



FLORIDA DEPARTMENT OF Environmental Protection

Southeast District
3301 Gun Club Road, MSC7210-1
West Palm Beach, FL 33406
561-681-6600

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

September 12, 2018

City of Fort Lauderdale
c/o Omar Castellon
100 N Andrews Ave, Fl 4
Fort Lauderdale, Florida 33301
Sent via e-mail: ocastellon@fortlauderdale.gov

Re: File No.: 06-0367971-001-EG
File Name: South Middle River FM

Dear Mr. Castellon:

This is to acknowledge receipt of your notice on August 22, 2018, of intent to use a General Permit (GP), pursuant to Rule 62-330.451, Florida Administrative Code (F.A.C.) to conduct horizontal directional drilling for a total distance of 278 ln. ft. beneath the Middle River to install a wastewater force main. Entry and exit pits are located in uplands. The project is located in the Middle River, Class III Waters, adjacent to the Middle River crossing between NE 19th Street and NE 21st Street, Fort Lauderdale (Section 25 & 36, Township 49 South, Range 42 East), in Broward County (Latitude N 26° 09' 8.70", Longitude W 80° 06' 53.60").

Your intent to use a general permit has been reviewed by Department staff for three types of authorizations: (1) regulatory authorization, (2) proprietary authorization (related to state-owned submerged lands), and (3) federal authorization. The authority for review and the outcomes of the reviews are listed below. Please read each section carefully.

Your project qualifies for all three authorizations. However, this letter does not relieve you from the responsibility of obtaining other federal, state, or local authorizations that may be required for the activity.

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.

This determination does not convey or create any property right, or any interest in real property. This determination does not authorize any trespass, entrance upon, or activities on property which is not owned or controlled by you, or convey any rights or privileges other than those specified in this determination and applicable rules and statutes.

You shall hold and save the Department harmless from any and all damages, claims, or liabilities which may arise by reason of the activities described in this determination or any use of the structure/activities.

1. Regulatory Review. – APPROVED

Authority for review- Part IV of Chapter 373, F.S., Title 62, F.A.C. and in accordance with the operating agreements executed between the Department and the water management districts, as referenced in Chapter 62-113, F.A.C.

Based on the forms, drawings, and documents submitted with your notice, it appears that the project meets the requirements for the General Permit under Rule 62-330.453, F.A.C. Any activities performed under a general permit are subject to general conditions required in Rule 62-330.405, F.A.C. (attached), and the specific conditions of Rule 62-330.453, F.A.C. (attached). Any deviations from these conditions may subject the permittee to enforcement action and possible penalties.

Please be advised that the construction phase of the GP must be completed within five years from the date the notice to use the GP was received by the Department. If you wish to continue this GP beyond the expiration date, you must notify the Department at least 30 days before its expiration.

2. Proprietary Review –PENDING

The Department acts as staff to the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) and issues certain authorizations for the use of sovereign submerged lands. The Department has the authority to review activities on sovereign submerged lands under Chapters 253 and 258 of the Florida Statutes, and Chapters 18-18, 18-20 and 18-21 of the Florida Administrative Code.

Your proposed project will occur on sovereignty submerged land and will require authorization from the Board of Trustees to use public property. As staff to the Board of Trustees, we have reviewed the project and have determined that the activity requires a sovereignty submerged lands easement for the use of those lands, pursuant to Chapter 253.77, Florida Statutes. In order to review your application, we need, within 60 calendar days, the information listed in the enclosed request for additional information. If the information is not received within 60 calendar days, your application may be denied without prejudice. **You may not begin construction of the proposed projects on sovereignty submerged land until the appropriate state lands authorization has been issued by the Department.**

3. Federal Review – SPGP APPROVED

Your proposed activity as outlined on your application and attached drawings qualifies for Federal authorization pursuant to the State Programmatic General Permit V, and a separate permit or authorization will not be required from the Corps. Please note that the Federal authorization expires on July 26, 2021. You, as permittee, are required to adhere to all General Conditions and Special conditions that may apply to your project." A copy of the SPGP V with all terms and conditions and the General Conditions may be found at

http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/permitting/general_permits/SPGP/SPGPV-Permit%20Instrument-Complete.pdf?ver=2016-07-27-071925-250.

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 general permit. 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 hearing process may result in a modification of the agency action or even denial of the application.

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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us. 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 14 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 14 days of publication of the notice or within 14 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 14 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, or via electronic correspondence at Agency_Clerk@dep.state.fl.us, 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 this order is filed with the Clerk of the Department.

Judicial Review

Once this decision becomes final, 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.

If you revise your project after submitting the initial joint application, please contact us as soon as possible. Also, if you have any questions, please contact Heather Walborn at the letterhead address or at (561) 681-6614 or by email at Heather.Walborn@dep.state.fl.us. When referring to this project, please use the FDEP file number listed above.

Executed in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION



Monica Sovacool
Environmental Manager
Southeast District

Attachment(s):

General Conditions for All General Permits, Ch. 62-330.405, F.A.C.
Specific General Permit Rule, Ch. 62-330.453, F.A.C.
General Consent Conditions for the use of Sovereignty Submerged Lands
List of Requested Additional Information
General Conditions for the use of the Federal SPGP V
Project Drawings, 21 pages
Easement forms- SLER 0950, SLER 0960

CERTIFICATE OF SERVICE

The undersigned duly designated deputy clerk hereby certifies that this document and all attachments were sent on the filing date below to the following listed persons:

FDEP – Monica Sovacool, Heather Walborn
Patrick Kaimrajih, Chen Moore and Associates, pkaimrajih@chenmoore.com
Sathvika Ramaji, Chen Moore and Associates, sramaji@chenmoore.com
Linda Sunderland, Broward County EPD, LSunderland@broward.org

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, F. S., with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

September 12, 2018
Date