



Florida Department of Environmental Protection

Northwest District
160 W. Government Street, Suite 208
Pensacola, Florida 32502-5794

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard, Jr.
Secretary

April 12, 2011

Mr. Jorge Gonzalez
The St. Joe Company
133 South WaterSound Pkwy
WaterSound, FL 32202

Dear Mr. Gonzalez:

Re: St. Joe Ecosystem Management Agreement for Bay and Walton Counties
Amendment to Appendix A

On October 11, 2004 the St. Joe Company (St. Joe) and the Florida Department of Environmental Protection (DEP) entered into the above referenced ecosystem management agreement (EMA), pursuant to Section 403.075, F.S. Consistent with subsection 403.075(8)(b)4., F.S., section XIII on page 32 of the EMA defines the procedure for Amendments to the agreement. The attached amendment has been agreed upon and shall be effective on the date the last party signs the amendment.

Background:

The EMA sets forth standards and procedures for dredge and fill permitting, stormwater permitting and mitigation options within a specified boundary area in southern Bay and Walton Counties. The DEP also worked closely with the U.S. Army Corps of Engineers to develop a parallel federal consent or Regional General Permit (RGP) authorized as SAJ-86 (SAJ-2004-1861). Both EMA and RGP documents also include the provisions for the establishment the operation of two mitigation banks, included as Appendices, that were reviewed under the state mitigation bank statute, Section 343.7146, F.S. and rule, Chapter 62-342, F.A.C. These appendices serve as both the state Mitigation Bank Permit and federal Mitigation Bank Instrument. Aside from the initial inclusion as part of the EMA agreement, the mitigation bank permits are relatively complete and independent of the EMA agreement, and have a independent permit numbers for and tracking: Appendix A - Breakfast Point Mitigation Bank is DEP Permit 0227473-001, and Corps MBI, SAJ-2004-1865 and NW27; Appendix B - Devils Swamp Mitigation Bank is DEP Permit 0227475-001, and Corps MBI, SAJ-2004-1864 and NW27.

As Appendix A, the Breakfast Point Mitigation was originally authorized for use only within the permitting and geographic boundaries of the EMA/RGP, and the review and assessment was somewhat specialized within those parameters. St. Joe Company now seeks authorization to use the mitigation bank outside of the EMA/RGP boundaries and has submitted a modification request to expand the service area and allow its use for non-EMA/RGP permits,

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similar to other mitigation banks. The Corps of Engineers modified the service area of the federal Mitigation Bank Instrument as of November 23, 2009. The state permit modification also includes remapping of the bank's native communities and assessment areas to correct some errors in the initial mapping, and a reassessment of mitigation credits using the Uniform Mitigation Assessment Method (Ch. 62-345, F.A.C.). While these are considered major modifications of the mitigation bank permit itself, the modification has little impact on the EMA.

Finally, although not associated with changes in the mitigation bank, St. Joe Company has agreed to a requested reporting requirement for stormwater certification that is being incorporated into this EMA amendment.

EMA Amendment:

The attached amendment to the EMA makes the Breakfast Point Mitigation Bank (BPMB) an independent permit, including existing and subsequent modifications of that permit. The specific language is in the attached EMA amendment and provides for these following modifications:

- 1) Changing Appendix A, which is the current BPMB authorization document to a citation of the revised and independent permit;
- 2) Article XI is also appended to include the following language "The permittee or engineer of record shall file with the Department within 30 days after the facility's completion of construction an as-built certification that the new stormwater discharge facility, as constructed, qualifies for the general permit authorized activity"

BPMB Mitigation Bank Modifications:

As a stand-alone, independent permit, all mitigation bank documents are public information and all modifications will have a point of entry for challenges. The service area modification for the bank will be publicly noticed. **The use of the mitigation bank for EMA/RGP projects is not altered.** The mitigation bank permit modification provides the following language to account for EMA/RGP projects and tracking:

"Impact permits issued under EMA/RGP Agreements shall have the number of required credits determined using the methods set forth in the EMA/RGP Agreements, and shall be identified on the state ledger (Attachment H) as an EMA/RGP project. Unless otherwise stipulated in the impact permits issued under EMA/RGP Agreements, for ledger tracking purposes, credits required for "high quality" (EMA1) or "unconverted" (EMA2) impacts will be debited for the state ledger from the Cypress/Mixed Forested credit type; credits required for "low quality" (EMA1) impacts will be debited from the Coastal Flatwoods credit type; credits required for "converted" (EMA2) impacts will be debited from the Wet Prairie/Flatwoods credit type."

This condition ensures that EMA/RGP impact projects will not need to change the methods by which mitigation is determined. Further, impacts to high and low quality wetlands can be more easily tracked to ensure that the quantity of impact acres does not exceed the provisions of the EMA.

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Notice:

By copy of this letter, we are notifying interested parties of this amendment. However, the Department has determined that the proposed amendment may have a heightened public concern. Therefore, pursuant to Section 403.815 F.S. and 62-312.060(14) F.A.C., you (the applicant) are required to publish at your own expense the enclosed Notice of Proposed Agency Action. The notice is required to be published one time within 30 days, in the legal ad section of a newspaper of general circulation in the area affected. For the purpose of this rule, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S. The applicant shall provide proof of publication to:

Department of Environmental Protection
Submerged Land and Environmental Resources Program
160 W. Government Street, Suite 308
Pensacola, Florida 32502

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. Petitions must be filed within 21 days of receipt of this letter. Petitioner shall mail a copy of the petition to the permittee at the address indicated above at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, F.S.

