

INSTR # 2319515
OR BK 02563 PG 2613
Pgs 2613 - 2650 (38pgs)
RECORDED 03/05/2012 01:18:41 PM
MARSHA EWING
CLERK OF MARTIN COUNTY FLORIDA
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This instrument prepared by:
Martin County Engineering/Survey Division
2401 SE Monterey Road
Stuart, FL 34996

Project Name: Kitching Creek Central Flow Way Project
PCN: 32-39-42-000-000-00300-0
32-39-42-000-000-00301-0
32-39-42-000-000-00302-0

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR RECORDING DATA

PERPETUAL FLOW-THROUGH DRAINAGE EASEMENT

THIS Perpetual Flowage and Inundation Easement ("Easement") is made this 28th day of NOVEMBER, 2011, by HEISSENBERG FAMILY FINANCIAL INVESTMENTS, LLC, a Florida Limited Liability Company, whose mailing address is 725 NE Bayberry Lane, Jensen Beach, Florida 34957, hereinafter referred to as the "Grantor", in favor of the MARTIN COUNTY, a political subdivision of the State of Florida, with its principal office at 2401 SE Monterey Road, Stuart, Florida 34996, its successors and assigns, hereinafter referred to as the "Grantee".

This easement is the "FLOW-THROUGH DRAINAGE EASEMENT" described in and required by Special Condition 6 of Exhibit F, of the PARADISE LAKE PLANNED UNIT DEVELOPMENT ZONING AGREEMENT dated _____, 2010, Heissenberg Family Financial Investments, LLC, as Owner, and Martin County.

In consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Grantor hereby grants, bargains and conveys to the Grantee the perpetual right, power, privilege, and easement to regularly or at any time and for any length of time to raise water levels on, overflow, flood, inundate, flow water on, across, through and beneath the surface of, and submerge the land described in Exhibit "A" attached hereto and made a part hereof (hereinafter the "Easement Parcel"), in connection with the construction, operation, maintenance and implementation of the Kitching Creek Central Flow Way Project (hereinafter the "Project") as authorized by South Florida Water Management District Permit Number 43-02300-P dated October 20, 2010, (Exhibit "B"), together with the continuing right, in Grantee's discretion, to clear and remove any brush, debris, silt, spoil, vegetation and natural obstructions.

Grantor shall neither construct nor maintain any structure or improvements, including but not limited to septic systems, on the Easement Parcel nor regrade, excavate or place fill on the Easement Parcel except as otherwise provided herein or except as may be approved in advance in writing by Grantee (hereinafter collectively referred to as the "Approved Improvements"). In addition, there shall be neither fertilization nor application of chemicals (including but not limited to pesticides, herbicides, and agrichemicals) with respect to the Easement Parcel without the prior written consent of GRANTEE, which consent may be withheld by Grantee in its sole and absolute discretion.

Notwithstanding anything contrary in this Easement, Grantor shall be subject to and benefit from the provisions of the Paradise Lake Planned unit Development Zoning Agreement, and in particular Special Condition 6 of Exhibit F thereof, as such provisions relate to this Easement.

Grantor shall comply with applicable laws, ordinances, rules, regulations and governmental permitting requirements and approvals in the Grantor's continued use of the Easement Parcel. Any and all of

Accepted Pursuant to Resolution
file 12-2.2
on 2-7-12

Grantor's personal property, inventory, crops, equipment, improvements, structures and fixtures located on the Easement Parcel, including but not limited to Approved Improvements, if any, shall be at the sole risk of Grantor and neither Grantee nor Grantee's agents, employees, staff, or the Board of County Commissioners or its individual members shall be liable under any circumstances for any damage thereto or theft thereof. Grantor bears all risk of loss with respect to any Approved Improvements, including without limitation any loss resulting directly, indirectly or proximately from the Project or from the right, power, privilege and easements granted and conveyed to Grantee pursuant to this Easement or from the activities conducted pursuant to this Easement, and under no circumstances shall Grantee nor Grantee's agents, employees, staff, or the Board of County Commissioners or its individual members be liable therefore. For good and valuable consideration, the adequacy and receipt of which are hereby acknowledged, Grantor shall indemnify, defend, hold harmless and release Grantee, agents, employees, staff, or the Board of County Commissioners or its individual members, from and against any and all loss, cost, damage and/or liability, with respect to any Approved Improvements, including without limitation that resulting directly, indirectly or proximately from the Project or from the right, power, privilege and easements granted and conveyed pursuant this Easement or from the activities conducted pursuant to this Easement.

It shall be Grantor's obligation to secure any permits required by Grantee or any other governmental or quasi-governmental entity. The Grantee makes no representation that any such permits will be issued.

This Easement is subject to existing easements for public roads and highways, public utilities, railroads and pipelines; reserving, however, to the Grantor, its heirs, successors, and assigns, all such rights and privileges as may be used and enjoyed without interfering with the Project or abridging the rights and the Easement hereby acquired; provided further that Grantor shall use the Easement Parcel in accordance with Federal and State laws with respect to pollution.

This Easement may be assigned in whole or in part by the Grantee for use in connection with any of the purposes above mentioned. All the covenants, terms, and agreements herein contained shall run with the land and shall inure to the benefit of and be binding upon the parties hereto and their respective executors, administrators, personal representatives, heirs, successors, assigns, and grantees of their respective interests in the Easement Parcel.

Grantor shall keep the payment of taxes and assessments on the Easement Parcel current and shall not allow any lien on the Easement Parcel superior to this Easement. In the event Grantor fails to extinguish or obtain a subordination of such lien, in addition to any other remedy, the Grantee may, but shall not be obligated to, elect to pay the lien on behalf of the Grantor and Grantor shall reimburse Grantee for the amount paid by Grantee, together with Grantee's reasonable attorney's fees and costs, with interest at the maximum rate allowed by law, no later than thirty days after such payment. In the event Grantor does not so reimburse the Grantee, the debt owed to Grantee shall constitute a lien against the Easement Parcel which shall automatically relate back to the recording date of this Easement. Grantee may foreclose this lien on the Easement Parcel in the manner provided for mortgages on real property.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise incident or appertaining, unto the Grantee, its successors and assigns, forever.

AND the Grantor hereby covenants with the said Grantee that it is lawfully seized of the Easement Parcel in fee simple; that it has good right and lawful authority to convey this Easement; that it fully warrants and defends the title to the Easement hereby conveyed against the lawful claims of all person whomsoever.

IN WITNESS WHEREOF, this Easement has been executed by the Grantor whose hand and seal is affixed hereto, the date first above written.

GRANTOR

Witnesses

HEISSENBERG FAMILY FINANCIAL INVESTMENTS, LLC

Heather Vizzo - Heather
Name VIZZO

By:

Michael P. Heissenberg, Manager

Name

PETER J BLAIS

STATE OF FLORIDA
COUNTY OF St. Lucie

The foregoing instrument was acknowledged before me this 18 day of Nov, 2011 by Michael P. Heissenberg, Manager of HEISSENBERG FAMILY FINANCIAL INVESTMENTS, LLC, who is personally known to me or who have produced Michael P Heissenberg as identification.

Betty Jean Leonard
Notary Public

Betty-Jean Leonard
Print

My Commission Expires: 4/8/13

NOTARY PUBLIC-STATE OF FLORIDA
Betty-Jean Leonard
Commission # DD873799
Expires: APR. 08, 2013
BONDED THRU ATLANTIC BONDING CO., INC.

MORTGAGEE'S CONSENT

WHEREAS, Florida Federal Land Bank Association, FLCA (hereinafter referred to as "Mortgagee"), hereby certifies that it is the holder of that certain mortgage, lien or encumbrance as recorded July 21, 2006 in Official Records Book 2164, Page 1626 public records of Martin County, State of Florida, (hereinafter the Mortgage) mortgaged unto HEISSENBERG FAMILY FINANCIAL INVESTMENTS, LLC, a Florida limited liability company (hereinafter referred to as "Mortgagor"), the property described therein, to secure the payment of the sum of Three Million and No/100 (\$3,700,000.00) Dollars, with interest as therein mentioned:

AND WHEREAS, the said Mortgagor has requested the said Mortgagee to subordinate its mortgage, lien or encumbrance to a FLOW-THROUGH easement to the premises hereinafter described, being part of said mortgaged premises.

NOW THEREFORE: KNOW YE, That the said Mortgagee, inconsideration of the premises as of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, to it paid by the said Mortgagor at the time of the execution hereof, the receipt whereof is hereby acknowledged, does consent to that FLOW-THROUGH easement and does subordinate its mortgage, lien or encumbrance to such easement as described in Exhibit "A" attached hereto and made a part hereof.

IN WITNESS WHEREOF, the said Mortgagee has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, this 18 day of November, 2011

Florida Federal Land Bank Association, FLCA, f/k/a
South Florida Federal Land Bank Association, FLCA,

By: Bryan L. Byrd
Name: Bryan L. Byrd
Title: Assistant Vice President

STATE OF FLORIDA
COUNTY OF Dkeechobee

The foregoing instrument was acknowledged before me this 18th day of November, 2011 by Bryan L. Byrd, as Assistant Vice President of Florida Federal Land Bank Association, FLCA, f/k/a South Florida Federal Land Bank Association, FLCA, on behalf of the Association. He/She is personally known to me or has produced _____ as identification.



