

COMMISSION

Lesley "Les" Miller, Jr., Chair
Victor D. Crist, Vice-Chair

Ken Hagan
Al Higginbotham
Pat Kemp
Sandra L. Murman
Stacy White



EXECUTIVE DIRECTOR

Janet L. Dougherty

DIVISION DIRECTORS

Hooshang Boostani, P.E.
Sam Elrabi, P.E.
Andy Schipfer, P.E.
Richard Tschantz, Esq.
Sterlin Woodard, P.E.

October 5, 2018

Mr. Mike Palmer
King Engineering Associates, Inc.
One Memorial Center
Suite 300
Tampa, FL 33634

SUBJECT: EPC REVIEW # 56451 / MISCELLANEOUS ACTIVITIES IN WETLANDS AUTHORIZATION FOR THE EAST MCKAY BAY HABITAT AND WATER QUALITY IMPROVEMENTS PROJECT / FOLIO #S 0434860000, 0465110000 & 0465340000 / UNINCORPORATED HILLSBOROUGH COUNTY / STR 21 & 28-29S-19E / EXPIRATION DATE OF OCTOBER 5, 2021

Dear Mr. Palmer:

An environmental review has been conducted for the above described project by the staff of the Wetlands Management Division of the Environmental Protection Commission of Hillsborough County (EPC). Based on this review, EPC staff has determined that the plans for the restoration of wetlands on the 53 acre project area, which will provide water quality enhancement for approximately 660 acres of residential, commercial and industrial developed land, as proposed and conditioned by this authorization, is of nominal consequence to the wetlands or other surface waters in Hillsborough County and qualifies for approval under Section 1-11.09(1)(c), Rules of the EPC. The project consists of the removal of nuisance/non-native vegetation, the construction of three stormwater management areas, the creation of an herbaceous wetland, noticed exempt impacts to onsite ditches, backfilling of ditches to existing adjacent wetland grade, and spoil bank removal. The activities must be conducted as described in the plans received by this agency on August 29, 2018. **EPC staff authorizes the aforementioned activities subject to the following conditions:**

- A. Any proposed changes or adjustments from the August 29, 2018 plans must be reviewed and authorized by EPC staff prior to implementation. The fill and culverts associated with the two temporary ditch crossings will be removed and the area returned to original grade within 60 days after construction completion. The area must be stabilized (Florida native sod, mat, natural revegetation, etc.) following work completion. Be aware the Performance Turf Notes on sheet 2 of the plans indicates *Paspalum* sod must

Environmental Excellence in a Changing World

Roger P. Stewart Center

3629 Queen Palm Drive, Tampa, FL 33619 - (813) 627-2600 - www.epchc.org

be used for stabilization. Bahia grass, *Paspalum notatum*, will not be a suitable sod to use in wetlands. Knotgrass, *Paspalum vaginatum / distichum*, would be the appropriate sod for wetland use.

- B. Upon completion of construction, the 0.83 acres of temporary herbaceous wetland impact unstabilized area must be returned to original grade and allowed to naturally revegetate. If the area has not revegetated suitably within 180 days of disturbance, EPC staff may require supplemental plantings of species found in the immediate wetland area. **Placement of Florida non-native sod in this area will be considered a violation of Chapter 1-11, The EPC Wetland Rule, and is not permitted (see A above).**
- C. The wetland creation and enhancement as proposed must be for the purposes of water quality enhancement and for providing wetland habitat. It may not, at any time, be used as a “wetland creation/enhancement credit” for future projects.

GENERAL COMMENTS

- 1. On Sheet 14: The instillation of rip-rap in the ditch is incorrectly labeled as a “permanent wetland impact”. This activity is not considered a permanent wetland impact.
- 2. A review of EPC files, aerial photographs, soils survey data and a previous site inspection indicates that the 1.21 acres of ditch construction activity qualifies for a noticed exemption, pursuant to Chapter 1.11.11(b)(i). The proposed activities shall be exempt for the application of Chapter 1-11 provided the activity is reviewed and approved by other appropriate agencies as necessary. This noticed exemption is subject to the following conditions and limitations:

Noticed Exemption Conditions

- a. This exemption does not apply to wetlands or other surface waters that serve as significant habitat, such as roosting, nesting, or denning areas, for state listed threatened or endangered species.
- b. This exemption does not apply to any filling activity using anything other than clean fill as defined in 62-701.200(38) or (15), 62-701.730(15), F.A.C.
- c. Development under this exemption shall not cause offsite adverse impacts, including flooding, or otherwise affect the local hydrology so as to adversely affect other wetlands.
- d. This exemption does not apply to wetlands created, enhanced, or restored as mitigation for wetlands or surface water impacts under a permit issued by the Executive Director, DEP, SWFWMD or United States Army Corps of Engineers.

