



Brett J. Cyphers
Executive Director

Northwest Florida Water Management District

700 U.S. Highway 331 South, DeFuniak Springs, FL 32435

ERP: (850) 951-4660 • Fax: (850) 892-8007
Wells: (850) 951-4661

September 21, 2021

Erica Brookman
FDOT
1074 Highway 90
Chipley, FL 32428

RE: Notice of Final Agency Action – Determination of Qualification
General Environmental Resource Permit
Project Number: GEN-131-301037-1
Permit Name: I-10 from east of US 331 to east of SR 183 FPID 443639-1

Dear Erica Brookman:

The District has received your notice of intent to use a General Environmental Resource Permit. Based upon the submitted information, the proposed activity qualifies for a General Environmental Resource Permit pursuant to Chapter 62-330, Florida Administrative Code (F.A.C.). The proposed activity is subject to the general conditions in Rule 62-330.405, F.A.C. (see attached Exhibit A) and the specific conditions (see attached Exhibit B) if any. Deviations from these conditions may subject you to enforcement action and possible penalties. You are responsible for conducting construction in a manner that satisfies all criteria.

Please be advised that the District has not published a notice in the newspaper advising the public that this activity has qualified for the use of a General Environmental Resource Permit. Publication, using the District form, notifies the public of their right 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 If you do not publish, a party's right to challenge the issuance of the permit extends for an indefinite period of time. If you wish to have certainty that the period for filing such a challenge is closed, then you may publish, at your own 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 do publish a notice, please submit a copy of the published notice to the District for our records.

This verification of qualification to use a General Environmental Resource Permit does not eliminate the need for obtaining all necessary permits or approvals from other agencies.

GEORGE ROBERTS
Chair
Panama City

JERRY PATE
Vice Chair
Pensacola

JOHN W. ALTER
Malone

GUS ANDREWS
DeFuniak Springs

TED EVERETT
Chiplev

NICK PATRONIS
Panama City

KELLIE RALSTON
Tallahassee

ANNA UPTON
Tallahassee

Should you have any questions regarding your permit or its conditions, please contact your permit reviewer, Dana Palermo, PE, at (850) 951-4660 or by e-mail: Dana.Palermo@nwfwater.com, Erica Roberts, at (850) 951-4660 or by e-mail: Erica.Roberts@nwfwater.com and Ted Reese, CWE, at (850) 951-4660 or by e-mail: Ted.Reese@nwfwater.com

Sincerely,



Terry Wells
Division of Regulatory Services; ERP Bureau Chief

cc:

Consultant:

Tracey A Ybarra
100 Amar Place
Panama City Beach, FL 32413

Nick Grosso
Chipola Engineering
1695 Metropolitan Circle
Tallahassee, FL 32308

David Coleman
Inwood Consulting Engineering
3000 Dovera Drive, Suite 200
Oviedo, FL 32765

Enc:

Notice of Rights
Sample Newspaper Notice

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

PERMIT NO: GEN-131-301037-1 **DATE ISSUED:** September 21, 2021
PROJECT NAME: I-10 from east of US 331 to east of SR 183 FPID 443639-1

A PERMIT AUTHORIZING:

Use of Rule 62-330.447, F.A.C. – General Permit to the Florida Department of Transportation, Counties, and Municipalities for Minor Activities within Existing Rights-of-Way or Easements. The proposed project consists of improvements within the existing rights-of-way of SR 8 (I-10) from just east of the SR 83 (US 331) interchange to just east of the CR 183 overpass (approximately 7.2 miles), in Walton and Holmes County. The project primarily consist of ditch reconstruction as well as the installation of safety measures, such as guardrails, in various locations throughout this segment of I-10. The project does not appear to adversely impact the existing hydrology and the ditch reconstruction appears to improve downstream flow toward offsite features such as wetlands or surface waters. The project includes permanent and temporary impacts to wetlands and surface water conveyance ditches over a total area of approximately 0.4 acres. Impacts to wetlands which exceed the thresholds of the general permit are minimal and exempt from the need to obtain a permit per Section 373.406(6), F.S. The proposed improvements are in accordance with the approved plans prepared by Inwood Consulting Engineers, Inc. for the Florida Department of Transportation.

Walton County

ISSUED TO:

FDOT
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.

