



South Florida Water Management District
Individual Environmental Resource Permit No. 36-107435-P
Date Issued: November 10, 2022

Permittee: 1227 Holdings, LLC
12811 Commerce Lakes Dr #28
Fort Myers, FL 33913

Project: Fort Myers Brewing Company

Application No. 210812-7125

Location: Lee County, See Exhibit 1

Your application for an Individual Environmental Resource 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 black ink, appearing to read "Rich Batewell, III".

Rich Batewell, III, P.E.
Section Administrator

**South Florida Water Management District
Individual Environmental Resource Permit No. 36-107435-P**

Date Issued:	November 10, 2022	Expiration Date:	November 10, 2027
Project Name:	Fort Myers Brewing Company		
Permittee:	1227 Holdings, LLC 12811 Commerce Lakes Dr #28 Fort Myers, FL 33913		
Operating Entity:	1227 Holdings, LLC 12811 Commerce Lakes Dr #28 Fort Myers, FL 33913		
Location:	Lee County		
Permit Acres:	20.64 acres		
Project Land Use:	Commercial		
Special Drainage District:	N/A		
Water Body Classification:	CLASS III		
FDEP Water Body ID:	3258C6		
Wetland and Surface Water Impacts:	6.19 acres		
Conservation Easement to District:	No		
Sovereign Submerged Lands:	No		

Project Summary

This Environmental Resource Permit authorizes the Construction and Operation of a stormwater management (SWM) system serving 11.30 acres of a commercial development known as Fort Myers Brewing Company.

This permit authorizes the construction of buildings with supporting parking, a lake, and dry pretreatment areas. The proposed SWM system will discharge into the onsite wetland/preserve. The eastern 2.26-acre onsite area will remain undeveloped. Site plans and details are attached as Exhibit No. 2.0.

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 site is located at the northeast corner of Daniels Parkway Extension and Commerce Lakes Drive in Fort Myers, Lee County, Florida. Refer to Exhibit No. 1.0 for a location map.

There are no existing permitted facilities within the property boundary. The site is vacant land.

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

Background Information

Permit No. 36-101234-P (Application No. 190319-1262): In April of 2019, an Informal Wetland Determination was issued on the property.

Ownership, Operation, and Maintenance

Perpetual operation and maintenance of the stormwater management system and on-site preserve area will be the responsibility of 1227 Holdings, LLC. Upon conveyance or division of ownership or control of the property or the system, the permittee must notify the Agency in writing within 30 days, and the new owner must request transfer of the permit.

Engineering Evaluation:

Land Use

The land use breakdown for the project area is shown in the Engineering Evaluation Land Use Table below.

Refer to the Land Use Summary table on Exhibit No. 2.0 - page 3 for land use breakdown per sub-basin.

Water Quality

The project is located within a watershed identified by the Florida Department of Environmental Protection (WBID 3258C6) as impaired for Dissolved Oxygen; therefore, the design includes a site-specific pollutant loading analysis and an additional 50% water quality treatment volume above the amounts required pursuant to Section 4.2.1, Volume II, as reasonable assurances that the projects discharge will not cause or contribute to violations of State water quality standards. The project provides 2.21 ac-ft of water quality treatment and pretreatment. This volume includes compensating water quality treatment volume for 0.71 acres of offsite impervious for the turn lane improvements along Commerce Lakes Drive and any future offsite improvements within Daniels Parkway.

The project includes implementation of a Turbidity and Erosion Control Plan, (Exhibit No. 2.0), as additional reasonable assurance of compliance with water quality criteria during construction and operation.

Discharge

As found in the Water Quantity Data Table on page 6 and Exhibit No. 2.0 - page 3 the project discharge is within the allowable limit for the area, 0.06 cfs/acre.

Stormwater runoff from the commercial development will be directed to proposed dry detention areas for dry-pretreatment, prior to discharge into the proposed lake via two proposed control structures, CS-2 and CS-3. The lake will discharge offsite via control structure CS-1. Refer to Exhibit No. 2.0 - page 7 for details of the three proposed control structures.

Parking Lot Design

As found in the Water Quantity Data Table on page 6 and Exhibit No. 2.0 - page 3, the minimum parking lot elevations have been set at or above the calculated design storm flood elevation.

Perimeter Berm

As found in the Water Quantity Data Table on page 6 and Exhibit No. 2.0 - page 3, the minimum perimeter berm elevation has been set at the second design storm flood elevation.

