



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

January 11, 2019

City of Naples
c/o Christin L. Perkinson, Vice President
Erickson Consulting Engineers, Incorporated
7201 Delainey Court
Sarasota, Florida

Dear Ms. Perkinson:

Exemption Notice

File Number: CO-1063
Property Owner Name: City of Naples
Location of Subject Property: Between approximately 275 feet south of DEP's reference monument R-65 and 20 feet south of DEP's reference monument R-69, in Collier County.
Project Address: Gulf Shore Boulevard, between 250 feet south of 6th Avenue and 2nd Avenue South.

This is in response to your application received by the Department on August 17, 2018 and its enclosures for a proposed stormwater management project at the above location seaward of the coastal construction control line (CCCL). The following information was submitted to the Department with your application: survey, site plan, drawings and installation method.

According to the documents prepared by Erickson Consulting Engineers, the proposed work is to include the installation of two 30-inch diameter pipes seaward of the control line at 3rd Avenue North. The proposed pipe lines will be installed at approximately 6 feet to 40 feet below grade seaward of the control line above mean high water, and will be installed by directionally drilling below the unvegetated beach.

Based upon review of these documents, the Department has determined that the proposed installation of two 30-inch diameter pipes seaward of the control line at 3rd Avenue North as described above is **exempt** from the CCCL permitting requirements pursuant to Section 161.053(11)(b), Florida Statutes, and Section 62B-33.004, Florida Administrative Code.

No other activities are covered under this exemption.

NOTICE OF RIGHTS

This action is final and effective on the date filed with the Clerk of the Department unless a petition for an administrative hearing is timely filed under Sections 120.569 and 120.57, F.S., before the deadline for filing a petition. On the filing of a timely and sufficient petition, this action will not be final and effective until further order of the Department. Because the administrative hearing process is designed to formulate final agency action, the hearing process may result in a modification of the agency action or even denial of the application.

Petition for Administrative Hearing

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, F.S. Pursuant to Rules 28-106.201 and 28-106.301, F.A.C., a petition for an administrative hearing must contain the following information:

- (a) The name and address of each agency affected and each agency's file or identification number, if known;
- (b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests are or will be affected by the agency determination;
- (c) A statement of when and how the petitioner received notice of the agency decision;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A concise statement of the ultimate facts alleged, including the specific facts that the petitioner contends warrant reversal or modification of the agency's proposed action;
- (f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wishes the agency to take with respect to the agency's proposed action.

The petition must be filed (received by the Clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at Agency_Clerk@dep.state.fl.us. Also, a copy of the petition shall be mailed to the applicant at the address indicated above at the time of filing.

Time Period for Filing a Petition

In accordance with Rule 62-110.106(3), F.A.C., petitions for an administrative hearing by the applicant and persons entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under Section 120.60(3), F.S., must be filed within 21 days of publication of the notice or within 21 days of receipt of the written notice, whichever occurs first. The failure to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention (in a proceeding initiated by another

party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

Extension of Time

Under Rule 62-110.106(4), F.A.C., a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, or via electronic correspondence at Agency_Clerk@dep.state.fl.us, before the deadline for filing a petition for an administrative hearing. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

Mediation

Mediation is not available in this proceeding.

Judicial Review

Once this decision becomes final, any party to this action has the right to seek judicial review pursuant to Section 120.68, F.S., by filing a Notice of Appeal pursuant to Florida Rules of Appellate Procedure 9.110 and 9.190 with the Clerk of the Department in the Office of General Counsel (Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000) and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice must be filed within 30 days from the date this action is filed with the Clerk of the Department.

This determination does not relieve you from the responsibility to comply with the permitting requirements of any other local, state, or federal regulatory agency which has jurisdiction over the proposed activity. The exempted work is strictly limited to that described above. If you have any questions, concerns, or need additional information, please contact me by mail at the letterhead address (add Mail Station 3522) or by telephone at 850/245-7671.

Sincerely,



John Glunn, Permit Manager
Coastal Construction Control Line Program
Division of Water Resource Management

cc: Jennifer Cowart, Field Inspector Jennifer.Cowart@dep.state.fl.us
Crista Carrera, Floodplain Manager, City of Naples ccarrera@naplesgov.com
Property owner, gstrakaluse@naplesgov.com
Craig Mole, City of Naples cm@naplesgov.com