The Petition shall contain the following information:

- (a) The name, address, and telephone number of each petitioner, the permittee's name and address, the Department Permit File Number and the county in which the project is proposed;
- (b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department's action; or proposed action;
- (d) A statement of the material facts disputed by petitioner, if any;
- (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action;
- (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; and
- (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this letter. Persons whose substantial interests will be affected by any decision of the Department

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with regard to the permit have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207, F.A.C.

This Notice constitutes final agency action unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition. Upon timely filing of a petition or a request for an extension of time this Notice will not be effective until further Order of the Department.

Any party to this letter has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000; and by filing a copy with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date the Notice of this EMA Amendment is filed with the Clerk of the Department.

Sincerely,



Emile D. Hamilton
Assistant District Director
Northwest District Office

Attachments: Second Amendment to the EMA; Public Notice

**SECOND AMENDMENT TO ECOSYSTEM MANAGEMENT AGREEMENT
FOR BAY AND WALTON COUNTIES**

THIS SECOND AMENDMENT TO ECOSYSTEM MANAGEMENT AGREEMENT FOR BAY AND WALTON COUNTIES (the "Second Amendment") is made, executed and delivered as of the 12th day of April, 2011, by and between **The State of Florida Department of Environmental Protection**, (the "Department") a Florida governmental agency, and **The St. Joe Company**, a Florida corporation ("St. Joe").

WHEREAS, the Department and St. Joe entered into an Ecosystem Management Agreement on October 11, 2004, in accordance with Florida Statutes §403.075 (the "EMA"); and

WHEREAS, attached to the EMA as Appendix A was a mitigation bank permit authorizing the establishment and operation of the Breakfast Point Mitigation Bank (BPMB); and

WHEREAS, the BPMB permit provided for a service area within the boundaries of the EMA; and

WHEREAS, the Department is issuing a modification of the BPMB permit to expand the BPMB service area; and

WHEREAS, as a result of the BPMB permit modification, Appendix A is no longer the operative document for the BPMB; and

WHEREAS, the Department and St. Joe hereby desire to amend the EMA by amending Appendix A to delete the original BPMB permit documents and substitute in its place reference to an independent BPMB permit as modified and by amending other provisions; and

WHEREAS, the Department and St. Joe hereby desire to amend the EMA to add an additional provision for stormwater certification within Article XI.

NOW, THEREFORE, in consideration of the mutual agreements herein contained for One and No/100 U.S. Dollars (\$1.00), and for other good and valuable consideration, the receipt whereof is hereby acknowledged, the parties hereto agree as follows:

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1. The recitals set forth above are incorporated herein by reference and made a part hereof as fully as if set forth herein verbatim.
2. Appendix A, which consists of a 19 page document with a 136 page attachment and which is currently referenced as:

Appendix A
Federal Mitigation Bank Instrument
FDEP Mitigation Bank Permit
Breakfast Point Mitigation Bank

Shall be deleted and replaced by:

Appendix A
Breakfast Point Mitigation Bank
(See DEP Permit #0227473-001, together with all
Figures, Attachments and current and future Modifications)

3. Except as specifically modified and amended herein, all of the terms, provisions, covenants, and conditions of the EMA shall remain unmodified and in full force and effect as written.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized officers as of the day and year first above written.

The St. Joe Company

By: _____

Jorge Gonzalez
Vice President

**State of Florida Department
of Environment Protection**

By: _____

Emile D. Hamilton
Assistant District Director
Northwest District Office

State of Florida
Department of Environmental Protection
PUBLIC NOTICE OF EMA AMENDMENT

The Department of Environmental Protection and the St. Joe Company give notice of their intent to amend the **Ecosystem Management Agreement for Bay and Walton Counties (EMA)**. The EMA amendment replaces the current Appendix A of the EMA Agreement with a separate Breakfast Point Mitigation Bank (BPMB) Permit, including all current and future modifications of that permit. The proposed BPMB permit modifies and expands the mitigation service area, adjusts the mapping and description of the target ecological communities, re-assesses the credit evaluation by the Uniform Mitigation Assessment Methodology (UMAM – Chapter 62-345 F.A.C.), and updates conditions regarding construction, success criteria and schedules. **The use of the mitigation bank for EMA projects is not altered.** The modifications will not affect overall mitigation goals on the 5,037 acre Breakfast Point Mitigation Bank parcel to restore, enhance and preserve the native communities. The EMA Agreement contains a provision for the generation of additional mitigation credits by additional large scale mitigation project in the conservation units of the EMA, as directed by the Department, if needed to satisfy credit demand within the EMA boundaries.

This amendment also incorporates stormwater certification reporting requirements.

A person whose substantial interests are affected by the Department's action may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000. Petitions must be filed within 21 days of receipt of this letter. Petitioner shall mail a copy of the petition to the permittee at the address indicated above at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, F.S.

The Petition shall contain the following information:

- (a) The name, address, and telephone number of each petitioner, the permittee's name and address, the Department Permit File Number and the county in which the project is proposed;
- (b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department's action; or proposed action;
- (d) A statement of the material facts disputed by petitioner, if any;
- (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action;
- (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; and

(g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this letter. Persons whose substantial interests will be affected by any decision of the Department with regard to the permit have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-5.207, F.A.C.

This Notice constitutes final agency action unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition. Upon timely filing of a petition or a request for an extension of time this Notice will not be effective until further Order of the Department.

Any party to this letter has the right to seek judicial review of the Order pursuant to Section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000; and by filing a copy with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date the Notice of this EMA Amendment is filed with the Clerk of the Department.

The amendment letter and amendment document are posted on the DEP, Northwest District Office website: <http://www.dep.state.fl.us/northwest/StJoeEMA/joeema.htm>.