Finished Floor

As found in the Water Quantity Data Table on page 6 and Exhibit No. 2.0 - page 3, the minimum finished floor elevations have been set at or above the calculated design storm flood elevation.

Flood Plain/Compensating Storage

According to Flood Insurance Map No.12071C0475F, the site lies in Flood Zone "X" which does

not have an associated Base Flood Elevation and floodplain compensation is not required.

Certification, Operation, and Maintenance

Pursuant to Chapter 62-330.310, F.A.C., Individual Permits will not be converted from the construction phase to the operation phase until construction completion certification of the project is submitted to and accepted by the District. This includes compliance with all permit conditions, except for any long term maintenance and monitoring requirements. It is suggested that the permittee retain the services of an appropriate professional registered in the State of Florida for periodic observation of construction of the project.

For projects permitted with an operating entity that is different from the permittee, it should be noted that until the construction completion certification is accepted by the District and the permit is transferred to an acceptable operating entity pursuant to Sections 12.1 - 12.3, ERP AH Vol. I and Section 62-330.310, F.A.C., the permittee is liable for operation and maintenance in compliance with the terms and conditions of this permit.

In accordance with Section 373.416(2), F.S., unless revoked or abandoned, all SWM systems and works permitted under Part IV of Chapter 373, F.S., must be operated and maintained in perpetuity.

The efficiency of SWM systems, dams, impoundments, and most other project components will decrease over time without periodic maintenance. The operation and maintenance entity must perform periodic inspections to identify if there are any deficiencies in structural integrity, degradation due to insufficient maintenance, or improper operation of projects that may endanger public health, safety, or welfare, or the water resources. If deficiencies are found, the operation and maintenance entity is responsible for correcting the deficiencies in a timely manner to prevent compromises to flood protection and water quality. See Section 12.4, ERP AH Vol. I for Minimum Operation and Maintenance Standards.

Notable project components requiring routine inspection and maintenance may include but are not limited to:

- Side slopes for stormwater lakes and ponds – maintain side slopes no steeper than 4:1 (horizontal:vertical) to a depth of 2.0 feet below the control elevation and nurtured or planted from 2.0 feet below to 1.0 feet above the control elevation pursuant to Section 5.4.2, ERP AH Vol. II.
- Conveyance pipes, conveyance structures and discharge structures – all pipes and structures must be inspected for structural integrity and be maintained clear of trash, sediment and vegetative debris.
- Exfiltration trenches – all pipes and structures must be inspected for structural integrity and be maintained clear of trash, sediment and vegetative debris.
- Swales – maintain the permitted cross-section and vegetative cover.
- Underground storage facilities – all facilities must be inspected for structural integrity and be maintained clear of trash, sediment and vegetative debris.
- Pumps – float switches should be inspected and any obstructions removed to ensure proper operation; intake and discharge pipes should be maintained clear of trash, sediment and vegetative debris; motors should be maintained to ensure proper operation.

Engineering Evaluation Tables:**Land Use**

Basin	Land Type	Area (ac)	% of Total Basin
Overall Basin	Building Coverage	1.00	8.85
	Dry Detention Areas	0.46	4.07
	Impervious	4.98	44.07
	Lake	1.15	10.18
	Pervious	3.71	32.83
	Total:	11.30	100%
Offsite Areas	Wetland/Preserve	8.02	85.87
	Open	1.32	14.13
	Total:	9.34	100%
Total Site	Total	20.64	100.00
	Total:	20.64	100%

Water Quality

Basin	Treatment Type	Treatment System	Volume Required (ac-ft)	Volume Provided (ac-ft)
Overall Basin	Treatment	DRY AND WET DETENTION	1.83	1.83
	Pre-Treatment	DRY DETENTION	0.38	0.38

Water Quantity

Basin	Elevation Type	Storm Event (Yr/Day)	Precipitation Depth (in)	Peak Stage (ft NAVD88)	Min. EL (ft NAVD88)	Peak Discharge Rate (cfs)	Allowable Discharge Rate (cfs)
Overall Basin	Finished Floor	100Y3D	14.00	27.26	27.30	N/A	N/A
	Perimeter Berm/ Discharge	25YR3D	11.00	26.94	27.00	0.39	0.66
	Parking Lot	10YR1D	6.60	26.21	26.30	N/A	N/A

