

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

In re:

**EMERGENCY AUTHORIZATION FOR
REPAIRS, REPLACEMENT,
RESTORATION, AND CERTAIN
OTHER MEASURES MADE NECESSARY
BY HURRICANE CHARLEY**

OGC NO. 04-1458

EMERGENCY FINAL ORDER

Under sections 120.569(2)(n) and 252.36 of the Florida Statutes, and upon consideration of the State of Florida Executive Order No. 04-182, the FEMA Order No. 1539DR and the following findings of fact, the State of Florida Department of Environmental Protection (the Department) enters this Emergency Final Order (the Order), including Findings of Fact and Conclusions of Law, in response to the imminent or immediate danger to the public health, safety, and welfare of the citizens of the State of Florida resulting from the devastation wrought by Hurricane Charley (hereinafter "the Hurricane").

FINDINGS OF FACT

1. On the 13th day of August, 2004, the Hurricane struck Florida with reported maximum sustained winds of over 100 miles per hour with storm surges over 10 feet. The Hurricane caused widespread damage within the following locations: Brevard, Charlotte, Collier, Desoto, Hardee, Highlands, Lake, Lee, Manatee, Orange, Osceola, Polk, Sarasota, Seminole and Volusia counties, which shall constitute the specific areas covered by this Emergency Final Order: These areas shall herein be referred to as the "Emergency Areas."

2. By State of Florida Executive Order No. 04-182, the Governor declared that a state of emergency exists throughout the State of Florida, based upon the serious threat to the public health, safety and welfare posed by the Hurricane.

3. The Department finds that the Hurricane has created a state of emergency threatening the public health, safety, welfare, and property throughout the Emergency Areas. As a result of the emergency, immediate action by Florida's citizens and government is necessary to repair, replace, and restore structures, equipment, surface water management systems, works, and operations damaged by the Hurricane.

4. The Department finds that an emergency authorization is required to address the need for immediate action.

5. The Department finds that immediate, strict compliance with the provisions of the statutes, rules, or orders noted in paragraph 12 of this Order would prevent, hinder, or delay necessary action in coping with the emergency.

CONCLUSIONS OF LAW

1. Based on the findings recited above, it is hereby concluded that the emergency caused by the Hurricane poses an immediate danger to the public health, safety, or welfare and requires an immediate order of the Department.

2. Under State of Florida Executive Order No. 04-182 and sections 120.569(2)(n) and 252.36 of the Florida Statutes, the Secretary of the Department is authorized to issue this emergency final order.

3. Suspension of statutes and rules as noted in paragraph 12 is required in order not to prevent, hinder, or delay necessary action in coping with the emergency.

THEREFORE, IT IS ORDERED:

Within the Emergency Areas:

1. **Petroleum Storage Tank Systems, Water and Wastewater Plants, and Collection and Distribution Systems**

Owners and operators of petroleum storage tank systems, water and wastewater plants and collection and distribution systems, and their licensed engineers and contractors, are authorized to

make all necessary repairs to restore essential services and repair or replace (as necessary) all structures, equipment, and appurtenances of the plants and systems to their pre-storm permitted or registered condition without prior notice to the Department. Within thirty days of commencing the work of such repair or replacement, however, the owner or operator shall notify the Department in writing, describing the nature of the work, giving its location, and providing the name, address, and telephone number of the representative of the owner or operator to contact concerning the work. Where an environmental resource permit is also normally required to repair the above facilities, see paragraphs 6, 7, 8, and 9 of this Order for certain limitations that may exist.

2. Solid Waste Management

a. Owners and operators of solid waste management facilities permitted by the Department before the Hurricane are authorized to make all necessary repairs to restore essential services and the functionality of stormwater management and leachate collection systems damaged by the Hurricane, without prior notice to the Department. Within thirty days of commencing the work of such repair or replacement, however, the permittee shall notify the Department in writing, describing the nature of the work, giving its location, and providing the name, address, and telephone number of the representative of the permittee to contact concerning the work. Where an environmental resource permit is also normally required to repair the above facilities, see paragraphs 6, 7, 8, and 9 of this Order for certain limitations that may exist.

b. Uncontaminated yard trash may be disposed of in permitted lined or unlined landfills, or in permitted construction and demolition debris disposal facilities.

c. Construction and demolition debris that is mixed with other Hurricane-generated debris need not be segregated from other solid waste prior to disposal in a lined landfill.

