

Return to: (enclose self-addressed stamped envelope)

Name: Cameron, Davis & Gonzalez

Address: 401 North Olive Avenue

West Palm Beach, FL 33401
Richard T. Davis, Esq.

This Instrument Prepared by:

M. Suellen Henderson, Esq.
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta, Georgia 30326

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**FIRST AMENDMENT TO SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR
TESORO**

For any questions contact:
Bobby Barfield, Broker
772-260-9855
Bobbybarfield@yahoo.com

**FIRST AMENDMENT TO SECOND AMENDED AND RESTATED
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR
TESORO**

THIS FIRST AMENDMENT TO SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS FOR TESORO (this "First Amendment") is made and entered into as of the 13th day of August, 2004 by Ginn-LA St. Lucie Ltd., L.L.L.P., a Georgia limited liability limited partnership (together with its successors and assigns, herein called "Declarant"), and is joined in by Tesoro Property Owners Association, Inc., a Florida corporation not-for-profit ("POA").

WITNESSETH:

WHEREAS, Declarant and POA executed that certain Seconded Amended and Restated Declaration of Covenants, Restrictions and Easements for Tesoro, dated as of August 22, 2003, and recorded on September 19, 2003 in Official Records Book 1803, Page 898, records of the Clerk of the Circuit Court of St. Lucie County, Florida (the "Declaration"), which Declaration relates to a residential community called "Tesoro"; and

WHEREAS, the Declaration contemplates that, upon issuance of a South Florida Water Management permit for Tesoro, the Declaration would be amended to include a copy of such permit; and

WHEREAS, such permit has now been issued and Declarant and POA desire to amend the Declaration to include a copy of such permit.

NOW, THEREFORE, pursuant to and in consideration of the powers of Declarant under the Declaration, the Declaration is hereby amended as follows:

1. Exhibit E of the Declaration is hereby amended to incorporate therein a copy of South Florida Water Management District Permit No. 56-01730-P, in the form attached hereto.
2. Except as expressly amended hereby, the Declaration shall remain in full force and effect as written.

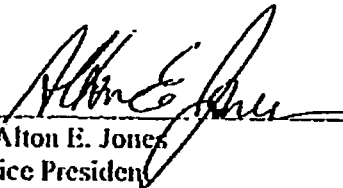
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IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the 13th day of August, 2004.


DECLARANT:


GINN-LA ST. LUCIE LTD., L.L.P., a Georgia limited liability limited partnership

By: Ginn-St. Lucie GP, LLC, a Georgia limited liability company, its sole general partner

By: 
Name: Alton E. Jones
Title: Vice President


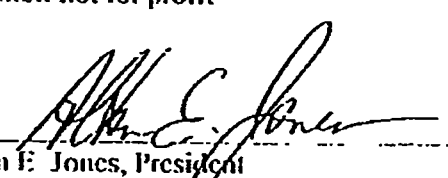
WITNESSES AS TO DECLARANT:

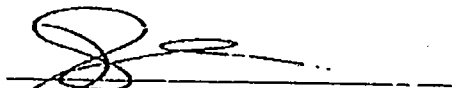

Signature
Print Name KATHLEEN KINSTEN


Signature
Print Name ROSEMARIE CANNON

POA:

TESORO PROPERTY OWNER'S ASSOCIATION, INC., a Florida Corporation not for profit


Signature
Print Name KATHLEEN KINSTEN By: 
Alton E. Jones, President


Signature
Print Name ROSEMARIE CANNON

STATE OF FLORIDA)
) SS
COUNTY OF MARTIN)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by ALTON E. JONES, the Vice President of GINN-ST. LUCIE GP, LLC, a Georgia limited liability company, the sole general partner of GINN-LA St. Lucie Ltd., L.L.L.P., a Georgia limited liability limited partnership, freely and voluntarily under authority duly vested in him by said corporation, and that the seal affixed thereto is the true corporate seal of said corporation. ALTON E. JONES is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 16th day of August, 2004.