Environmental Evaluation:**Wetlands and Other Surface Waters**

The project site contains wetlands (13.03 acres) and other surface waters (0.23 acres) totaling 13.26 acres. Please see Exhibit No. 3.0 for wetland and other surface waters (OSW) locations. The wetlands can generally be described as hydric pine, cypress and wet prairie, with varying degrees of exotic invasion. Additional wetland descriptions are available in the ePermitting file. The project will result in 6.01 acres of direct wetland impacts, 0.38 acres of secondary wetland impacts and 0.18 acres of OSW impacts, as described in the table below. Exhibit No. 3.1 identifies the locations of the wetlands and OSW being impacted.

Elimination and reduction criteria in Section 10.2.1 of Applicant's Handbook Volume I (Volume I) was met by concentrating the wetland impacts to the western portion of the site and to wetland areas that are of lower value than the wetlands that are proposed for preservation in the eastern section of the property. The total acreage of the site is 22.16 acres, of which 9.13 acres (41%) are being preserved. Furthermore, there is an adjacent, off-site conservation area to the north that will have connectivity to the on-site preserve. See Exhibit No. 3.2 for the location of the off-site conservation area in relation to the project.

Secondary impacts include a 25 foot wide (0.38-acre) area along the interface of the development and preserve area where an upland buffer could not be provided. The toe of the slope will be planted with a double, staggered row of sand cordgrass three feet on center.

To mitigate for the wetland and other surface water impacts, the applicant will purchase 1.62 freshwater forested and 1.75 freshwater herbaceous mitigation bank credits from Panther Island Mitigation Bank, as depicted in Exhibit No. 3.3. The amount of required mitigation was determined using the Uniform Mitigation Assessment Method in Chapter 62-345, F.A.C. The final scores can be found in the ePermitting file. The remaining 7.02 acres of wetlands, 2.06 acres of uplands and 0.05 acres of OSW, totaling 9.13 acres, will be preserved in the eastern portion of the site. However, since the area was not used for mitigation, it will not be placed under a conservation easement and will not have maintenance or monitoring requirements for the District. The 9.13-acre on-site preserve will receive hydrologic connectivity to the project via a control structure from the lake to the west of the preserve.

The proposed mitigation in Panther Island Mitigation Bank is located in the West Collier Basin, while the project is located in the Estero Bay Basin. Therefore, a cumulative impact analysis was submitted and the details can be found below.

Cumulative Impact Analysis

Since the mitigation is not located within the same basin as the wetland impacts, a cumulative impact analysis was conducted for the freshwater forested and herbaceous wetlands within the Estero Bay Basin (Basin) pursuant to Rule 10.2.8 of Volume I. This analysis can be found in the ePermitting file.

The project is located within the Estero Bay cumulative impact basin. The wetland mitigation for the project (Panther Island Mitigation Bank (PIMB) credits) is derived from regionally significant wetland enhancement and restoration activities that have occurred within the PIMB, which is located within the West Collier Basin. There is substantial similarity between the wetlands within the Estero Bay Basin and within the PIMB. There is substantial functional spill over between the Estero Basin and the PIMB.

The wetlands on the Fort Myers Brew Campus, the Estero Bay Basin, and the PIMB share numerous physical and biological characteristics.

Situated near the basin line between the Estero Bay and West Collier Basins and clearly within the Estero Bay Watershed, wetland functional gain created by the regionally significant wetland enhancement and restoration activities within the PIMB accrue to the Estero Bay Basin as well as

Based on the analysis provided and available information, the District has determined that the project will not result in unacceptable cumulative impacts to the Estero Bay Basin. This conclusion is project specific and does not apply to any other application.

Fish, Wildlife, and Listed Species

The wetlands and surface waters to be impacted have the potential to provide habitat for wetland-dependent species including various wading birds, Big Cypress fox squirrel and Florida bonneted bat. A Listed Species Survey was conducted in July of 2020. No wetland-dependent endangered or threatened species or species of special concern were observed onsite. The proposed off-site mitigation and on-site wetland preservation area will provide or improve habitat for wetland-dependent and aquatic species. No aquatic or wetland-dependent listed species or species having special protection were observed to be using the uplands within the project for nesting or denning.

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.

