



South Florida Water Management District
Conceptual Permit No. 08-104368-P
Date Issued: June 16, 2021
Modified On: July 25, 2022

Permittee: Harper Property Holdings, LLC
McNew Property Holdings, LLC

Project: McNew Ranch

Application No. 220627-34974

Location: Charlotte County, See Exhibit 1

Your application for a Conceptual Permit is approved. This action is taken based on Chapter 373, Part IV, of Florida Statutes (F.S.) and the rules in Chapter 62-330, Florida Administrative Code (F.A.C.). Unless otherwise stated, this permit constitutes certification of compliance with state water quality standards under section 401 of the Clean Water Act, 33 U.S.C. 1341, and a finding of consistency with the Florida Coastal Management Program. Please read this entire agency action thoroughly and understand its contents.

This permit is subject to:

- Not receiving a filed request for a Chapter 120, F.S., administrative hearing.
- The attached General Conditions for Environmental Resource Permits.
- The attached Special Conditions.
- All referenced Exhibits.

All documents are available online through the District's ePermitting site at www.sfwmd.gov/ePermitting.

If you object to these conditions, please refer to the attached "Notice of Rights" which addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. Please contact this office if you have any questions concerning this matter. If we do not hear from you in accordance with the "Notice of Rights", we will assume that you concur with the District's action.

The District does not publish notices of action. If you wish to limit the time within which a person may request an administrative hearing regarding this action, you are 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. Legal requirements and instructions for publishing a notice of agency action, as well as a noticing format that can be used, are available upon request. If you publish a notice of agency action, please send a copy of the affidavit of publication provided by the newspaper to the District's West Palm Beach office for retention in this file.

If you have any questions regarding your permit or need any other information, please call us at 1-800-432-2045 or email epermits@sfwmd.gov.

A handwritten signature in blue ink, appearing to read "M. Lawrence", enclosed in a blue oval.

Melissa M. Lawrence, P.E.
Bureau Chief, Environmental Resource Bureau

Permittees:

Harper Property Holdings, LLC
5571 Halifax Avenue
Fort Myers, FL 33912

McNew Property Holdings, LLC
5571 Halifax Avenue
Fort Myers, FL 33912

**South Florida Water Management District
Conceptual Permit No. 08-104368-P**

Date Issued: June 16, 2021

Expiration Date: June 25, 2043

Modified On: July 25, 2022

Project Name: McNew Ranch

Permittees: Harper Property Holdings, LLC
5571 Halifax Avenue
Fort Myers, FL 33912

McNew Property Holdings, LLC
5571 Halifax Avenue
Fort Myers, FL 33912

Operating Entity: McNew Ranch Property Owners' Association,
Inc.
5571 Halifax Avenue
Fort Myers, FL 33912

Location: Charlotte County

Permit Acres: 1553.02 acres

Project Land Use: Residential
Commercial

Special Drainage District: N/A

Water Body Classification: CLASS III

FDEP Water Body ID: 3240T

Wetland and Surface Water Impacts: 143.47 acres

Sovereign Submerged Lands: No

Project Summary

This permit authorized Conceptual Approval of a stormwater management (SWM) system serving 1,026.72 acres of mixed use residential and commercial development, within a 1,553.02-acre site known as McNew Ranch. The project includes 489.87 acres of conservation areas.

Issuance of this permit constitutes certification of compliance with state water quality standards in accordance with Rule 62-330.062, F.A.C.

Site Description

The project site is located on the east side of U.S. 41, approximately 4.1 miles north of Del Prado Boulevard in Charlotte County, FL. See Exhibit No. 1.0 for a location map. An existing mining operation and wetland areas border the site to the north, the Seaboard Coastline Railroad grade and I-75 border the site to the east, and the Herons Glen residential community and a mobile home park border the site to the south.

The project site contains improved pasture areas for cattle grazing along with native uplands and wetlands.

For information on wetland and other surface water impacts, please see the Wetlands and Other Surface Water section of this permit.

Background

The project site was previously permitted for agricultural development under Permit No. 08-00111-P. This agricultural permit is still active and expires on September 26, 2027.

Current Modification (Application No. 220627-34974)

The duration of the permit is extended until June 25, 2043 per the request to use the provisions of Chapter 252.363, F.S. under Part IV of Chapter 373, F.S.

The qualifying Emergency Orders are: 22-17, 22-77, 22-27 and 22-28.

All dates contained in the terms and conditions of the permit pertaining to deadlines, such as for commencing or completing construction, completing any mitigation, and submitting reports for the activity authorized by the permit are modified in recognition of, and relative to, the new expiration date. You are advised that the legislation requires that, "The commencement and completion dates for any required mitigation associated with a phased construction project [is] extended such that the mitigation takes place in the same timeframe relative to the phase as originally permitted.

Permit Modification History

Application No. 211108-32099 - Authorized the extension of the Conceptual Approval of a stormwater management (SWM) system serving 1,026.72 acres of mixed use residential and commercial development, within a 1,553.02-acre site known as McNew Ranch. The permit expiration date was extended to August 27, 2042.

