

## Northwest Florida Water Management District

2252 Killearn Center Blvd., Suite 2-D, Tallahassee, Florida 32309

(850) 921-2986 (Fax) 921-3082

December 29, 2011

Joy Giddens, Permit Coordinator  
Florida Department of Transportation  
1074 Highway 90  
Chipley, FL 32428

**Re: Notice of Final Agency Action - Approval  
Individual Environmental Resource Permit**

Project Name: SR 83 (US 331) Four Lane Design, Segment 2 FPID# 220663-5  
Permit Number 1232

Dear Joy Giddens:

Enclosed is the approved Environmental Resource Permit authorized by the Northwest Florida Water Management District for the above referenced application on December 29, 2011. Please be sure to read the enclosed permit and all exhibits in their entirety, paying close attention to reporting and other permit conditions that may require additional action by you or your representatives, before, during, and after the completion of the permitted activity. For your convenience, required information may be submitted via the internet at [http://www.nwfwmd.state.fl.us/permits/erp/epermit\\_home.html](http://www.nwfwmd.state.fl.us/permits/erp/epermit_home.html) or in writing to this office at:

Northwest Florida Water Management District  
800 Hospital Drive  
Crestview, FL 32539

Please be advised that you are required to fully execute and submit the following documents:

- **"Construction Commencement Notice" [form 62-346.900(3)]** - Submitted to the District no later than 48 hours prior to commencement of any part of the activity authorized by the enclosed permit.
- **"As-Built Certification By a Registered Professional" [form 62-346.900(4)]** - Submitted to the District no later than 30 days after the activity has been completed
- **"Request for Conversion of an Environmental Resource Permit Construction Phase to Operation and Maintenance Phase" [form 62-346.900(6)]** - Submitted to the District concurrent with the submittal of the "As-Built Certification by a Registered Professional."

Copies of these and other ERP forms are available for download on the District website at [http://www.nwfwmd.state.fl.us/permits/erp/erp\\_downloads.htm#erp\\_forms](http://www.nwfwmd.state.fl.us/permits/erp/erp_downloads.htm#erp_forms).

GEORGE ROBERTS  
Chair  
Panama City

PHILIP MCMILLAN  
Vice Chair  
Blountstown

GUS ANDREWS  
DeFuniak Springs

PETER ANTONACCI  
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Secretary-Treasurer  
Eastpoint

JERRY PATE  
Pensacola

NICK PATRONIS  
Panama City Beach

RALPH RISH  
Port St. Joe

Please be advised that the District has not published a notice in a newspaper of local circulation advising the public that a permit has been issued for this activity. Publication, using the District form, notifies the public of their rights to challenge the issuance of this permit. If proper notice is given by publication, third parties have a 21-day time limit to file a petition opposing the issuance of the permit. If you do not publish, a party's right to challenge the issuance of the permit may extend indefinitely. If you wish to have certainty that the period for filing such a challenge is closed, then you may publish, at your expense, such a notice in a newspaper of general circulation. A copy of the form of the notice and a list of newspapers of general circulation is attached for your information. If you choose to publish such a notice, please submit a copy to the District for our records.

**The issuance of an Environmental Resource Permit for this activity does not eliminate the need to obtain all necessary permits or approvals from other agencies.**

Should you have any questions regarding your permit, its conditions, or additional forms or information you need to submit, please contact your permit reviewer, Bill Young, at 850-683-5044, or by e-mail: [bill.young@nwfwmf.state.fl.us](mailto:bill.young@nwfwmf.state.fl.us).

Sincerely,



Lee Marchman, P.E., MLT (ASCP)  
Chief, Bureau of Environmental Resource Regulation

cc: Kevin Morgan

Enc: Environmental Resource Permit Number: 1232  
Construction Commencement Notice [Form 62-346.900(3)]  
As-Built Certification by a registered Professional [Form 62-346.900(4)]  
Request for Conversion of an Environmental Permit Construction Phase to  
Operation and Maintenance Phase [62-346.900(6)]  
Notice of Rights  
Sample Newspaper Notice

**NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
INDIVIDUAL ENVIRONMENTAL RESOURCE PERMIT**

**PERMIT NUMBER:** 1232

**DATE ISSUED:** December 29, 2011

**PROJECT NAME:** SR 83 (US 331) Four Lane Design, Segment 2 FPID# 220663-5

**CONSTRUCTION PHASE EXPIRATION DATE:** December 29, 2016

**A PERMIT AUTHORIZING:**

The stormwater management systems associated with the construction of four 12-foot lanes with 10-foot shoulders over 2.6 miles of State Road 83 (US 331) from Nokuse Plantation property line to just south of Edgewood Circle, in accordance with the approved plans and calculations. Stormwater treatment and attenuation shall be provided in three dry retention facilities. The applicant has provided mitigation that adequately compensates for no net loss of wetlands that will be impacted by the project and an erosion and sediment control plan that adequately addresses concern for erosion and sediments leaving the construction area.

**LOCATION:**

City: DeFuniak Springs

County: Walton

Address: State Road 83 (US 331) from north of Nokuse Plantation Property Line to Edgewood Circle.

Section(s): 2

Township(s): 1N

Range(s): 19W

Latitude: 30° 36' 18" N      Longitude: 86° 06' 47" W

**ISSUED TO:**

**Applicant**

Florida Department of Transportation  
1074 Highway 90  
Chipley, FL 32428

Permittee agrees to hold and save the Northwest Florida Water Management District and its successors harmless from any and all damages, claims, or liabilities which may arise from permit issuance. Said application, including all plans and specifications attached thereto, is by reference made a part hereof.

This permit does not convey to any permittee any property rights nor any rights or privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation or requirement affecting the rights of other bodies or agencies. All structures and works installed by permittee hereunder shall remain the property of the permittee.

This permit is issued pursuant to Part IV of Chapter 373, Florida Statute (F.S.), and Chapter 62-346, Florida Administrative Code, (F.A.C.), and may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes.

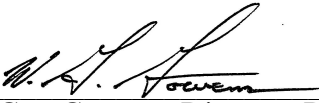
This permit also constitutes certification compliance with water quality standards under Section 401 of the Clean Water Act, 33 U.S. Code 1341.

**PERMIT IS CONDITIONED UPON:**

See conditions on attached "Exhibit A", dated December 29, 2011

See conditions on attached "Exhibit B", dated December 29, 2011

**AUTHORIZED BY:** Northwest Florida Water Management District  
Division of Resource Regulation

By:   
Guy Gowens, Director, Division of Resource Regulation

**Exhibit A**  
*Specific Conditions*

The following conditions are in addition to those listed in exhibit B, as provided for in subsection 62-346.381(2), Florida Administrative Code (F.A.C.).

General Specific Conditions

1. Once project construction has been deemed complete, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before the transfer to the Operation and Maintenance phase, all obsolete erosion control materials shall be removed.
2. Record-keeping. The permittee shall be responsible for keeping records documenting that relevant permit conditions are met. This documentation shall include, at a minimum, the date of each inspection, the name and qualifications of the inspector, any maintenance actions taken, and a determination by the inspector as to whether the system is operating as intended.

Retention

3. Grassed areas of the retention system shall be fertilized only as needed to maintain vegetation, and shall be mowed regularly in order to be kept at a manageable length as required for system functionality, maintenance, and safety.
4. Percolation performance shall be evaluated within the pond at least every third year. If there is evidence of inadequate percolation, the pond bottom must be re-scarified or deep-raked to restore percolation characteristics. If reworking the pond bottom fails to restore adequate percolation, additional retention area restoration shall be performed as follows:
  - a. Remove the top layer of the retention area bottom material to a depth of 2 to 3 inches and scarify or deep-rake the excavated bottom.
  - b. Replace excavated bottom material with suitably permeable material and restore the pond bottom to design grade.
5. The stormwater system shall be inspected periodically for accumulation of debris and trash. Accumulations of debris and trash that negatively affect the function of the system shall be removed upon discovery.
6. The stormwater system shall be inspected periodically for silt accumulation. Accumulations of silt that negatively affect the function of the system shall be removed.
7. The overflow weir and baffle shall be inspected at least every third year to confirm that it is free-flowing and clear of debris.
8. The stormwater management system shall be inspected by a registered professional at least every third year after the completion of construction and conversion of this permit to the Operation and Maintenance phase, to ensure that the system is functioning as designed and permitted. The Permittee shall submit to the District a completed inspection report on Form No 62-346.900(8) Operation and Maintenance Inspection Certification. The report must be submitted within 30 days of the third anniversary date of conversion to the Operation and Maintenance phase, and at 3 year intervals thereafter. However, a Report shall be submitted

**Exhibit A (cont'd)**

to the District within 30 days of any system failure or non-compliance with permit conditions.

