



**FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

SOUTHWEST DISTRICT OFFICE  
13051 NORTH TELECOM PARKWAY  
TEMPLE TERRACE, FLORIDA 33637-0926

RICK SCOTT  
GOVERNOR

CARLOS LOPEZ-CANTERA  
LT. GOVERNOR

HERSCHEL T. VINYARD JR.  
SECRETARY

November 24, 2014

Southwest Florida Water Management District  
c/o: Joel DeAngelis, Sr. Land Management Specialist  
7601 U.S. Highway 301  
Tampa, FL 33637  
[joel.deangelis@swfwmd.state.fl.us](mailto:joel.deangelis@swfwmd.state.fl.us)

File No.: 27-0306717-004  
Various Counties

Dear Mr. DeAngelis:

On November 10, 2014, we received your request for re-verification of exemption to perform the following activities:

**Routine maintenance of SWFWMD properties, including the stabilization of existing access roadways within the same dimensions and elevations as the previous conditions. In addition, the exemption determination authorizes the replacement of existing culverts as needed, where the invert elevation, diameter and length of the culvert shall not be changed, in accordance with Chapter 403.813(1)(h), F.S. The activities will take place within the properties listed in the enclosed attachment.**

Your request has been reviewed to determine whether it qualifies for (1) regulatory exemption, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal approval that may be necessary for work in wetlands or waters of the United States.

Your project did not qualify for the federal review portion of this verification request. **Additional authorization must be obtained prior to commencement of the proposed activity.** This letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity. Please refer to the specific section(s) dealing with that portion of the review below for advice on how to proceed.

**1. Regulatory Review – Verified**

Based on the information submitted, the Department has determined that the road maintenance activities are exempt, under Section 373.406(6) of the Florida Statutes, from the need to obtain a regulatory permit under Part IV of Chapter 373 of the Florida Statutes. This determination is made because the activity, in consideration of its type, size, nature, location, use, and operation, is expected to have only minimal or insignificant individual or cumulative adverse impacts on the water resources.

This exemption verification is based on the information you provided the Department and the statutes and rules in effect when the information was submitted. This verification may not be valid if site conditions

materially change, the project design is modified, or the statutes or rules governing the exempt activity are amended. In the event you need to re-verify the exempt status for the activity, a new request and verification fee will be required. Any substantial modifications to the project design should be submitted to the Department for review, as changes may result in a permit being required.

## 2. Proprietary Review - Not required

The activity does not appear to be located on sovereign submerged lands, and does not require further authorization under chapter 253 of the Florida Statutes, or chapters 18-20 or 18-21 of the Florida Administrative Code.

## 3. Federal Review - SPGP - Not Approved

Your proposed activity as outlined on your application and attached drawings **does not qualify** for Federal authorization pursuant to the State Programmatic General Permit and a **SEPARATE permit** or authorization **may be required** from the Corps. A copy of your permit application has been forwarded to the Corps for their review. The Corps will issue their authorization directly to you or contact you if additional information is needed. If you have not heard from the Corps within 30 days from the date your application was received at the local FDEP Office, contact the Corps at the Gainesville Regulatory Field Office at 352-264-7672, for status and further information. **Failure to obtain Corps authorization prior to construction could subject you to federal enforcement action by that agency.**

Authority for review - an agreement with the USACOE entitled "Coordination Agreement Between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection, or Duly Authorized Designee, State Programmatic General Permit", Section 10 of the Rivers and Harbor Act of 1899, and Section 404 of the Clean Water Act.

### *Additional Information*

Please retain this letter. The activities may be inspected by authorized state personnel in the future to ensure compliance with appropriate statutes and administrative codes. If the activities are not in compliance, you may be subject to penalties under Chapter 373, F.S., and Chapter 18-14, F.A.C.

## NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice.

### Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rule 28-106.201, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, any email address, any facsimile number, 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 are or 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 that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

#### Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S. must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), F.S., however, any person who has asked the Department for notice of agency action may file a petition within 21 days of receipt of such notice, regardless of the date of publication. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

#### Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

#### Mediation

Mediation is not available in this proceeding.

#### FLAWAC Review

The applicant, or any party within the meaning of Section 373.114(1)(a) or 373.4275, F.S., may also seek appellate review of this order before the Land and Water Adjudicatory Commission under Section 373.114(1) or 373.4275, F.S. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the order is filed with the Clerk of the Department.

Judicial Review

Any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this action is filed with the Clerk of the Department.

Thank you for applying to the Submerged Lands and Environmental Resource Permit Program. If you have any questions regarding this matter, please contact Ryan Martin via email at [ryan.p.martin@dep.state.fl.us](mailto:ryan.p.martin@dep.state.fl.us) or at by phone at 813-470-5944.

Executed in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

Sincerely,



Mark Langford  
Environmental Consultant  
Permitting and Waste Cleanup Program  
Southwest District

ML/rm

Enclosures:  
373.406(6), F. S.  
Attachment "A" For Discretionary Publication

Attachments:  
Application with project drawings and previous exemption verifications

cc:  
U.S. Army Corps of Engineers, [James.E.Davidson2@usace.army.mil](mailto:James.E.Davidson2@usace.army.mil)

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this determination, including all copies, was mailed before the close of business on November 24, 2014, to the above listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to 120.52(7),  
Florida Statutes, with the designated Department Clerk,  
receipt of which is hereby acknowledged.