The use of a General Environmental Resource permit does not convey to permittee any property rights or 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 may be revoked, modified or transferred at any time pursuant to the appropriate provisions of Chapter 373, Florida Statutes:

Activities conducted under this permit are subject to the following conditions:

See conditions on attached "Exhibit A", dated September 21, 2021

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

By:



Terry Wells
Division of Regulatory Services; ERP Bureau Chief

"EXHIBIT A"
CONDITIONS FOR ISSUANCE OF PERMIT NUMBER GEN-131-301037-1
I-10 from east of US 331 to east of SR 183 FPID 443639-1
DATED September 21, 2021

- 1. The general permit is valid only for the specific activity indicated. Any deviation from the specified activity and the conditions for undertaking that activity shall constitute a violation of the permit and may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.**
- 2. This general permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any construction, alteration, operation, maintenance, removal or abandonment authorized by this permit.**
- 3. This general permit does not convey to the permittee or create in the permittee any property right, or any interest in real property, nor does it authorize any entrance upon or activities on property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the general permit.**
- 4. The general permit does not relieve the permittee from liability and penalties when the permitted activity causes harm or injury to: human health or welfare; animal, plant or aquatic life; or property. It does not allow the permittee to cause pollution that violates state water quality standards.**
- 5. Section 253.77, F.S., provides that a person may not commence any excavation, construction, or other activity involving the use of state-owned or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund without obtaining the required consent, lease, easement, or other form of authorization authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on state-owned lands.**
- 6. The authorization to conduct activities under a general permit may be modified, suspended or revoked in accordance with Chapter 120, F.S., and Section 373.429, F.S.**
- 7. This permit shall not be transferred to a third party except pursuant to Rule 62-330.340, F.A.C. The permittee transferring the general permit shall remain liable for any corrective actions that may be required as a result of any permit violations prior to sale, conveyance, or other transfer of ownership or control of the permitted project, activity, or the real property at which the permitted project or activity is located.**
- 8. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the permitted system to ensure conformity with the plans and specifications approved by the permit.**
- 9. The permittee shall maintain any permitted project or activity in accordance with the plans submitted to the Agency and authorized in this general permit.**
- 10. A permittee's right to conduct a specific activity under this general permit is authorized for a duration of five years.**
- 11. Activities shall be conducted in a manner that does not cause or contribute to violations of state water quality standards. Performance-based erosion and sediment**

control best management practices shall be implemented and maintained immediately prior to, during, and after construction as needed to stabilize all disturbed areas, including other measures specified in the permit to prevent adverse impacts to the water resources and adjacent lands. Erosion and sediment control measures shall be installed and maintained in accordance with the *State of Florida Erosion and Sediment Control Designer and Reviewer Manual (Florida Department of Environmental Protection and Florida Department of Transportation June 2007)*, available at www.dep.state.fl.us/water/wetlands/docs/erp/FLERosionSedimentManual_6_07.pdf, and the *Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008)*, available at www.dep.state.fl.us/water/nonpoint/docs/erosion/erosion-inspectors-manual.pdf.

12. Unless otherwise specified in the general permit, temporary vehicular access within wetlands during construction shall be performed using vehicles generating minimum ground pressure to minimize rutting and other environmental impacts. Within forested wetlands, the permittee shall choose alignments that minimize the destruction of mature wetland trees to the greatest extent practicable. When needed to prevent rutting or soil compaction, access vehicles shall be operated on wooden, composite, metal, or other non-earthen construction mats. In all cases, access in wetlands shall comply with the following:
 - a. Access within forested wetlands shall not include the cutting or clearing of any native wetland tree having a diameter 4 inches or greater at breast height;
 - b. The maximum width of the construction access area shall be limited to 15 feet;
 - c. All mats shall be removed within 72 hours after the work commences; and
 - d. Areas disturbed for access shall be restored to natural grades immediately after the maintenance or repair is completed.
13. Barges or other work vessels used to conduct in-water activities shall be operated in a manner that prevents unauthorized dredging, water quality violations, and damage to submerged aquatic communities.
14. The construction, alteration, or use of the authorized project shall not adversely impede navigation or create a navigational hazard in the water body.
15. Except where specifically authorized in a general permit, activities must not:
 - a. Impound or obstruct existing water flow, cause adverse impacts to existing surface water storage and conveyance capabilities, or otherwise cause adverse water quantity or flooding impacts to receiving water and adjacent lands;
 - b. Cause an adverse impact to the maintenance of surface or ground water levels or surface water flows established pursuant to Section 373.042, F.S., or a Works of the District established pursuant to Section 373.086, F.S.; or
16. If any prehistoric or historic artifacts, such as pottery or ceramics, stone tools or metal implements, dugout canoes, or any other physical remains that could be associated with Native American cultures, or early colonial or American settlement are encountered at any time within the project site area, work involving subsurface disturbance in the immediate vicinity of such discoveries shall cease. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance and Review Section, at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Such subsurface work shall not resume without verbal or written authorization from the Division of Historical Resources. If unmarked human remains are encountered, all work shall stop immediately and notification shall be provided in accordance with Section 872.05, F.S.