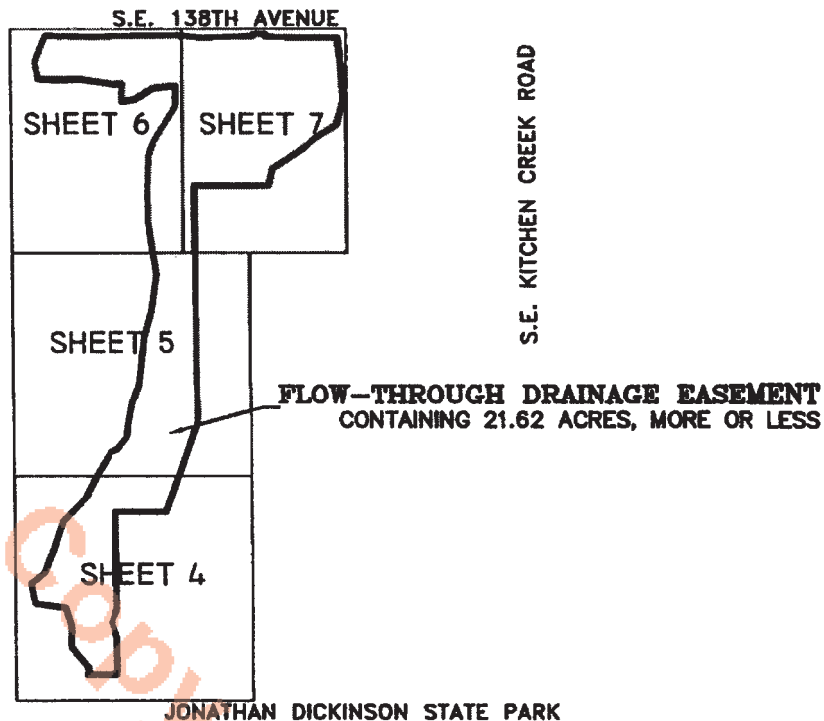
(SEAL)

Becky J. Stratton
Notary Public

Print
My Commission Expires: _____

EXHIBIT "A"

HEISSENBERG FLOW-THROUGH EASEMENT KITCHING CREEK CENTRAL FLOW WAY PROJECT



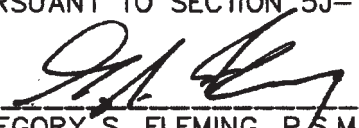
SURVEYOR'S NOTES

1. HORIZONTAL POSITIONS & COORDINATES SHOWN HEREON ARE IN U.S. SURVEY FEET AND ARE BASED ON THE FLORIDA STATE PLANE COORDINATE GRID, EAST ZONE, USING THE NORTH AMERICAN DATUM OF 1983 WITH THE 1999 ADJUSTMENT (NAD 83-99). BEARING BASIS IS THE SOUTH LINE OF SECTION 32 HAVING A BEARING OF SOUTH 89°58'59" WEST.
2. JURISDICTIONAL WETLAND LINES SHOWN HEREON ARE BASED ON A FIELD SURVEY BY NORTHSTAR GEOMATICS OF A JURISDICTIONAL WETLAND LINE AS FLAGGED BY TETRA TEC EC., DATED FEBRUARY 11, 2010.

THIS IS NOT A BOUNDARY SURVEY

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THIS SKETCH AND LEGAL DESCRIPTION COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 5J-17.050 - 17.052.


GREGORY S. FLEMING, P.S.M.
FLORIDA REGISTRATION NO. 4350

JUNE 10, 2011

DATE

SUPERSEDES AUGUST 16, 2010 SUBMITTAL



50 KINDRED STREET, SUITE 103
PO BOX 2571, STUART, FLORIDA 34995
(772)781-6400 (772)781-6462 FAX
LICENSED BUSINESS NO. 7217

HEISSENBERG FLOW-THROUGH EASEMENT
KITCHING CREEK CENTRAL FLOW WAY PROJECT
LYING IN A PORTION OF THE SOUTHWEST QUARTER OF
SECTION 32, TOWNSHIP 39 SOUTH, RANGE 42 EAST
MARTIN COUNTY, FLORIDA

SHEET NO.

1
OF 7

PROJECT #
06-033SDH-1

LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN SECTION 32, TOWNSHIP 39 SOUTH, RANGE 42 EAST, MARTIN COUNTY, FLORIDA, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF REFERENCE, COMMENCE AT THE SOUTH ONE-QUARTER CORNER OF SAID SECTION 32; THENCE SOUTH 89°58'59" WEST. ALONG THE SOUTH LINE OF SAID SECTION 32, A DISTANCE OF 1652.82 FEET TO THE SOUTHEAST CORNER OF THAT PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 2164, PAGE 1624 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA, AND THE **POINT OF BEGINNING**; THENCE SOUTH 89°58'59." WEST, ALONG THE SOUTH LINE OF SAID PARCEL AS RECORDED IN OFFICIAL RECORD BOOK 2164, PAGE 1624, A DISTANCE OF 121.46 FEET; THENCE NORTH 16°14'03" EAST, A DISTANCE OF 21.88 FEET; THENCE NORTH 38°11'41" WEST, A DISTANCE OF 113.61 FEET; THENCE NORTH 00°51'04" EAST, A DISTANCE OF 83.21 FEET; THENCE NORTH 16°42'17" WEST, A DISTANCE OF 81.71 FEET; THENCE NORTH 81°33'35" WEST, A DISTANCE OF 119.29 FEET; THENCE NORTH 25°34'39" WEST, A DISTANCE OF 6.28 FEET; THENCE NORTH 11°01'31" WEST, A DISTANCE OF 78.20 FEET; THENCE NORTH 51°35'42" EAST, A DISTANCE OF 66.75 FEET; THENCE NORTH 21°35'57" EAST, A DISTANCE OF 108.72 FEET; THENCE NORTH 18°28'57" EAST, A DISTANCE OF 114.84 FEET; THENCE NORTH 43°04'09" EAST, A DISTANCE OF 134.38 FEET; THENCE NORTH 27°11'47" EAST, A DISTANCE OF 94.91 FEET; THENCE NORTH 30°12'51" EAST, A DISTANCE OF 114.90 FEET; THENCE NORTH 67°48'59" EAST, A DISTANCE OF 32.23 FEET; THENCE NORTH 37°55'29" EAST, A DISTANCE OF 60.00 FEET; THENCE NORTH 06°45'01" EAST, A DISTANCE OF 52.36 FEET; THENCE NORTH 10°26'23" EAST, A DISTANCE OF 94.19 FEET; THENCE NORTH 21°05'51" EAST, A DISTANCE OF 80.72 FEET; THENCE NORTH 06°20'39" EAST, A DISTANCE OF 202.08 FEET; THENCE NORTH 15°54'54" EAST, A DISTANCE OF 111.89 FEET; THENCE NORTH 07°18'58" EAST, A DISTANCE OF 139.32 FEET; THENCE NORTH 07°46'02" WEST, A DISTANCE OF 213.07 FEET; THENCE NORTH 00°29'32" WEST, A DISTANCE OF 141.77 FEET; THENCE NORTH 02°01'54" EAST, A DISTANCE OF 128.29 FEET; THENCE NORTH 20°48'27" EAST, A DISTANCE OF 58.38 FEET; THENCE NORTH 31°31'44" EAST, A DISTANCE OF 165.40 FEET; THENCE NORTH 00°58'47" EAST, A DISTANCE OF 83.29 FEET; THENCE SOUTH 85°03'43" WEST, A DISTANCE OF 88.27 FEET; THENCE SOUTH 56°51'31" WEST, A DISTANCE OF 85.51 FEET; THENCE SOUTH 80°16'47" WEST, A DISTANCE OF 53.93 FEET; THENCE NORTH 02°18'22" EAST, A DISTANCE OF 73.21 FEET; THENCE SOUTH 84°45'02" WEST, A DISTANCE OF 38.45 FEET; THENCE NORTH 80°22'59" WEST, A DISTANCE OF 135.17 FEET; THENCE SOUTH 87°29'57" WEST, A DISTANCE OF 90.25 FEET; THENCE NORTH 85°55'09" WEST, A DISTANCE OF 76.29 FEET; THENCE NORTH 09°05'56" WEST, A DISTANCE OF 72.27 FEET; THENCE NORTH 21°16'13" EAST, A DISTANCE OF 111.75 FEET; THENCE SOUTH 88°56'28" EAST, A DISTANCE OF 76.13 FEET; THENCE SOUTH 88°00'18" EAST, A DISTANCE OF 115.54 FEET; THENCE NORTH 87°34'13" EAST, A DISTANCE OF 91.50 FEET; THENCE NORTH 89°26'44" EAST, A DISTANCE OF 249.30 FEET; THENCE SOUTH 84°19'18" EAST, A DISTANCE OF 91.66 FEET; THENCE NORTH 88°10'41" EAST, A DISTANCE OF 176.32 FEET; THENCE SOUTH 88°31'00" EAST, A DISTANCE OF 28.28 FEET; THENCE NORTH 00°01'22" EAST, A DISTANCE OF 10.16 FEET TO AN EXISTING TOP OF BANK AND THE SOUTHERLY LIMITS OF COUNTY ROAD MAINTENANCE FOR SOUTHEAST 138TH AVENUE; THENCE SOUTH 89°44'57" EAST ALONG SAID SOUTHERLY LIMITS OF MAINTENANCE, A DISTANCE OF 50.00 FEET; THENCE

CONTINUED ON SHEET 3



50 KINDRED STREET, SUITE 103
PO BOX 2371, STUART, FLORIDA 34995
(772)781-6400 (772)781-6462 FAX
LICENSED BUSINESS NO. 7217

HEISSENBERG FLOW-THROUGH EASEMENT
KITCHING CREEK CENTRAL FLOW WAY PROJECT
LYING IN A PORTION OF THE SOUTHWEST QUARTER OF
SECTION 32, TOWNSHIP 39 SOUTH, RANGE 42 EAST
MARTIN COUNTY, FLORIDA