Environmental Evaluation Tables:**Summary**

Wetlands and Other Surface Waters: 6.62 acres
 Direct Impacts: 6.19 acres
 Secondary impacts: 0.38 acres
 Net UMAM Functional Loss/ Gain: 0 units
 Total Onsite Mitigation Area: 0 acres
 Total Offsite Mitigation Area: 0 acres

Total Mitigation Bank Credits Provided

Mitigation Bank	Type	Total Credits
Panther Island Expansion	FF	1.62
Panther Island Expansion	FH	1.75
Total:		3.37

Wetland and Other Surface Waters Impacts**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	0.18	Direct Impact	Ditches and Canals	0	0	0.000
2	0.05	Preservation	Ditches and Canals	1	1	0.000
Total:	0.23					0.000

Activities in Wetlands or Other Surface Waters, With Mitigation at a Bank

ID	Acres	Community Description	Bank Name	Method	Current Score	With Score	Ratio or Add'l factor	Minimum Credits Needed
1	0.27	Hydric Pine Flatwoods	Panther Island Expansion	UMAM	0.43	0	1	0.12
2	0.08	Cypress	Panther Island Expansion	UMAM	0.4	0	1	0.03
3	2.76	Hydric Pine Flatwoods	Panther Island Expansion	UMAM	0.533	0	1	1.47
4	2.9	Wet Prairies	Panther Island Expansion	UMAM	0.533	0	1	1.55
5	0.38	Wet Prairies	Panther Island Expansion	UMAM	0.533	0	1	0.2
Total:	6.39							

Related Concerns:

Water Use Permit Status

The applicant has indicated that surface water lakes and groundwater well will be used as sources for irrigation water for the project. Water Use Application No. 220811-3 is being processed concurrently with this permit.

The applicant has indicated that dewatering is required for construction of this project. Water Use Application No. 220811-5 is being reviewed concurrently for this 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

Historical/ Archeological Resources

The District has received correspondence from the Florida Department of State, Division of Historical Resources, dated April 18, 2022, indicating that no significant archaeological or historical resources are recorded on the project site; therefore, the project is unlikely to have an effect upon any such 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 Individual Environmental Resource Permits, 62-330.350, F.A.C.

1. All activities shall be implemented following the plans, specifications and performance criteria approved by this permit. Any deviations must be authorized in a permit modification in accordance with rule 62-330.315, F.A.C. Any deviations that are not so authorized may subject the permittee to enforcement action and revocation of the permit under Chapter 373, F.S.
2. A complete copy of this permit shall be kept at the work site of the permitted activity during the construction phase, and shall be available for review at the work site upon request by the Agency staff. The permittee shall require the contractor to review the complete permit prior to beginning construction.
3. 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 installed immediately prior to, and be maintained during and after construction as needed, to prevent adverse impacts to the water resources and adjacent lands. Such practices shall be 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), and the Florida Stormwater Erosion and Sedimentation Control Inspector's Manual (Florida Department of Environmental Protection, Nonpoint Source Management Section, Tallahassee, Florida, July 2008), which are both incorporated by reference in subparagraph 62-330.050(9)(b)5., F.A.C., unless a project-specific erosion and sediment control plan is approved or other water quality control measures are required as part of the permit.
4. At least 48 hours prior to beginning the authorized activities, the permittee shall submit to the Agency a fully executed Form 62-330.350(1), "Construction Commencement Notice," (October 1, 2013), (<http://www.flrules.org/Gateway/reference.asp?No=Ref-02505>), incorporated by reference herein, indicating the expected start and completion dates. A copy of this form may be obtained from the Agency, as described in subsection 62-330.010(5), F.A.C., and shall be submitted electronically or by mail to the Agency. However, for activities involving more than one acre of construction that also require a NPDES stormwater construction general permit, submittal of the Notice of Intent to Use Generic Permit for Stormwater Discharge from Large and Small Construction Activities, DEP Form 62-621.300(4)(b), shall also serve as notice of commencement of construction under this chapter and, in such a case, submittal of Form 62-330.350(1) is not required.
5. Unless the permit is transferred under rule 62-330.340, F.A.C., or transferred to an operating entity under rule 62-330.310, F.A.C., the permittee is liable to comply with the plans, terms, and conditions of the permit for the life of the project or activity.
6. Within 30 days after completing construction of the entire project, or any independent portion of the project, the permittee shall provide the following to the Agency, as applicable:
 - a. For an individual, private single-family residential dwelling unit, duplex, triplex, or quadruplex- "Construction Completion and Inspection Certification for Activities Associated With a Private Single-Family Dwelling Unit"[Form 62-330.310(3)]; or
 - b. For all other activities- "As-Built Certification and Request for Conversion to Operational Phase" [Form 62-330.310(1)].
 - c. If available, an Agency website that fulfills this certification requirement may be used in lieu of the form.
7. If the final operation and maintenance entity is a third party:
 - a. Prior to sales of any lot or unit served by the activity and within one year of permit issuance, or within 30 days of as-built certification, whichever comes first, the permittee shall submit, as applicable, a copy of the operation and maintenance documents (see sections 12.3 thru 12.3.4 of Volume I) as filed with the Florida Department of State, Division of Corporations, and a copy of any easement, plat, or deed restriction needed to operate or maintain the project, as recorded with the Clerk of the Court in the County in which the activity is located.
 - b. Within 30 days of submittal of the as-built certification, the permittee shall submit "Request for Transfer of Environmental Resource Permit to the Perpetual Operation and Maintenance Entity"

