CON 24-06

Regulation Department
Application No. 010918-19

February 12, 2002

Deerfield Land Corporation
14901 South Orange Blossom Trail
Orlando, Florida 32837

SUBJECT: Surface Water Management General Permit No. 49-00477-S
Permittee: Deerfield Land Corporation
Project: Osceola Corporate Center Loop Road Parcel 7
Location: Osceola County, S3,4/T25S/R29E

Dear Permittee:

Enclosed please find notification and conditions of the South Florida Water Management District Surface Water Management General Permit No. 49-00477-S issued February 12, 2002, for the Osceola Corporate Center Loop Road Parcel 7 project. If you have questions, please do not hesitate to call me.

Sincerely,

Thomas P. Genovese
Service Center Director
Orlando Service Center

TPG/jlk
Enclosure

JLK0418
PERMITTEE: DEERFIELD LAND CORPORATION
14901 SOUTH ORANGE BLOSSOM TRAIL
ORLANDO, FL 32837

PROJECT DESCRIPTION: Construction and operation of a surface water management system to serve a 3.92 acre commercial project known as Osceola Corporate Center Loop Road Parcel 7.

PROJECT LOCATION: OSCEOLA COUNTY, SEC 3,4 TWP 25S RGE 29E


This is to notify you of the District's agency action concerning Permit Application No. 010918-19, dated September 18, 2001. This action is taken pursuant to Rule 40E-1.006 and Chapter 40E-40, Florida Administrative Code (F.A.C.).

Based on the information provided, District rules have been adhered to and a Surface Water Management 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 Standard Limiting Conditions (See Pages : 2 - 3 of 5 ),
3. the attached 17 Special Conditions (See Pages : 4 - 5 of 5 ) and
4. the attached 16 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 12th day of February, 2002, in accordance with Section 120.60(3), Florida Statutes.

BY: Thomas P. Genovese
Service Center Director
Orlando Service Center

Certified mail number 7001 0320 0005 6144 8111
40E-4.321 Duration of Permits

(1) Unless revoked or otherwise modified pursuant to Rules 40E-4.331 and 40E-4.441, F.A.C., the duration of a surface water management permit issued under this chapter is as follows:

(a) Two years from the date of issuance for Conceptual Approval, unless within that period an application for a construction and operation permit is filed for any portion of the project. If an application for a construction and operation permit is filed, then the Conceptual Approval remains valid until final action is taken on the application. If the application is granted, then the Conceptual Approval is valid for an additional two years from the date of issuance of the construction and operation permit. Conceptual Approvals which have no applications for construction and operation filed for a period of two years will expire automatically.

(b) Five years from the date of issuance for a construction permit.

(c) Perpetual for an operation permit.

(2) The Governing Board shall issue permit extensions provided that a permittee files a written request with the District showing good cause. 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 90 days prior to the expiration date.

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

(a) the effective date of the local government’s comprehensive plan amendment,

(b) the effective date of the local government development order, or

(c) the date on which the District issues the Conceptual Approval, or

(d) the latest date of the resolution of any Chapter 120 or other legal appeals.

(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) Modifications to construction permits issued pursuant to a formal permit application extend the duration of the permit for three years from the date of issuance of the modification. Construction permit modifications do not extend the duration of a Conceptual Approval.

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

Specific authority 373.044, 373.113 F.S. Law Implemented 373.413, 373.415(1) F.S. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4-20-94.
STANDARD LIMITING CONDITIONS

1. The permittee shall implement the work authorized in a manner so as to minimize any adverse impact of the works on fish, wildlife, natural environmental values, and water quality. The permittee shall institute necessary measures during the construction period, including full compaction of any fill material placed around newly installed structures, to reduce erosion, turbidity, nutrient loading and sedimentation in the receiving waters.

2. Water quality data for the water discharged from the permittee's property or into surface waters of the State will be submitted to the District as required by Section 5.9, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District". Parameters to be monitored may include those listed in Chapter 62-302, F.A.C.. If water quality data is required, the permittee shall provide data on volumes of water discharged, including total volume discharged during the days of sampling and total monthly discharges from the property or into surface waters of the State.

3. This permit shall not relieve the permittee of any obligation to obtain necessary federal, State, local or special district approvals.

4. The operation phase of this permit will not become effective until the District's acceptance of certification of the completed surface water management system. The permittee shall request transfer of the permit to the responsible operation entity accepted by the District, if different from the permittee. The transfer request can be submitted concurrently with the construction completion certification.