d. Except as otherwise specifically provided herein, Hurricane-generated debris shall be disposed of in a Class I landfill or, except for asbestos-containing materials, in a waste-to-energy facility. Non-recyclables and residuals generated from segregation of Hurricane-generated debris shall also be disposed of in a Class I landfill or waste-to-energy facility.

e. Ash residue from the combustion of yard trash or clean wood wastes may be disposed of in a permitted disposal facility, or may be land spread in any areas approved by local government officials except in wellfield protection areas or water bodies.

f. Ash from the combustion of other Hurricane-generated debris shall be disposed of in a Class I landfill. Metals or other non-combustible materials segregated from the ash residue may also be disposed of in an unlined, permitted landfill.

g. Unsalvageable refrigerators and freezers containing solid waste such as rotting food that may create a sanitary nuisance may be disposed of in a Class I landfill; provided, however, that chlorofluorocarbons and capacitors must be removed and recycled to the greatest extent practicable using techniques and personnel meeting the requirements of 40 CFR Part 82.

h. Permitted landfills, waste-to-energy facilities, and transfer stations, within or outside of the Emergency Area, which accept Hurricane-generated debris in accordance with the terms of this Order may accept Hurricane-generated debris for disposal or storage without the need to first modify existing permits or certifications. Operators of landfills shall seek modifications of their existing permits to address any long-term impacts of accepting Hurricane-generated debris on operations and closure which are not addressed in existing permits. Long-term impacts are those, which will extend past the expiration date of this Order. The requests for modification shall be submitted as soon as possible, but no later than the expiration date of this Order. No permit fee will be required for any modifications necessitated solely by the Hurricane clean-up activities.

3. Open Burning

The Department authorizes local governments or their agents to conduct the open burning of Hurricane-generated yard trash and other combustible demolition debris in air curtain incinerators anywhere in the Emergency Areas without prior notice to the Department. In operating any such air curtain incinerator the pit width shall not exceed 12 feet, vertical side walls shall be maintained and waste material shall not be loaded into the air curtain incinerator such that it protrudes above the

level of the air curtain. Ash shall not be allowed to build up in the pit higher than 1/3 the pit depth or to the point where the ash begins to impede combustion, whichever comes first. Refractory-lined air curtain incinerators may operate 24 hours per day. Air curtain incinerators without refractory-lined walls may not charge before sunrise and must end operation before sunset. Within three days of commencing any such burning the local government or its agent shall notify the Department in writing, describing the general nature of the materials burned, stating the location and method of burning, and providing the name, address, and telephone number of the representative of the local government to contact concerning the work. Notwithstanding the provisions of this paragraph, the burning of asbestos-containing materials or hazardous waste is prohibited.

4. Air Pollution Sources Other than Open Burning

The Department authorizes the minor repair of any previously permitted stationary source of air pollution that was damaged by the Hurricane to restore it to its previously permitted condition without prior notice to the Department. Within thirty days of commencing such repairs, however, the permittee shall notify the Department in writing, stating the location and nature of the work and providing the name, address, and telephone number of the representative of the permittee to contact concerning the work. Minor repairs are repairs that would not constitute reconstruction under any definition of 40 CFR part 60, 61 or 63 and that could not affect potential to emit any pollutant. Repairs that would constitute reconstruction under any definition of 40 CFR Part 60, 61 or 63, or repairs that could affect potential to emit any pollutant are not authorized by this Order.

5. Asbestos Clean-up

The Department waives the requirement for prior notification for emergency demolition or emergency cleanup of asbestos-containing material resulting from the Hurricane. Within one business day of commencing such demolition or cleanup, however, the person responsible for such work shall notify the Department in writing. The notification shall be consistent with the information on the Notice for Asbestos Renovation or Demolition, and shall include the location and nature of the work and the name, address, and telephone number of operator on the project. The

procedures in 40 CFR 61 Subpart M for handling asbestos-containing material shall be complied with during demolition and cleanup. Asbestos-containing material shall be disposed of in a Class I, II, or III landfill in accordance with rule 62-701.520(3) of the Florida Administrative Code. Burning of asbestos containing material is prohibited.