[Form 62-330.310(2)] to transfer the permit to the operation and maintenance entity, along with the documentation requested in the form. If available, an Agency website that fulfills this transfer requirement may be used in lieu of the form.

8. The permittee shall notify the Agency in writing of changes required by any other regulatory agency that require changes to the permitted activity, and any required modification of this permit must be obtained prior to implementing the changes.
9. 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.
10. Prior to conducting any activities on state-owned submerged lands or other lands of the state, title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, 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.
11. The permittee shall hold and save the Agency 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 project authorized by the permit.
12. 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, other than conveyance via a long-term lease, and the new owner shall request transfer of the permit in accordance with Rule 62-330.340, F.A.C. This does not apply to the sale of lots or units in residential or commercial subdivisions or condominiums where the stormwater management system has been completed and converted to the operation phase.
13. Upon reasonable notice to the permittee, Agency staff with proper identification shall have permission to enter, inspect, sample and test the project or activities to ensure conformity with the plans and specifications authorized in the permit.
14. If prehistoric or historic artifacts, such as pottery or ceramics, projectile points, stone tools, dugout canoes, metal implements, historic building materials, or any other physical remains that could be associated with Native American, early European, or American settlement are encountered at any time within the project site area, the permitted project shall cease all activities involving subsurface disturbance in the vicinity of the discovery. The permittee or other designee shall contact the Florida Department of State, Division of Historical Resources, Compliance Review Section (DHR), at (850)245-6333, as well as the appropriate permitting agency office. Project activities 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 the proper authorities notified in accordance with section 872.05, F.S. For project activities subject to prior consultation with the DHR and as an alternative to the above requirements, the permittee may follow procedures for unanticipated discoveries as set forth within a cultural resources assessment survey determined complete and sufficient by DHR and included as a specific permit condition herein.
15. 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.

16. The permittee shall provide routine maintenance of all components of the stormwater management system to remove trapped sediments and debris. Removed materials shall be disposed of in a landfill or other uplands in a manner that does not require a permit under Chapter 62-330, F.A.C., or cause violations of state water quality standards.
17. This permit is issued based on the applicant's submitted information that reasonably demonstrates that adverse water resource-related impacts will not be caused by the completed permit activity. If any adverse impacts result, the Agency will require the permittee to eliminate the cause, obtain any necessary permit modification, and take any necessary corrective actions to resolve the adverse impacts.
18. A Recorded Notice of Environmental Resource Permit may be recorded in the county public records in accordance with Rule 62-330.090(7), F.A.C. Such notice is not an encumbrance upon the property.

Special Conditions for Individual Environmental Resource Permits, 62-330.350, F.A.C.

