

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF INTENT TO ISSUE PERMIT

This intent to issue a permit (File No. 67-0263928-002-DF) to Washington County, 1331 South Blvd, Chipley, Florida 32428, to impact 8.82 acres of jurisdictional wetlands and the temporary impact of 1.25 acres of jurisdictional wetlands for the construction of approximately 2400 l.f. of asphalt roadway to service the Washington County Industrial Park. The proposed road will be 24' wide with 8' shoulders, 2' deep swales at 4:1 slopes and will have a 100' right-of-way that will be maintained by Washington County. Road will start at Pecan Street and run eastward along north side of existing CSX railroad line. An 18 acre mitigation site for this project is located on the west side of SR 277 south of the project site. The mitigation site is to be placed under a conservation easement granted to the Florida Department of Environmental Protection, is hereby granted unless a sufficient petition for an administrative hearing is timely filed under sections 120.569 and 120.57 of the Florida Statutes as provided below.

The activity is located north of Highway 90 on the east side of Pecan Street in Chipley, Class III Waters of the State, Latitude: 30°46'56", Longitude 85°31'50", Section 3 Township 4 North, Range 13 West, Washington County, Florida.

The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Because the administrative hearing process is designed to re-determine final agency action on the application, the filing of a petition for an administrative hearing may result in a modification of the permit and lease, or even a denial of the application. Accordingly, the applicant is advised not to commence construction or other activities under this permit/lease until the deadlines below for filing a petition for an administrative hearing, or request for an extension of time have expired.

Under rule 62-110.106(4) of the Florida Administrative Code, a person whose substantial interests are affected by the Department's action may also request an extension of time to file a petition for an administrative hearing. The Department may, for good cause shown, grant the request for an extension of time. Requests for extension of time must be filed with the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, before the applicable deadline. A timely request for extension of time shall toll the running time period for filing a petition until the request is acted upon. If a request is filed late, the Department may still grant it upon a motion by the requesting party showing that the failure to file a request for an extension of time before the deadline was the result of excusable neglect.

In the event that a timely and sufficient petition for an administrative hearing is filed, other persons whose substantial interests will be affected by the outcome of the administrative process have the right to petition to intervene in the proceeding. Intervention will be only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-106.205 of the Florida Administrative Code.

In accordance with rules 28-106.111(2) and 62-110.106(3)(a)(4), petitions for an administrative hearing by the applicant must be filed within 21 days of receipt of this written notice. Petitions filed by any persons other than the applicant, and other than those entitled to written notice under section 120.60(3) of the Florida Statutes, must be filed within 21 days of publication of the notice or within 21 days of such notice, regardless of the date of publication.

Under section 120.60(3) of the Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within 21 days of such notice, regardless of the date of publication.

The petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition for an administrative hearing or pursue mediation as provided below within the appropriate time period shall constitute a waiver of those rights.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

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

Notice for Publication

A petition that does not dispute the material facts on which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by rule 28-106.301. Under sections 120.569(2)(c) and (d) of the Florida Statutes, a petition for administrative hearing must be dismissed by the agency if the petition does not substantially comply with the above requirements or is untimely filed.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of petition this order will not be effective until further order of the Department.

This permit constitutes an order of the Department. The applicant has the right to seek judicial review of the order under section 120.68 of the Florida Statutes, by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000; and by filing a copy of the notice of the appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days from the date when the final order is filed with the Clerk of the Department. Requests for review before the Land and Water Adjudicatory Commission must be filed with the Secretary of the Commission and served on the Department within 20 days from the date when the final order is filed with the Clerk of the Department.

The application is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at Department of Environmental Protection, 2353 Jenks Avenue, Panama City, Florida 32405.