Application No. 210713-6808 - Authorized the extension of the Conceptual Approval of a stormwater management (SWM) system serving 1,026.72 acres of mixed use residential and commercial development, within a 1,553.02-acre site known as McNew Ranch. The permit expiration date was extended to December 27, 2041.

Application No. 200317-3037 authorized conceptual approval of a residential and commercial development with associated roadways and wet detention SWM system. The project enhances preserved wetland and upland areas and re-establishes natural flow paths through the property. See Exhibit No. 2.0 for conceptual plans.

Ownership, Operation and Maintenance

Perpetual operation and maintenance of the SWM system and conservation areas is the responsibility of McNew Ranch Property Owners' Association, Inc. as indicated in the submitted draft governing documents (Exhibit No. 4.0). Upon completion of works authorized by subsequent applications for construction and operation activities, and within 30 days of submittal of the construction completion certification, a request for transfer to the operating entity with recorded copies of its governing documents must be submitted in accordance with General Condition No. 7.

Engineering Evaluation:

Land Use

Exhibit No. 2.0, Page 3, provides land coverages for each SWM basin totaling 1,026.72 acres and an overall land use summary of the 1,553.02-acre site.

Water Quality

The project provides 132.71 ac-ft of water quality treatment. The stormwater management system complies with Section 4.2.1 of the Environmental Resource Permit Applicant's Handbook Volume II.

The project includes implementation of a Turbidity and Erosion Control Plan (Exhibit No. 2.0), a Construction Pollution Prevention Plan (Exhibit No. 2.1), and an Urban Stormwater Management Program (Exhibit No. 2.2) as additional reasonable assurance of compliance with water quality

criteria during construction and operation.

Water Quantity

Discharge

The project discharge for the 25-year, 3-day design storm event is within the allowable limit based on 29 CSM for the Gator Slough Basin per the Lee County Surface Water Management Plan of June 1991. Exhibit No. 2.3 provides the peak discharge rates from each SWM basin as well as a summary of offsite discharge rates which demonstrate reduced flows to U.S. 41 to the west and the lands to the south. See Exhibit No. 2.0, Page 11, for control structure details.

Parking Lot Design

As found in Exhibit No. 2.0, Page 3, the minimum parking lot elevations have been set at or above the 5-year, 1-day design storm flood elevation.

Road Design

As found in Exhibit No. 2.0, Page 3, the minimum road center line elevations have been set at or above the 5-year, 1-day design storm flood elevation.

Perimeter Berm

As found in Exhibit No. 2.0, Page 3, the minimum perimeter berm elevations have been set at or above the 25-year, 3-day design storm flood elevation.

Finished Floors

As found in Exhibit No. 2.0, Page 3, the minimum finished floor elevations have been set at or above 100-year, 3-day, zero discharge, design storm flood elevation.

Offsite Flow

An existing ditch, located along the north property boundary of the project site, allows the passage of flows from the northeast, along the north boundary of the site, into an existing U.S. 41 conveyance ditch. The site is located within the footprint of the Charlotte Harbor Flatwoods Initiative (CHFI), which is a regional hydrological restoration multi-agency partnership effort involving State and local government agencies.

The current conceptual plan shows no impacts to the existing ditch. The permittee has agreed to provide a drainage easement over the existing ditch in support of the CHFI, capable of allowing the passage of offsite flows introduced from the east.

Engineering Evaluation Tables:

Water Quality

Basin	Treatment Type	Treatment System	Volume Required (ac-ft)	Volume Provided (ac-ft)	Wet Detention Area (ac)
Basin 1	Treatment	WET DETENTION	22.35	22.35	25.43
Basin 2	Treatment	WET DETENTION	7.97	7.97	10.29
Basin 2A	Treatment	WET DETENTION	9.40	9.40	11.47
Basin 3	Treatment	WET DETENTION	6.19	6.19	9.11
Basin 3A	Treatment	WET DETENTION	10.66	10.66	15.05
Basin 4	Treatment	WET DETENTION	18.57	18.57	21.58
Basin 5	Treatment	WET DETENTION	6.77	6.77	8.99
Basin 6	Treatment	WET DETENTION	10.11	10.11	14.16
Basin 7	Treatment	WET DETENTION	7.55	7.55	11.53
Basin 8	Treatment	WET DETENTION	7.51	7.51	11.38
Basin 9	Treatment	WET DETENTION	1.55	1.55	2.51
Basin 10	Treatment	WET DETENTION	2.93	2.93	4.66
Basin 11	Treatment	WET DETENTION	21.15	21.15	25.93
		TOTAL	132.17	132.17	172.09

Environmental Evaluation:

Wetlands and Other Surface Waters

The project site contains 20 wetland areas totaling 520.85 acres, and 12.35 acres of other surface waters (OSW), which comprise ditches in the northern and eastern portions of the site. The majority of the site consists of improved pasture used for cattle grazing. Please see Exhibit 3.0 for a FLUCCS map and Exhibit 3.1 for wetland and OSW locations. The wetlands can generally be described as low pasture/wet prairie and freshwater marshes, with scattered hydric pine and wetland shrub. Additional wetland descriptions are available in the ePermitting file.