Kathleen Kirshten
Notary Public, State of Florida at Large

KATHLEEN KIRSHTEN
Typed, Printed or Stamped Name of Notary Public

My Commission Expires:



STATE OF FLORIDA)
) SS
COUNTY OF MARTIN)

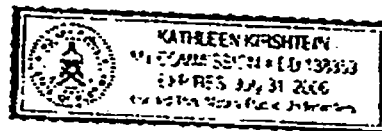
I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by ALTON E. JONES, the President of TESORO PROPERTY OWNER'S ASSOCIATION, INC., a Florida corporation not for profit, freely and voluntarily under authority duly vested in him by said corporation, and that the seal affixed thereto is the true corporate seal of said corporation. ALTON E. JONES is personally known to me or has produced _____ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 16th day of AUGUST, 2004.

Kathleen Kirshten
Notary Public, State of Florida at Large

KATHLEEN KIRSHTEN
Typed, Printed or Stamped Name of Notary Public

My Commission Expires:



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ADDITION TO EXHIBIT "E" TO DECLARATION

South Florida Water Management District Permit No. 56-01730-P

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SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE

PERMIT MODIFICATION NO. 56-01730-P

DATE ISSUED: JUNE 10, 2004



FORM 20151
REV 08/99

PERMITTEE: GINN-1A ST LUCIE LLLP
(TESORO EAST SIDE)
3228 SW MARTIN DOWNS BLVD STE.
PALM CITY, FL 34990

ORIGINAL PERMIT ISSUED: JUNE 12, 2003

ORIGINAL PROJECT DESCRIPTION: MODIFICATION OF A CONCEPTUAL AUTHORIZATION OF A 463.34-ACRE RESIDENTIAL AND GOLF COURSE DEVELOPMENT KNOWN AS TESORO EAST SIDE, AND CONSTRUCTION AND OPERATION OF A SURFACE WATER MANAGEMENT SYSTEM SERVING PARCELS 5A, 5B, 8, 9 AND 10 OF THE RESIDENTIAL DEVELOPMENT.

APPROVED MODIFICATION: CONCEPTUAL AUTHORIZATION OF A 463.34-ACRE RESIDENTIAL AND GOLF COURSE DEVELOPMENT KNOWN AS TESORO EAST SIDE, AND CONSTRUCTION AND OPERATION OF A SURFACE WATER MANAGEMENT SYSTEM SERVING PARCELS 5A, 5B, 8, 9 AND 10 OF THE RESIDENTIAL DEVELOPMENT.

PROJECT LOCATION: ST LUCIE COUNTY, SECTION 21, 27, 28, 33, 34 TWP 37S RGE 40E

PERMIT DURATION: See Special Condition No. 1. See attached Rule 40E-4.321, Florida Administrative Code.

This Permit Modification is approved pursuant to Application No. 031229 22, dated December 29, 2003. Permittee agrees to hold and save the South Florida Water Management District and its successors harmless from any and all damages, claims or liabilities which may arise by reason of the construction, operation, maintenance or use of any activities authorized by this Permit. This Permit is issued under the provisions of Chapter 373, Part IV Florida Statutes (F.S.), and the Operating Agreement Concerning Regulation Under Part IV, Chapter 373 F.S. between South Florida Water Management District and the Department of Environmental Protection. Issuance of this Permit constitutes certification of compliance with state water quality standards where necessary pursuant to Section 401, Public Law 92-500, 33 USC Section 1341, unless this Permit is issued pursuant to the net improvement provisions of Subsections 373.114(1)(b), F.S., or as otherwise stated herein.

This Permit Modification may be revoked, suspended, or modified at any time pursuant to the appropriate provisions of Chapter 373, F.S., and Sections 40E-4.351(1), (2), and (4), Florida Administrative Code (F.A.C.). This Permit Modification may be transferred pursuant to the appropriate provisions of Chapter 373, F.S., and Sections 40E-1.6107(1) and (2), and 40E-4.351(1), (2), and (4), F.A.C.

All specifications and special and limiting/general conditions attendant to the original Permit, unless specifically rescinded by this or previous modifications, remain in effect.

This Permit Modification shall be subject to the General Conditions set forth in Rule 40E-4.381, F.A.C., unless waived or modified by the Governing Board. The Application, and Environmental Resource Permit Staff Review Summary of the Application, including all conditions and all plans and specifications incorporated by reference, are a part of this Permit Modification. All activities authorized by this Permit Modification shall be implemented as set forth in the plans, specifications, and performance criteria as set forth and incorporated in the Environmental Resource Permit Staff Review Summary. Within 30 days after completion of construction of the permitting activity, the Permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual, pursuant to the appropriate provisions of Chapter 373, F.S. and Sections 40E-4.361 and 40E-4.381, F.A.C.