- e. The development under this exemption shall include best management practices for erosion, turbidity and other pollution control to prevent violations of State or County water quality standards.
 - f. This exemption shall not apply to those artificial wetlands or surface waters which were constructed pursuant to a permit under Part IV, Chapter 373, Florida Statutes.
 - g. Exemptions under this section do not apply to activities reviewed under the Mangrove Trimming and Preservation Rule Chapter 1-14.
 - h. This exemption does not imply exemption from obtaining all proper permits or complying with regulations of other federal, state, or local agencies.
 - i. This exemption is valid for 5 years from the date of this letter. After that expiration date, the person proposing wetland impacts must re-notice the EPC prior to performing exempt activities under Section 1-11.11(b).
3. This authorization shall not cause offsite adverse impacts, including flooding, or otherwise affect the local hydrology so as to adversely affect other wetlands.
 4. During all work, silt screens must be installed along the perimeter of the project area and must remain in place until the work has ceased and the ground surface has stabilized.
 5. In areas where work is to be done inside the wetland, turbidity control will be placed inside the wetland area at the limits of construction and will remain in place until all areas of disturbed soil are stabilized by desirable wetland vegetation. In all other cases, turbidity controls must be landward of the EPC wetland line.
 6. Operation of all construction equipment and storage of construction materials, outside of the approved project area, shall be confined to upland areas only. The wetland areas outside of the project boundaries shall remain undisturbed.
 7. All construction related debris must be removed from the wetland area upon completion of construction.
 8. This permit does not allow for any portion of the wetland conservation area to be maintained free of vegetation.
 9. This approval letter or a copy must be present on site during construction.
 10. All efforts must be undertaken to prevent any erosion or turbid water from being discharged into wetlands and/or waters of the County. Turbid discharges that exceed 29 Nephelometric Turbidity Units above background levels are a violation pursuant to Chapter 1-5, the EPC Water Quality Rule. The erosion or discharge of sediments into wetlands is a violation of Chapter 1-11, the EPC Wetland Rule. Silt screens or other EPC

approved methods or erosion/turbidity controls are required. It is the responsibility of the owner/developer to insure the installation of adequate erosion control barriers prior to the commencement of any site work. These erosion control devices must be maintained in good condition throughout the construction process and until all loose soils have stabilized. It is strongly recommended that all erosion control devices be regularly inspected during construction and modified if conditions warrant.

11. The permittee shall email EPC within 30 days of construction completion at WetlandsCompliance@epchc.org. Please provide any pictures or documents and include your Permit Number in the subject line. EPC staff will conduct periodic inspections of the site to verify compliance with the conditions of the subject permit.

INFORMATIONAL COMMENTS

- This letter of authorization is valid for **three (3) years** from the date of this letter. It may, upon review and approval by the EPC, be renewable for an additional year. It shall be the responsibility of the permittee to submit a renewal application request 30 days prior to the expiration date.
- This approval applies only to the development proposal as submitted, and in no way does it provide EPC approval to any other aspect of the EPC review process. In addition, this approval does not imply exemption from obtaining all proper permits from other governmental agencies.
- It is the responsibility of the applicant to ensure that all operators of equipment, or others performing the work, know the scope of the project, are provided a copy of this letter of authorization and understand the specific conditions of EPC approval contained therein. The operator must be in possession of this letter of authorization at all times during performance of the work. All questions pertaining to this authorization shall be addressed to the EPC (813-627-2600) and should be resolved prior to the commencement of the work.
- Any activity interfering with the integrity of a wetland or other surface water, such as clearing, excavating, draining or filling, without the written authorization from the Executive Director of the EPC or his authorized agent, pursuant to Section 1-11.07, Rules of the Commission, would be a violation of Section 17 of the Environmental Protection Act of Hillsborough County, Chapter 84-446, and Chapter 1-11, Rules of the EPC.

NOTICE OF RIGHTS

Pursuant to Section 9 of the Hillsborough County Environmental Protection Act, Chapter 84-446, as amended, Laws of Florida, (EPC Act) and Rule 1-2.30, Rules of the Environmental Protection Commission of Hillsborough County (EPC) any person whose interests are protected by Chapter 84-446, Laws of Florida and who is adversely affected or otherwise aggrieved by this action has the right to appeal this agency action/ decision. **Written Notice of Appeal for a Section 9 Administrative Hearing must be received by the EPC Commission Chair, c/o EPC Legal Department, 3629 Queen Palm Dr., Tampa, Florida 33619 or via electronic mail at legalclerk@epchc.org or via facsimile at (813) 627-2602, within twenty (20) days of receipt of this notice.** Pursuant to Section 1-2.30(c), Rules of the EPC, a Notice of Appeal must include the following information:

- (1) The name, address, and telephone number of the Appellant; the name, address, and telephone number of the Appellant's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the Appellant will be aggrieved or how his or her interests will be adversely affected by the Executive Director's decision;
- (2) A statement of when and how the Appellant received notice of the agency decision;
- (3) A statement of all disputed issues of material fact. If there are none, the Notice of Appeal must so indicate;
- (4) The specific facts the Appellant contends warrant reversal or modification of the Executive Director's proposed action;
- (5) A statement of the specific laws or rules the Appellant contends require reversal or modification of the Executive Director's proposed action; and
- (6) A statement of the relief sought by the Appellant, stating precisely the action Appellant wishes the Commission to take with respect to the Executive Director's proposed action or decision.

