Department of Environmental Protection

Jeb Bush
Governor

Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926
Telephone: 813-632-7600

Colleen M. Castille
Secretary

DEC 6 2006

Stan Kroh
Tampa Electric Company
c/o David L. Moore
Southwest Florida Water Management District
2379 Broad Street
Brooksville, Florida 34604

File No. 29-0267813-002, Hillsborough County

Dear Mr. Moore:

This is to acknowledge receipt of your notice on November 17, 2006 of intent to use a Noticed General Permit, pursuant to Rule 62-341.485, Florida Administrative Code (F.A.C.) to perform the restoration of a 12 acre area that will include the removal of all non-native vegetation and the restoration/enhancement of a creek channel, low salinity habitats, marshes and uplands. The project is located at the corner of Dickman Road and Noonan Branch Road, Section 16, Township 31 South, Range 19 East, Hillsborough County,

In addition to regulatory authorization under Rule 62-341.485, F. A. C., this type of activity also requires both proprietary and federal authorizations. Proprietary authorization is required pursuant to Chapters 253 and 258 F.S., to use state-owned submerged lands for private purposes. Federal authorization is needed for works in waters of the United States through the State Programmatic General Permit (SPGP) program.

Your notice has been reviewed by Department staff for all three types of authorizations: regulatory, proprietary and Federal. The authority for review and the outcomes of the reviews are listed below. Please read each section carefully. Your project may not have qualified for all three authorizations. If your project did not qualify for one or more of the authorizations the specific section dealing with that authorization will advise you how to obtain it. **You may NOT commence your project without all three authorizations**. If you change the project from what you submitted, the authorization(s) granted may no longer be valid at the time of commencement of the project. Please contact us prior to beginning your project if you wish to make any changes.

REGULATORY REVIEW – APPROVED

Based on the forms, drawings, and documents submitted/revised with your notice, it appears that the project meets the requirements for the Noticed General Permit under Rule 62-341.485, F.A.C.

Please be advised that the construction phase of the noticed general permit must be completed within five years from the date the notice to use the noticed general permit was received by the Department. If you wish to continue this noticed general permit beyond the expiration date, you

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must notify the Department at least 30 days before its expiration. Any activities performed under a noticed general permit are subject to general conditions required in Rule 62-341.215, F.A.C. (attached), and the specific conditions of Rule 62-341.485, F.A.C. (attached). Any deviations from these conditions may subject the permittee to enforcement action and possible penalties.

Authority for review- Part IV of Chapter 373, Florida Statute, Title 62, F.A.C. and in accordance to operating Agreements executed between the department and the Water management Districts, as referenced in Chapter 62-113, F.A.C.

PROPRIETARY REVIEW –APPROVED

A review of the location of your proposed project indicates that it is not on state-owned submerged lands. Therefore, your project is exempt from the further requirements of Chapter 253, Florida Statutes.

Authority for review - Chapter 253 and Chapter 258, F. S., and Chapter 18-20, F.A.C. and Chapter 18-21, F.A.C. if located in an Aquatic preserve, and section 62-343.075 as required.

SPGP REVIEW - NOT APPROVED

Your project does not qualify for Federal authorization for works in waters of the United States through the State Programmatic General Permit (SPGP) program.

A copy of your application has been sent to the U.S. Army Corps of Engineers (USACOE) for review. The USACOE may require a separate permit. Failure to obtain this authorization prior to construction could subject you to enforcement action by that agency. For further information, you should contact the USACOE Tampa Regulatory Field Office at (813) 769-7060 or the Gainesville Regulatory Field Office at (352) 332-6993.

If you revise your project after submitting the initial joint application the above authorization(s) may no longer be valid. Please contact us prior to construction if you wish to make any changes. Also, if you have any questions, please contact Albert A. Gagne Jr. at (813) 632-7600, ext. 328. When referring to this project, please use the file number listed above.

Executed in Temple Terrace, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

for William L Vosbatt

Cece McKiernan
Environmental Administrator
Environmental Resource Management

Copies furnished to:
U.S. Army Corps of Engineers
Tom Ries, Scheda Ecological Associates, Inc., 5892 E. Fowler Ave., Tampa 33617
File

Enclosures:
Ch. 62-341.485, F.A.C.
Ch. 62-341.215, F.A.C.
Standard Manatee Construction Conditions
Notice Of Rights Of Substantially Affected Persons

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 DEC 6 2006 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	Date
E Robinson	DEC 6 2006

Chapter 62-341.485, F.A.C.
General Permit to Water Management Districts for Environmental Restoration or Enhancement.