The site is part of the historical headwaters of Gator Slough. Berms surround the property on the northern, eastern and southwestern boundaries. The eastern wetland system (Wetlands 12 and 14) connect offsite to the south, to the downstream conservation area within the Heron's Glen development.

A binding wetland determination has been conducted on the property and a wetland boundary survey is attached as Exhibit 3.10. Wetland boundaries were re-evaluated from the prior agricultural permit on-site, and additional wetlands were identified. The wetland delineation was conducted on-site concurrent with ongoing cattle grazing operations.

The project will result in 140.46 acres of direct wetland impacts, 14.47 acres of secondary wetland impacts, and 3.01 acres of OSW impacts as described in the table below. The 0.15 acres of stormwater outfall structures within the wetlands are included in this total and have been mitigated for. Exhibit 3.2 identifies the locations of the wetlands and OSW being impacted. Pursuant to Section 10.2.1 of the Applicant's Handbook, Volume I, the applicant has reduced wetland impacts to the extent practicable by concentrating development areas within the low pasture/wet prairie wetlands (lower quality habitats), and consolidating preserve areas to encompass the higher quality freshwater marsh and forested wetlands. The proposed on-site mitigation areas preserve the historical flow-ways that generally ran north to south through the site.

Approximately 14.47 acres of wetlands will be secondarily impacted as a result of the lack of a sufficient native upland buffer pursuant to Section 10.2.7 of Volume I. Secondarily impacted areas are depicted on Exhibit 3.2. The submitted engineering plans identify areas where 25' wide natural upland buffers have been provided, structural buffers, or a combination of buffer types adjacent to wetlands. Secondary impacts were evaluated 25 feet beyond the limits of direct wetland impacts. Structural buffer plantings are not proposed on the backslopes of berms adjacent to preserve areas, given the variability in upland buffer widths throughout the project. In addition, approximately 2.53 acres of wetlands and 5.81 acres of OSW in the northern portion of the site, outside of the limits of development, will be left undisturbed in their current condition. Mitigation is being provided for the 2.53 acre wetland area.

On-site mitigation is proposed to offset the project's direct and secondary wetland impacts. The applicant will preserve 85.48 acres of wetlands, enhance 26.02 acres of wetlands, and restore/enhance 252.89 acres of wetlands. The 14.47 acres of secondarily impacted wetlands are not included within the mitigation area totals listed above, as they did not receive mitigation credit, but they will be preserved and enhanced within the conservation easement. The onsite mitigation area also includes 10.41 acres of upland preservation and 70.05 acres of upland restoration/enhancement. Approximately 26.87 acres of natural upland buffer will also be provided, but will not receive mitigation credit. Onsite mitigation activities include exotic and nuisance vegetation removal, restoration of agricultural roads, swales and berms to natural grade, supplemental replanting, prescribed fire and hydrologic improvements to the onsite wetlands with the cessation of agricultural activities and the proposed stormwater outfalls.

The amount of required mitigation was determined using the Uniform Mitigation Assessment

Method (UMAM) in Chapter 62-345, F.A.C. Please refer to the Mitigation, Monitoring and Maintenance Plan attached as Exhibit 3.3, and the UMAM calculations attached as Exhibit 3.4. The UMAM data sheets can be found within the online ePermitting file. The proposed mitigation plan results in an excess functional gain of 14.69 UMAM units. The proposed on-site mitigation is located within the same basin as the impacts, therefore pursuant to Section 10.2.8 of Volume I, the project will not result in unacceptable cumulative impacts to the drainage basin. The mitigation cost estimate and draft Letter of Credit for financial assurance are attached as Exhibits 3.5 and 3.6, respectively.

The control elevations for the site were established by assessing site topography, wetland ground elevations, and hydrological indicators of wet season water levels within the wetlands. Some wetlands will be preserved outside of the SWM system, while others will be incorporated into the controlled basin areas. Wetlands 1, 2, 4, 5, 6, 9, 11-14, and 17-20 will be preserved outside the SWM system. Stormwater outfalls will be provide for Wetlands 2, 4, 5, 9, 12 and 14. The remaining wetlands (Wetlands 3, 7, 8, 10, 15 and 16) will be incorporated into the SWM system, and water quality berms will be provided between these wetlands and adjacent lakes to ensure that stormwater runoff has reached the required water quality elevation prior to entering the wetland preserves. To ensure that wetland hydrology will be maintained or improved, a pre vs post volumetric analysis was provided for wetlands outside the SWM system, while pre vs post wetland hydrographs for the 5 year-1 day storm event were provided for wetlands within the SWM system. Culverts have been provided in locations where internal roadways bisect wetland preserve areas, to maintain hydrologic connectivity. Please see Exhibit 2.0. The proposed stormwater design is anticipated to improve the hydrology of onsite wetlands by increasing the hydroperiod of these areas, and maintaining the historical flowways on the project.