Pursuant to Section 1-2.31, Rules of the EPC, you may request additional time to file a Notice of Appeal by filing a REQUEST FOR EXTENSION OF TIME TO FILE A NOTICE OF APPEAL.

The Request for Extension of Time must include a statement when and how the Appellant received notice of the agency decision and must be sent to and received by the EPC Legal Department at the address, e-mail, or fax noted above within twenty (20) calendar days of receipt of this notice. By submitting a "Notice of Appeal" or a "Request for Extension of Time to file a Notice of Appeal" via e-mail, you are agreeing to service and receipt of correspondences via e-mail at the originating e-mail address identified in the e-mail submission.

This Order is FINAL unless the party timely files, pursuant to Chapter 1-2, Part IV, Rules of the EPC, a Notice of Appeal or files a Request for Extension of Time to file a Notice of Appeal for a formal hearing. Pursuant to Section 1-2.31(e), Rules of the EPC, failure to request

an administrative hearing by filing a Notice of Appeal within twenty (20) days after receipt of this Order shall constitute a WAIVER of one's right to have an appeal heard, and this unappealed Order shall automatically become a final and enforceable Order of the Commission.

It is recommended that the Applicant publish at their own expense the following notice of this agency action in a newspaper of general circulation in Hillsborough County, Florida for a minimum of one day so as to provide constructive notice to potentially aggrieved parties. It is also **RECOMMENDED THAT NO WORK** authorized by this action occur until after the time period for challenging this decision has expired:

ENVIRONMENTAL PROTECTION COMMISSION OF HILLSBOROUGH COUNTY
NOTICE OF MISCELLANEOUS ACTIVITIES IN WETLANDS AUTHORIZATION

The Environmental Protection Commission of Hillsborough County gives notice of agency action of issuance of a "Miscellaneous Activities in Wetlands" authorization issued on August 30, 2018 to the Southwest Florida Water Management District pursuant to the EPC Wetlands Rule Chapter 1-11 and Chapter 84-446, Laws of Florida, as amended. The EPC issued permit addresses approval for impacts to surface waters for the construction of Surface Water Improvement Project in Hillsborough County (Folio #s 0434860000, 0465110000 & 0465340000). The agency action document/permit is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Environmental Protection Commission, 3629 Queen Palm Dr., Tampa, Florida 33619. Pursuant to Section 9, Chapter 84-446, Laws of Florida, and Rule 1-2.30, Rules of the EPC, any person whose interests protected by Chapter 84-446, Laws of Florida, are adversely affected by this action or are otherwise aggrieved by this action, has the right to appeal the decision in accordance with Part IV of Rule 1-2, Rules of the EPC which will be found within the "Notice of Rights" included with the issued document. Written notice of appeal must be received by the EPC Commission Chair, c/o EPC Legal Department, 3629 Queen Palm Dr., Tampa, Florida 33619 or via electronic mail at legalclerk@epchc.org or via facsimile at (813) 627-2602, within 20 days of the date of this publication. Failure to file a notice of appeal within that time shall constitute a WAIVER of one's right to file an appeal.

Upon receipt of a sufficient Notice of Appeal for a Section 9 Administrative Hearing an independent hearing officer will be assigned. The hearing officer will schedule the appeal hearing at the earliest reasonable date. Following an evidentiary hearing, the hearing officer will render his/her decision as a recommendation before the EPC. Pursuant to Section 1-2.35,

Mr. Mike Palmer
October 5, 2018
Page 7 of 7

Rules of the EPC, the EPC will take final agency action on the findings of fact and conclusions of law of the hearing officer. A written decision will be provided by the EPC, which affirms, reverses or modifies the hearing officer's decision. Should this final administrative decision still not be in your favor, you may seek review in accordance with Section 9 of the Hillsborough County Environmental Protection Act, Chapter 84-446, as amended, Laws of Florida, and the Administrative Procedure Act, Chapter 120, part II, Florida Statutes, 1961 by filing an appeal under rule 9.110 of the Florida Rules of Appellate Procedure, with the clerk of the Environmental Protection Commission, EPC Legal Department, 3629 Queen Palm Dr., Tampa, FL 33619, and filing a notice of appeal accompanied by the applicable filing fee with the Second District Court of Appeal within 30 days from the date of the final administrative decision becoming an order of the EPC.

Copies of EPC rules referenced in this Order may be examined at any EPC office, may be found on the internet site for the agency at <http://www.epchc.org> or may be obtained by written request to the EPC Legal Department at 3629 Queen Palm Dr., Tampa, FL 33619.

If you have any questions or need further assistance, feel free to contact Mrs. Kim Tapley at 627-2600 extension 1359.

Sincerely,



Kim Tapley, P.W.S.
General Manager III
Wetlands Management Division
Environmental Protection Commission
of Hillsborough County

ec: MPalmer@kingengineering.com
stephanie.powers@swfwmd.state.fl.us
File - 56451

kmh/kmt