SHEET NO. 2
OF 7
PROJECT #
06-033SDH-1

LEGAL DESCRIPTION

DEPARTING SAID SOUTHERLY LIMITS OF MAINTENANCE, SOUTH 00°01'22" WEST, A DISTANCE OF 11.23 FEET; THENCE SOUTH 88°31'00" EAST, A DISTANCE OF 146.49 FEET; THENCE NORTH 89°53'53" EAST, A DISTANCE OF 138.27 FEET; THENCE SOUTH 06°13'14" EAST, A DISTANCE OF 117.69 FEET; THENCE SOUTH 03°00'43" EAST, A DISTANCE OF 139.16 FEET; THENCE SOUTH 14°03'25" WEST, A DISTANCE OF 102.93 FEET; THENCE SOUTH 57°51'08" WEST, A DISTANCE OF 96.07 FEET; THENCE SOUTH 48°06'05" WEST, A DISTANCE OF 71.56 FEET; THENCE SOUTH 56°20'34" WEST, A DISTANCE OF 144.19 FEET; THENCE SOUTH 14°58'24" WEST, A DISTANCE OF 69.10 FEET; THENCE SOUTH 38°17'01" WEST, A DISTANCE OF 0.55 FEET TO A SOUTH LINE OF THAT PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 2164, PAGE 1624 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE NORTH 89°54'53" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 294.24 FEET TO THE EAST LINE OF THAT PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 2164, PAGE 1624; THENCE SOUTH 00°11'48" EAST, ALONG SAID EAST LINE, A DISTANCE OF 959.98 FEET; THENCE DEPARTING SAID EAST LINE, SOUTH 17°58'46" WEST, A DISTANCE OF 43.95 FEET; THENCE SOUTH 19°03'58" WEST, A DISTANCE OF 144.32 FEET; THENCE SOUTH 20°07'29" WEST, A DISTANCE OF 137.56 FEET; THENCE SOUTH 19°49'59" WEST, A DISTANCE OF 60.82 FEET TO A SOUTH LINE OF THAT PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 2164, PAGE 1624 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE ALONG SAID SOUTH LINE, NORTH 89°58'35" WEST, A DISTANCE OF 201.61 FEET TO THE EAST LINE OF THAT PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 2164, PAGE 1624 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE SOUTH 00°18'42" EAST, ALONG SAID EAST LINE, A DISTANCE OF 396.59 FEET; THENCE DEPARTING SAID EAST LINE, SOUTH 22°19'03" WEST, A DISTANCE OF 57.02 FEET; THENCE SOUTH 17°51'11" EAST, A DISTANCE OF 58.20 FEET; THENCE SOUTH 49°49'26" EAST, A DISTANCE OF 5.78 FEET TO THE EAST LINE OF THAT PARCEL OF LAND AS RECORDED IN OFFICIAL RECORD BOOK 2164, PAGE 1624 OF THE PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA; THENCE SOUTH 00°18'42" EAST, ALONG SAID EAST LINE, A DISTANCE OF 154.30 FEET TO THE POINT OF BEGINNING.

CONTAINING 21.62 ACRES, MORE OR LESS.



50 KINDRED STREET, SUITE 103
PO BOX 2371, STUART, FLORIDA 34995
(772)781-6400 (772)781-6462 FAX
LICENSED BUSINESS NO. 7217

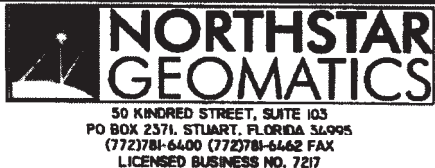
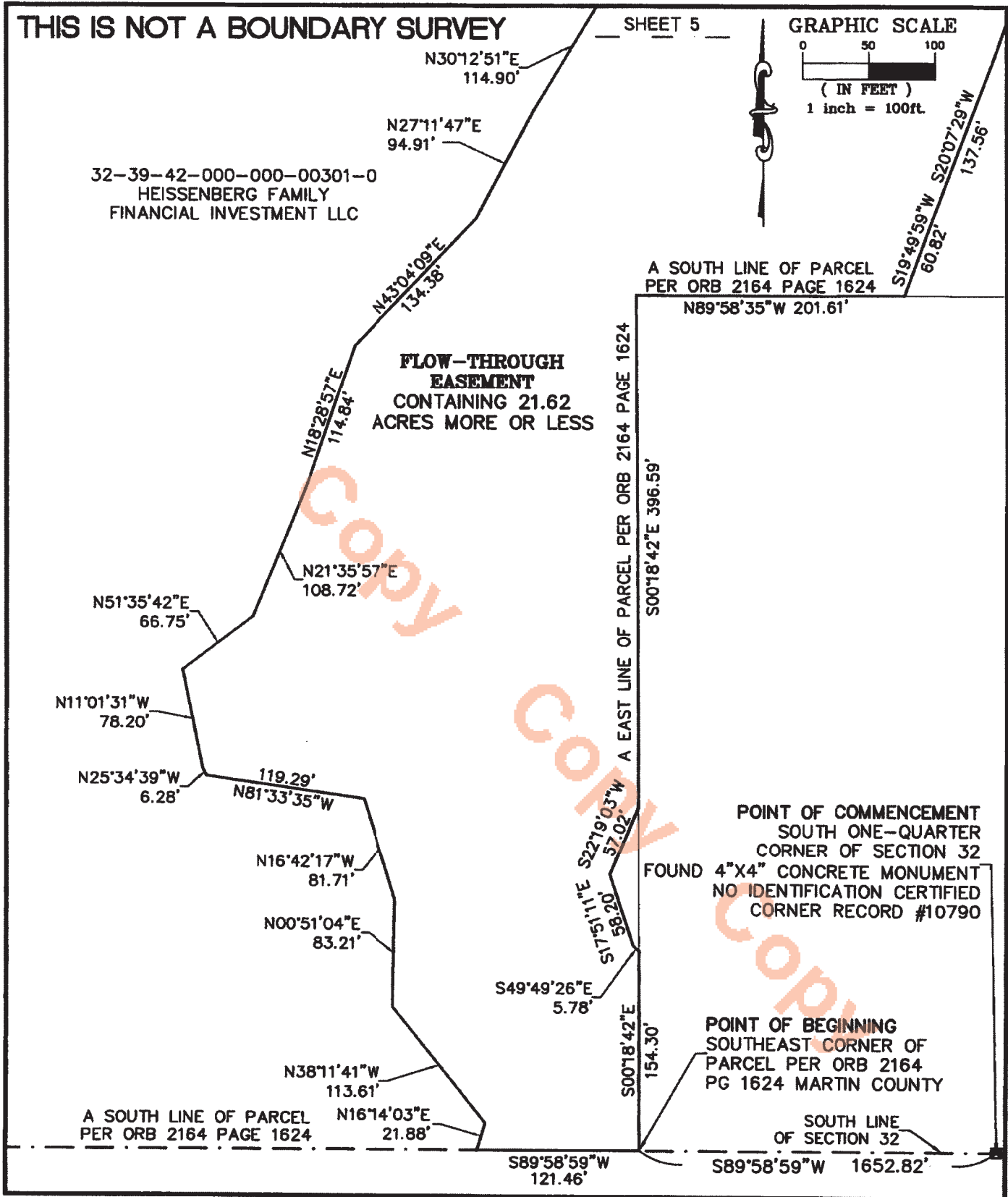
HEISSENBERG FLOW-THROUGH EASEMENT
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SECTION 32, TOWNSHIP 39 SOUTH, RANGE 42 EAST
MARTIN COUNTY, FLORIDA

SHEET NO.
3

OF 7

PROJECT #
06-033SDH-I

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HEISSENBERG FLOW-THROUGH EASEMENT
KITCHING CREEK CENTRAL FLOW WAY PROJECT
LYING IN A PORTION OF THE SOUTHWEST QUARTER OF
SECTION 32, TOWNSHIP 39 SOUTH, RANGE 42 EAST
MARTIN COUNTY, FLORIDA

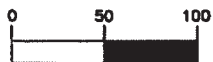
SHEET NO.
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OF 7
PROJECT #
06-033SDH-1

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THIS IS NOT A
BOUNDARY SURVEY



GRAPHIC SCALE



(IN FEET)

1 inch = 100ft.

N21°05'51"E
80.72'

N10°26'23"E
94.19'

N06°45'01"E
52.36'

N37°55'29"E
60.00'

N67°48'59"E
32.23'

N06°20'39"E
202.08'

N15°54'54"E
111.89'

N07°18'58"E
139.32'

N07°46'02"W
213.07'

A EAST LINE OF PARCEL
PER ORB 2164 PG 1624

S00°11'48"E 959.98'

JURISDICTIONAL
WETLAND LINE
SEE NOTE 2

S19°03'58"W 144.32'

S17°58'46"W 43.95'

SHEET 4

SHEET 6 | SHEET 7



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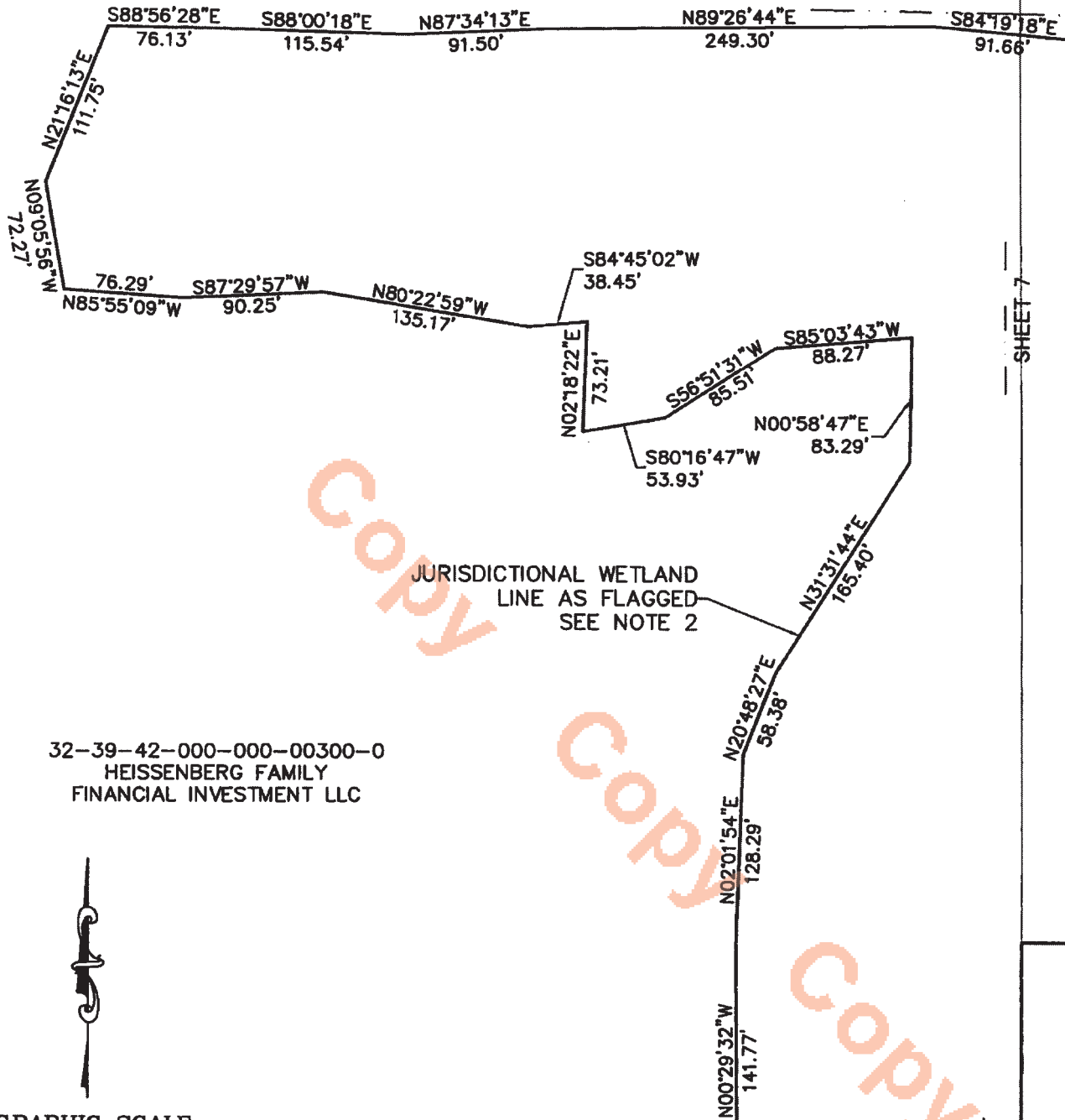
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SECTION 32, TOWNSHIP 39 SOUTH, RANGE 42 EAST
MARTIN COUNTY, FLORIDA