The proposed passive recreational on-site conservation easement will encompass 489.87 acres, and will be granted to the District with third party rights granted to the U.S. Army Corps of Engineers. Please refer to Exhibit 3.7. No passive recreational facilities are proposed at this time. The conservation easement includes 80.46 acres of upland mitigation areas, 364.39 acres of wetland mitigation areas, 0.15 acres of stormwater outfall structures, 26.87 acres of upland buffer, 14.47 acres of secondarily impacted wetlands, and 3.53 acres of OSW preserve. At the time of construction approval, the boundary survey and title commitment insurance for the conservation easement will be required. A title review of the property was conducted as part of this application, and no encumbrances were identified that would conflict with the proposed conservation easement.

Monitoring and Maintenance

Once construction approvals are obtained for the project, monitoring will be conducted by the permittee for a minimum of five consecutive years or until District staff determines that mitigation success has been achieved. The mitigation plan attached as Exhibit 3.3 describes the monitoring methodology, locations, maintenance activities, target habitat types, and success criteria. Monitoring includes vegetative cover, fish and macroinvertebrate analysis, hydrologic conditions including monitoring well and rainfall data, photo stations, success of the mitigation activities, wildlife usage and recommendations for maintenance work. The proposed temporary access trail impacts within the upland restoration area for installation of the outfall structures, along with any other temporary impacts to the preserve areas during construction, will be restored and monitored along with the remainder of the mitigation areas.

Fish, Wildlife, and Listed Species

Protected species surveys for the site were conducted in September 2016 and during subsequent field work by the project's environmental consultants.

The wetlands or surface waters to be impacted provide habitat for wetland-dependent and listed species. The project provides potential habitat for wood stork, wading birds, red-cockaded woodpecker, Audubon's crested caracara, the Florida bonneted bat, Florida Sandhill crane, Little blue heron, Least tern, and Florida black bear. Wading birds have been observed onsite and there is one active bald eagle nest in the western portion of the site. The 330' primary buffer zone will be

preserved within Conservation Area 3. Stormwater lakes are proposed within the 660' buffer zone, along with a portion of an access road and a portion of the future amenity tract. See Exhibits 2.0, 3.3 and 3.8 for the eagle nest location. The project will comply with the National Bald Eagle Management Guidelines; see the proposed Bald Eagle Management Plan for the site attached as Exhibit 3.8. Mitigation, monitoring and maintenance activities within the 660' ft buffer zone of the eagle nest will be conducted outside of the eagle nesting season. Correspondence from the Florida Fish and Wildlife Conservation Commission regarding this project is attached as Exhibit 3.9. No adverse impacts to wetland-dependent or listed species are anticipated as a result of the proposed project, and the proposed on-site mitigation activities will improve habitat for wetland-dependent and aquatic species. Additional listed species surveys will be required prior to the commencement of construction activities.

This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if, in the future, endangered or threatened species or species of special concern are discovered on the site.

Wetland Impacts and Mitigation Table Notes

The Environmental Evaluation Table below does not contain UMAM scores; please reference Exhibit 3.4 and the ePermitting file. Mitigation ID #11 refers to one acre of farm road that will be restored to wet prairie as part of the mitigation plan.

**Environmental Evaluation Tables:
Summary**

This table does not contain UMAM scores, please reference Exhibit 3.4.

Wetlands and Other Surface Waters: 533.2 acres
 Direct Impacts: 143.47 acres
 Secondary impacts: 14.47 acres
 Net UMAM Functional Loss/ Gain: 0 units
 Total Onsite Mitigation Area: 448.38 acres
 Total Offsite Mitigation Area: 0 acres

Total Mitigation Bank Credits Provided

Mitigation Bank	Type	Total Credits
		0
Total:		0

McNew Ranch

Activities in Wetlands or Other Surface Waters, Not Including Mitigation at a Bank

ID	Acres	Action	Community Description	Current Score	With Project Score	UMAM Loss
1	140.46	Direct Impact	Wetlands	0	0	0.000
2	3.01	Direct Impact	Ditches and Canals	0	0	0.000
5	14.47	Secondary Impact	Wetlands	0	0	0.000
9	5.81	None	Ditches and Canals	0	0	0.000
10	2.53	None	Wet Prairies	0	0	0.000
Total: 166.28						0.000