6. Environmental Resource, Dredge and Fill, and Surface Water Management Activities

The following activities may be undertaken to repair, restore, or replace structures, land, and submerged contours to the authorized or otherwise legally existing configuration and conditions, subject to the limitations in this order. This order does not authorize the construction of structures that did not exist prior to the emergency, unless specifically authorized below.

a. Definitions

(1) For the purposes of paragraph 6 of this Order, the term “structures” includes:

(a) utility infrastructure, including wastewater treatment plants, substations, lift stations, solid and hazardous waste facilities, utility lines (including transmission and distribution), poles, towers, support structures, cables, conduits, outfalls, intake structures, and pipelines;

(b) roads, bridges, culverts, driveways, sidewalks, bike paths, and other similar public and private infrastructure;

(c) public, private, and commercial habitable and non-habitable buildings, and structures ancillary to these buildings, such as garages, cabanas, storage sheds, bath houses, pools, and decks;

(d) piers (including docks, boardwalks, observation platforms, boat houses, and gazebos), and pilings;

(e) shore-stabilization structures, such as seawalls, bulkheads, revetments, breakwaters, and groins;

(f) fences, signs and billboards; and

(g) buoys, navigational aids, and other channel markers.

(2) For the purposes of paragraph 6 of this Order, the term “drainage systems” includes ditches, canals, ponds, swales, and other surface water conveyances; dams, weirs, dikes, and levees; underdrains, outfalls, and associated water control

structures. Any damage to structures or drainage systems authorized by the Department, and built to permitted design specifications, may be authorized to be repaired to the design that was originally authorized by the Department; minor deviations to upgrade structures or drainage systems to current standards also are authorized;

b. No Notice Required, Landward of the Coastal Construction Control Line

The following activities may be conducted without notification to the Department:

(1) Temporary and permanent repair or restoration of structures and drainage systems that are still intact (i.e., not completely destroyed or eliminated) to the conditions, dimensions, and configurations that were authorized or otherwise legally existing immediately prior to the Hurricane, provided the repair and restoration activities do not result in any expansion, addition, or relocation of the existing structure or systems. However, this shall not preclude the use of different construction materials or minor deviations to allow upgrades to current structural and design standards.

(2) The restoration (regrading, dredging, or filling) by local, regional, and state governments of surface (upland), wetland, and submerged land contours to the conditions and configurations that were authorized or otherwise legally existing immediately prior to the Hurricane, provided the restoration does not result in any expansion or addition of land or deepening of waters beyond that which existed immediately prior to the Hurricane, subject to the following limits:

(a) The removal or deepening of plugs formerly separating canals from other waters is specifically not authorized by this Order;

(b) In the case of dredging, all excavated material shall be deposited on uplands that are diked or otherwise sloped or designed to prevent any discharge into wetlands or other surface waters, except where such dredged material is used to restore bottom contours and shorelines, exclusive of sandy beaches fronting the Gulf

of Mexico or the Atlantic Ocean, to the conditions existing immediately prior to the Hurricane;

(c) In the case where upland or dredged material is placed in water to restore pre-existing conditions, only material from the previous uplands may be used in the restoration, and no change (from pre-existing conditions) in the slope of the land or the type, nature, or configuration of any pre-existing shoreline stabilization materials is authorized (e.g., sloping revetments cannot be replaced with vertical seawalls, and rock riprap cannot be replaced with interlocking blocks);

(d) Any restored shorelines that are susceptible to erosion, other than areas seaward of a coastal construction control line, shall be stabilized with vegetation or rock riprap to prevent erosion. Riprap may extend no further waterward than ten feet from the pre-Hurricane mean high water line. If the pre-existing shoreline was stabilized with a seawall, the seawall may be restored within three feet waterward of the pre-Hurricane mean high water line. Debris from the Hurricane or other sources, other than natural rocks and clean concrete rubble, shall not be used to stabilize shorelines;

(e) This shall not constitute authorization to fill submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund before the Hurricane.

(3) Removal of debris, including sunken vessels, and vegetation and structural remains that have washed into waters, wetlands, or uplands by the Hurricane, provided all removed debris are deposited on the uplands or otherwise deposited or burned in accordance with other provisions of this Order.

(4) Activities authorized under subparagraph 6.b. must be commenced before the expiration of this order.

c. Field and Individual Authorization Required

(1) Field authorizations may be issued following a site inspection by Department personnel for:

- (a) activities including the replacement of structures that are no longer intact;
- (b) restoration (regrading, dredging, or filling) of the contours of uplands, wetlands, and submerged bottoms, by parties other than local, regional, or state governments;
- (c) trimming or alteration of mangroves; and
- (d) other activities determined by Department personnel as having the potential to result in only minimal adverse individual or cumulative impact on water resources and water quality.