Clerk Cynthia Gracison Date November 24, 2014

**373.406 Exemptions.**—The following exemptions shall apply:

(6) Any district or the department may exempt from regulation under this part those activities that the district or department determines will have only minimal or insignificant individual or cumulative adverse impacts on the water resources of the district. The district and the department are authorized to determine, on a case-by-case basis, whether a specific activity comes within this exemption. Requests to qualify for this exemption shall be submitted in writing to the district or department, and such activities shall not be commenced without a written determination from the district or department confirming that the activity qualifies for the exemption.

ATTACHMENT "A" FOR DISCRETIONARY PUBLICATION OF NOTICE OF DETERMINATION  
OF QUALIFICATION FOR AN EXEMPTION

In the Matter of an Application  
for a Determination of Qualification  
for an Exemption by:

Southwest Florida Water Management District  
c/o: Joel DeAngelis, Sr. Land Management Specialist  
7601 U.S. Highway 301  
Tampa, FL 33637

DEP File No.: 27-0306717-004; County: Various Counties

The Department of Environmental Protection gives notice that it has received a request for authorization to maintain SWFWMD properties, including the stabilization of existing access roadways within the same dimensions and elevations as the previous conditions. In addition, the exemption determination authorizes the replacement of existing culverts as needed, where the invert elevation, diameter and length of the culvert shall not be changed, in accordance with Chapter 403.813(1)(h), F.S. The Department has determined that the project qualifies for an exemption established under Chapter 373.406(6), F.S.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the F.S. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Mediation is not available.

If a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be permitted only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

In accordance with rule 62-110.106(3), F.A.C., petitions for an administrative hearing must be filed within 21 days of publication of the notice or receipt of written notice, whichever occurs first. Under rule 62-110.106(4) of the F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 prior to the applicable deadline. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon. Upon motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect, the Department may also grant the requested extension of time.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing within the appropriate time period shall constitute a waiver of that right.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

- (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 are or 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 that 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 that the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301, F.A.C.

Under sections 120.569(2) (c) and (d) of the Florida Statutes, a petition for administrative hearing shall be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

Complete copies of all documents relating to this determination of exemption are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, at the Department's Southwest District Office, 13051 North Telecom Parkway, Temple Terrace, FL 33637-0926.



An Equal Opportunity Employer

# Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899

(352) 796-7211 or 1-800-423-1476 (FL only)

WaterMatters.org

**Bartow Service Office**  
170 Century Boulevard  
Bartow, Florida 33830-7700  
(863) 534-1448 or  
1-800-492-7862 (FL only)

**Sarasota Service Office**  
6750 Fruitville Road  
Sarasota, Florida 34240-9711  
(941) 377-3722 or  
1-800-320-3503 (FL only)

**Tampa Service Office**  
7601 U.S. 301 North (Fort King Highway)  
Tampa, Florida 33637-6759  
(813) 985-7481 or  
1-800-836-0797 (FL only)

**Michael A. Babb**  
Chair, Hillsborough

**Randall S. Maggard**  
Vice Chair, Pasco

**Jeffrey M. Adams**  
Secretary, Pinellas

**David W. Dunbar**  
Treasurer, Hillsborough, Pinellas

**Carlos Beruff**  
Former Chair, Manatee

**H. Paul Senft, Jr.**  
Former Chair, Polk

**Ed Armstrong**  
Pinellas

**Bryan K. Beaswick**  
DeSoto, Hardee, Highlands

**Thomas E. Bronson**  
Hernando, Marion

**Wendy Griffin**  
Hillsborough

**George W. Mann**  
Polk

**Michael A. Moran**  
Charlotte, Sarasota

**Vacant**  
Citrus, Lake, Levy, Sumter

October 15, 2014

Florida Department of Environmental Protection  
c/o: Lauren Greenfield, ERP Manager  
Southwest District Office  
13051 N. Telecom Parkway  
Temple Terrace, Florida 33637

Subject: File No. 27-0306717-001, Various Counties

Dear Ms. Greenfield:

This is to notify you of our intent to renew our de minimis exemption, pursuant to Part IV, Chapter 373, Florida Statutes, for general road maintenance activities on Southwest Florida Water Management District fee acquisition properties. This project has not been completed and ongoing maintenance activities will include the following: repair, replacement, or rehabilitation of existing culverts; re-grading, stabilization, and improvement of existing unimproved roads/trails; and the construction, replacement or repair of wet crossings. The activities will take place at the properties listed in the original permit application as well as on those properties added or updated last year.

Additionally, as required to satisfy the SPGP portion of the exemption, the District obtained an NW-3 permit from the United States Army Corps of Engineers (Corps) (copy enclosed). The permit (SAJ-2012-03335 NW-SCW) was received in a letter dated March 5, 2013 and is valid until March 18, 2017. This permit is contained in the Federal Register Vol. 77, dated February 21, 2012 (pages 10270 – 10290) and can be accessed via the Corps Jacksonville District's Regulatory Internet page at <http://www.saj.usace.army.mil/Missions/Regulatory.aspx>.

Also included in this renewal request:

- Copy of the 2014 exemption for routine maintenance of SWFWMD properties;
- Current maps depicting District roads, culverts, and wet crossings;
- Spreadsheets containing detailed information on culverts and wet crossings;
- Copy of original technical drawings;
- Copy of 2013 renewal letter listing SWFWMD fee-title properties added to or updated from the original permit application;
- \$100.00 processing fee

Sincerely,

Joel DeAngelis  
Sr. Land Management Specialist  
Operations and Land Management Bureau

JD:th  
cc: Will VanGelder  
Jeff Hagberg

Dept. of Environmental Protection  
NOV 10 2014  
Southwest District

**Robert R. Beltran, P.E.**  
Executive Director