UMAM Mitigation and Preservation

ID	Acres	Action	Existing Community Description	Proposed Community Description	Current or Without Preserve Score	With Project Score	Time Lag Years.	Risk	P. A. F.	UMAM Gain
3	85.48	Preservation	Wetlands	Wetlands	0	0	1	1	1.0	0.000
4	278.91	Enhancement	Wetlands	Wetlands	0	0	1	1	1.0	0.000
6	10.41	Preservation	Pine Flatwoods	Pine Flatwoods	0	0	1	1	1.0	0.000
7	70.05	Enhancement	Pine Flatwoods	Pine Flatwoods	0	0		1	1.0	0.000
8	3.53	Preservation	Ditches and Canals	Ditches and Canals	0	0	1	1	1.0	0.000
11	1	Restoration	Disturbed or Altered	Wet Prairies	0	0	1	1	1.0	0.000
Total: 448.38										0.000

Related Concerns:

Water Use Permit Status

A combination of ground and surface water will be used as a source for irrigation water for the project. At the time of application for Construction Approval, a concurrent Water Use application will be submitted to convert the current permitted agricultural water use (08-00108-W) to landscape irrigation use for the proposed mixed use development.

Dewatering will be required for the proposed project, and a dewatering application will be submitted at the time of application for Construction Approval for the project.

This permit does not release the permittee from obtaining all necessary Water Use authorization(s) prior to the commencement of activities which will require such authorization, including construction dewatering and irrigation.

Water and Wastewater Service

Lee County Utilities for Potable Water Service

Florida Governmental Utility Authority (FGUA) for Wastewater Service

Historical/ Archeological Resources

On April 29, 2020, the District received a letter from the Florida Department of State, Division of Historical Resources (DHR) requesting the applicant to perform a systematic, professional archaeological and historical survey. The applicant performed the requested archaeological and historical survey for the property in May and June 2020. The study indicated that no resources eligible for listing in the National Register of Historic Places were identified, and that no other resources of historical, architectural or archaeological significance were found on-site. In a follow-up letter dated September 29, 2020, the DHR concurred with the results of the study, and concluded that the development of this site is not likely to adversely affect cultural and archaeological resources. This permit does not release the permittee from complying with any other agencies' requirements in the event that historical and/or archaeological resources are found on the site.

General Conditions for Conceptual Permits

1. This permit does not authorize any construction, alteration, maintenance, operation, removal, or abandonment, except where such activities are specifically authorized as the first phase of an individual permit or are authorized to occur in accordance with a general permit or exemption under Chapter 62-330, F.A.C.
2. This permit does not:
 - (a) Convey to the permittee any property rights or privileges, or any other rights or privileges other than those specified herein or in Chapter 62-330, F.A.C.;
 - (b) Convey to the permittee or create in the permittee any interest in real property;
 - (c) Relieve the permittee from the need to obtain and comply with any other required federal, state, and local authorization, law, rule, or ordinance; or
 - (d) Authorize any entrance upon or work on property that is not owned, held in easement, or controlled by the permittee.
3. The permittee shall notify the Agency in writing:
 - (a) Immediately if any previously submitted information is discovered to be inaccurate; and
 - (b) Within 30 days of any conveyance or division of ownership or control of the property or the system, the name and contact information for the new owner.
4. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample, and test the project site to ensure conformity with the permit.
5. Any delineation of 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 Rule 62-330.201, F.A.C., provides otherwise.
6. This conceptual approval permit only authorizes design concepts for a master or future plan to construct, alter, operate, maintain, remove, or abandon projects that require a permit under Part IV of Chapter 373, F.S. It does not authorize any construction, alteration, operation, maintenance, removal, or abandonment, or the establishment and operation of a mitigation bank, or relieve the permit holder of any requirements to obtain such permits.
7. Subsequent applications to construct and operate activities shall be prepared and submitted using the applicable procedures in Rules 62-330.052, 62-330.054, 62-330.060, and 62-330.402 F.A.C., and sections 4.2.2, 4.2.3, 4.3, and 4.4 of Volume I. An application for conceptual approval for a mitigation bank shall also include the materials required by Chapter 62-342, F.A.C.
8. Issuance of this conceptual approval permit is a determination, within the level of detail provided in the application, that the activities approved in this permit are consistent with applicable rules at the time of issuance. This permit provides the conceptual approval permit holder with a rebuttable presumption, during the duration of this permit, that the engineering design and scientific principles upon which the conceptual approval permit approved herein are likely to meet applicable rule criteria for issuance of permits for subsequent phases of the project, provided all of the following are met at the time of receipt of a complete application to construct and operate the future phases:
 - (a) The application to construct and operate the future phases remains consistent with the designs and conditions of this permit. Primary areas for consistency comparisons include the size, location, and extent of the activities proposed, the type and nature of the activities, percent imperviousness, allowable discharge and points of discharge, location and extent of wetland

and other surface water impacts, mitigation plans implemented or proposed, control elevations, extent of stormwater reuse, detention and retention volumes, and the extent of flood elevations. If an application for construction of any portion of the land area covered by this permit is inconsistent with the design concepts and conditions approved herein, the application will be reviewed to determine the extent to which the inconsistency will affect the designs and conditions for the remainder of the lands contained in this permit. If the inconsistency will materially affect those designs and conditions, then the applicant must demonstrate that the holder of this permit agrees to that inconsistency. In such a case, the holder of the conceptual approval permit may:

1. Modify the conceptual approval permit to conform to the revised design;
2. Abandon reliance on the conceptual approval permit; or
3. Rely on those portions of the conceptual approval permit for only those areas that were not affected by the inconsistency.