## **Exhibit B**

*Conditions for Issuance of an Individual Permit (Rule 62-346.301, F.A.C.),  
Additional Conditions for Issuance of Individual and Conceptual Approval Permits  
(Rule 62-346.302, F.A.C.), and  
General and Special Limiting Conditions (Rule 62-346.381, F.A.C.).  
(all Rules Effective November 1, 2010)*

### **62-346.301 Conditions for Issuance of Individual Permits.**

- (1) In order to obtain an individual permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, or abandonment of a surface water management system:
- (a) Will not cause adverse water quantity impacts to receiving waters and adjacent lands;
  - (b) Will not cause adverse flooding to on-site or off-site property;
  - (c) Will not cause adverse impacts to existing surface water storage and conveyance capabilities;
  - (d) Will not adversely impact the value of functions provided to fish and wildlife and listed species by wetlands and other surface waters.
  - (e) Will not cause a violation of the water quality standards set forth in Chapters 62-4, 62-302, 62-520, 62-522, and 62-550, F.A.C., including the provisions of Rules 62-4.243, 62-4.244 and 62-4.246, F.A.C., the antidegradation provisions of paragraphs 62-4.242(1)(a) and (b), F.A.C., subsections 62-4.242(2) and (3), F.A.C., and Rule 62-302.300, F.A.C., and any special standards for Outstanding Florida Waters and Outstanding National Resource Waters set forth in subsections 62-4.242(2) and (3), F.A.C.;
  - (f) Will not cause adverse secondary impacts to the water resources and not otherwise adversely impact the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S.
  - (g) Will be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed;
  - (h) Will be conducted by an entity with the financial, legal and administrative capability of ensuring that the activity will be undertaken in accordance with the terms and conditions of the permit, if issued; and
  - (i) Will comply with any applicable special basin or geographic area criteria rules incorporated by reference in this chapter. When karst features exist on the site of a proposed stormwater management system, in addition to paragraphs (a) through (h) above, the applicant must provide reasonable assurance that untreated stormwater from the proposed system will not reach the Floridan Aquifer through sinkholes, solution pipes, or other karst features.
- (2) In instances where an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards and the system will contribute to this existing condition, mitigation for water quality impacts can consist of water quality enhancement. In these cases, the applicant must implement mitigation measures that are proposed by or acceptable to the applicant that will cause net improvement of the water quality in the receiving waters for those parameters that do not meet standards.
- (3) In addition to the criteria in subsections 62-346.301(1) and (2), F.A.C., an applicant proposing the construction, alteration, operation, maintenance, abandonment, or removal of a dry storage facility for

**Exhibit B (cont'd)**

10 or more vessels that is functionally associated with a boat launching area must provide reasonable assurance that the facility, taking into consideration any secondary impacts, will meet the public interest test of Section 373.414(1)(a), F.S., including the potential adverse impacts to manatees.

(4) The standards and criteria, including the provisions for elimination or reduction of impacts, and the mitigation provisions contained in sections 10.2.1 through 10.2.1.3 and sections 10.3 through 10.3.8, respectively, of Applicant's Handbook Volume I adopted by reference in Rule 62-346.091, F.A.C., shall determine whether the reasonable assurances required by subsection 62-346.301(1) and Rule 62-346.302, F.A.C., have been provided, as applicable. Forms for demonstrating that an applicant has met the financial responsibility requirements of sections 10.3.7 through 10.3.7.9 of Applicant's Handbook Volume I are hereby adopted and incorporated by reference as:

- (a) Form 62-346.900(12), "State of Florida Performance Bond To Demonstrate Financial Assurance for Mitigation" November 1, 2010;
- (b) Form 62-346.900(13), "State of Florida Irrevocable Letter of Credit To Demonstrate Financial Assurance for Mitigation" November 1, 2010;
- (c) Form 62-346.900(14), "Certificate I To \_\_\_\_\_ (Name of Issuing Bank) Irrevocable Letter of Credit No. \_\_\_\_\_" November 1, 2010;
- (d) Form 62-346.900(15), "Certificate II To \_\_\_\_\_ (Name of Issuing Bank) Irrevocable Nontransferable Standby Letter of Credit No. \_\_\_\_\_" November 1, 2010;
- (e) Form 62-346.900(16), "State of Florida Standby Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation Activities" November 1, 2010;
- (f) Form 62-346.900(17), "State of Florida Trust Fund Agreement to Demonstrate Financial Assurance for Mitigation Activities" November 1, 2010.

These forms are contained in Appendix C of the "Department of Environmental Protection and Northwest Florida Water Management District Environmental Resource Permit Applicant's Handbook-Volume I (General and Environmental)," and may be obtained from the locations provided in Rule 62-346.900, F.A.C.

*Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.042, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.4132, 373.426, 373.429 FS. History-New 10-1-07, Amended 11-1-10.*

**62-346.302 Additional Conditions for Issuance of Individual and Conceptual Approval Permits.**

(1) In addition to the conditions set forth in Rule 62-346.301, F.A.C., in order to obtain an individual (including conceptual approval) permit under this chapter, an applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, removal, and abandonment of a system:

(a) Located in, on, or over wetlands or other surface waters will not be contrary to the public interest, or if such an activity significantly degrades or is within an Outstanding Florida Water, that the activity will be clearly in the public interest, as determined by balancing the following criteria as set forth in sections 10.2.3 through 10.2.3.7 of Applicant's Handbook Volume I adopted by reference in Rule 62-346.091, F.A.C.:

1. Whether the activity will adversely affect the public health, safety, or welfare or the property of others;
2. Whether the activity will adversely affect the conservation of fish and wildlife, including



**Exhibit B (cont'd)**

endangered or threatened species, or their habitats;

3. Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;

4. Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;

5. Whether the activity will be of a temporary or permanent nature;

6. Whether the activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of Section 267.061, F.S.; and

7. The current condition and relative value of functions being performed by areas affected by the proposed activity.

(b) Will not cause unacceptable cumulative impacts upon wetlands and other surface waters as set forth in sections 10.2.8 through 10.2.8.2 of Applicant's Handbook Volume I.

(c) Located in, adjacent to or in close proximity to Class II waters or located in Class II waters or Class III waters classified by the Department of Agriculture and Consumer Services as approved, restricted, conditionally approved, or conditionally restricted for shellfish harvesting as set forth or incorporated by reference in Chapter 5L-1, F.A.C. (July 29, 2008), will comply with the additional criteria in section 10.2.5 of Applicant's Handbook Volume I.

(d) Which constitute vertical seawalls in estuaries or lagoons, will comply with the additional criteria provided in section 10.2.6 of Applicant's Handbook Volume I.

(2) When determining whether a permit applicant has provided reasonable assurances that the Department's permitting standards will be met, the Department shall take into consideration the applicant's violation of any Department rules adopted pursuant to Sections 403.91 through 403.929, F.S., (1984 Supp.), as amended, or any Department rules adopted pursuant to Part IV, Chapter 373, F.S., relating to any other project or activity and efforts taken by the applicant to resolve these violations.

*Rulemaking Authority 373.026(7), 373.043, 373.414(9), 403.805(1) FS. Law Implemented 373.042, 373.413, 373.414, 373.416, 373.426, 380.23 FS. History-New 11-1-10.*

**62-346.381 General and Special Limiting Conditions.**

(1) The following general conditions shall be applicable to and binding on all individual permits issued pursuant to this chapter, unless the conditions are not applicable to the activity authorized by the permit, or where the conditions must be modified to accommodate unique, project-specific conditions.

(a) All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity may constitute grounds for revocation or enforcement action by the Department, unless a modification has been applied for and approved in accordance with Rule 62-346.100, F.A.C.

(b) 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 during the construction phase. The complete permit shall be available for review at the work site upon request by the Department staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit. A weather-resistant sign, measuring at least 8 1/2 inches by

**Exhibit B (cont'd)**

11 inches, and including the permit number (in lettering that is easily visible from the access road) shall be placed on the property facing the road.

