



Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899
(352) 796-7211 or 1-800-423-1476 (FL only)
SUNCOM 628-4150 TDD only 1-800-231-6103 (FL only)
On the Internet at: WaterMatters.org

An Equal
Opportunity
Employer

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 Highway 301 North
Tampa, Florida 33637-6759
(813) 985-7481 or
1-800-836-0797 (FL only)

September 29, 2017

Manatee County Parks and Natural Resources
Attn: Charles A. Hunsicker, Director
5502 33rd Avenue Drive West
Bradenton, FL 34209

**Subject: Notice of Intended Agency Action - Approval
Environmental Resource General Permit**
Project Name: Duette Preserve Watershed Improvements
App ID/Permit No: 752304 / 47031379.003
County: Manatee
Expiration Date: September 14, 2022
Sec/Twp/Rge: S04/T34S/R22E, S32/T33S/R22E, S33/T33S/R22E,
S05/T34S/R22E

Dear Permittee(s):

The Southwest Florida Water Management District (District) has completed its review of the application for Environmental Resource Permit. Based upon a review of the information you have submitted, the District hereby gives notice of its intended approval of the application.

The File of Record associated with this application can be viewed at <http://www18.swfwmd.state.fl.us/erp/erp/search/ERPSearch.aspx> and is also available for inspection Monday through Friday, except for District holidays, from 8:00 a.m. through 5:00 p.m. at the District's Tampa Service Office, 7601 U.S. Highway 301 North, Tampa, Florida 33637.

If you have any questions or concerns regarding the application or any other information, please contact the Environmental Resource Permit Bureau in the Tampa Service Office.

Sincerely,

Michelle K. Hopkins, P.E.
Bureau Chief
Environmental Resource Permit Bureau
Regulation Division

cc: Manatee Co. EPD
Robert B. Conerly, P.E., Kimley Horn & Associates, Inc.
Manatee County Parks and Natural Resources Department



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S05/T34S/R22E

Dear Permittee(s):

The Southwest Florida Water Management District (District) is in receipt of your application for the Environmental Resource Permit. Based upon a review of the information you submitted, the application is approved.

Please refer to the attached Notice of Rights to determine any legal rights you may have concerning the District's agency action on the permit application described in this letter.

If approved construction plans are part of the permit, construction must be in accordance with these plans. These drawings are available for viewing or downloading through the District's Application and Permit Search Tools located at www.WaterMatters.org/permits.

The District's action in this matter only becomes closed to future legal challenges from members of the public if such persons have been properly notified of the District's action and no person objects to the District's action within the prescribed period of time following the notification. The District does not publish notices of agency action. If you wish to limit the time within which a person who does not receive actual written notice from the District may request an administrative hearing regarding this action, you are strongly encouraged to publish, at your own expense, a notice of agency action in the legal advertisement section of a newspaper of general circulation in the county or counties where the activity will occur. Publishing notice of agency action will close the window for filing a petition for hearing. Legal requirements and instructions for publishing notices of agency action, as well as a noticing form that can be used, are available from the District's website at www.WaterMatters.org/permits/noticing. If you publish notice of agency action, a copy of the affidavit of publication provided by the newspaper should be sent to the District's Tampa Service Office for retention in this permit's File of Record.

If you have any questions or concerns regarding your permit or any other information, please contact the Environmental Resource Permit Bureau in the Tampa Service Office.

Sincerely,

Michelle K. Hopkins, P.E.
Bureau Chief
Environmental Resource Permit Bureau
Regulation Division

Enclosures: Rule 62-330.631, F.A.C.
Exhibit A
Notice of Authorization to Commence Construction
Notice of Rights

cc: Manatee Co. EPD
Robert B. Conerly, P.E., Kimley Horn & Associates, Inc.
Manatee County Parks and Natural Resources Department

Specific Condition(s): Rule 62-330.631, F.A.C.