(b) There are no changes to state water quality standards that would be affected by activities authorized in the conceptual approval permit that have not already been authorized for construction or operation.

(c) There have been no amendments to Florida law governing special basin criteria that would affect future activities authorized by the conceptual approval permit that have not already been authorized for construction.

(d) There are no substantive changes in the site characteristics that would affect whether the design concepts approved in the conceptual approval permit can continue to be reasonably expected to meet the conditions for authorizing construction of future phases. This shall include such things as changes in the designation of listed species, and changes to nesting, denning, and critical designation status of listed species that exist within the lands served by the project area.

9. If changes are proposed to the design of existing or future phases, or where there have been changes to state water quality standards, special basins, or site characteristics as described in conditions (3)(a) through (d), above, during the duration of this permit, the applicant must modify this permit if it wishes to continue to rely on this permit as a basis that reasonable assurance exists for the Agency to issue future construction or operation permits under the terms and conditions of this permit. If the permittee fails to do this, this conceptual approval permit can no longer be relied upon as a basis, in part or whole, under which permits to construct or operate future phases will be issued, and the Agency will reevaluate the terms and conditions of this permit at the time a permit application is received to construct the next phase of activities, or at the next requested extension of this permit's duration in accordance with subsection 62-330.056(11), F.A.C., whichever occurs first.

Special Conditions for Conceptual Permits

1. The Conceptual Approval shall expire on the date shown on page 3 of this permit, in accordance with Rules 62-330.056(9) and (10), F.A.C.
2. Operation and maintenance of the SWM system and conservation areas shall be the responsibility of McNew Ranch Property Owners' Association, Inc.
3. A mitigation program for McNew Ranch will be implemented in accordance with Exhibit 3.3. The applicant will preserve 85.48 acres of wetlands, enhance 26.02 acres of wetlands, and restore/enhance 252.89 acres of wetlands. In addition, 10.41 acres of upland will be preserved and 70.05 acres of uplands will be restored/enhanced. The onsite mitigation areas total 444.85 acres.

The 14.47 acres of secondarily impacted wetlands and 26.87 acres of upland buffer will also be preserved and enhanced within the conservation easement, but will not receive mitigation credit.

4. At the time of construction authorization, the monitoring program shall be implemented in accordance with Exhibit No. 3.3. The monitoring program shall extend for a minimum 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, and in coordination with District staff. At the end of the 5 year monitoring program the entire mitigation area shall contain an 80% survival of planted vegetation and an 80% coverage of desirable obligate and facultative wetland species. Onsite mitigation areas shall be enhanced and restored to the target habitat types proposed within the mitigation plan.
5. At the time of application for construction authorization, the permittee shall submit the following information:

A) Prior to the commencement of construction, the permittee shall submit for review and approval, one copy of the following as a package for review by District real estate staff: 1. Project map identifying conservation areas 2. Legal description of conservation areas 3. Signed conservation easement form 4. Sealed boundary survey of conservation area(s) by professional Land surveyor 5. Title insurance commitment for the conservation easement naming the District as beneficiary using approved valuation. 6. Data in accordance with paragraph E (below). B) The real estate information referenced in paragraph (A) above shall be reviewed by the District in accordance with the District's real estate review requirements. The easement shall be granted free of mortgages, liens, easements or other encumbrances or interests which the District staff states are contrary to the intent of the easement. The easement shall not be recorded until such approval is received. C) The permittee shall record the conservation easement(s) over the real property designated as conservation/preservation areas) on the attached Exhibits 3.7. The conservation easements shall be granted to the District using the forms attached as Exhibits 3.7. This Exhibit shall not be modified without a permit modification. D) In the event the conservation easement real estate information reveals encumbrances or interests in the easement which the District staff states are contrary to the intent of the easement, the permittee shall be required to provide an amendment, release or subordination of such encumbrances or interests. If such are

not obtained, permittee shall be required to apply for a modification to the permit for alternative acceptable mitigation. E) A CD or DVD containing the easement data supplied in a digital ESRI Geodatabase (mdb), ESRI Shapefile (shp) or AutoCAD Drawing Interchange (dxf) file format using Florida State Plane coordinate system, East Zone (3601), Datum NAD83, HARN with the map units in feet, shall be submitted. F) The permittee shall record the conservation easement in the public records of Charlotte County within 14 days of receiving the District's approval of the real estate information. Upon recordation, the permittee shall submit one certified copy of the recorded conservation easements for the preservation/mitigation areas, and title insurance policy, via ePermitting or to the Environmental Resource Compliance staff in the local District service center.