- 17. The activity must be capable, based on generally accepted engineering and scientific principles, of being performed and of functioning as proposed, and must comply with any applicable District special basin and geographic area criteria.**
- 18. The permittee shall comply with the following when performing work within waters accessible to federally- or state-listed aquatic species, such as manatees, marine turtles, smalltooth sawfish, and Gulf sturgeon:**
 - a. All vessels associated with the project shall operate at “Idle Speed/No Wake” at all times while in the work area and where the draft of the vessels provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.**
 - b. All deployed siltation or turbidity barriers shall be properly secured, monitored, and maintained to prevent entanglement or entrapment of listed species.**
 - c. All in-water activities, including vessel operation, must be shut down if a listed species comes within 50 feet of the work area. Activities shall not resume until the animal(s) has moved beyond a 50-foot radius of the in-water work, or until 30 minutes elapses since the last sighting within 50 feet. Animals must not be herded away or harassed into leaving. All on-site project personnel are responsible for observing water-related activities for the presence of listed species.**
 - d. Any listed species that is killed or injured by work associated with activities performed shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1(888)404-3922 and ImperiledSpecies@myFWC.com.**
 - e. Whenever there is a spill or frac-out of drilling fluid into waters accessible to the above species during a directional drilling operation, the FWC shall be notified at imperiledspecies@myfwc.com with details of the event within 24 hours following detection of the spill or frac-out.**
- 19. The permittee shall hold and save the Agency harmless from any and all damages, claims, or liabilities which may arise by reason of the construction, alteration, operation, maintenance, removal, abandonment or use of any activity authorized by the general permit.**
- 20. The permittee shall immediately notify the Agency in writing of any submitted information that is discovered to be inaccurate.**



NOTICE OF RIGHTS



Northwest Florida Water Management District
152 Water Management Drive, Havana, FL 32333-4712
(850) 539-5999 Fax (850) 539-2693
www.nfwwater.com

The following information addresses procedures to be followed if you desire an administrative hearing or other review of 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 section 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, and except for agency enforcement and disciplinary actions that shall be initiated under Rule 28-106.2015, F.A.C., 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 8 1/2 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, any e-mail address, any facsimile number, and telephone number of the petitioner, if the petitioner is not represented by an attorney or a qualified representative; 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, 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 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.

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.

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

Notice is given that Environmental Resource permit number GEN-131-301037-1 was issued on September 21, 2021 to Erica Brookman of FDOT for the construction of a new surface water management system designed to serve improvements within the existing rights-of-way of SR 8 (I-10) from just east of the SR 83 (US 331) interchange to just east of the CR 183 overpass (approximately 7.2 miles), in Walton and Holmes County. The proposed improvements primarily consist of ditch reconstruction as well as the installation of safety measures, such as guardrails, in various locations throughout this segment of I-10. The proposed improvements appear to meet the criteria listed under Rule 62-330.447, F.A.C. - General Permit to the Florida Department of Transportation, Counties, and Municipalities for Minor Activities within Existing Rights-of-Way or Easements. The proposed improvements are in accordance with the approved plans prepared by Inwood Consulting Engineers, Inc. for the Florida Department of Transportation. The project is located at I-10 from east of US 331 to east of SR 183, Walton County.

The application file is available online and can be accessed through the District's e-Permitting Portal at: <https://permitting.sjrwmd.com/nwep Permitting/jsp/Search.do?theAction=PermitNumSearch>. If you have any questions or are experiencing difficulty viewing the electronic application, please contact us at (850) 951-4660.

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, Florida Statutes, 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 120.57, 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. 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, in accordance with the requirements set forth above.