5. All road elevations shall be set in accordance with the criteria set forth in Section 6.5, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District".

6. All building floor elevations shall be set in accordance with the criteria set forth in Section 6.4, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District".

7. Off-site discharges during construction and development will be made only through the facilities authorized by this permit.

8. A permit transfer to the operation phase shall not occur until a responsible entity meeting the requirement in Section 9.0, "Basis of Review for Surface Water Management Permit Applications within South Florida Water Management District" has been established to operate and maintain the system. The entity must be provided with sufficient ownership or legal interest so that it has control over all water management facilities authorized herein.

9. The permit does not convey to the permittee any property rights or privileges other than those specified in the permit and Chapter 40E-4, F.A.C..

10. 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, operation, maintenance or use of any facility authorized by the permit.

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. Within 30 days of issuance of this permit, the permittee or authorized agent shall notify the District (via the supplied construction commencement notice or equivalent) of the actual or anticipated construction start date and the expected completion date.

13. When the duration of construction exceeds one year, the permittee or authorized agent shall submit
construction status reports on an annual basis (via the supplied annual status report or equivalent) beginning one year after the initial commencement of construction.

14. Within 30 days after completion of construction of the surface water management system, the permittee or authorized agent shall file a written statement of completion and certification by a Florida registered professional engineer. These statements must specify the actual date of construction completion and must certify that all facilities have been constructed in substantial conformance with the plans and specifications approved by the District (via the supplied construction completion/certification or equivalent). The construction completion certification must include, at a minimum, existing elevations, locations and dimensions of the components of the water management facilities. Additionally, if deviations 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.

15. Within 30 days of any sale, conveyance or other transfer of any of the land which is proposed for development under the authorization of this permit, the permittee shall notify the District of such transfer in writing via either Form 0483, Request for Permit Transfer; or Form 0920, Request for Transfer of Surface Water Management Construction Phase to Operation Phase (to be completed and submitted by the operating entity), in accordance with Sections 40E-1.6105 AND 40E-4.351, F.A.C..

16. A prorated share of surface water management retention/detention areas, sufficient to provide the required flood protection and water quality treatment, must be provided prior to occupancy of any building or residence.

17. 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.

18. It is the responsibility of the permittee to insure that adverse off-site water resource related impacts do not occur during construction.

19. 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(4), F.A.C..
1. DISCHARGE FACILITIES:

BASIN: BASIN I:

2.0' W X 1.25' H RECTANGULAR ORIFICE WEIRS WITH CREST AT ELEV. 86.75' NGVD.
1.25' DIA. CIRCULAR ORIFICE WITH INVERT AT ELEV. 86' NGVD.
42 LF OF 2' DIA. REINFORCED CONCRETE PIPE CULVERT.

RECEIVING BODY: WETLAND E

CONTROL ELEV: 86 FEET NGVD. /86 FEET NGVD DRY SEASON.

BASIN: BASIN II:

1-15' W X 2.65' H BROAD CRESTED WEIR WITH CREST AT ELEV. 83.9' NGVD.
1-1' W X .65' H RECTANGULAR NOTCH WITH INVERT AT ELEV. 83.25' NGVD.

RECEIVING BODY: WETLAND L

CONTROL ELEV: 83.25 FEET NGVD. /83.25 FEET NGVD DRY SEASON.

2. MINIMUM ROAD CROWN ELEVATION: BASIN: BASIN I - 88.00 FEET NGVD.
BASIN: BASIN II - 85.67 FEET NGVD.

3. 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.

4. 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.

5. FACILITIES OTHER THAN THOSE STATED HEREIN SHALL NOT BE CONSTRUCTED WITHOUT AN APPROVED MODIFICATION OF THIS PERMIT.

6. 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 TOP SOILED AND STABILIZED THROUGH SEEDING OR PLANTING FROM 2 FEET BELOW TO 1 FOOT ABOVE THE CONTROL ELEVATION TO PROMOTE VEGETATIVE GROWTH.

7. MEASURES SHALL BE TAKEN DURING CONSTRUCTION TO INSURE THAT SEDIMENTATION AND/OR TURBIDITY PROBLEMS ARE NOT CREATED IN THE RECEIVING WATER.

8. PRIOR TO THE COMMENCEMENT OF CONSTRUCTION OF FUTURE PHASES, PAVING, GRADING, AND DRAINAGE PLANS SHALL BE SUBMITTED TO THE DISTRICT FOR PERMIT MODIFICATIONS.


