.110, 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 with the Office of the District Clerk of the SFWMD in accordance with the filing instructions set forth herein within 30 days of rendition of the order to be reviewed, and by filing a copy of the notice with the clerk of the appropriate district court of appeal.