In the event the property is sold or otherwise conveyed, the Permittee will remain liable for compliance with this Permit until transfer is approved by the District pursuant to Rule 40E-1.6107, F.A.C.

SPECIAL AND GENERAL CONDITIONS ARE AS FOLLOWS:

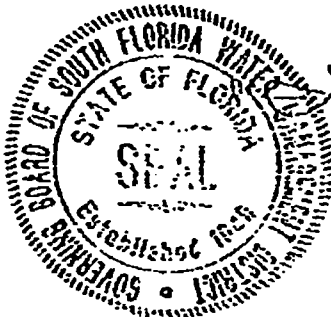
SEE PAGES 2 - 6 OF 1 (28 SPECIAL CONDITIONS)
SEE PAGES 7 - 9 OF 1 (9 GENERAL CONDITIONS)

PERMIT MODIFICATION APPROVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT

FILED WITH THE CLERK OF THE
SOUTH FLORIDA WATER MANAGEMENT DISTRICT:

on June 11, 2004

Steven Vequila
DEPUTY CLERK



Lei Djula
SECRETARY

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Bobbybarfield@yahoo.com

SPECIAL CONDITIONS

1. The conceptual phase of this permit shall expire on June 10, 2006.
The construction phase of this permit shall expire on June 10, 2009.
2. Operation of the surface water management system shall be the responsibility of TESORO PROPERTY OWNERS ASSOCIATION, INC.. Within one year of permit issuance or concurrent with the engineering certification of construction completion, whichever comes first, the permittee shall submit a copy of the recorded deed restrictions (or declaration of condominium, if applicable), a copy of the filed articles of incorporation, and a copy of the certificate of incorporation for the association.
3. Discharge Facilities:
 - Basin: BASIN N, Structure: N
 - 1-4' WIDE SHARP CRESTED weir with crest at elev. 11.23' NGVD.
 - 1-X 29 deg. TRIANGULAR ORIFICE with invert at elev. 8.49' NGVD.
 - Receiving body : Winters Creek
 - Control elev : 8.48 feet NGVD.
 - Basin: BASIN M, Structure: M
 - 1-4' W X .7' H SHARP CRESTED weir with crest at elev. 9.48' NGVD.
 - 1-X 60 deg. TRIANGULAR ORIFICE with invert at elev. 8.35' NGVD.
 - Receiving body : Winters Creek
 - Control elev : 8.35 feet NGVD.
 - Basin: BASIN E, Structure: E
 - 1-2' W X .5' H SHARP CRESTED weir with crest at elev. 10.18' NGVD.
 - 1-X 26 deg. TRIANGULAR ORIFICE with invert at elev. 7.48' NGVD.
 - Receiving Body : Winters Creek
 - Control elev : 7.48 feet NGVD.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not occur in the receiving water.
6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. Take side slopes shall be no steeper than 1:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 1 foot below to 1 foot above control elevation to insure vegetative growth, unless shown otherwise.
8. Features other than those stated herein shall not be constructed without an approved modification of this permit.

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9. 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.
10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. Minimum building floor elevation: BASIN: BASIN U - 14.48 feet NGVD.
BASIN: BASIN M - 14.48 feet NGVD.
BASIN: BASIN E - 15.20 feet NGVD.
13. Minimum road crown elevation: Basin: BASIN U - 12.48 feet NGVD.
Basin: BASIN M - 12.48 feet NGVD.
Basin: BASIN E - 12.68 feet NGVD.
14. An average 25' wide, minimum 15', buffer of undisturbed upland vegetation shall be maintained between the proposed development and existing wetlands. Buffers shall be staked and roped and District environmental staff notified for inspection prior to clearing.
15. 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.
16. Permanent physical markers designating the preserve status of the wetland preservation areas and buffer zones shall be placed at the intersection of the buffer and each lot line. These markers shall be maintained in perpetuity.
17. A mitigation program for Tenoro East shall be implemented in accordance with Exhibit No. 2. The permittee shall preserve 54.1 acres of upland areas, enhance 89.67 acres of freshwater wetland areas, and restore/create 20.4 acres of wetland along onsite.
18. A maintenance program shall be implemented in accordance with Exhibit No. 3 for the preserved mitigation areas on a regular basis to ensure the integrity and viability of those areas as permitted. Maintenance shall be conducted in perpetuity to ensure that the conservation area is maintained free from Category I exotic vegetation as defined by the Florida Exotic Pest Plant Council at the time of permit issuance immediately following a maintenance activity. Coverage of exotic and nuisance plant species shall not exceed 5% of total cover between maintenance activities. In addition, the permittee shall manage the conservation area such that exotic/nuisance plant species do not dominate any one section of the area.