(1) A general permit is hereby granted to the water management districts for the construction, alteration, operation, maintenance, removal and abandonment of systems to implement Department or District environmental restoration or enhancement projects.
(2) In order to qualify for this general permit, the environmental restoration or enhancement project must comply with any one of the following procedures:
(a) The project is part of a Surface Water Improvement and Management Plan developed pursuant to Section 373.453, F.S., that is reviewed by the Department and approved by a water management district in accordance with Section 373.456, F.S.;
(b) The project is approved by the Water Management District Governing Board or the Secretary of the Department after conducting at least one public meeting; or
(c) The project is wholly or partially funded by the Department through the Ecosystem Management and Restoration Trust Fund pursuant to Section 403.1651, F.S., or the Water Resource Restoration and Preservation Act pursuant to Section 403.0165, F.S.
(3) This general permit shall be subject to the following specific conditions:
(a) A project under this general permit shall not significantly impede navigation; and
(b) All erodible ground areas and slopes disturbed during construction shall be revegetated with sod, mulch, seed, wetland species, or otherwise appropriately stabilized within 72 hours after completion of the activity authorized under this general permit and at any other time as necessary to prevent violations of state water quality standards.
Specific Authority 373.026(7), 373.043, 373.118(1), 373.406(5), 373.414(9), 373.418, 403.805(1) FS. Law Implemented 373.118(1), 373.406(5),
373.413, 373.414(9), 373.416, 373.418, 373.426 FS. History–New 10-3-95.

GENERAL CONDITIONS FOR ALL NOTICED GENERAL PERMITS

Rule 62-341.215, Florida Administrative Code

(1) The terms, conditions, requirements, limitations, and restrictions set forth in this section are general permit conditions and are binding upon the permittee for all noticed general permits in this chapter. These conditions are enforceable under Part IV of Chapter 373, F.S.

(2) The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit. A violation of the permit is a violation of Part IV of Chapter 373, F.S., and may result in suspension or revocation of the permittee's right to conduct such activity under the general permit. The Department also may begin legal proceedings seeking penalties or other remedies as provided by law for any violation of these conditions.

(3) This general permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any construction, alteration, operation, maintenance, removal or abandonment authorized by this permit.

(4) This general permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the general permit as provided by Chapter 62-330, F.A.C.

(5) The general permit does not relieve the permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property. It does not allow the permittee to cause pollution in contravention of Florida Statutes and Department rules.

(6) The permittee is hereby advised that Section 253.77, F.S., states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.

(7) The authorization to conduct activities pursuant to a general permit may be modified, suspended or revoked in accordance with Chapter 120, F.S., and Section 373.429, F.S.

(8) This permit shall not be transferred to a third party except pursuant to Section 62-343.130, F.A.C. The permittee transferring the general permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to sale, conveyance, or other transfer of ownership or control of the permitted system or the real property at which the permitted system is located.

(9) Upon reasonable notice to the permittee, Department staff with proper identification shall have permission to enter, inspect, sample and test the permitted system to insure conformity with the plans and specifications approved by the permit.

(10) The permittee shall maintain any permitted system in accordance with the plans submitted to the Department and authorized in this general permit.

(11) A permittee's right to conduct a specific noticed activity under this noticed general permit is authorized for a duration of five years.

(12) Construction, alteration, operation, maintenance, removal and abandonment approved by this general permit shall be conducted in a manner which does not cause violations of state water quality standards, including any anti-degradation provisions of Sections 62-4.242(1)(a) and (b), 62-4.242(2) and (3), and 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters. The permittee shall implement best management practices for erosion, turbidity, and other pollution

control to prevent violation of state water quality standards. Temporary erosion control measures such as sodding, mulching, and seeding shall be implemented and shall be maintained on all erodible ground areas prior to and during construction. Permanent erosion control measures such as sodding and planting of wetland species shall be completed within seven days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into wetlands and other surface waters exists due to the permitted activity. Turbidity barriers shall remain in place and shall be maintained in a functional condition at all locations until construction is completed and soils are stabilized and vegetation has been established. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.

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

(14) The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate. Specific Authority: 373.026, 373.043, 373.044, 373.118, 373.406, 403.813, 403.814, F.S. Law Implemented: 373.026, 373.043, 373.046, 373.118, 373.403, 373.413, 373.416, 373.418, 373.419, 373.422, 373.423, 373.426, 403.813, 403.814, F.S. History—New 10-3-95.