1. (1) A general permit is granted to governmental entities to construct, operate, alter, or maintain projects for environmental restoration or enhancement, subject to the limitations and conditions of this section. For purposes of this rule, "environmental restoration and enhancement" means activities conducted to improve the habitat value of wetlands or surface waters for fish and wildlife by eliminating harmful drainage, improving water quality, preventing erosion, stabilizing eroding shorelines, planting wetland vegetation, removing spoil, removing exotic and nuisance vegetation, providing structural habitat, and restoring dredged holes to elevations before they were dredged. The following activities are authorized:
 - (a) The restoration of an eroding shoreline or the enhancement of a disturbed or altered shoreline by planting appropriate native vegetation in accordance with the following:
 1. Preparing grades and contours for planting with no net addition or removal of material.
 2. Plantings shall consist of native wetland plant species obtained from commercially-grown stock that is native to the geographic area of the project.
 3. All invasive and exotic plant species that occur along the shoreline within the project area are removed in conjunction with the planting.
 4. If temporary wave attenuation is needed to protect and ensure survivability of the plantings, turbidity curtains shall be installed and maintained immediately waterward of, and parallel to, the planting area, but must be removed within three months after completion of planting.
 5. If permanent wave attenuation is required to maintain shoreline vegetation, an oyster reef or riprap "breakwater" is authorized to be established concurrent with the planting, provided that:
 - a. The outer edge of the "breakwater" shall be located no more than 15 feet waterward of the mean or ordinary high water line and have a top height of one foot or less above mean or ordinary high water.
 - b. The "breakwater" shall be composed of riprap or natural oyster shell cultch such as clean oyster shell and fossilized oyster shell, or combination thereof. Oyster shell shall be packaged within biodegradable bags (i.e., coir fiber) or mesh bags, or securely attached to matting prior to placement in the water to prevent movement of shell out of the project area.
 - c. The "breakwater" shall have a minimum of three feet of tidal channel opening within every 20 linear feet of structure, so as to not substantially impede the flow of water, and shall not create a navigational hazard.
 - d. If the breakwater and plantings are located in front of an existing seawall or bulkhead, placement of clean fill for the sole purpose of planting wetland vegetation is authorized, provided that stabilizing riprap or an oyster reef "breakwater" supports the fill at no more than a 2 Horizontal:1 Vertical slope and the total area of fill is less than one acre.
 - (b) Placement of riprap or clean oyster shell, underlain with geotextile filter fabric, within 10 feet waterward of the mean or ordinary high water line of an eroding shoreline. Oyster shell shall be packaged within mesh bags, or securely attached to matting prior to placement in the water to prevent movement of shell out of the project area. Where the shoreline is undercut, sandbags or geotubes filled with sand or hardened concrete placed over geotextile fabric are authorized to prepare the slope for placement of the riprap or oyster shell.
 - (c) Backfilling, plugging, or installation of weirs within existing drainage ditches or swales, without piping, for the purpose of restoring the hydroperiod of wetlands or other surface waters, and/or the groundwater in uplands, within publicly-owned lands, provided the ditches to be filled are not connected to upstream offsite ditches or canals. Any proposed backfilling, plugging or weir installation shall be supported by a determination, signed and sealed by a registered professional, that such activities will not cause adverse flooding to off-site property.
 - (d) Scrape down of spoil islands to an intertidal elevation or a lower elevation at which light penetration is expected to allow for seagrass or other native submerged aquatic vegetation recruitment, provided the total area does not exceed 10 acres.
 - (e) Backfilling of existing dredge holes that are at least 5 feet deeper than surrounding natural grades to an elevation which is expected to allow for seagrass recruitment, with no displacement of highly organic sediments, provided the total area does not exceed 10 acres.
 - (f) Placement of rock riprap or clean concrete in existing dredge holes that are at least 5 feet

deeper than surrounding natural grades to enhance habitat values, provided that placed rock or concrete does not extend to within 1 foot of surrounding natural grades, and the total area does not exceed 5 acres.