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19. A monitoring and maintenance program for the mitigation area(s) shall be implemented in accordance with Exhibit No. 3. The monitoring program shall extend for a period of five years with annual reports submitted to District Environmental Resource Compliance staff, or longer as needed to demonstrate compliance with the criteria below.

Vegetative success criteria for the mitigation areas are:

A) All mitigation areas:

1) Will be maintained less than 5% exotic nuisance plants (as defined by the Florida Exotic Pest Plant Council at the time of permit issuance) for 5 consecutive years to achieve success, then in perpetuity per the long term maintenance provisions.

2) Other nuisance plants shall be controlled at no more than 5% coverage and maintained at or below this level for 5 consecutive years, and in perpetuity per the long term maintenance provisions.

3) In addition, exotic and other nuisance plants shall be controlled such that these species do not dominate any one section of those areas. Specifically, no area of 1/2 acre in size shall exceed the 5% coverage required for the overall conservation area.

B) Uplands/Buffers:

4) The percent cover of native plant species in the uplands shall not decrease for 5 consecutive years, nor in perpetuity per the long-term maintenance provisions.

C) Wetlands:

5) Shall remain free of livestock, be subject to no tree cutting (other than removal of exotic or nuisance species) and have sustainable wetland hydrology with at least 3 months of inundation and saturation during years with typical rainfall.

6) Created and enhanced wetlands shall have at least 40% coverage of beneficial native wetland species by the first year and 80% coverage by the second year. If this coverage is not achieved, additional mulching and/or planting will be done to assure the targeted coverage.

7) Planted trees shall have at least an 80% survival for 5 consecutive years, showing normal growth (girth and height).

20. A monitoring program shall be implemented in accordance with Exhibit No. 3. The monitoring program shall extend for a period of 5 years with annual reports submitted to District staff. At the end of the first monitoring period the mitigation area shall contain an 80% survival of planted vegetation. The 80% survival rate shall be maintained throughout the remainder of the monitoring program, with replanting as necessary. If native wetland, transitional, and upland species do not achieve an 80% coverage within the initial two years of the monitoring program, native species shall be planted in accordance with the maintenance program. At the end of the 5 year monitoring program the entire mitigation area shall contain an 80% survival of planted vegetation and an 80% percent of desirable obligate and facultative wetland species.

21. The Florida Property Owner's Association or it's successor, shall be responsible for the proper maintenance of the property area in perpetuity.

22. An affidavit shall be filed with the representation of the mitigation, monitoring and

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maintenance plan(s) shall be completed in accordance with the work schedule attached as Exhibit No. 8. Any deviation from these time frames will require prior approval from the District's Environmental Resource Compliance staff. 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.