10. All special conditions and exhibits previously stipulated by permit number 49-00477-S remain in effect.
SPECIAL CONDITIONS

unless otherwise revised and shall apply to this modification.

11. 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. All areas shall be stabilized and vegetated immediately after construction to prevent erosion into the wetlands and upland buffer zones.

12. Reference is made to Exhibit Nos. 8 through 13, by Ivey, Harris & Walls, consisting of roadway plan and profile sheets. The drawings have been signed and sealed by J. Stephen Dieter, P.E., on January 3, 2002 and have been included in this permit by reference (please see permit file).

13. The average upland buffer to W-12 shall be placed under a conservation easement to be dedicated to the District, as stipulated in Special Conditions within previous permits (Application #000127-12 and #970718-2). No later than April 15, 2002, the permittee shall provide to the District the fully executed and recorded conservation easement for the upland buffer to W-12. The conservation easement language shall be consistent with the standard language used within the previous permits as approved.

14. An average 25' wide, minimum 15', buffer of undisturbed upland vegetation shall be maintained between the proposed development and existing wetlands. Buffers shall be staked and roped and District environmental staff notified for inspection prior to clearing.

15. 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.

16. Any future changes in land use or treatment of wetland and/or upland areas may require a permit modification and additional review by District environmental/engineering staff. Prior to the permittee instituting any future changes not authorized by this permit, the permittee shall notify the District of such intentions for a determination of any necessary permit modifications.

17. Activities associated with the implementation of the mitigation, monitoring and maintenance plan shall be completed in accordance with the work schedule attached as Exhibit No. 15. 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.
NOTICE OF RIGHTS

Section 120.569(1), Fla. Stat. (1999), requires that "each notice shall inform the recipient of any administrative hearing or judicial review that is available under this section, s. 120.57, or s. 120.68; shall indicate the procedure which must be followed to obtain the hearing or judicial review, and shall state the time limits which apply." 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.

Petition for Administrative Proceedings
1. A person whose substantial interests are affected by the South Florida Water Management District’s (SFWMMD) action has the right to request an administrative hearing on that action. The affected person may request either a formal or an informal hearing, as set forth below. A point of entry into administrative proceedings is governed by Rules 28-106.111 and 40E-1.511, Fla. Admin. Cond. (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109), as set forth below. Petitions are deemed filed upon receipt of the original documents by the SFWMMD Clerk.

a. Formal Administrative Hearing: If a genuine issue(s) of material fact is in dispute, the affected person seeking a formal hearing on a SFWMMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(1), Fla. Stat. or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.201(2), Fla. Admin. Code, a copy of which is attached to this Notice of Rights.

b. Informal Administrative Hearing: If there are no issues of material fact in dispute, the affected person seeking an informal hearing on a SFWMMD decision which does or may determine their substantial interests shall file a petition for hearing pursuant to Sections 120.569 and 120.57(2), Fla. Stat or for mediation pursuant to Section 120.573, Fla. Stat. within 21 days, except as provided in subsections c. and d. below, of either written notice through mail or posting or publication of notice that the SFWMMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-106.301(2), Fla. Admin. Code, a copy of which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMMD Administrative Complaint and Order, pursuant to Section 373.119, Fla. Stat. (1997), the person named in the Administrative Complaint and Order may file a petition for hearing no later than 14 days after the date such order is served. Petitions must substantially comply with the requirements of either subsection a. or b. above.

d. State Lands Environmental Resource Permit: Pursuant to Section 373.427, Fla. Stat., and Rule 40E-1.511(3), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), a petition objecting to the SFWMMD's agency action regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands (SLERPs), must be filed within 14 days of the notice of consolidated intent to grant or deny the SLERP. Petitions must substantially comply with the requirements of either subsection a. or b. above.

e. Emergency Authorization and Order: A person whose substantial interests are affected by a SFWMMD Emergency Authorization and Order, has a right to file a petition under Sections 120.569, 120.57(1), and 120.57(2), Fla. Stat, as provided in subsections a. and b. above. However, the person, or the agent of the person responsible for causing or contributing to the emergency conditions shall take whatever action necessary to cause immediate compliance with the terms of the Emergency Authorization and Order.

f. Order for Emergency Action: A person whose substantial interests are affected by a SFWMMD Order for Emergency Action has a right to file a petition pursuant to Rules 28-107.005 and 40E-1.611, Fla. Admin. Code, copies of which are attached to this Notice of Rights, and Section 373.119(3), Fla. Stat., for a hearing on the Order. Any subsequent agency action or proposed agency action to initiate a formal revocation-proceeding shall be separately noticed pursuant to section g. below.

g. Permit Suspension, Revocation, Annulment, and Withdrawal: If the SFWMMD issues an administrative complaint to suspend, revoke, annul, or withdraw a permit, the permittee may request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Fla. Stat., within 21 days of either written notice through mail or posting or publication of notice that the SFWMMD has or intends to take final agency action. Petitions must substantially comply with the requirements of Rule 28-107.004(3), Fla. Admin. Code, a copy of which is attached to this Notice of Rights.

2. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the SFWMMD's final action may be different from the position taken by it previously. Persons whose substantial interests may be affected by
any such final decision of the SFWMD shall have, pursuant to Rule 40E-1.511(2), Fla. Admin. Code (also published as an exception to the Uniform Rules of Procedure as Rule 40E-0.109(2)(c)), an additional 21 days from the date of receipt of notice of said decision to request an administrative hearing. However, the scope of the administrative hearing shall be limited to the substantial deviation.

3. Pursuant to Rule 40E-1.511(4), Fla. Admin. Code, substantially affected persons entitled to a hearing pursuant to Section 120.57(1), Fla. Stat., may waive their right to such a hearing and request an informal hearing before the Governing Board pursuant to Section 120.57(2), Fla. Stat., which may be granted at the option of the Governing Board.

4. Pursuant to Rule 28-106.111(3), Fla. Admin. Code, persons may file with the SFWMD a request for extension of time for filing a petition. The SFWMD, for good cause shown, may grant the extension. The request for extension must contain a certificate that the petitioner has consulted with all other parties, if any, concerning the extension and that the SFWMD and all other parties agree to the extension.

CIRCUIT COURT

5. Pursuant to Section 373.617, Fla. Stat., any substantially affected person who claims that final agency action of the SFWMD relating to permit decisions constitutes an unconstitutional taking of property without just compensation may seek judicial review of the action in circuit court by filing a civil action in the circuit court in the judicial circuit in which the affected property is located within 90 days of the rendering of the SFWMD’s final agency action.

6. Pursuant to Section 403.412, Fla. Stat., any citizen of Florida may bring an action for injunctive relief against the SFWMD to compel the SFWMD to enforce the laws of Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code. The complaining party must file with the SFWMD Clerk a verified complaint setting forth the facts upon which the complaint is based and the manner in which the complaining party is affected. If the SFWMD does not take appropriate action on the complaint within 30 days of receipt, the complaining party may then file a civil suit for injunctive relief in the 15th Judicial Circuit in and for Palm Beach County or circuit court in the county where the cause of action allegedly occurred.

7. Pursuant to Section 373.433, Fla. Stat., a private citizen of Florida may file suit in circuit court to require the abatement of any stormwater management system, dam, impoundment, reservoir, appurtenant work or works that violate the provisions of Chapter 373, Fla. Stat.

DISTRICT COURT OF APPEAL

8. Pursuant to Section 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.

LAND AND WATER ADJUDICATORY COMMISSION

9. A party to a “proceeding below” may seek review by the Land and Water Adjudicatory Commission (FLAWAC) of SFWMD’s final agency action to determine if such action is consistent with the provisions and purposes of Chapter 373, Fla. Stat. Pursuant to Section 373.114, Fla. Stat., and Rules 42-2.013 and 42-2.0132, Fla. Admin. Code, a request for review of (a) an order or rule of the SFWMD must be filed with FLAWAC within 20 days after rendition of the order or adoption of the rule sought to be reviewed; (b) an order of the Department of Environmental Protection (DEP) requiring amendment or repeal of a SFWMD rule must be filed with FLAWAC within 30 days of rendition of the DEP’s order, and (c) a SFWMD order entered pursuant to a formal administrative hearing under Section 120.57(1), Fla. Stat., must be filed no later than 20 days after rendition of the SFWMD’s final order. Simultaneous with filing, a copy of the request for review must be served on the DEP Secretary, any person named in the SFWMD or DEP final order, and all parties to the proceeding below. A copy of Rule 42-2.013, Fla. Admin. Code is attached to this Notice of Rights.

PRIVATE PROPERTY RIGHTS PROTECTION ACT

10. A property owner who alleges a specific action of the SFWMD has inordinately burdened an existing use of the real property, or a vested right to a specific use of the real property, may file a claim in the circuit court where the real property is located within 1 year of the SFWMD action pursuant to the procedures set forth in Subsection 70.001(4)(a), Fla. Stat.