(2) Field authorization may be issued only to restore structures and property to authorized or otherwise legally existing conditions that existed immediately prior to the Hurricane, or to a more environmentally compatible design than existed immediately prior to the Hurricane. Field authorizations may be requested by providing a notice to the local office of the Department containing a description of the work requested, the location of the work, and the name, address, and telephone number of the owner or representative of the owner who may be contacted concerning the work. Field authorizations also may be issued by Department staff without prior notice. Written records of all field authorizations shall be created and maintained by Department staff.

(3) Other activities not described above shall be regulated in accordance with part IV of chapter 373 of the Florida Statutes, and the rules adopted thereunder. Stormwater systems within the Northwest Florida Water Management District that do not qualify under the above provisions shall require a stormwater permit.

(4) Activities authorized under paragraph 6.b above, must be commenced before the expiration of this order unless otherwise provided in a field authorization. The

deadline for commencement under any field authorization issued under this order may be extended on a showing that contractors or supplies are not available to commence the work, or if additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers.

7. *Activities Seaward of the Coastal Construction Control Line (CCCL) or the Fifty-foot Setback Line, and Landward of the Mean High Water Line.*¹

a. The following activities may be undertaken by local governments and utility companies to protect, repair, or replace structures and property without notice to the Department, subject to the limitations below. This Order does not authorize the construction of structures that did not exist prior to the emergency, unless specifically authorized below, nor does it authorize beach scraping performed by itself or in association with any of the following activities.

(1) Removal of Hurricane-generated debris. Prior to removing the debris and to the greatest extent possible, beach compatible sand should be separated from the debris and kept on site. To prevent debris from becoming buried, all Hurricane-generated debris shall be removed prior to conducting any fill activities.

(2) The repair of the following public facilities: utilities, roads and beach access ramps.

(3) Return of sand to the beach and dune system that has been deposited upland by the Hurricane, and restoration of a damaged dune system using beach compatible sand from an upland source. The fill material shall not cover any Hurricane-generated debris or construction debris. All fill material shall be sand that is similar to the pre-storm beach sand in both coloration and grain size and be free of debris, rocks, clay or other foreign matter. No sand may be obtained from the beach or below the

¹ Terms used herein are defined in chapter 161 of the Florida Statutes, and chapter 62B-33 of the Florida Administrative Code.

mean high water line seaward of the CCCL without specific authorization from the Department.

b. After providing notice to the Department, local governments are authorized to issue permits to private and public property owners for the activities listed below. Notice of intent to implement this delegation shall be provided to the Department in the form of a statement of intent to issue permits pursuant to this section. The notice may be faxed to the Department at 850/488-5257 or provided via the telephone by calling 850/487-4475. This Order does not authorize the construction of structures that did not exist prior to the emergency, unless specifically authorized below, nor does it authorize beach scraping performed by itself or in association with any of the following activities. No additional authorization is required for repairs to interiors of existing structures not involving repairs to foundations.

(1) Temporary or remedial activities that are necessary to secure structures in order to remove safety hazards and prevent further damage or collapse of foundations. This Order does not authorize the permanent repair of foundations of major structures, rebuilding of major structures, or the repair or construction of coastal or shore protection structures.

(2) Repair or replacement of components and cladding (exterior glass windows and panels, roof sheathing, and other structural components such as studs and roof trusses) of major structures. The repair or replacement shall not constitute a substantial improvement. To protect nesting marine turtles and their hatchlings, damaged or destroyed glass windows and glass doors that are visible from any point on the beach should be replaced by tinted glass with a transmittance value of 45% or less.

(3) Repair or replacement of minor ancillary structures and service utilities associated with the existing habitable structure and necessary for occupancy of the habitable structure. Repaired or replaced components shall not exceed the size of the original minor ancillary structure or service utility damaged or destroyed by the

Hurricane. Replacement of retaining walls, decks, and gazebos that are not necessary for occupancy of the existing habitable structure is specifically excluded.

(4) Repair, not including replacement, of surviving beach/dune walkovers provided the repair allows for adjustments to be made to the seaward terminus of the walkover if necessary to accommodate changes in the shoreline topography and native salt-resistant vegetation patterns resulting from the post-storm recovery of the beach and dune system.