1. The construction authorization for this permit shall expire on the date shown on page 2.
2. Operation and maintenance of the stormwater management system shall be the responsibility of 1227 Holdings, LLC. The permittee shall notify the Agency in writing within 30 days of any conveyance or division of ownership or control of the property of the system, and the new owner must request transfer of the permit in accordance with Rule 62-330.340, F.A.C.
3. Lake side slopes shall be no steeper than 4:1 (horizontal:vertical) to a depth of two feet below the control elevation. Side slopes shall be nurtured or planted from 2 feet below to 1 foot above control elevation to insure vegetative growth.
4. A stable, permanent and accessible elevation reference shall be established on or within one hundred (100) feet of all permitted discharge structures no later than the submission of the certification report. The location of the elevation reference must be noted on or with the certification report.
5. 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.
6. Prior to initiating construction activities associated with this Environmental Resource Permit (ERP), the permittee is required to hold a pre-construction meeting with field representatives, consultants, contractors, District Environmental Resource Bureau (ERB) staff, and any other local government entities as necessary. The purpose of the pre-construction meeting is to discuss construction methods, sequencing, best management practices, identify work areas, staking and roping of preserves where applicable, and to facilitate coordination and assistance amongst relevant parties. To schedule a pre-construction meeting, please contact ERB staff from the Fort Myers Service Center at (239) 338-2929 or via e-mail at: precon@sfwmd.gov. When sending a request for a pre-construction meeting, please include the application number, permit number, and contact name and phone number.
7. 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.

A pre-construction survey for the Florida bonneted bat shall be conducted, and the results provided to District Environmental Resource Compliance staff.

8. Prior to the commencement of construction activities on the site, the permittee must complete the Minor Modification of Permit No. 36-00678-S / Application No. 220914-35952 related to the offsite paving improvements along the Commerce Lakes Drive Right-of-Way to provide access to the Fort Myers Brewing Company project authorized under Application No. 210812-7125.

9. Permanent physical markers designating the preserve status of the wetland preservation areas shall be placed at the intersection of the preserve and development interface. These markers shall be maintained in perpetuity.
10. 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.
11. Prior to the commencement of construction, the perimeter of protected wetland areas shall be staked/roped/fenced to prevent encroachment into the protected areas. Using Exhibit No. 2.0, the perimeter of the preserve area(s) shall be identified for future reference. The permittee shall notify the District's Environmental Resource Compliance staff in writing upon completion of staking/roping/fencing and schedule an inspection of this work. The staking/roping/fencing shall be subject to District staff approval. The permittee shall modify the staking/roping/fencing if District staff determines that it is insufficient or is not in conformance with the intent of this permit. Staking/roping/fencing shall remain in place until all adjacent construction activities are complete.
12. Prior to commencement of construction, and in accordance with the work schedule herein, the permittee shall submit documentation from Panther Island Mitigation Bank that 1.62 freshwater forested credits and 1.75 freshwater herbaceous credits for this project have been paid for in full and deducted from the Mitigation Bank 's ledger. See Exhibit No. 3.3 for the Letter of Reservation.
13. A structural buffer consisting of native plants shall be installed along the backslope of the berm adjacent to on-site preservation areas, in accordance with this permit and the attached Exhibit 2.0.

Project Work Schedule for Permit No. 36-107435-P

The following activities are requirements of this Permit and shall be completed in accordance with the Project Work Schedule below. Please refer to General Conditions, Special Conditions and/or Specific Conditions for more information. Any deviation from these time frames will require prior approval from the District's Environmental Resources Bureau and may require a minor modification to this permit. Such requests must be made in writing and shall include: (1) reason for the change, (2) proposed start/finish and/or completion dates, and (3) progress report on the status of the project.

Condition No.	Date Added	Description (Application Number)	Due Date	Date Satisfied
GC 4	11/10/2022	Construction Commencement Notice	Prior to Construction	
GC 6	11/10/2022	Submit Certification	30 Days After Construction Completion	
GC 7	11/10/2022	Submit Operation Transfer Request	Within 30 days of Certification	
SC 6	11/10/2022	Pre-Construction Meeting	Prior to Construction	
SC 12	11/10/2022	Submit Mitigation Bank Ledger Documentation -2	12/10/2022	

GC = General Condition

SC = Special Condition

Distribution List

Jeremy Arnold, Waldrop Engineering

Craig Smith, W Dexter Bender & Assoc

Audubon of Florida

Div of Recreation and Park - District 4

US Army Corps of Engineers - Permit Section

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 210812-7125 .

[Exhibit No. 1.0 Location Map](#)

[Exhibit No. 2.0 Plans](#)

[Exhibit No. 3.0 FLUCFCS Map](#)

[Exhibit No. 3.1 Wetland & OSW Impact Map](#)

[Exhibit No. 3.2 Off-Site Preserve Map](#)

[Exhibit No. 3.3 Letter of Reservation](#)

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

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.