LAND USE AND ENVIRONMENTAL DISPUTE RESOLUTION

11. A property owner who alleges that a SFWMD development order (as that term is defined in Section 70.51(2)(a), Fla. Stat. to include permits) or SFWMD enforcement action is unreasonable, or unfairly burdens the use of the real property, may file a request for relief with the SFWMD within 30 days of receipt of the SFWMD’s order or notice of agency action pursuant to the procedures set forth in Subsections 70.51(4) and (6), Fla. Stat.

MEDIATION

12. A person whose substantial interests are, or may be, affected by the SFWMD’s action may choose mediation as an alternative remedy under Section 120.573, Fla. Stat. Pursuant to Rule 28-106.111(2), Fla. Admin. Code, the petition for mediation shall be filed within 21 days of either written notice through mail or posting or Revised August, 2000
publication of notice that the SFWMD has or intends to take final agency action. Choosing mediation will not affect the right to an administrative hearing if mediation does not result in settlement.

Pursuant to Rule 28-106.402, Fla. Admin. Code, the contents of the petition for mediation shall contain the following information:

(a) the name, address, and telephone number of the person requesting mediation and that person’s representative, if any;
(b) a statement of the preliminary agency action;
(c) an explanation of how the person’s substantial interests will be affected by the agency determination; and
(d) a statement of relief sought.

As provided in Section 120.573, Fla. Stat. (1997), the timely agreement of all the parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Fla. Stat., for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within 60 days of the execution of the agreement. If mediation results in settlement of the dispute, the SFWMD must enter a final order incorporating the agreement of the parties. Persons whose substantial interest will be affected by such a modified agency decision have a right to petition for hearing within 21 days of receipt of the final order in accordance with the requirements of Sections 120.569 and 120.57, Fla. Stat., and SFWMD Rule 28-106.201(2), Fla. Admin. Code. If mediation terminates without settlement of the dispute, the SFWMD shall notify all parties in writing that the administrative hearing process under Sections 120.569 and 120.57, Fla. Stat., remain available for disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action.

VARIANCES AND WAIVERS

13. A person who is subject to regulation pursuant to a SFWMD rule and believes the application of that rule will create a substantial hardship or will violate principles of fairness (as those terms are defined in Subsection 120.542(2), Fla. Stat.) and can demonstrate that the purpose of the underlying statute will be or has been achieved by other means, may file a petition with the SFWMD Clerk requesting a variance from or waiver of the SFWMD rule. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have concerning the SFWMD’s action. Pursuant to Rule 28-104.002(2), Fla. Admin. Code, the petition must include the following information:

(a) the caption shall read: Petition for (Variance from) or (Waiver of) Rule (Citation);
(b) the name, address, telephone number and any facsimile number of the petitioner;
(c) the name, address telephone number and any facsimile number of the attorney or qualified representative of the petitioner, (if any);
(d) the applicable rule or portion of the rule;
(e) the citation to the statute the rule is implementing;
(f) the type of action requested;
(g) the specific facts that demonstrate a substantial hardship or violation of principals of fairness that would justify a waiver or variance for the petitioner;
(h) the reason why the variance or the waiver requested would serve the purposes of the underlying statute; and
(i) a statement of whether the variance or waiver is permanent or temporary, if the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

A person requesting an emergency variance from or waiver of a SFWMD rule must clearly so state in the caption of the petition. In addition to the requirements of Section 120.542(9), Fla. Stat., pursuant to Rule 28-104.004(2), Fla. Admin. Code, the petition must also include:

a) the specific facts that make the situation an emergency; and
b) the specific facts to show that the petitioner will suffer immediate adverse effect unless the variance or waiver is issued by the SFWMD more expeditiously than the applicable timeframes set forth in Section 120.542, Fla. Stat.

WAIVER OF RIGHTS

14. Failure to observe the relevant time frames prescribed above will constitute a waiver of such right.

28-106.201 INITIATION OF PROCEEDINGS (INVOLVING DISPUTED ISSUES OF MATERIAL FACT)

(2) All petitions filed under these rules shall contain:

(a) The name and address of each agency affected and each agency’s file or identification number, if known;
(b) The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner’s representative, if any, which shall be the address for service purposes during the course of the proceeding, and an explanation of how the petitioner’s substantial interests will be affected by the agency determination;
(c) A statement of when and how the petitioner received notice of the agency decision;
(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
(f) A demand for relief.