(5) Return of sand to the beach dune system which has been deposited upland by the Hurricane and the restoration of a damaged dune system using beach compatible sand from an upland source. The fill material shall not cover any Hurricane-generated debris or construction debris. All fill material shall be sand that is similar to the pre-storm beach sand in both coloration and grain size and be free of debris, rocks, clay or other foreign matter. No sand may be obtained from the beach or below mean high water seaward of the CCCL without specific authorization from the Department.

c. The nature, timing, and sequence of construction authorized under this order should be conducted, to the greatest extent practicable, in such a manner as to provide protection to nesting sea turtles and hatchlings and their habitat, pursuant to section 370.12 of the Florida Statutes, and to native salt-resistant vegetation and endangered plant communities.

d. Actions taken by local governments and utility companies under sections a. and b. above do not require additional permits from the Department. Activities not covered by this Order may require a permit from the Department under section 161.053 of the Florida Statutes, and chapter 62B-33 of the Florida Administrative Code. For more information, please contact the Bureau of Beaches and Coastal Systems by mail at 3900 Commonwealth Boulevard, Mail Station #300, Tallahassee, Florida 32399-3000 or by phone at 850/487-4475.

8. General Conditions

a. All activities conducted under Paragraphs 6 and 7 shall be performed using appropriate best management practices. For activities conducted in or discharging to wetlands or other surface waters, best management practices include properly installed and maintained erosion and turbidity control devices to prevent erosion and shoaling, to control turbidity, and to prevent violations of state water quality standards.

b. The authorizations in Paragraphs 6 and 7 shall not apply to structures and associated activities in the Emergency Areas that were not properly authorized by all applicable agencies before the passage of the Hurricane.

c. Environmental resource, surface water management, dredge and fill, stormwater, and coastal construction control line or joint coastal permits shall be required following provisions of statute and rule for other activities not authorized above that do not otherwise qualify as an exempt activity under statute or rule.

d. All activities shall be accomplished so as not to: disturb marked marine turtle nests or known nest locations; or damage existing native salt-tolerant or submerged vegetation.

e. This Emergency Final Order does not convey any property rights or any rights or privileges other than those specified in this Order.

f. This Emergency Final Order only serves as relief for the duration of the Order from the regulatory and proprietary requirements of the Department, and does not provide relief from the requirements of other federal, state, water management districts, and local agencies. This Order therefore does not negate the need for the property owner to obtain any other required permits or authorizations, nor from the need to comply with all the requirements of those agencies.

g. All structures that are rebuilt shall be rebuilt in accordance with all applicable local, state, and federal building standards and requirements of the Federal Emergency Management Act (FEMA).

h. It is recommended that, where possible, owners of property should maintain documentation (such as photos) of the condition of the structures or lands as they existed prior to

initiating any activities authorized under this Order, and should provide such documentation if requested to do so.

i. This Emergency Final Order does not provide relief from any of the requirements of chapter 471 of the Florida Statutes regarding professional engineering.

9. Authorization to Use Submerged Lands Owned by the State

The Department has been delegated by the Board of Trustees of the Internal Improvement Trust Fund the authority to grant the following authorizations to use sovereign submerged lands, that is, most lands lying waterward of the line of mean high water or ordinary high water, in association with the repairs authorized in Paragraphs 6 and 7.

a. Except as provided in Paragraphs 9.b. and 10 below, a consent of use is hereby granted for the repair, replacement, or restoration of the activities and structures located on submerged lands owned by the state subject to the provisions and limitations of Paragraph 6, above, for which authorization from the Board of Trustees of the Internal Improvement Trust Fund had been obtained prior to the Hurricane, or which were otherwise legally existing immediately prior to the Hurricane, provided the structures and activities will be repaired, restored, or replaced in the same location and configuration as was authorized by the Board of Trustees of the Internal Improvement Trust Fund or which otherwise legally existed immediately prior to the Hurricane.

b. This Order does not authorize the reconstruction or repair of unauthorized structures, which failed to qualify for the grandfathering provisions of chapter 18-21 of the Florida Administrative Code.

c. The requirements for submitting a “Reclamation of Lands Lost Due to Recent Storm Events” application are specifically waived during the duration of this Order.