23. Silt fencing shall be installed at the limits of construction to protect all of the preserve areas from silt and sediment deposition during the construction of the project. A floating turbidity barrier shall be installed during the construction of the final discharge structure into the adjacent canal/water body. The silt fencing and the turbidity barrier shall be installed in accordance with "Florida Land Development Manual" Chapter 6 "Stormwater and Erosion and Sediment Control Best Management Practices for Developing Areas" and sheet 54 of the construction plan, Exhibit No. 2. The sediment controls shall be installed prior to the commencement of any clearing or construction and the installation must be inspected by the District's Environmental Resource Compliance staff. The silt fencing and turbidity barriers shall remain in place and be maintained in good functional condition until all adjacent construction activities have been completed and all fill slopes have been stabilized. Upon completion of the project and the stabilization of the fill, the permittee shall contact the District's Environmental Resource Compliance staff to inspect the site and approve the removal of the silt fencing and turbidity barriers.
24. Endangered species, threatened species and/or species of special concern have been observed onsite and/or the project contains suitable habitat for these species. It shall be the permittee's responsibility to coordinate with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Fish and Wildlife Service for appropriate guidance, recommendations and/or necessary permits to avoid impacts to listed species.
25. Development activity within the eagle management nesting season restriction zones shall be in accordance with the Eagle management plan (Exhibit 5) and the following conditions:
- A. All development and construction activities shall be coordinated with the USFWS and conducted within the context of the Osprey Eagle management plan as described in Exhibit 5 of this permit.
- B. All development activities are prohibited within the core nesting area (primary zone). Exotic plant control management activities within the primary zone shall be limited to the months of May 15 to September 30.
- C. Determination of the nesting status (nesting vs. non-nesting period) of the onsite eagle nest must be approved by the USFWS. Prior to commencement of restricted development activities within the nesting season restriction zone, the applicant shall receive written documentation from the USFWS indicating that the nesting period has ended. This documentation shall be submitted to the District's Environmental Resource Compliance Division prior to commencement of restricted development activities within the nesting season restriction zone.
26. Prior to the commencement of construction resulting in wetland impacts and in accordance with the work schedule in Exhibit No. 8, the permittee shall submit two certified copies of the recorded conservation easements for the eagle management primary zone, mitigation area and associated buffers. The data should also be supplied in a digital (e.g. dxf) or GIS (shape coverage) format. The files should be in the Florida State Plane coordinate system, East Zone (1001) with a data datum of NAD83, NAD83 with the map units in feet. This data should reside on a CD or floppy disk and be submitted to the District's Environmental Resource

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Compliance Division in the service area office where the application was submitted.

The recorded easements shall be in substantial conformance with Exhibits 7A, 7B, 7C and 7D. Any proposed modifications to the approved forms must receive prior written consent from the District. The easements must be free of encumbrances or interests in the easements which the District determines are contrary to the intent of the easements. In the event it is later determined that there are encumbrances or interests in the easements which the District determines are contrary to the intent of the easements, the permittee shall be required to provide release or subordination of such encumbrances or interests.

27. All special conditions and exhibits previously stipulated by permit number 56-01730-P remain in effect unless otherwise revised and shall apply to this modification.
28. The successful completion of components of the mitigation plan are heavily dependent on proper grading. Therefore, prior to demobilizing equipment from the site and prior to planting, the permittee shall provide an as-built plan and schedule an inspection by District Environmental Resource Compliance staff to ensure that appropriate elevations and slopes have been achieved.

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GENERAL CONDITIONS

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. This permit or a copy thereof, complete with all conditions, attachments, exhibits, and modifications shall be kept at the work site of the permitted activity. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 405-1.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. 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.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881b, or Environmental Permit/Surface Water Management Permit Construction Completion Certification Form for Projects Permitted prior to October 1, 1995 Form No. 0881b, incorporated by reference in Rule 405-1.659, F.A.C. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. The statement shall serve to notify the District that the system is ready for its purpose. Additionally, it certifies that the approved

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drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.

7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 49E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.
8. Each phase or independent portion of the permitted system must be completed in accordance with the permitted plans and permit conditions prior to the initiation of the permitted use of site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, prior to lot or unit sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorization prior to the start of any activity approved by this permit. This permit does not convey to the permittee or those 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 permit and Chapter 49E-6 of Chapter 49E-10, F.A.C.

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12. 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 lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District 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 permit.
15. Any delineation or 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 Section 375.421(2), F.S., provides otherwise.
16. The permittee shall notify the District in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

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ENVIRONMENTAL RESOURCE PERMIT

CHAPTER 40E-4 (10/95)

40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C. is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. the effective date of the local government's comprehensive plan amendment.
2. the effective date of the local government development order.
3. the date on which the District issues the conceptual approval, or
4. the latest date of the resolution of any Chapter 120.57, F.A.C., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For a noticed general permit issued pursuant to chapter 40-E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. the Governing Board takes action on an application for extension of an individual permit,
- or
2. staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to subsection 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of a permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Source: ORS 373.041, 373.113 F.S. Law Compensated 373.413, 373.416, 373.417, 373.418 F.S. History--New 933 Amended 1-31-90, 12-1-92, Formerly: 40E-4.07(3), Amended 7-1-86, 4/20/94, Amended 7-1-90, 4/20/95, 10-3-95

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