Revised August, 2000
42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217
(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

(a) How the order or rule conflicts with the purposes and objectives of Chapter 373, or rules duly adopted thereunder;
(b) How the rule or order sought to be reviewed affects the interests of the party seeking review;
(c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;
(d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record upon which the petitioner claims support such determination(s); and
(e) The action requested to be taken by the Commission as a result of the review, whether to rescind or modify the order, or remand the proceeding to the water management district for further action, or to require the water management district to initiate rulemaking to adopt, amend or repeal a rule.

42-2.013 REQUEST FOR REVIEW PURSUANT TO SECTION 373.114 OR 373.217
(1) In any proceeding arising under Chapter 373, F.S., review by the Florida Land and Water Adjudicatory Commission may be initiated by the Department or a party by filing a request for such review with the Secretary of the Commission and serving a copy on any person named in the rule or order, and on all parties to the proceeding which resulted in the order sought to be reviewed. A certificate of service showing completion of service as required by this subsection shall be a requirement for a determination of sufficiency under Rule 42-2.0132. Failure to file the request with the Commission within the time period provided in Rule 42-2.0132 shall result in dismissal of the request for review.

(2) The request for review shall identify the rule or order requested to be reviewed, the proceeding in which the rule or order was entered and the nature of the rule or order. A copy of the rule or order sought to be reviewed shall be attached. The request for review shall state with particularity:

(a) How the order or rule conflicts with the purposes and objectives of Chapter 373, or rules duly adopted thereunder;
(b) How the rule or order sought to be reviewed affects the interests of the party seeking review;
(c) The oral or written statement, sworn or unsworn, which was submitted to the agency concerning the matter to be reviewed and the date and location of the statement, if the individual or entity requesting the review has not participated in a proceeding previously instituted pursuant to Chapter 120, F.S., on the order for which review is sought;
(d) If review of an order is being sought, whether and how the activity authorized by the order would substantially affect natural resources of statewide or regional significance, or whether the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from a standpoint of agency precedent, and all the factual bases in the record which the petitioner claims support such determination(s); and
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(a) How the order or rule conflicts with the purposes and objectives of Chapter 373, or rules duly adopted thereunder;
Last Date For Agency Action: February 16, 2002

GENERAL SURFACE WATER MANAGEMENT STAFF REPORT

Project Name: Osceola Corporate Center Loop Road Parcel 7
Permit No.: 49-00477-S
Application No.: 010918-19 Associated File: 011022-16 SWM
Application Type: Surface Water Management (General Permit Modification)
Location: Osceola County, S3,4/T25S/R29E
Permittee: Deerfield Land Corporation
Operating Entity: Master Association
Project Area: 8.92 acres
Project Land Use: Commercial
Drainage Basin: LAKE TOHOPEKALIGA
Receiving Body: Lake Tohopekaliga via Existing Wetland Class: CLASS III
Special Drainage District: NA
Conservation Easement To District: Yes
Sovereign Submerged Lands: No

PROJECT PURPOSE:
Modification of a Surface Water Management Permit to authorize construction and operation of a surface water management system to serve 8.92 acre commercial project known as Osceola Corporate Center Loop Road Parcel 7. Staff recommends approval with conditions.
PROJECT EVALUATION:

PROJECT SITE DESCRIPTION:

The site is located at the southeast corner of Osceola Parkway and John Young Parkway. This is an undeveloped upland area within the previously approved Osceola Corporate Center Project. The master surface water management system is partially built, which includes Ponds 308 and 309. The proposed construction area contains 8.92 acres. The contributing drainage area is 68.27 acres. There are no wetlands, unique uplands or any known endangered, threatened or species of special concern within the project area. Preserved wetland W-12 lies south of the proposed roadway, but the wetland and the established upland buffer zones will not be adversely affected by the development. Best management practices for erosion control will be implemented during construction activities.

PROPOSED PROJECT:

This application is concurrent with Application No. 011022-16 for construction of a Lowe’s Home Center on Parcel 7, which is served by the access road being permitted by this application.

Parcel 7 originally drained north and south. The applicant has revised the drainage patterns to drain all of Parcel 7 to the south and revised an equal area of this contributing basin to drain to the north.