10. General Limitations

The Department issues this Emergency Final Order solely to address the emergency created by the Hurricane. This Order shall not be construed to authorize any activity within the jurisdiction of the Department except in accordance with the express terms of this Order. Under no

circumstances shall anything contained in this Order be construed to authorize the repair, replacement, or reconstruction of any type of unauthorized or illegal structure, habitable or otherwise.

11. Other Authorizations Required

Nothing in this Order shall eliminate the necessity for obtaining any other federal, state, water management district, or local permits or other authorizations that may be required.

12. Suspension of Statutes and Rules

The following provisions of statutes and rules are hereby suspended for the activities authorized by this Order for the duration of this Order:

a. For those activities noted above, subject to the limitations, duration and other provisions of this Order, all requirements for permits, leases, consent of uses or other authorizations under chapters 161, 253, 258, 373, 376 and 403 of the Florida Statutes, and rules adopted thereunder;

b. Notice requirements of sections 161.041, 161.053, 161.055, 253.115, and 373.413 of the Florida Statutes and rules 18-18, 18-20, 18-21, 62-4, 62-312, 62-343, and 62-620 of the Florida Administrative Code;

c. Application fee, lease fee, and easement fee requirements of sections 161.041, 161.053, 161.055, and 373.109 of the Florida Statutes and rules 18-18, 18-20, 18-21, and 62-4 of the Florida Administrative Code, provided however, that such lease and easement fees shall be suspended only in proportion to the percentage loss of functionality of the total area under lease or easement, and only for the duration of this order unless otherwise provided in a field authorization issued under part 6 above. The duration of the suspension of lease and easement fees under a field authorization may be extended on a showing that contractors or supplies are not available to commence the necessary repairs or replacement, or if additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers; and

d. Prohibitions for dredging and filling in waters approved or conditionally approved, for shellfish harvesting adopted under subsections 403.061(29) and 373.414(9) of the Florida Statutes.

13. Completion of Authorized Activities

a. All activities authorized under this Emergency Final Order must be commenced before the expiration of this Order unless otherwise provided in a field authorization or permit. The deadline for commencement under any filed authorization or permit issued under this order may be extended on a showing that contractors or supplies are not available to commence the work, or if additional time is needed to obtain any required authorization from the U.S. Army Corps of Engineers. Any Environmental Resource Permit, Surface Water Management Permit, and Dredge and Fill Permit activities that require a field authorization must be completed by the expiration date of the field authorization; activities not completed by that expiration date are subject to the regulatory and proprietary authorizations required prior to the execution of this Order.

b. A blanket approval of time extensions under chapter 62-730 of the Florida Administrative Code is necessary within the Emergency Areas for hazardous waste generators and small quantity generators for the storage of their hazardous wastes on site, pending the cleanup of the Hurricane damage and restoration of essential services. The rules authorize a thirty-day extension because of unforeseen and uncontrollable circumstances. The specific effects of the Hurricane were unforeseen and uncontrollable. Therefore, to avoid having to issue a potentially large number of individual approvals on a case-by-case basis and waste limited agency resources during the time of emergency, the Department authorizes a general extension of time of thirty days from the expiration of this Order for all such hazardous waste generators and small quantity generators for the storage of their hazardous wastes on site, in the counties within the Emergency Areas.

14. Expiration Date

This Emergency Final Order shall take effect immediately upon execution by the Secretary of the Department, and shall expire in 60 days from the date of execution set forth below, unless modified or extended by further order.

15. Violation of Conditions of Emergency Final Order

Failure to comply with any condition set forth in this Emergency Final Order shall constitute a violation of a Department Final Order under chapters 161, 253, 258, 373, 376, and 403 of the Florida Statutes, and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

NOTICE OF RIGHTS

Any party substantially affected by this Order has the right to seek judicial review of it under section 120.68 of the Florida Statutes, by filing 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, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days after this Order is filed with the Clerk of the Department.

DONE AND ORDERED on this 14th day of August, 2004, in Tallahassee, Florida.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

/s/ Colleen M. Castille
COLLEEN M. CASTILLE, Secretary
3900 Commonwealth Blvd
Tallahassee, FL 32399-3000

FILED on this date, pursuant to §120.52 Florida Statutes,
with the designated Department Clerk, receipt of which is hereby acknowledged.

/s/ Mary Wilson
CLERK

August 14, 2004
DATE