(g) Removal of exotic and nuisance species to allow for the activities listed in paragraphs (1)(a) through (d), above.

2. (2) To qualify for this general permit, the activity must comply with all the following:

(a) The project shall not be considered as mitigation for any other activity.

(b) The project shall not be located within an Aquatic Preserve.

(c) The project shall not include fill, placement of riprap, placement of any type of "breakwaters" over or within three feet of an area of greater than one percent coverage by emergent or submerged natural resources, or placement of fill material within smalltooth sawfish critical habitat, as designated by the US National Marine Fisheries Service. For purposes of this general permit, the term "emergent or submerged natural resources" includes freshwater and marine herbaceous and forested wetland vegetation, seagrass, coral, sponge, oyster beds, and other submerged aquatic vegetation.

(d) The governmental entity shall submit scaled and dimensioned project plans, signed and sealed by a registered professional, showing the entire project area and all proposed activities within the project area. In addition, project plan-view drawings shall be submitted showing the locations of all existing emergent and submerged natural resource communities, however, these community-depiction drawings are not required to be signed and sealed by a registered professional.

(e) Emergent or submerged natural resources, and other fresh water or marine ecological communities shall not be adversely affected and the ecology of such communities shall directly benefit from the authorized activity, as affirmatively agreed to by the Agency after review of the submitted notice and project plans. To facilitate this review, a pre-application meeting with the Agency must be held in advance of submitting notice to use this general permit.

3. (3) This general permit shall be subject to the following specific conditions.

(a) All disturbed areas, including intertidal slopes, shall be stabilized and re-vegetated with appropriate non-invasive, annual ground cover vegetation within 72 hours after completion of construction. Subsequently, the areas shall be planted and maintained as necessary to ensure that at least 33 percent cover of planted or naturally re-established native wetland or upland plant species within 18 months of completion of authorized work. The areas shall also be maintained free of exotic invasive species.

(b) Riprap material shall be clean limestone, granite, other native rock, or clean rebar-free concrete rubble measuring 1 foot to 3 feet in diameter.

(c) Except as otherwise allowed under this general permit, fill material used to backfill dredge holes or planting areas shall comply with the standard of not more than 10 percent of the material passing through a number 200 standard sieve and containing no more than 10 percent organic content, and be free of contaminants that cause violations of state water quality standards.

(d) Turbidity shall be monitored at least twice daily during construction. Monitoring records shall be maintained and available for inspection by the Agency for the period of in-water construction and an additional 90 days beyond in-water construction.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171, 373.4131, F.S. Law Implemented 253.034(1), 373.118, 373.406(5), 373.4131, 373.414(9), 403.814(1), FS. History—New 10-1-13.

EXHIBIT A

GENERAL CONDITIONS:

The following general permit conditions are binding upon the permittee and are enforceable under Part IV of Chapter 373, F.S. These conditions do not apply to the general permit in Section 403.814(12), F.S.

1. 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 Agency also may begin legal proceedings seeking penalties or other remedies as provided by law for any violation of these conditions.
2. 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.
3. 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.
4. 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 that violates state water quality standards.
5. Section 253.77, F.S., provides that a person may not commence any excavation, construction, or other activity involving the use of state-owned 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 consent, lease, easement, or other form of authorization authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on state-owned lands.
6. The authorization to conduct activities under a general permit may be modified, suspended or revoked in accordance with Chapter 120, F.S., and Section 373.429, F.S.
7. This permit shall not be transferred to a third party except pursuant to Rule 62-330.340, 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 project, activity, or the real property at which the permitted project or activity is located.
8. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the permitted activity to ensure conformity with the plans and specifications approved by the permit.
9. The permittee shall maintain any permitted project or activity in accordance with the plans submitted to the Agency and authorized in this general permit.
10. A permittee's right to conduct a specific activity under this general permit is authorized for a duration of five years.
11. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment control best management practices shall be implemented and maintained immediately prior to, during, and after construction as needed to stabilize all disturbed areas, including other measures specified in the permit to prevent adverse impacts to the water resources and adjacent lands. Erosion and sediment control measures shall be installed and maintained in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, available at www.dep.state.fl.us/water/wetlands/docs/erp/FLerosionSedimentManual_6_07.pdf, and the *Florida Stormwater*

Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), available at www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf, which are both incorporated by reference in subparagraph 62-330.050(8)(b)5., F.A.C.