The project area is divided into two drainage basins. Runoff from Basin I (201A&B: 5.22 acres), which includes a 2.16-acre portion of the proposed roadway, and 3.07 acres of future development area, that will be mass graded and used as a construction staging area, will be collected via inlets and culverts and directed to a proposed wet detention Pond 201 for water quality treatment and attenuation. Outfall is into the adjacent Wetland E via an existing spreader swale. Ultimate outfall is into Shingle Creek via an off-site wetland.

Runoff from Basin II (308A-D&309: 63.05 acres), which includes a 2.7-acre portion of the proposed roadway, will be collected via inlets and culverts and directed to the existing master system for water quality treatment and attenuation. The existing outfall structure in Pond 309 will be modified in order to provide water quality treatment and attenuation for the additional pavement area proposed under this application. Outfall is into the adjacent Wetland L. Ultimate outfall is into Shingle Creek via the off-site wetland.

The drainage area (68.27 acres) includes this phase of construction of 8.92 acres, plus 59.35 acres of previously approved development (Application No. 960216-2). Basin 308D acreage of 8.23 acres has been included in the project area for attenuation; however, the basin will remain as undisturbed pervious area at this time.

LAND USE:

The land use shown below is for this phase of construction only. The balance of the project area will remain as was previously permitted. The water management category includes 1.0 acres of proposed Pond 201.

Construction:
Project:

<table>
<thead>
<tr>
<th>This Phase</th>
<th>Total Project</th>
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<tbody>
<tr>
<td>Pavement</td>
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<tr>
<td>Pervious</td>
<td>4.20</td>
</tr>
<tr>
<td>Water Mgmt Acreage</td>
<td>1.00</td>
</tr>
</tbody>
</table>
Discharge Rate:
As shown in the table below, the proposed project discharge is within the allowable limit for the area. Proposed discharges are consistent with the existing permitted rates. Discharges are to wetlands which provide additional attenuation.

<table>
<thead>
<tr>
<th>Basin</th>
<th>Allow Disch (cfs)</th>
<th>Method Of Determination</th>
<th>Peak Disch (cfs)</th>
<th>Peak Stage (ft, NGVD)</th>
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</thead>
<tbody>
<tr>
<td>Basin I</td>
<td>43.31</td>
<td>Previously Permitted</td>
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<td>87.81</td>
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<tr>
<td>Basin II</td>
<td>114.34</td>
<td>Previously Permitted</td>
<td>113.92</td>
<td>85.67</td>
</tr>
</tbody>
</table>

Finished Floors:

Building Storm Frequency: 100 YEAR-3 DAY
Design Rainfall: 14.5 inches

Road Design:

As shown in the following table and the attached exhibits, minimum road center lines have been set at or above the calculated design storm flood elevation.

<table>
<thead>
<tr>
<th>Basin</th>
<th>Peak Stage (ft, NGVD)</th>
<th>Proposed Min. Road Crown (ft, NGVD)</th>
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</thead>
<tbody>
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<td>Basin I</td>
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<td>88</td>
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<tr>
<td>Basin II</td>
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Control Elevation:

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<th>Basin</th>
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<th>Ctrl Elev (ft, NGVD)</th>
<th>WSWT Ctrl Elev (ft, NGVD)</th>
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<tr>
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<td>Basin II</td>
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Receiving Body:

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<th>Basin</th>
<th>Str.#</th>
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</thead>
<tbody>
<tr>
<td>Basin I</td>
<td>1</td>
<td>WETLAND E</td>
</tr>
<tr>
<td>Basin II</td>
<td>1</td>
<td>WETLAND L</td>
</tr>
</tbody>
</table>

Discharge Structures
Discharge Culverts:

**Basin** | **Str.#** | **Dimensions**
--- | --- | ---
Basin I | 1 | 1 - 42' long 24" dia. Reinforced Concrete Pipe

Discharge Weirs:

**Basin** | **Str.#** | **Dimensions** | **Crest Elev. (ft, NGVD)**
--- | --- | --- | ---
Basin I | 1 | 2 - 1.42' wide X 1.25' high Rectangular Orifice | 86.75
Basin II | 1 | 1 - 15 wide X 2.85 high Broad Crested | 83.9

Water Quality Structures:

Water Quality Bleeders:

**Basin** | **Str.#** | **Dimensions** | **Invert Elev. (ft, NGVD)**
--- | --- | --- | ---
Basin I | 1 | 1 - 3" Dia. Circular Orifice | 86
Basin II | 1 | 1 - 1 width(bottom) X .65 high Rectangular Notch | 83.25

**WATER QUALITY**

Basin I: Water quality treatment in excess of 2.5 inches times the percentage of impervious coverage is provided in proposed Pond 201. The 2.16-acre portion of proposed roadway is being developed to 33 percent impervious coverage, which is within the master design assumption of 85 percent.