(c) Activities approved by this permit shall be conducted in a manner that does not cause violations of state water quality standards.

(d) Immediately prior to, during construction, and for the period of time after construction to allow for stabilization of all disturbed areas, the permittee shall implement and maintain erosion and sediment control best management practices, such as silt fences, erosion control blankets, mulch, sediment traps, polyacrylamide (PAM), temporary grass seed, permanent sod, and floating turbidity screens to retain sediment on-site and to prevent violations of state water quality standards. These devices shall be installed, used, and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work, and shall remain in place at all locations until construction is completed and soils are permanently stabilized. All best management practices shall be in accordance with the guidelines and specifications described in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Transportation and Florida Department of Environmental Protection, 2007), unless a project-specific erosion and sediment control plan is approved as part of the permit. If project-specific conditions require additional measures during any phase of construction or operation to prevent erosion or control sediments beyond those specified in the approved erosion and sediment control plan, the permittee shall implement additional best management practices as necessary, in accordance with the guidelines and specifications in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual, Prepared for Florida Department of Transportation & Florida Department of Environmental Protection by HydroDynamics Incorporated in cooperation with Stormwater Management Academy, June 2007. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources as soon as practicable. Once project construction has been deemed complete, including the re-stabilization of all side slopes, embankments, and other disturbed areas, and before conversion of the permit to the operation and maintenance phase, all silt screens and fences, temporary baffles, and other materials that are no longer required for erosion and sediment control shall be removed.

(e) Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion of the site has temporarily or permanently ceased.

(f) At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the Department a fully executed Form 62-346.900(3), "Construction Commencement Notice," incorporated by reference herein, indicating the expected start and completion dates.

Information on how a copy of this form may be obtained is contained in Rule 62-346.900, F.A.C.

(g) Within 30 days after completion of construction of the whole system, or independent portion of the system, the permittee shall notify the Department that construction has been completed and the system is ready for inspection by submitting one of the following forms to the Department office that issued the permit:

1. For systems other than those that serve an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex, Form 62-346.900(4), "As-Built Certification by a Registered Professional." If the registered professional has certified that the system has been built substantially in

**Exhibit B (cont'd)**

compliance with the plans and specifications in the permit, and that such system is ready for inspection, the permittee shall also submit Form 62-346.900(6), "Request for Conversion of Environmental Resource Individual Permit Construction Phase to Operation and Maintenance Phase." The system shall not be used and operated for its permitted purpose until the Department has approved the request to authorize the operation phase, in accordance with Rule 62-346.095, F.A.C. The "As-Built Certification" shall be for the purpose of determining if the work was completed in substantial compliance with permitted plans and specifications. The certification shall include as-built drawings in the form of the permitted drawings that clearly show any substantial deviations made during construction. The plans must be clearly labeled as "as-built" or "record" drawings.

2. For systems that serve an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex, Form 62-346.900(5), "Construction Completion and Inspection Certification for a System Serving an Individual, Private Single-Family Dwelling Unit."

(h) 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 the facility, or the site infrastructure located within the area served by that portion or phase of the system.

(i) The permittee shall remain liable for compliance with the operation and maintenance of the system in accordance with the terms and conditions of the permit for the life of the system, unless such permit is transferred to an acceptable responsible entity in accordance with Rules 62-346.095 and 62-346.130, F.A.C. Once transfer of the permit has been approved by the Department, the transferee shall be liable for compliance with all the terms and conditions of the operation and maintenance phase of the permit for the life of the system.

(j) Should any other regulatory agency require changes to the permitted system, the permittee shall notify the Department in writing of the changes prior to implementation so that the Department can determine whether a permit modification is appropriate.

(k) This 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 that is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in this permit or Chapter 62-346, F.A.C. Permittees having the right to exercise the power of eminent domain or who had a contract to purchase the property subject to this permit shall not commence any work under this permit until the permittee has provided the Department with proof of transfer of ownership of the property in the name of the permittee. If such transfer of ownership does not occur, the permittee shall surrender this permit, and the permit shall be null and void.