6. Upon submittal of an application for construction approval involving wetland impacts or proposed mitigation, the permittee shall submit a work schedule, subject to District staff review and approval, specifying completion dates for each mitigation, monitoring and maintenance task.
7. Once site construction has been authorized, a maintenance program shall be implemented in accordance with Exhibit No. 3.3 for the preserved, restored and enhanced wetland and upland preserve/upland buffer 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 areas are maintained free from Category 1 and 2 exotic vegetation (as defined by the Florida Exotic Pest Plant Council) immediately following a maintenance activity. Maintenance in perpetuity shall also insure that conservation areas, including buffers, maintain the species and coverage of native, desirable vegetation specified in the permit. 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 areas such that exotic/nuisance plant species do not dominate any one section of those areas.
8. Permanent physical markers designating the preserve status of the wetland preservation areas and buffer zones shall be placed at regular intervals along the preserve/development interface (maximum 300' spacing). These markers shall be maintained in perpetuity.
9. The project proposes a combination of upland and structural buffers. Refer to Exhibit No. 2.0, including cross-sections X, Y and Z for upland and structural buffer details. Buffers shall be staked and roped and District environmental staff notified for inspection prior to clearing.
10. Any temporary impacts to conservation areas, including the areas to be temporarily disturbed by the installation of control structures in wetlands as depicted in Exhibit 3.2, will be backfilled and replanted in accordance with Exhibit No. 3.3 within 30 days of installation. Monitoring of any temporary impact areas shall be done concurrently with other required monitoring for this project.
11. 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.
12. The delineation of the extent of wetlands located within the limits of the proposed development has been determined pursuant to Rule 62-340, F.A.C and shall be considered binding. Please refer to Exhibit 3.10 for the wetland boundary survey.

13. Once construction approval has been obtained, and prior to the commencement of construction, the permittee shall provide an original financial assurance document to ensure the permittee's financial ability and commitment to complete the proposed mitigation, monitoring and maintenance plan as shown on Exhibit No. 3.3. The financial assurance shall be in substantial conformance with Exhibit No. 3.6. The financial assurance shall be in effect for the entire period of the mitigation and monitoring program. Notification to the District by the financial institution or surety that the financial assurance will not be renewed or is no longer in effect shall constitute non-compliance with the permit. Should the permit be transferred from the construction to operational phase prior to the completion of the mitigation and monitoring program, it will be incumbent upon the original permittee to either keep the existing financial assurance in force or provide replacement financial assurance in the name of the operational entity. The existing financial assurance cannot be released until a replacement document is received and accepted by the District.
14. At the time of application for construction of future phases, the permittee shall submit an updated summary and map which shows the location and acreage of the wetland(s) impacted to date, and the existing mitigation areas for the entire project.
15. The permittee shall comply with the provisions of the eagle management plan approved for the site as shown on Exhibit No. 3.8. In accordance with the plan, potential nuisance activities such as land clearing, blasting, excavation and burning within 660 feet of a bald eagle nest shall be conducted from May 16 - September 30 in order to avoid the critical bald eagle nesting periods which take place from October 1 - May 15. No clearing or major grading within 660 feet of a bald eagle nest shall be conducted during the nesting season and all construction activities within 660 feet of a bald eagle nest shall be coordinated with the Florida Fish and Wildlife Conservation Commission and the U.S. Fish and Wildlife Service.
16. This permit does not authorize the permittee to cause any adverse impact to or "take" of state listed species and other regulated species of fish and wildlife. Compliance with state laws regulating the take of fish and wildlife is the responsibility of the owner or applicant associated with this project. Please refer to Chapter 68A-27 of the Florida Administrative Code for definitions of "take" and a list of fish and wildlife species. If listed species are observed onsite, FWC staff are available to provide decision support information or assist in obtaining the appropriate FWC permits. Most marine endangered and threatened species are statutorily protected and a "take" permit cannot be issued. Requests for further information or review can be sent to: FWCConservationPlanningServices@MyFWC.com.
17. 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.

The permittee shall implement the recommendations received by the Florida Fish and Wildlife Conservation Commission attached as Exhibit No. 3.9.
18. Prior to any future construction, the permittee shall apply for and receive an Individual ERP. As part of the permit application, the applicant for that phase shall provide documentation verifying that the proposed construction is consistent with the design of the master stormwater management system, including the land use and site grading assumptions.

19. All commercial/industrial parcels shall provide a minimum dry pre-treatment volume of 1/2 inch of runoff prior to discharge into the master stormwater management system.

Distribution List

McNew Ranch Property Owners' Association, Inc.

Ronald E Inge

Audubon of Florida

Florida Department of Environmental Protection

US Army Corps of Engineers - Permit Section

FDEP- South District

Exhibits

The following exhibits to this permit are incorporated by reference. The exhibits can be viewed by clicking on the links below or by visiting the District's ePermitting website at <http://my.sfwmd.gov/ePermitting> and searching under this application number 220627-34974 .