Basin II: Water quality treatment of 2.5 inches times the percentage of impervious coverage, up 85 percent, is provided in the existing master surface water management system. The 2.70-acre portion of proposed roadway is being developed to 30 percent impervious coverage, which is within the master design assumption of 85 percent.

The Basin II water quality treatment as shown below excludes Basin 308D, which will remain undeveloped at this time.

**Basin** | **Treatment Method** | **Vol Req'd (ac-ft)** | **Vol Prov'd (ac-ft)**
--- | --- | --- | ---
Basin I | Treatment | Wet Detention | 1 acres | .44 | .45
Basin II | Treatment | Wet Detention | 7.6 acres | 4.57 | 4.57

**WETLANDS**

There are no wetlands located within the project boundaries. However, wetland W-12 occurs south of the proposed Centerview Boulevard and Pond 201 is proposed to the east of the wetland. Wetland W-12 has already been placed under a conservation easement. As previously required (Application #970718-2), an average 25-foot upland buffer adjacent to wetland W-12 shall be recorded under a conservation easement at the time of permit modification. As depicted in Exhibits 11 & 12 (included by reference), the average buffer totaling 0.59 acre has been provided adjacent to W-12. An updated upland buffer table has also been provided (Exhibit 14).
Endangered Species

The project site does not contain preferred habitat for wetland-dependent endangered or threatened wildlife species or species of special concern. No wetland-dependent endangered/threatened species or species of special concern were observed onsite, and submitted information indicates that potential use of the site by such species is minimal. This permit does not relieve the applicant from complying with all applicable rules and any other agencies' requirements if, in the future, endangered/threatened species or species of special concern are discovered on the site.

Legal Issues

A conservation easement shall be recorded over the average upland buffer to wetland W-12, as previously stipulated in Application #970718-2 as modified by Application #000127-12. The standard language used for conservation easements within the previous permits will be used for this application, and is included herein by reference (Application #970718-2).
RELATED CONCERNS:

Water Use Permit Status:

A Water Use permit is not required for this project at this time. A Water Use Permit must be obtained prior to irrigation withdrawals, unless the work qualifies for a general permit issued pursuant to Section 40E-20 FAC.

Historical/Archeological Resources:

The District has received correspondence from the Florida Department of State, Division of Historical Resources indicating that the agency has no objections to the issuance of this permit.

DCA/CZM Consistency Review:

The District has not received a finding of inconsistency from the Florida Department of Community Affairs or other commenting agencies regarding the provisions of the federal Coastal Zone Management Plan.
STAFF RECOMMENDATION:

The Staff recommends that the following be issued:

Construction and operation of a surface water management system to serve a 8.92 acre commercial project known as Osceola Corporate Center Loop Road Parcel 7.

Based on the information provided, District rules have been adhered to.

Staff recommendation is for approval subject to the attached Standard Limiting and Special Conditions.

STAFF REVIEW:

DIVISION APPROVAL:

SURFACE WATER MANAGEMENT:

[Signature]

Edward W. Yau, P.E.

DATE: 2/11/02

NATURAL RESOURCE MANAGEMENT:

[Signature]

Marc S. Ady

DATE: 2/11/02
<table>
<thead>
<tr>
<th>Wetland Number</th>
<th>Conservation Easement Acreage</th>
<th>Upland Buffer (Acreage Landward of Minimum)</th>
<th>Total Buffer Area Required (Average Buffer) (Acres)</th>
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<tbody>
<tr>
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<td>Wetland Size (Acres)</td>
<td>Minimum Buffer (Acres)</td>
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*final buffers
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<td>15-APR-2002</td>
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STAFF REPORT DISTRIBUTION LIST

OSCEOLA CORPORATE CENTER LOOP ROAD PARCEL 7
Application No: 010918-19
Permit No: 49-00477-S

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X ERC Engineering - 4710
X ERC Environmental - 4710
X Permit File

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X Engr Consultant - Ivey Harris And Walls Inc

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X Florida Fish & Wildlife Conservation Commission - Bureau of Protected Species Mgmt
X Osceola County Engineer
X US Army Corps of Engineers - Merritt Island Reg Office - CESAJ-RD-AM

OTHER INTERESTED PARTIES
X Sierra Club - Central Florida Group
X Water Management Institute - Michael N. Vanatta