SHEET NO.
5

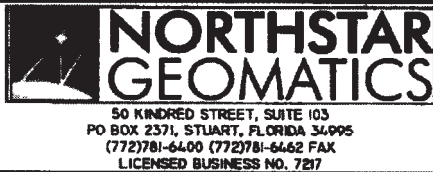
OF 7

PROJECT #
06-033SDH_1

S.E. 138TH AVENUE



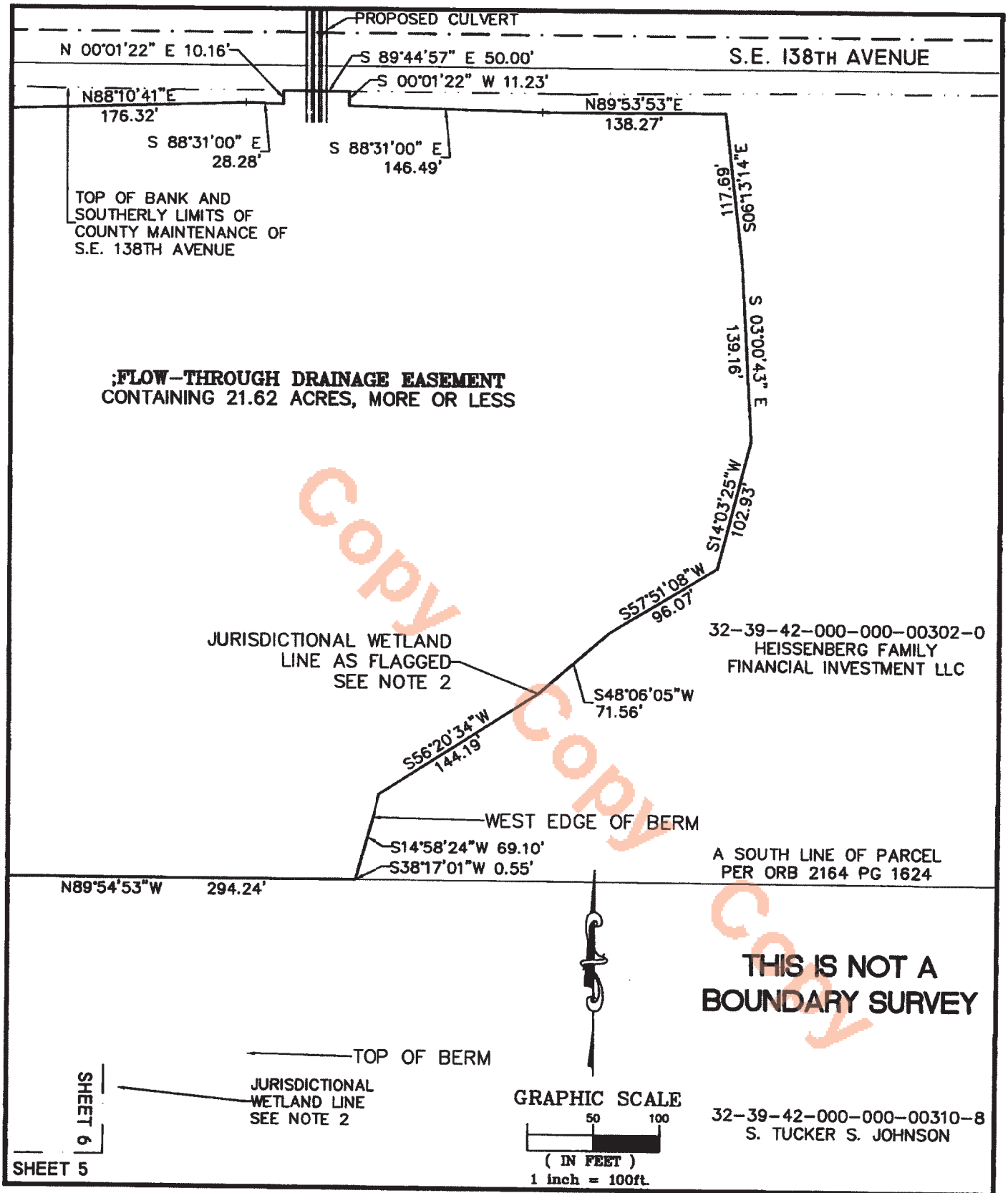
THIS IS NOT A BOUNDARY SURVEY



HEISSENBERG FLOW-THROUGH EASEMENT
KITCHING CREEK CENTRAL FLOW WAY PROJECT
LYING IN A PORTION OF THE SOUTHWEST QUARTER OF
SECTION 32, TOWNSHIP 39 SOUTH, RANGE 42 EAST
MARTIN COUNTY, FLORIDA

SHEET NO.
6
OF 7
PROJECT #
06-033SDH-1

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**NORTHSTAR
GEOMATICS**

50 KINDRED STREET, SUITE 103
PO BOX 2371, STUART, FLORIDA 34995
(772)781-6400 (772)781-6462 FAX
LICENSED BUSINESS NO. 7217

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SECTION 32, TOWNSHIP 39 SOUTH, RANGE 42 EAST
MARTIN COUNTY, FLORIDA

SHEET NO.
7

OF 7

PROJECT #
06-033SDH_1

EXHIBIT "B"



Form #0941
08/95

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT
ENVIRONMENTAL RESOURCE
STANDARD GENERAL PERMIT NO. 43-02300-P
DATE ISSUED: October 20, 2010**

PERMITTEE: MARTIN COUNTY
2401 SE MONTEREY ROAD
STUART, FL 34996

PROJECT DESCRIPTION: Construction and operation of an environmental restoration project within a 72-acre project area to serve 2,000 acres of environmental restoration known as Kitching Creek Central Flow Way Restoration Project.

PROJECT LOCATION: MARTIN COUNTY, SEC 5 TWP 40S RGE 42E
SEC 32 TWP 39S RGE 42E

PERMIT DURATION: See Special Condition No.1. See attached Rule 40E-4.321, Florida Administrative Code.

This is to notify you of the District's agency action concerning Notice of Intent for Permit Application No. 100322-9, dated March 22, 2010. This action is taken pursuant to Rule 40E-1.603 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and an Environmental Resource General Permit is in effect for this project subject to:

1. Not receiving a filed request for a Chapter 120, Florida Statutes, administrative hearing.
2. the attached 19 General Conditions (See Pages : 2 - 4 of 8),
3. the attached 27 Special Conditions (See Pages : 5 - 8 of 8) and
4. the attached 4 Exhibit(s)

Should 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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the Permittee (and the persons listed in the attached distribution list) no later than 5:00 p.m. on this 20th day of October, 2010, in accordance with Section 120.60(3), Florida Statutes.

BY: Donald R. Loving
Donald R. Loving
Director, Okeechobee/MSL Regulatory Division
Martin / St Lucie Service Center

Certified mail number 7009 2250 0001 5673 2920

Page 1 of 8

RECEIVED

OCT 21 2010

**OFFICE OF
WATER QUALITY**

GENERAL CONDITIONS

1. All activities authorized by this permit shall be implemented as set forth in the plans, specifications and performance criteria as approved by this permit. Any deviation from the permitted activity and the conditions for undertaking that activity shall constitute a violation of this permit and Part IV, Chapter 373, F.S.
2. 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. The complete permit shall be available for review at the work site upon request by District staff. The permittee shall require the contractor to review the complete permit prior to commencement of the activity authorized by this permit.
3. Activities approved by this permit shall be conducted in a manner which does not cause violations of State water quality standards. The permittee shall implement best management practices for erosion and pollution control to prevent violation of State water quality standards. Temporary erosion control shall be implemented prior to and during construction, and permanent control measures shall be completed within 7 days of any construction activity. Turbidity barriers shall be installed and maintained at all locations where the possibility of transferring suspended solids into the receiving waterbody exists due to the permitted work. Turbidity barriers shall remain in place at all locations until construction is completed and soils are stabilized and vegetation has been established. All practices shall be in accordance with the guidelines and specifications described in Chapter 6 of the Florida Land Development Manual; A Guide to Sound Land and Water Management (Department of Environmental Regulation, 1988), incorporated by reference in Rule 40E-4.091, F.A.C. unless a project-specific erosion and sediment control plan is approved as part of the permit. Thereafter the permittee shall be responsible for the removal of the barriers. The permittee shall correct any erosion or shoaling that causes adverse impacts to the water resources.
4. The permittee shall notify the District of the anticipated construction start date within 30 days of the date that this permit is issued. At least 48 hours prior to commencement of activity authorized by this permit, the permittee shall submit to the District an Environmental Resource Permit Construction Commencement Notice Form Number 0960 indicating the actual start date and the expected construction completion date.
5. When the duration of construction will exceed one year, the permittee shall submit construction status reports to the District on an annual basis utilizing an annual status report form. Status report forms shall be submitted the following June of each year.
6. Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a professional engineer or other individual authorized by law, utilizing the supplied Environmental Resource/Surface Water Management Permit Construction Completion/Certification Form Number 0881A, or Environmental Resource/Surface Water Management Permit Construction Completion Certification - For Projects Permitted prior to October 3, 1995 Form No. 0881B, incorporated by reference in Rule 40E-1.659, F.A.C. The statement of completion and certification shall be based on onsite observation of construction or review of as-built drawings for the purpose of determining if the work was completed in compliance with permitted plans and specifications. This submittal shall serve to notify the District that the system is ready for inspection. Additionally, if deviation from the approved drawings are discovered during the certification process, the certification must be accompanied by a copy of the approved permit drawings with deviations noted. Both the original and revised specifications must be clearly shown. The plans must be clearly labeled as "as-built" or "record" drawings. All surveyed dimensions and elevations shall be certified by a registered surveyor.
7. The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (6) above, and submitted a request for conversion of Environmental Resource Permit from Construction Phase to Operation Phase, Form No. 0920; the District determines the system to be in compliance with the permitted plans and specifications; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit

GENERAL CONDITIONS

Applications within the South Florida Water Management District, accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Section 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

8. 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 site infrastructure located within the area served by that portion or phase of the system. Each phase or independent portion of the system must be completed in accordance with the permitted plans and permit conditions prior to transfer of responsibility for operation and maintenance of the phase or portion of the system to a local government or other responsible entity.
9. For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the Basis of Review for Environmental Resource Permit applications within the South Florida Water Management District, prior to lot or units sales or prior to the completion of the system, whichever comes first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State, county or municipal entities. Final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.
10. Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.
11. This permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. 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 which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..
12. The permittee is hereby advised that Section 253.77, F.S. states that a person may not commence any excavation, construction, or other activity involving the use of sovereign 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 lease, license, easement, or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
13. The permittee must obtain a Water Use permit prior to construction dewatering, unless the work qualifies for a general permit pursuant to Subsection 40E-20.302(3), F.A.C., also known as the "No Notice" Rule.
14. The permittee shall hold and save the District 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 system authorized by the permit.
15. Any delineation of the extent of a wetland or other surface water submitted as part of the permit

GENERAL CONDITIONS

application, including plans or other supporting documentation, shall not be considered binding, unless a specific condition of this permit or a formal determination under Section 373.421(2), F.S., provides otherwise.

16. The permittee shall notify the District in writing within 30 days of 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. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E-1.6105 and 40E-1.6107, F.A.C.. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.
17. Upon reasonable notice to the permittee, District authorized staff with proper identification shall have permission to enter, inspect, sample and test the system to insure conformity with the plans and specifications approved by the permit.
18. If historical or archaeological artifacts are discovered at any time on the project site, the permittee shall immediately notify the appropriate District service center.
19. The permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

SPECIAL CONDITIONS

1. The construction phase of this permit shall expire on October 20, 2015.
2. Operation of the surface water management system shall be the responsibility of the permittee.
3. Discharge Facilities:

Structure: S-1

2-5' WIDE SHARP CRESTED weirs with crest at elev. 11.5' NGVD 29.
4-5' WIDE SHARP CRESTED weirs with crest at elev. 14.5' NGVD 29.
Receiving body : Eastern and Central Flow ways
Control elev : 12.9 feet NGVD 29.

Structure: S-2

1-25.5' WIDE OTHER weir with crest at elev. 14.1' NGVD 29.
Receiving body : Central Flow way
Control elev : 12.9 feet NGVD 29.

Structure: S-3

3-4' dia. REINFORCED CONCRETE PIPE culverts each 59.52' long.
Receiving body : Existing Datillo Lake
Control elev : 12.9 feet NGVD 29.

Structure: S-4

3-4' dia. REINFORCED CONCRETE PIPE culverts each 150.82' long.
Receiving body : Proposed Recreational Lake
Control elev : 12.9 feet NGVD 29.

Structure: S-5

3-6.33' WIDE SHARP CRESTED weirs with crest at elev. 12.9' NGVD 29.
1-23.5' WIDE SHARP CRESTED weir with crest at elev. 15' NGVD 29.
3-4' dia. REINFORCED CONCRETE PIPE culverts each 182.45' long.
1-3' W X 20.73' L drop inlet with crest at elev. 11.5' NGVD 29.
Receiving body : Wetland B
Control elev : 12.9 feet NGVD 29.

Structure: S-6

3-6.33' WIDE SHARP CRESTED weirs with crest at elev. 12.9' NGVD 29.
1-23.5' WIDE SHARP CRESTED weir with crest at elev. 15' NGVD 29.
3-4' dia. REINFORCED CONCRETE PIPE culverts each 138.23' long.
1-3' W X 20.73' L drop inlet with crest at elev. 11.2' NGVD 29.
Receiving body : Wetland C
Control elev : 12.9 feet NGVD 29.
4. The permittee shall be responsible for the correction of any erosion, shoaling or water quality problems that result from the construction or operation of the surface water management system.
5. Measures shall be taken during construction to insure that sedimentation and/or turbidity violations do not

SPECIAL CONDITIONS

occur in the receiving water.

6. The District reserves the right to require that additional water quality treatment methods be incorporated into the drainage system if such measures are shown to be necessary.
7. 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, unless shown on the plans.
8. Facilities other than those stated herein shall not be constructed without an approved modification of this permit.
9. 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.
10. The permittee shall provide routine maintenance of all of the components of the surface water management system in order to remove all trapped sediments/debris. All materials shall be properly disposed of as required by law. Failure to properly maintain the system may result in adverse flooding conditions.
11. This permit is issued based on the applicant's submitted information which reasonably demonstrates that adverse water resource related impacts will not be caused by the completed permit activity. Should any adverse impacts caused by the completed surface water management system occur, the District will require the permittee to provide appropriate mitigation to the District or other impacted party. The District will require the permittee to modify the surface water management system, if necessary, to eliminate the cause of the adverse impacts.
12. The permittee acknowledges that, pursuant to Rule 40E-4.101(2), F.A.C., a notice of Environmental Resource or Surface Water Management Permit may be recorded in the county public records. Pursuant to the specific language of the rule, this notice shall not be considered an encumbrance upon the property.
13. If 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, the permitted project should cease all activities involving subsurface disturbance in the immediate vicinity of such discoveries. The permittee, or other designee, should contact the Florida Department of State, Division of Historical Resources, Review and Compliance Section at (850) 245-6333 or (800) 847-7278, as well as the appropriate permitting agency office. Project activities should not resume without verbal and/or written authorization from the Division of Historical Resources. In the event that unmarked human remains are encountered during permitted activities, all work shall stop immediately and the proper authorities notified in accordance with Section 872.05, Florida Statutes.
14. Reference is made to Exhibit No. 2, by Tetra Tech, consisting of drainage plans and detail sheets. The drawings have been signed and sealed by Roderick K. Cashe, P.E., of Tetra Tech on September 20, 2010, and have been included in this permit by reference (please see permit file).
15. The exhibits and special conditions in this permit apply only to this application. They do not supersede or delete any requirements for other applications covered in Permit No. 43-02300-P unless otherwise specified herein.
16. Silt screens, hay bales, turbidity screens/barriers or other such sediment control measures shall be utilized during construction. The selected sediment control measure shall be installed landward of the upland buffer zones around all protected wetlands and shall be properly "trenched" etc. in accordance with

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Exhibit No.2.1. All areas shall be stabilized and vegetated immediately after construction to prevent erosion into the wetlands and upland buffer zones.

17. Prior to the commencement of construction and pursuant to Subsection 40E-4.101(2), F.A.C., the permittee shall demonstrate ownership of the project area to the District's Environmental Resource Compliance staff.
18. The areas to be temporarily disturbed by the installation of drainage structures in wetlands will be backfilled and replanted with appropriate native vegetation within 30 days of installation. Monitoring of the replanted areas shall consist of photos taken from fixed point photostations as shown on Exhibit No. 3.1. Monitoring of temporary impact areas shall be done concurrently with other required monitoring for the Kitching Creek Restoration Project.
19. Activities associated with the implementation of the mitigation, monitoring and maintenance plan(s) shall be completed in accordance with the work schedule attached as Exhibit No. 4.1. Any deviation from these time frames will require prior approval from the District's Environmental Resource Compliance staff. 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 development or mitigation effort.
20. A monitoring program shall be implemented in accordance with Exhibit No. 3.1. The monitoring program shall extend for a period of 5 years with annual reports submitted to District staff, in accordance with the work schedule attached as Exhibit 4.1.
21. The wetland restoration areas shown on Exhibits 2.1 and 3.1 may in no way be altered from their permitted state. Activities prohibited within the conservation areas include, but are not limited to:
 - (a) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground;
 - (b) dumping or placing soil or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
 - (c) removal or destruction of trees, shrubs, or other vegetation - with the exception of exotic and nuisance vegetation removal;
 - (d) excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substances in such manner as to affect the surface;
 - (e) surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;
 - (f) activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation, including but not limited to ditching, diking or fencing;
 - (g) acts or uses detrimental to such retention of land or water areas; and
 - (h) acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.
22. 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.
23. Endangered species, threatened species and/or species of special concern have been observed onsite and/or the project contains suitable habitat for these species. It shall be the permittee's responsibility to coordinate with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Fish and Wildlife Service for appropriate guidance, recommendations and/or necessary permits to avoid impacts to listed species.
24. Prior to the commencement of construction, the permittee shall conduct a pre-construction meeting with field representatives, contractors and District staff. The purpose of the meeting will be to discuss

SPECIAL CONDITIONS

construction methods and sequencing, including type and location of turbidity and erosion controls to be implemented during construction, mobilization and staging of contractor equipment, phasing of construction, methods of vegetation clearing, construction dewatering if required, ownership documentation for eminent domain authority, coordination with other entities on adjacent construction projects, wetland/buffer protection methods, and/or endangered species protection with the permittee and contractors. The permittee shall contact District Environmental Resource Compliance staff from the Martin/St. Lucie Service Center at (772) 223-2600 to schedule the pre-construction meeting.

25. This permit does not eliminate the need to obtain any and all necessary easements and rights of way prior to the start of any activity approved herein. This permit does not convey to the permittee, or create for 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 permit and Chapter 40E-4 or Chapter 40E-40, F.A.C..

Prior to the commencement of construction, the permittee shall demonstrate legal interest by easement for the subject property(ies) within the project area to the District's Environmental Resource Compliance staff by submittal of the final, recorded easements.

26. Water quality treatment provided by the project authorized under this permit application is for the use of the area defined in the application as a retrofit and cannot be applied to new development that may discharge to the project authorized under this permit application.
27. The authorization for construction of the surface water management system is issued pursuant to the water quality net improvement provisions referenced in Rule Section 40E-4.303(1), Florida Administrative Code; therefore, the state water quality certification is waived.

NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing or judicial review 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. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. 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 (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk 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, Fla. Stat.; or 2) within 14 days of service of an Administrative Order pursuant to Subsection 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of either written notice through mail, or electronic mail, or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action. Any person who receives written notice of a SFWMD 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.

Filing Instructions

The Petition must be filed with the Office of the District Clerk of the SFWMD. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** Any person wishing to receive a clerked copy with the date and time stamped must provide an additional copy. A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Any document received by the office of the SFWMD Clerk after 5:00 p.m. shall be 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 SFWMD Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must be delivered to the Office of the SFWMD Clerk. **Delivery of a petition to the SFWMD's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the SFWMD's security officer to contact the Clerk's office.** An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by facsimile must be transmitted to the SFWMD Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the SFWMD Clerk receives the complete document.

Initiation of an Administrative Hearing

Pursuant to Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 and 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 SFWMD identification number, if known.
2. The name, address and telephone number of the petitioner and petitioner's 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 SFWMD'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 SFWMD's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD'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 SFWMD to take with respect to the SFWMD's proposed action.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD 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 that the SFWMD and any other parties agree to or oppose the extension. 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.

If the District takes action with substantially different impacts on water resources from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law.

Mediation

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-.405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to Sections 120.60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.

ENVIRONMENTAL RESOURCE PERMITS CHAPTER 40E-4

40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified the duration of an environmental resource permit issued under this chapter or Chapter 40E-40, F.A.C., is as follows:

(a) For a conceptual approval, two years from the date of issuance or the date Environmental Resource Permits Chapter 40E-4 Effect: November 11, 200926 – (40E-4) specified as a condition of the permit, unless within that period an application for an individual or standard general permit is filed for any portion of the project. If an application for an environmental resource permit is filed, then the conceptual approval remains valid until final action is taken on the environmental resource permit application. If the application is granted, then the conceptual approval is valid for an additional two years from the date of issuance of the permit. Conceptual approvals which have no individual or standard general environmental resource permit applications filed for a period of two years shall expire automatically at the end of the two year period.

(b) For a conceptual approval filed concurrently with a development of regional impact (DRI) application for development approval (ADA) and a local government comprehensive plan amendment, the duration of the conceptual approval shall be two years from whichever one of the following occurs at the latest date:

1. The effective date of the local government's comprehensive plan amendment,
2. The effective date of the local government development order,
3. The date on which the District issues the conceptual approval, or
4. The date on which the District issues a final order pertaining to the resolution of any Section 120.57, F.S., administrative proceeding or other legal appeals.

(c) For an individual or standard general environmental resource permit, the construction phase authorizing construction, removal, alteration or abandonment of a system shall expire five years from the date of issuance or such amount of time as made a condition of the permit.

(d) For an individual or standard general environmental resource permit, the operational phase of the permit is perpetual for operation and maintenance.

(e) For a noticed general permit issued pursuant to Chapter 40E-400, F.A.C., five years from the date the notice of intent to use the permit is provided to the District.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made by electronic mail at the District's ePermitting website or in writing pursuant to subsection

(3), the permit shall remain in full force and effect until:

1. The Governing Board takes action on an application for extension of an individual permit, or
2. Staff takes action on an application for extension of a standard general permit.

(b) Installation of the project outfall structure shall not constitute a vesting of the permit.

(3) The permit extension shall be issued provided that a permittee files a written request with the District showing good cause prior to the expiration of the permit. For the purpose of this rule, good cause shall mean a set of extenuating circumstances outside of the control of the permittee. Requests for extensions, which shall include documentation of the extenuating circumstances and how they have delayed this project, will not be accepted more than 180 days prior to the expiration date.

(4) Substantial modifications to Conceptual Approvals will extend the duration of the Conceptual Approval for two years from the date of issuance of the modification. For the purposes of this section, the term "substantial modification" shall mean a modification which is reasonably expected to lead to substantially different water resource or environmental impacts which require a detailed review.

(5) Substantial modifications to individual or standard general environmental Environmental Resource Permits Chapter 40E-4 Effect: November 11, 2009 27 – (40E-4) resource permits issued pursuant to a permit application extend the duration of the permit for three years from the date of issuance of the modification. Individual or standard general environmental resource permit modifications do not extend the duration of a conceptual approval.

(6) Permit modifications issued pursuant to paragraph 40E-4.331(2)(b), F.A.C. (letter modifications) do not extend the duration of the permit.

(7) Failure to complete construction or alteration of the surface water management system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization in order to continue construction unless a permit extension is granted.

Specific Authority 373.044, 373.113, 668.003, 668.004, 668.50 FS Law Implemented 373.413 373.416, 373.419, 373.426 668.003, 668.004, 668.50 FS. History—New 9-3-81. Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86 4-20-94, 10-3-95, 5-28-00, 10-1-06.

Last Date For Agency Action: October 25, 2010

GENERAL ENVIRONMENTAL RESOURCE PERMIT STAFF REPORT

Project Name: Kitching Creek Central Flow Way Restoration Project

Permit No.: 43-02300-P

Application No.: 100322-9 **Associated File:** 100518-6 WU Concurrent

Application Type: Environmental Resource (General Permit Modification)

Location: Martin County, S32/T39S/R42E
S5/T40S/R42E

Permittee : Martin County

Operating Entity : Martin County

Project Area: 72.00 acres

Project Land Use: Environmental Restoration

Drainage Basin: JONATHAN DICKINSON

Receiving Body: Kitching Creek

Class: OFW

Special Drainage District: Loxahatchee River Environmental Control District

Conservation Easement To District : No

Sovereign Submerged Lands: No

PROJECT PURPOSE:

This application is a request for approval of the construction and operation of environmental restoration project works within a 72-acre area to serve approximately 2000 acres of environmental restoration. Approval is granted with conditions.

PROJECT EVALUATION:**PROJECT SITE DESCRIPTION:**

The project site is located approximately two-tenths of a mile west of the intersection of Bridge Road and Powerline Road, south of Bridge Road and north of Jonathan Dickinson State Park, in southeastern Martin County. Please refer to Exhibit 1.

The headwaters of Kitching Creek are located west of Hobe Sound, south of Cove Road, north of Bridge Road, and east of the South Fork of the St. Lucie River. Kitching Creek traverses Jonathan Dickinson State Park (JDSP) and empties into the National Wild and Scenic Northwest Fork of the Loxahatchee River.

There are no constructed surface water management facilities within the project area. The site contains rural residential and agricultural development and several wetland areas.

PROJECT BACKGROUND:

On May 14, 2009, conceptual approval was given for the Kitching Creek Restoration Project-Phase 1. The intent of the approved project is to redirect approximately one-third of the existing flow from the Kitching Creek Road Ditch to Kitching Creek, ultimately discharging through Jonathan Dickinson State Park (JDSP) to the Loxahatchee River. Under the approved project, flow would be directed to the southeast and to wetlands within JDSP. The conveyance system at the intersection of Bridge Road and Powerline Road was designed to direct runoff through culverts to the southeast. The existing drainage ditch along the western boundary of Wetland A would be reconfigured. Weirs and culverts would be installed within the Florida Power & Light right-of-way, east of Powerline Road, to facilitate flow southward from Wetland A to Wetland B. The existing culvert at the intersection of Powerline Road and 138th Street, which currently facilitates flow from Kitching Creek to the Kitching Creek Ditch under certain hydrologic conditions, would be plugged in order to retain water within the Kitching Creek basin. Correspondingly, due east an upstream 25' wide wall (weir) and downstream swale would be constructed at the north boundary of JDSP.

PROPOSED PROJECT:

The applicant is requesting a construction and operation permit for a surface water management system to serve an environmental restoration project. By partially restoring historical flow paths that existed prior to the construction of Bridge Road and Jenkins Cut, wetland conditions in Jonathan Dickinson State Park should improve.

Proposed improvements include a diversion structure upstream of the existing box culvert under Bridge Road that will divert base flow and stormwater runoff in a more historic drainage pattern. This proposed Central Flow Way plan will provide conveyance and increased attenuation and flood storage capacity through the proposed lake and wetland system between Bridge Road and 138th Street. The post-development drainage pattern will direct water from Jenkins Cut through the eastern, existing Datillio Lake, the proposed recreational lake, and Wetland B, to the historical slough south of 138th Street. Proposed improvements to assist in containing flow within the Central Flow Way include an earthen plug in Jenkins Cut, a sheetpile weir between the proposed project area and the FPL property, and a berm along the western boundary of the easternmost Datillio Lake, part of the Central Flow Way system.

Reference is made to Exhibit No. 2, by Tetra Tech, consisting of drainage plans and detail sheets. The drawings have been signed and sealed by Roderick K. Cashe, P.E., of Tetra Tech on September 20, 2010, and have been included in this permit by reference (please see permit file).

The subject permit and staff report issued for this proposed project are referenced to National Geodetic Datum 1929 (NGVD). The drainage analysis is referenced to North American Vertical Datum (NAVD).

The conversion between North American Vertical Datum (NAVD) and NGVD is shown on the Key Plan.

WATER QUANTITY :

Discharge Rate :

The applicant submitted a revised hydrologic/hydraulic model to evaluate the existing and proposed conditions following construction. The revised model results show that with the proposed improvements, the 25-year 3-day storm stages within the project area will be similar to the stages associated with existing conditions. The proposed project reduces and redirects the flow through the box culvert under Bridge Road to the permitted Eastern and proposed Central Flow Ways, and reduces flow through Jenkins Cut.