(l) Pursuant to Section 373.422, F.S., prior to conducting any activities on sovereign submerged lands, the permittee must receive all necessary approvals and authorizations under Chapters 253 and 258, F.S. Written authorization that requires formal execution by the Board of Trustees of the Internal Improvement Trust Fund shall not be considered received until it has been fully executed.

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

(n) The permittee shall notify the Department in writing at least 30 days prior to 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. Where ownership of the land subject to the permit was demonstrated through a long-term lease, the lessee must have transferred ownership and control of the permitted

**Exhibit B (cont'd)**

system to the current landowner or new lessee, effective prior to or on the date of expiration of the lease. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 62-346.095 and 62-346.130, F.A.C.

(o) Upon reasonable notice to the permittee, Department staff with proper identification shall have permission to enter, inspect, sample and test the system to ensure conformity with the plans and specifications authorized in the permit.

(p) If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the Department.

(q) The permittee shall immediately notify the Department in writing of any previously submitted information that is later discovered to be inaccurate.

(r) The issuance of this permit does not relieve the permittee from the responsibility to obtain any other required federal, state, and local authorizations.

(s) The permittee is advised that, pursuant to Section 556.105, F.S., excavating contractors are required to provide certain information concerning the excavation that may affect underground facilities through the one-call notification system not less than two, nor more than five, business days before beginning any excavation.

(2) In addition to those general conditions set forth in subsection (1) above, the Department shall impose on any individual permit granted under this chapter such reasonable project-specific special conditions as are necessary to assure that the permitted system will not be harmful to the water resources, as set forth in Rules 62-346.301 and 62-346.302, as applicable, F.A.C., and the Applicant's Handbook Volumes I and II.

*Rulemaking Authority 373.026(7), 373.043, 373.4145, 373.418, 403.805(1) FS. Law Implemented 373.117, 373.409, 373.413, 373.4142, 373.4145, 373.416, 373.418, 373.419, 373.422, 373.423, 373.426, 373.428, 403.0877 FS. History-New 10-1-07, Amended 11-1-10.*



# *Notice of Rights*

*The following information addresses the procedures to be followed if you desire an administrative hearing or other review of the agency action.*

## PETITION FOR FORMAL ADMINISTRATIVE PROCEEDINGS

Any person whose substantial interests are or may be affected by the action described in the enclosed Notice of Agency Action, may petition for an administrative hearing in accordance with the requirements of section 28-106.201, Florida Administrative Code, or may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes, before the deadline for filing a petition. Pursuit of mediation will not adversely affect the right to administrative proceedings in the event mediation does not result in a settlement. Petitions for an administrative hearing must be filed with the Agency Clerk of the Northwest Florida Water Management District, 81 Water Management Drive, Havana, Florida 32333-9700 by the deadline specified in the attached cover letter. Failure to file a petition within this time period shall constitute a waiver of any rights such person may have to request an administrative determination (hearing) under sections 120.569 and 120.57, Florida Statutes, concerning the subject permit application. Petitions which are not filed in accordance with the above provisions are subject to dismissal.

## DISTRICT COURT OF APPEAL

A party who is adversely affected by final agency action on the permit application and who has exhausted available administrative remedies is entitled to judicial review in the District Court of Appeal pursuant to section 120.68, Florida Statutes. Review under section 120.68, Florida Statutes, is initiated by filing a Notice of Appeal in the appropriate District Court of Appeal in accordance with Florida Rule of Appellate Procedure 9.110.

**SECTION 28-106.201, FLORIDA ADMINISTRATIVE CODE,**  
**INITIATION OF PROCEEDINGS**

- (1) Unless otherwise provided by statute, initiation of proceedings shall be made by written petition to the agency responsible for rendering final agency action. The term "petition" includes any document that requests an evidentiary proceeding and asserts the existence of a disputed issue of material fact. Each petition shall be legible and on 8½ by 11 inch white paper. Unless printed, the impression shall be on one side of the paper only and lines shall be double-spaced.
- (2) All petitions filed under these rules shall contain:
  - (a) The name and address of each agency affected and each agency's file or identification number, if known;
  - (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests 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 the petitioner contends warrant reversal or modification of the agency's proposed action;
  - (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
  - (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.
- (3) Upon receipt of a petition involving disputed issues of material fact, the agency shall grant or deny the petition, and if granted shall, unless otherwise provided by law, refer the matter to the Division of Administrative Hearings with a request that an administrative law judge be assigned to conduct the hearing. The request shall be accompanied by a copy of the petition and a copy of the notice of agency action.