[Exhibit No. 1.0 Location Map](#)

[Exhibit No. 2.0 Plans](#)

[Exhibit No. 2.1 Construction Pollution Prevention Plan](#)

[Exhibit No. 2.2 Urban Stormwater Management Program](#)

[Exhibit No. 2.3 Water Quantity Summary](#)

[Exhibit No. 3.0 FLUCCS Map](#)

[Exhibit No. 3.1A Wetland and OSW Maps](#)

[Exhibit No. 3.2 Wetland & OSW Impact Maps](#)

[Exhibit No. 3.3 Mitigation Plan](#)

[Exhibit No. 3.4 UMAM Assessment](#)

[Exhibit No. 3.5 Mitigation Cost Estimate](#)

[Exhibit No. 3.6 Draft Letter of Credit](#)

[Exhibit No. 3.7 Draft Conservation Easement](#)

[Exhibit No. 3.8 Eagle Management Plan](#)

[Exhibit No. 3.9 FWC Correspondence](#)

[Exhibit No. 3.10 Wetland Survey](#)

[Exhibit No. 4.0 POA Docs](#)

NOTICE OF RIGHTS

As required by Chapter 120, Florida Statutes, the following provides notice of the opportunities which may be available for administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, or judicial review pursuant to Section 120.68, Florida Statutes, when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Some of the legal proceedings detailed below may not be applicable or appropriate for your situation. You may wish to consult an attorney regarding your legal rights.

RIGHT TO REQUEST ADMINISTRATIVE HEARING

A person whose substantial interests are or may be affected by the South Florida Water Management District's (District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Florida Statutes. Persons seeking a hearing on a District decision which affects or may affect their substantial interests shall file a petition for hearing in accordance with the filing instructions set forth herein within 21 days of receipt of written notice of the decision unless one of the following shorter time periods apply: (1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Florida Statutes; or (2) within 14 days of service of an Administrative Order pursuant to Section 373.119(1), Florida Statutes. "Receipt of written notice of agency decision" means receipt of written notice through mail, electronic mail, posting, or publication that the District has taken or intends to take final agency action. Any person who receives written notice of a District decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

If the District takes final agency action that materially differs from the noticed intended agency decision, persons who may be substantially affected shall, unless otherwise provided by law, have an additional point of entry pursuant to Rule 28-106.111, Florida Administrative Code.

Any person to whom an emergency order is directed pursuant to Section 373.119(2), Florida Statutes, shall comply therewith immediately, but on petition to the board shall be afforded a hearing as soon as possible.

A person may file a request for an extension of time for filing a petition. The District may grant the request for good cause. Requests for extension of time must be filed with the District prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and whether the District and any other parties agree to or oppose the extension. A timely request for an extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

FILING INSTRUCTIONS

A petition for administrative hearing must be filed with the Office of the District Clerk. Filings with the Office of the District Clerk may be made by mail, hand-delivery, or e-mail. Filings by facsimile will not be accepted. A petition for administrative hearing or other document is deemed filed upon receipt during normal business hours by the Office of the District Clerk at the District's headquarters in West Palm Beach, Florida. The District's normal business hours are 8:00 a.m. – 5:00 p.m., excluding weekends and District holidays. Any document received by the Office of the District Clerk after 5:00 p.m. shall be deemed filed as of 8:00 a.m. on the next regular business day.

Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the District Clerk, 3301 Gun Club Road, West Palm Beach, Florida 33406.
- Filings by hand-delivery must be delivered to the Office of the District Clerk. Delivery of a petition to the District's security desk does not constitute filing. It will be necessary to request that the District's security officer contact the Office of the District Clerk. An employee of the District's Clerk's office will receive and process the petition.
- Filings by e-mail must be transmitted to the Office of the District Clerk at clerk@sfwmd.gov. The filing date for a document transmitted by electronic mail shall be the date the Office of the District Clerk receives the complete document.

INITIATION OF ADMINISTRATIVE HEARING

Pursuant to Sections 120.54(5)(b)4. and 120.569(2)(c), Florida Statutes, and Rules 28-106.201 and 28-106.301, Florida Administrative Code, initiation of an administrative hearing shall be made by written petition to the District in legible form and on 8 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, District file number or any other District identification number, if known.
2. The name, address, any email address, any facsimile number, and telephone number of the petitioner, petitioner's attorney or qualified representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the District's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the District's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the District's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the District to take with respect to the District's proposed action.

MEDIATION

The procedures for pursuing mediation are set forth in Section 120.573, Florida Statutes, and Rules 28-106.111 and 28-106.401-.405, Florida Administrative Code. The District is not proposing mediation for this agency action under Section 120.573, Florida Statutes, at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Section 120.68, Florida Statutes, and in accordance with Florida Rule of Appellate Procedure 9.110, a party who is adversely affected by final District action may seek judicial review of the District's final decision by filing a notice of appeal with the Office of the District Clerk in accordance with the filing instructions set forth herein within 30 days of rendition of the order to be reviewed, and by filing a copy of the notice with the appropriate district court of appeals via the Florida Courts E-Filing Portal.