Control Elevation :

Basin	Area (Acres)	Ctrl Elev (ft, NGVD 29)	WSWT Ctrl Elev (ft, NGVD 29)	Method Of Determination
Site	72.00	12.9	12.90	Wetland Indicator Elevation

Receiving Body :

Basin	Str.#	Receiving Body
Site	S-1	Eastern and Central Flow ways
Site	S-2	Central Flow way
Site	S-3	Existing Datillo Lake
Site	S-4	Proposed Recreational Lake
Site	S-5	Wetland B
Site	S-6	Wetland C

Discharge Structures: Note: The units for all the elevation values of structures are (ft, NGVD 29)

Weirs:

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Elev.
Site	S-1	2	Sharp Crested	5'				11.5 (crest)
Site	S-1	4	Sharp Crested	5'				14.5 (crest)

Other Structures: Note: The units for all the elevation values of structures are (ft, NGVD 29)

Weirs:

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Elev.
Site	S-2	1	Other	25.5'				14.1 (crest)

SWM(Internal) Structures: Note: The units for all the elevation values of structures are (ft, NGVD 29)

Culverts:

Basin	Str#	Count	Type	Width	Length	Dia.
Site	S-3	3	Reinforced Concrete Pipe		59.52'	4'
Site	S-4	3	Reinforced Concrete Pipe		150.82'	4'
Site	S-5	3	Reinforced Concrete Pipe		182.45'	4'
Site	S-6	3	Reinforced Concrete Pipe		138.23'	4'

Inlets:

Basin	Str#	Count	Type	Width	Length	Dia.	Crest Elev.
-------	------	-------	------	-------	--------	------	-------------

SWM(Internal) Structures:**Inlets:**

Site	S-5	1	Fdot Mod H Drop Inlet	3'	20.73	11.5
Site	S-6	1	Fdot Mod H Drop Inlet	3'	20.73	11.2

Weirs:

Basin	Str#	Count	Type	Width	Height	Length	Dia.	Elev.
Site	S-5	1	Sharp Crested	23.5'				15 (crest)
Site	S-5	3	Sharp Crested	6.33'				12.9 (crest)
Site	S-6	1	Sharp Crested	23.5'				15 (crest)
Site	S-6	3	Sharp Crested	6.33'				12.9 (crest)

WATER QUALITY :

Water quality enhancement is expected from the redirection of flow away from Jenkins Cut to the historic drainage pattern, and the wetlands and lakes (existing/proposed) comprising the Central FLOW Way.

No adverse water quality impacts are anticipated as a result of the proposed project. The applicant has provided reasonable assurances that water quality standards will not be violated during the project construction as a result of the approved work.

The authorization for construction of the surface water management system is issued pursuant to the water quality net improvement provisions referenced in Rule Section 40E-4.303(1), Florida Administrative Code; therefore, the state water quality certification is waived.

WETLANDS:

The project site contains several freshwater wetland areas. Please refer to Exhibit 2.1 for wetland boundaries and locations. The onsite wetlands will be incorporated into the restoration plan.

Historically, wetlands to the north and south of Bridge Road comprised the headwaters of Kitching Creek, which flows southward toward the Northwest Fork of the Loxahatchee River. Flows from the wetlands north of Bridge Road, however, are currently impeded by Bridge Road and other improvements in the area. As part of this project, the applicant proposes to send flows from north of Bridge Road to the wetlands south of Bridge Road in order to restore the historic flow path of the area. Flows will pass south through the wetlands into Jonathan Dickinson State Park (JDSP) and eventually into the Northwest Fork of the Loxahatchee River.

In order to pass flows from north of Bridge Road to the onsite wetlands, the applicant proposes to install culverts with associated control structures to connect the onsite wetlands with Datillo Lake and the proposed recreational lake. Flows will discharge to a large slough to the south, which continues into JDSP.

Approximately 0.13 acres of wetlands will be temporarily disturbed in order to install the proposed drainage features. Please refer to Exhibit 2.1. The areas temporarily disturbed during installation of the drainage structures will be backfilled to natural grade and replanted with native vegetation in accordance with the Special Conditions. No mitigation is required for the temporary wetland impacts, as they are proposed to be restored immediately following construction. In addition, the applicant has demonstrated that the outfall structures have been designed to discharge stormwater with non-erosive velocities. Therefore, no permanent wetland impacts are proposed or anticipated as a result of project activities.

Monitoring/Maintenance:

Monitoring of the wetland restoration areas will take place in accordance with the Kitching Creek Wetland Water Level Monitoring Plan included in this permit as Exhibit 3.1. Monitoring reports will be submitted to the District's Environmental Resource Compliance staff for five years. Monitoring reports will be submitted in accordance with the work schedule attached as Exhibit 4.1. Please refer to the Special Conditions.

Wildlife Issues:

The wetlands located within the project site provide potential habitat for wetland-dependent endangered or threatened wildlife species and/or species of special concern, as various listed wading bird species may utilize the site as roosting and foraging habitat.

Since no permanent wetland impacts are proposed, and the wetlands will be enhanced, it is anticipated that the existing roosting and foraging opportunities for wetland-dependent endangered or threatened wildlife species and/or species of special concern will be maintained. Therefore, no adverse impacts to wetland-dependent endangered or threatened wildlife species and/or species of special concern are anticipated as a result of the proposed project. This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements. Please refer to the Special Conditions.

LEGAL ISSUES:

The redistribution of flow from north of Bridge Road back into Kitching Creek will be accomplished through new or modified conveyances and structures to be located within existing rights-of-way and proposed flow way easements; please refer to Exhibit 2, Right of Way and Owners Plan, Sheet G002. Submittal of final executed documents will be required prior to construction commencement as a condition of this construction permit.

SPECIAL CONSIDERATIONS:

The Northwest Fork of the Loxahatchee River was the first federally designated Wild and Scenic River in Florida. This designation in May 1985 provides for the development of a plan to provide for the permanent protection of the River.

CERTIFICATION AND MAINTENANCE OF THE WATER MANAGEMENT SYSTEM:

It is suggested that the permittee retain the services of a Professional Engineer registered in the State of Florida for periodic observation of construction of the surface water management (SWM) system. This will facilitate the completion of construction completion certification Form #0881 which is required pursuant to Section 10 of the Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District, and Rule 40E-4.381(2), Florida Administrative Code (F.A.C.).

Pursuant to Chapter 40E-4 F.A.C., this permit may not be converted from the construction phase to the operation phase until certification of the SWM system is submitted to and accepted by this District. Rule 40E-4.321(7) F.A.C. states that failure to complete construction of the SWM system and obtain operation phase approval from the District within the permit duration shall require a new permit authorization unless a permit extension is granted.

For SWM systems permitted with an operating entity who is different from the permittee, it should be noted that until the permit is transferred to the operating entity pursuant to Rule 40E-1.6107, F.A.C., the permittee is liable for compliance with the terms of this permit.

The permittee is advised that the efficiency of a SWM system will normally decrease over time unless the system is periodically maintained. A significant reduction in flow capacity can usually be attributed to partial blockages of the conveyance system. Once flow capacity is compromised, flooding of the project may result. Maintenance of the SWM system is required to protect the public health, safety and the natural resources of the state. Therefore, the permittee must have periodic inspections of the SWM system

performed to ensure performance for flood protection and water quality purposes. If deficiencies are found, it is the responsibility of the permittee to correct these deficiencies in a timely manner.

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SPECIAL CONDITIONS

- Exhibit No.2.1. All areas shall be stabilized and vegetated immediately after construction to prevent erosion into the wetlands and upland buffer zones.
17. Prior to the commencement of construction and pursuant to Subsection 40E-4.101(2), F.A.C., the permittee shall demonstrate ownership of the project area to the District's Environmental Resource Compliance staff.
 18. The areas to be temporarily disturbed by the installation of drainage structures in wetlands will be backfilled and replanted with appropriate native vegetation within 30 days of installation. Monitoring of the replanted areas shall consist of photos taken from fixed point photostations as shown on Exhibit No. 3.1. Monitoring of temporary impact areas shall be done concurrently with other required monitoring for the Kitching Creek Restoration Project.
 19. Activities associated with the implementation of the mitigation, monitoring and maintenance plan(s) shall be completed in accordance with the work schedule attached as Exhibit No. 4.1. Any deviation from these time frames will require prior approval from the District's Environmental Resource Compliance staff. 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 development or mitigation effort.
 20. A monitoring program shall be implemented in accordance with Exhibit No. 3.1. The monitoring program shall extend for a period of 5 years with annual reports submitted to District staff, in accordance with the work schedule attached as Exhibit 4.1.
 21. The wetland restoration areas shown on Exhibits 2.1 and 3.1 may in no way be altered from their permitted state. Activities prohibited within the conservation areas include, but are not limited to:
 - (a) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground;
 - (b) dumping or placing soil or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials;
 - (c) removal or destruction of trees, shrubs, or other vegetation - with the exception of exotic and nuisance vegetation removal;
 - (d) excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substances in such manner as to affect the surface;
 - (e) surface use except for purposes that permit the land or water area to remain predominantly in its natural condition;
 - (f) activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation, including but not limited to ditching, diking or fencing;
 - (g) acts or uses detrimental to such retention of land or water areas; and
 - (h) acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.
 22. 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.
 23. Endangered species, threatened species and/or species of special concern have been observed onsite and/or the project contains suitable habitat for these species. It shall be the permittee's responsibility to coordinate with the Florida Fish and Wildlife Conservation Commission and/or the U.S. Fish and Wildlife Service for appropriate guidance, recommendations and/or necessary permits to avoid impacts to listed species.
 24. Prior to the commencement of construction, the permittee shall conduct a pre-construction meeting with field representatives, contractors and District staff. The purpose of the meeting will be to discuss

STAFF REVIEW:

DIVISION APPROVAL:

NATURAL RESOURCE MANAGEMENT:

Melinda Parrott
Melinda Parrott

DATE: _____

SURFACE WATER MANAGEMENT:

Hugo A. Carter, P.E.
Hugo A. Carter, P.E.

DATE: 14 Oct 11

Clerk's Note:
Legibility of this document
determined to be substandard

SE BRIDGE RD

SE POWERLINE RD

SE 103TH ST

SE KITCHEN CREEK RD

FDOT, Rel. 04/2009

MARTIN COUNTY, FLORIDA

Legend

Application



Map Date: 9/22/2010

Application Number: 100322-9

Permit Number: 43-02300-P

Project Name: KITCHING CREEK CENTRAL FLOW
WAY RESTORATION PROJECT

0 600 1,200
Feet

Exhibit : 1

**KITCHING CREEK
CENTRAL FLOW
WAY RESTORATION
PROJECT**

APPLICATION NO. 100322-9

EXHIBIT 2

**INCLUDED BY REFERENCE
SEE PERMIT FILE**

**KITCHING CREEK CENTRAL FLOWWAY
WETLAND WATER LEVEL MONITORING PLAN
Revised July 6, 2010**

Background

Water levels in the Kitching Creek Restoration Project wetlands are expected to be enhanced with construction of the facilities outlined in the attached documents. The lack of engineering for the intersection of Bridge Road and Powerline Avenue has reduced historic flow to the wetlands located within the project design. In order to verify improved conditions in the system, Jonathan Dickinson State Park (JDSP) has agreed to collect, analyze and report data regarding flow in the system. It is noted that the permittee will be responsible for monitoring the wetland areas.