Specific Authority 120.54(3), (5), F.S.

Law Implemented 120.54(5), 120.569, 120.57, F.S., 28-106.201, F.A.C.

History – New 4-1-97, Amended 9-17-98, Chapter 28 revised 1-15-2007.



Douglas E. Barr  
*Executive Director*

## Northwest Florida Water Management District

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2252 Killearn Center Blvd., The Delaney Center, Suite 2-D  
Tallahassee, Florida 32309

(850) 921-2986 • (Fax) 921-3082

### NOTICING PUBLICATION INFORMATION

The District's action regarding the issuance or denial of a permit, a petition or qualification for an exemption only becomes closed to future legal challenges from members of the public ("third parties"), if 1) "third parties" have been properly notified of the District's action regarding the permit or exemption, and 2) no "third party" objects to the District's action within a specific period of time following the notification.

Notification of "third parties" is provided through publication of certain information in a newspaper of general circulation in the county where the proposed activities are to occur. Publication of notice informs "third parties" of their right to have a 21-day time limit in which to file a petition opposing the District's action. However, if no notice to "third parties" is published, there is no time limit to a party's right to challenge the District's action. The District has not published a notice to "third parties" that it has taken final action on your application. If you want to ensure that the period of time in which a petition opposing the District's action regarding your application is limited to the time frame state above, you may publish, at your own expense, a notice in a newspaper of general circulation. A copy of the Notice of Agency Action the District uses for publication is attached. You may use this format or create your own, as long as the essential information is included.

If you do decide to publish a Notice of Final Agency Action, please provide the District a copy of the Proof of Publication when you receive it. That will provide us notice that action on this permit application is closed after the 21 days following publication.

GEORGE ROBERTS  
Chair  
Panama City

PHILIP K. McMILLAN  
Vice Chair  
Blountstown

SHARON PINKERTON  
Secretary/Treasurer  
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STEVE GHAZVINI  
Tallahassee

TIM NORRIS  
Santa Rosa Beach

JERRY PATE  
Pensacola

Notice to the Herald Breeze Legal Ads

alisha@defuniakherald.com Contact person: Alisha

Please publish the following legal notice one time only on the earliest available date.

This should be an in-column ad and not a display ad.

Fax proof copy to Joy Giddens at 850-415-9486

Contact me, Joy Giddens, at 850-638-0250 for payment instructions.

I will need a Proof of Publication.

Notice of Final Agency Action Taken by the  
Northwest Florida Water Management District

Notice is given that stormwater permit number 1232 was issued on December 29, 2011, to Florida Department of Transportation for construction of a stormwater management system associated with the construction of four, 12 foot lanes with 10 foot shoulders over 2.6 miles of State Road 83 (US 331) from Nokuse Plantation property line just south of Edgewood Circle, DeFuniak Springs.

The file containing the application for this permit is available for inspection Monday through Friday (except for legal holidays), 8:00 a.m. to 5:00 p.m. at the Northwest Florida Water Management District's ERP Office, 800 Hospital Drive, Crestview, FL 32539.

A person whose substantial interests are affected by the District permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57 F.S., or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, and Rules 28-106.111 and 28-106.401-404, Florida Administrative Code. Petitions must comply with the requirements of Florida Administrative Code, Chapter 28-106 and be filed with (received by) the District Clerk located at District Headquarters, 81 Water Management Drive, Havana, FL 32333-4712. Petitions for administrative hearing on the above application must be filed within twenty-one (21) days of publication of this notice or within twenty-six (26) days of the District depositing notice of this intent in the mail for those persons to whom the District mails actual notice. Failure to file a petition within this time period shall constitute a waiver of any right(s) such person(s) may have to request an administrative determination (hearing) under Sections 120.569 and 129.57, F.S., concerning the subject permit. Petitions which are not filed in accordance with the above provisions are subject to dismissal.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the District's final action may be different from the position taken by it in this notice of intent. Persons whose substantial interests will be affected by any such final decision of the District on the application have the right to petition to become a party to the proceedings, the accordance with the requirements set forth above.