STANDARD MANATEE CONSTRUCTION CONDITIONS

1. The permittee shall instruct all personnel associated with the project of the potential presence of manatees and the need to avoid collisions with manatees. All construction personnel are responsible for observing water-related activities for the presence of manatee(s).

2. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees, which are protected under the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act of 1978. The permittee and/or contractor may be held responsible for any manatee harmed, harassed, or killed as a result of construction activities.

3. Siltation barriers shall be installed and shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be monitored regularly to avoid manatee entrapment. Barriers shall not block manatee entry to or exit from essential habitat.

4. All vessels associated with the project shall operate at "no wake/idle" speeds at all times while in water where the draft of the vessel provides less than four feet clearance from the bottom and that vessels shall follow routes of deep water whenever possible.

5. If a manatee is sighted within 100 yards of the project area, all appropriate precautions shall be implemented by the permittee/contractor to ensure protection of the manatee. These precautions shall include the operation of all moving equipment no closer than 50 feet of a manatee. Operation of any equipment closer than 50 feet to a manatee shall necessitate immediate shutdown of that equipment. Activities will not resume until the manatee(s) has departed the project area of its own volition.

6. Any collision with and/or injury to a manatee shall be reported immediately to the "Manatee Hotline" at 1-888-404-FWCC (1-800-404-3922). Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580) for north Florida or Vero Beach (1-561-562-3909) in south Florida.

7. Temporary signs concerning manatees shall be posted prior to and during construction/dredging activities. All signs are to be removed by the lessee/grantee upon completion of the project. A sign measuring at least 3 feet by 4 feet which reads Caution: Manatee Area will be posted in a location prominently visible to water related construction crews. A second sign should be posted if vessels are associated with the construction, and should be placed visible to the vessel operator. The second sign should be at least 8 1/2 inches by 11 inches, which reads:

Caution: Manatee Habitat. Idle speed is required if operating a vessel in the construction area. All equipment must be shutdown if a manatee comes within 50 feet of the operation. A collision with and/or injury to a manatee shall be reported immediately to the Florida Marine Patrol at 1-888-404-FWCC (1-800-404-3922) and the U.S. Fish and Wildlife Service at (1-904-232-2580) for north Florida or (1-561-562-3909) for South Florida.

8. <u>No</u> permanent manatee awareness sign(s) shall be installed and maintained at the docking facility. The sign shall be three feet by four feet, 125 gauge 61TS aluminum, covered with white, engineer grade, reflective sheeting; black, painted lettering; black screened design; and orange, engineer grade, reflective tape border. The 3 feet wide by 4 feet long sign shall conform to the Florida Uniform Waterway Marking System in accordance with F.S. 327.40-1. The installation of the sign shall be made in accordance with DEP specification for such signs.

RIGHTS OF AFFECTED PARTIES

This letter acknowledges that the proposed activity may be conducted under general permit rule 62-341.485, F.A.C. This determination is final and effective on the date filed with the Clerk of the Department unless a sufficient petition for an administrative hearing is timely filed under sections 120.569 and 120.57 of the Florida Statutes as provided below. If a sufficient petition for an administrative hearing is timely filed, this determination automatically becomes only proposed agency action subject to the result of the administrative review process. Therefore, on the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because an administrative hearing may result in the reversal or substantial modification of this action, the applicant is advised not to commence construction or other activities until the deadlines noted below for filing a petition for an administrative hearing or request for an extension of time have expired.

Mediation is not available.

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 Florida Statutes. 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.

Under rule 62-110.106(4) of the Florida Administrative Code, 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. 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. If a request is filed late, the Department may still grant it upon a 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.

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), Florida Administrative Code, 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) of the Florida Statutes 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) of the Florida Statutes, 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 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 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; 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.

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

This determination constitutes an order of the Department. Subject to the provisions of paragraph 120.68(7)(a) of the Florida Statutes, which may require a remand for an administrative hearing, the applicant has the right to seek judicial review of the order under section 120.68 of the Florida Statutes, by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 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 when the final order is filed with the Clerk of the Department. The applicant, or any party within the meaning of section 373.114(1)(a) or 373.4275 of the Florida Statutes, may also seek appellate review of this order before the Land and Water Adjudicatory Commission under section 373.114(1) or 373.4275 of the Florida Statutes. 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 final order is filed with the Clerk of the Department. The applicant, or any party within the meaning of paragraph 20.255(5)(a) of the Florida Statutes, may also seek appellate review of the order before the Land and Water Adjudicatory Commission under subsection 20.255(5) of the Florida Statutes. 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.