12. Unless otherwise specified in the general permit, temporary vehicular access within wetlands during construction shall be performed using vehicles generating minimum ground pressure to minimize rutting and other environmental impacts. Within forested wetlands, the permittee shall choose alignments that minimize the destruction of mature wetland trees to the greatest extent practicable. When needed to prevent rutting or soil compaction, access vehicles shall be operated on wooden, composite, metal, or other non-earthen construction mats. In all cases, access in wetlands shall comply with the following:
 - a. Access within forested wetlands shall not include the cutting or clearing of any native wetland tree having a diameter 4 inches or greater at breast height;
 - b. The maximum width of the construction access area shall be limited to 15 feet;
 - c. All mats shall be removed within 72 hours after the work commences; and
 - d. Areas disturbed for access shall be restored to natural grades immediately after the maintenance or repair is completed.
13. Barges or other work vessels used to conduct in-water activities shall be operated in a manner that prevents unauthorized dredging, water quality violations, and damage to submerged aquatic communities.
14. The construction, alteration, or use of the authorized project shall not adversely impede navigation or create a navigational hazard in the water body.
15. Except where specifically authorized in a general permit, activities must not:
 - a. Impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving water and adjacent lands;
 - b. Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S., or a Works of the District established pursuant to Section 373.086, F.S.; or
16. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.
17. The activity must be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed, and must comply with any applicable District special basin and geographic area criteria.
18. The permittee shall comply with the following when performing work within waters accessible to federally- or state-listed aquatic species, such as manatees, marine turtles, smalltooth sawfish, and Gulf sturgeon:
 - a. All vessels associated with the project shall operate at "Idle Speed/No Wake" at all times while in the work area and where the draft of the vessels provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.

- b. All deployed siltation or turbidity barriers shall be properly secured, monitored, and maintained to prevent entanglement or entrapment of listed species.
 - c. All in-water activities, including vessel operation, must be shutdown if a listed species comes within 50 feet of the work area. Activities shall not resume until the animal(s) has moved beyond a 50-foot radius of the in-water work, or until 30 minutes elapses since the last sighting within 50 feet. Animals must not be herded away or harassed into leaving. All on-site project personnel are responsible for observing water-related activities for the presence of listed species.
 - d. Any listed species that is killed or injured by work associated with activities performed shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922 and ImperiledSpecies@myFWC.com.
19. The permittee shall hold and save the Agency 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 activity authorized by the general permit.
20. The permittee shall immediately notify the Agency in writing of any submitted information that is discovered to be inaccurate.

SOUTHWEST FLORIDA
WATER MANAGEMENT DISTRICT

NOTICE OF
AUTHORIZATION
TO COMMENCE CONSTRUCTION

Duette Preserve Watershed Improvements

PROJECT NAME

Government

PROJECT TYPE

Manatee

COUNTY

S04/T34S/R22E...

See Permit for additional STR listings

SEC(S)/TWP(S)/RGE(S)

Manatee County Parks and Natural Resources

PERMITTEE

APPLICATION ID/PERMIT NO: 752304 / 47031379.003

DATE ISSUED: September 29, 2017



Michelle K. Hopkins, P.E.