Monitoring

The agreement between JDSP and Martin County includes the installation of water level recording devices at the locations indicated on the following project sheets. These devices will monitor stage elevations from which flow will be calculated.

Data Analyses

The stage flow monitoring will be on a continuous monitoring scheme for a period of five years post-construction. The monitoring will document the post-project wetland hydrologic regime and vegetation in comparison with current normal pool and seasonal high water elevations and vegetation.

Project Data Reporting

Stage flow data will be collected every month by JDSP staff. JDSP staff will download and analyze the data and report the results to Martin County and the District. Photo stations will be established at each structure/staff gauge in order to monitor vegetative changes due to water level changes and to document survival and/or mortality of the planted vegetation in the temporarily disturbed areas. The first monitoring event will occur within 30 days of construction completion and will be submitted to the District and Martin County within 30 days of the monitoring event as the Baseline Report. Five annual reports will follow and will be submitted within 30 days of the monitoring event.

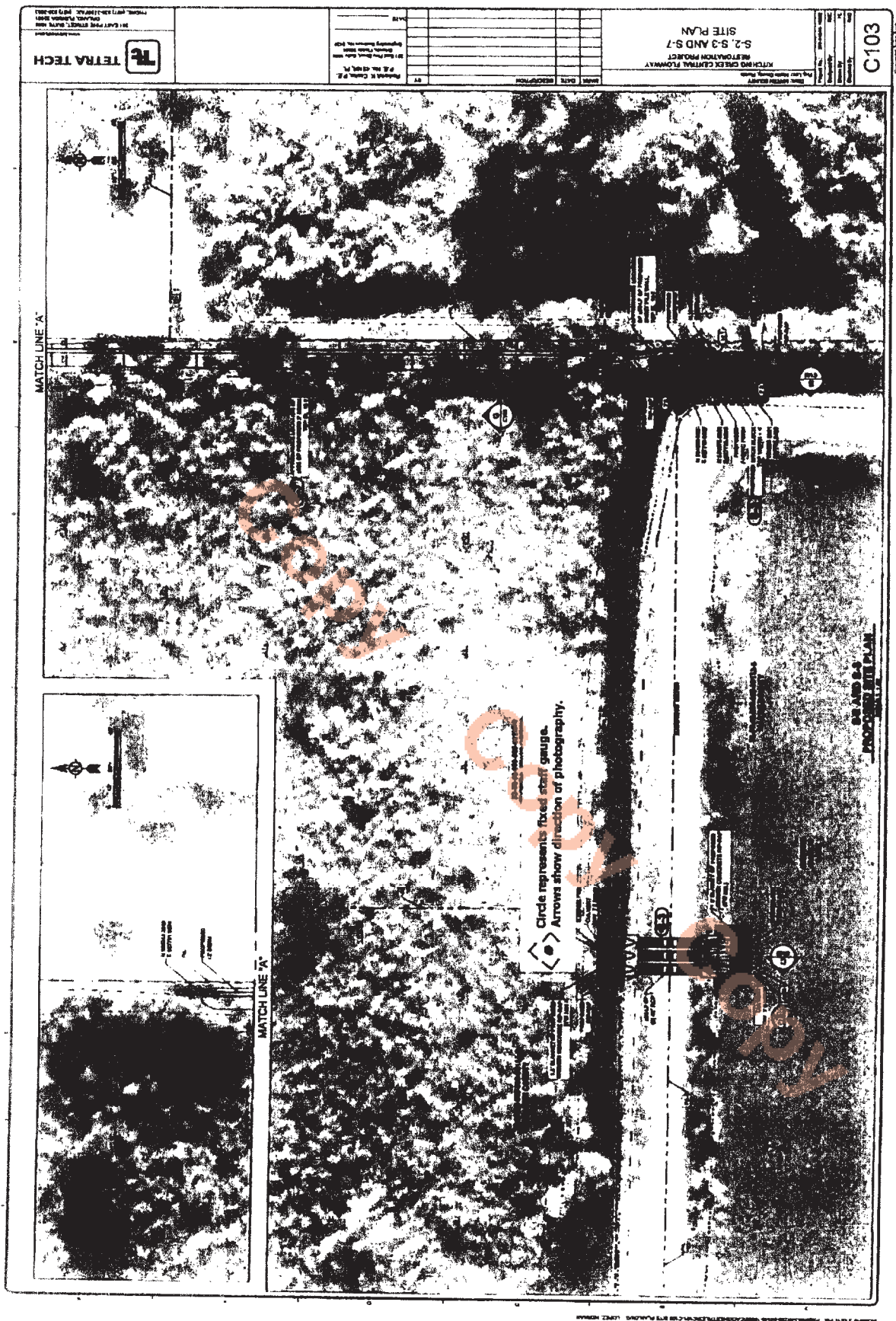


Exhibit 3.1

Application No 100322-9

Page 3 of 4

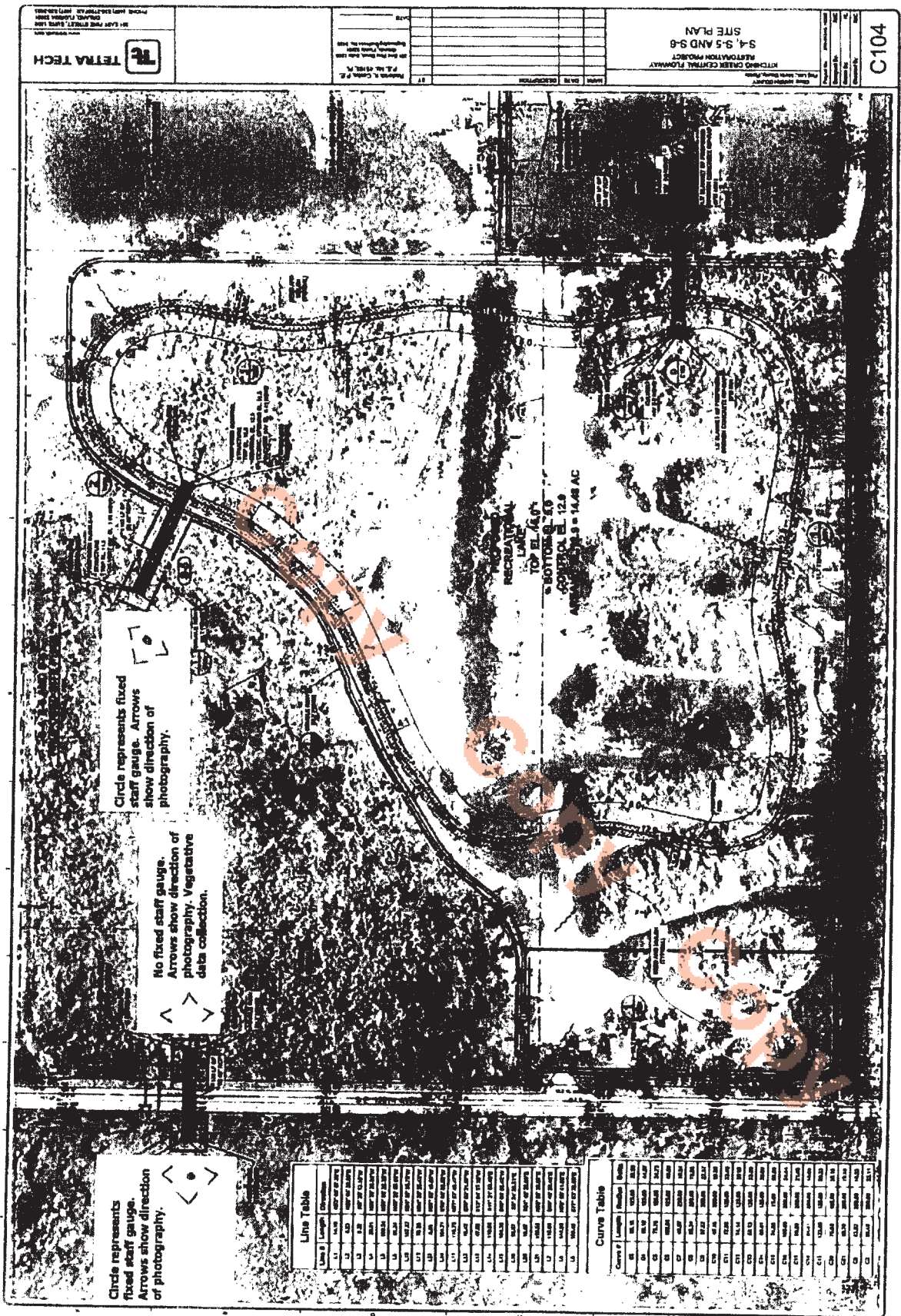


Exhibit 3.1

Application No 100322-9

Page 4 of 4

**South Florida Water Management District
Work Schedule Requirements**

Application No : 100322-9

Page 1 of 1

**Mitigation Plan ID: WETLAND RESTORATION
Activity**

Due Date

SUBMIT BASELINE MONITORING REPORT	25-OCT-11
SUBMIT FIRST MONITORING REPORT	25-OCT-12
SUBMIT SECOND MONITORING REPORT	25-OCT-13
SUBMIT THIRD MONITORING REPORT	25-OCT-14
SUBMIT FOURTH MONITORING REPORT	25-OCT-15
SUBMIT FIFTH MONITORING REPORT	25-OCT-16

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Exhibit No : 4.1

STAFF REPORT DISTRIBUTION LIST

KITCHING CREEK CENTRAL FLOW WAY RESTORATION PROJECT

Application No: 100322-9

Permit No: 43-02300-P

INTERNAL DISTRIBUTION

- X Carolyn McCreedy
- X Ryan Bond
- X Hugo A. Carter, P.E.
- X Melinda Parrott
- X ERC Martin/St. Lucie
- X Permit File

EXTERNAL DISTRIBUTION

- X Permittee - Martin County
- X Engr Consultant - Tetra Tech Ec

GOVERNMENT AGENCIES

- X Div of Recreation and Park - District 7 - FDEP
- X Loxahatchee River Environmental Control District
- X Martin County - County Administrator
- X Martin County - Growth Management Department
- X Martin County Board of County Commissioners
- X Martin County Engineering Dept - Don G Donaldson, P.E.