Issuing Authority

THIS NOTICE SHOULD BE CONSPICUOUSLY
DISPLAYED AT THE SITE OF THE WORK

Notice of Rights

ADMINISTRATIVE HEARING

1. You or any person whose substantial interests are or may be affected by the District's intended or proposed action may request an administrative hearing on that action by filing a written petition in accordance with Sections 120.569 and 120.57, Florida Statutes (F.S.), Uniform Rules of Procedure Chapter 28-106, Florida Administrative Code (F.A.C.) and District Rule 40D-1.1010, F.A.C. Unless otherwise provided by law, a petition for administrative hearing must be filed with (received by) the District within 21 days of receipt of written notice of agency action. "Written notice" means either actual written notice, or newspaper publication of notice, that the District has taken or intends to take agency action. "Receipt of written notice" is deemed to be the fifth day after the date on which actual notice is deposited in the United States mail, if notice is mailed to you, or the date that actual notice is issued, if sent to you by electronic mail or delivered to you, or the date that notice is published in a newspaper, for those persons to whom the District does not provide actual notice.
2. Pursuant to Subsection 373.427(2)(c), F.S., for notices of intended or proposed agency action on a consolidated application for an environmental resource permit and use of state-owned submerged lands concurrently reviewed by the District, a petition for administrative hearing must be filed with (received by) the District within 14 days of receipt of written notice.
3. Pursuant to Rule 62-532.430, F.A.C., for notices of intent to deny a well construction permit, a petition for administrative hearing must be filed with (received by) the District within 30 days of receipt of written notice of intent to deny.
4. Any person who receives written notice of an agency decision and who fails to file a written request for a hearing within 21 days of receipt or other period as required by law waives the right to request a hearing on such matters.
5. Mediation pursuant to Section 120.573, F.S., to settle an administrative dispute regarding District intended or proposed action is not available prior to the filing of a petition for hearing.
6. A request or petition for administrative hearing must comply with the requirements set forth in Chapter 28-106, F.A.C. A request or petition for a hearing must: (1) explain how the substantial interests of each person requesting the hearing will be affected by the District's intended action or proposed action, (2) state all material facts disputed by the person requesting the hearing or state that there are no material facts in dispute, and (3) otherwise comply with Rules 28-106.201 and 28-106.301, F.A.C. Chapter 28-106, F.A.C. can be viewed at www.flrules.org or at the District's website at www.WaterMatters.org/permits/rules.
7. A petition for administrative hearing is deemed filed upon receipt of the complete petition by the District Agency Clerk at the District's Tampa Service Office during normal business hours, which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding District holidays. Filings with the District Agency Clerk may be made by mail, hand-delivery or facsimile transfer (fax). The District does not accept petitions for administrative hearing by electronic mail. Mailed filings must be addressed to, and hand-delivered filings must be delivered to, the Agency Clerk, Southwest Florida Water Management District, 7601 Highway 301 North, Tampa, FL 33637-6759. Faxed filings must be transmitted to the District Agency Clerk at (813) 367-9776. Any petition not received during normal business hours shall be filed as of 8:00 a.m. on the next business day. The District's acceptance of faxed petitions for filing is subject to certain conditions set forth in the District's Statement of Agency Organization and Operation, available for viewing at www.WaterMatters.org/about.

JUDICIAL REVIEW

1. Pursuant to Sections 120.60(3) and 120.68, F.S., a party who is adversely affected by District action may seek judicial review of the District's action. Judicial review shall be sought in the Fifth District Court of Appeal or in the appellate district where a party resides or as otherwise provided by law.
2. All proceedings shall be instituted by filing an original notice of appeal with the District Agency Clerk within 30 days after the rendition of the order being appealed, and a copy of the notice of appeal, accompanied by any filing fees prescribed by law, with the clerk of the court, in accordance with Rules 9.110 and 9.190 of the Florida Rules of Appellate Procedure (Fla. R. App. P.). Pursuant to Fla. R. App. P. 9.020(h), an order is rendered when a signed written order is filed with the clerk of the lower tribunal.

