



April 5, 2019
(submitted electronically)

Office of Water Docket
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**RE: EPA-HQ-OW-2018-0149
Waters of the United States; Personal Benefit to President Trump; Emoluments**

We write to comment on the proposed redefinition of “waters of the United States” under the Clean Water Act. The Trump Organization and President Trump would be direct beneficiaries of this proposal, in potential violation of the U.S. Constitution’s Domestic Emoluments Clause.

Background

Free Speech for People is a national non-partisan non-profit organization founded on the day of the U.S. Supreme Court’s ruling in *Citizens United v. FEC* that works to defend our Constitution and reclaim our democracy. We work with a broad range of individuals, organizations, and communities to catalyze change, challenge big money in politics and make corporations responsible and accountable to the public. A key part of our mission is combating public corruption. The New Jersey-based Raritan Headwaters Association is a non-profit, member-supported conservation association with a mission of “protecting water in our rivers, our streams and our homes.” The Raritan Watershed Association works in the 470-square mile Raritan Rivers headwaters region.

On February 14, 2018, the EPA and Army Corps of Engineers published in the Federal Register a proposed rule referred to as the Revised Definition of “Waters of the United States.” This proposed rule followed what the agencies referred to as “Step-One Repeal.” Free Speech for People and the Raritan Headwaters Association commented in the Step One docket, Docket Id. No. EPA-HQ-OW-2017-0203 on September 27, 2017 asserting that the proposal to rescind and repeal the 2015 rule and recodify the law as it existed prior to the 2015 rule would confer a direct benefit upon President Trump and the Trump Organization in violation of the Domestic Emoluments Clause of the United States Constitution. We are attaching our comments from the Step One docket and hereby incorporate them into our comments in this docket.¹

¹ Attached at the end of this comment. Our initial comments are also available online at https://freespeechforpeople.org/wp-content/uploads/2017/09/Waters-of-the-US-Comments_092717.pdf.

On July 12, 2018, the EPA and Army Corps of Engineers issued a Supplemental Notice of Proposed Rulemaking soliciting additional public comments on its proposal to rescind and repeal the Clean Water Rule defining the “waters of the United States,” also referred to as the 2015 rule. Free Speech For People submitted supplemental comments on August 13, 2018 to reflect the decision of the United States District Court for the District of Maryland in *District of Columbia v. Trump*,² along with additional evidence that the proposed rule will confer direct benefits upon the President. Although the comment period for Step One closed on August 13, 2018, the agencies have never taken any action to finalize the proposed rescission of the 2015 Waters of the United States Rule and Recodify the Preexisting Rule as the rulemaking proposed. Instead, without providing any responses to the comments submitted by Free Speech For People and the Raritan Headwaters Association regarding the issue of emoluments, the agencies simply moved forward with Step Two and the proposed rule that is the subject of this docket.

Comments

As we explained in our initial comments, The Trump Organization and President Trump would be direct beneficiaries of a proposal to rescind the definition of “waters of the United States,” promulgated in 2015. Similarly, the Trump Organization and President Trump would likewise be direct beneficiaries of the pending proposal to revise the definition of the waters of the United States as proposed in this docket.

The Trump Organization owns twelve Trump-branded golf courses across the country, from which President Trump earned roughly \$272 million in income in 2016.³ According to the President’s financial disclosures for 2017 he received income of \$208,057,852 in the following amounts from his golf properties:⁴

Property	Income Amount
Trump National Golf Course Jupiter	\$14,262,997
Trump National Golf Course Bedminster ⁵	\$15,166,035
Trump National Golf Course Charlotte	\$11,750,135
Trump National Golf Course Hudson Valley	\$4,372,400
Trump National Golf Course Philadelphia	\$4,377,111
Trump National Golf Course-Doral	\$74,755,375
Trump Ferry Point LLC	\$6,651,002
Mar-a-Lago	\$25,145,488

² See *District of Columbia v. Trump*, 315 F. Supp. 3d 875 (D. Md. 2018).

³ Comments of Free Speech For People and Raritan Headwaters Association at 6 [hereinafter, Initial Comments].

⁴ U.S. Office of Government Ethics, Executive Branch Personnel Financial Disclosure Form, OGE Form 278e, submitted by Donald J. Trump (May 15, 2018), <https://www.documentcloud.org/documents/4464412-Trump-Donald-J-2018Annual278.html>.

⁵ This New Jersey golf course is located in the Raritan Rivers headwaters region.

Trump International Golf Club Florida	\$12,825,725
Trump National Golf Course Colts Neck	\$7,118,636
Trump National Golf Course Westchester	\$7,253,306
Trump National Golf Course Washington, D.C.	\$12,735,221
Trump National Golf Course L.A.	\$11,644,421

The Domestic Emoluments Clause, Article II, Section I, Clause 7, of the Constitution, provides:

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

In our Initial Comments, we explained in detail why “emolument” should be read broadly to encompass the terms profit, benefit, or advantage.⁶ A federal district court has reached the same conclusion. In *District of Columbia v. Trump*, the court held that the term “emolument” was intended to “embrace and ban anything more than de minimis profit, gain, or advantage offered to a public official in his private capacity.”⁷

The EPA and Army Corps of Engineers must conduct an assessment of the impacts of the proposed rescission and recodification on all of the Trump-branded golf courses to ensure that the proposal does not confer any illegal benefits upon the President in violation of the Domestic Emoluments Clause. In addition, the agencies must provide a clear explanation of the steps and procedures that will be put in place to monitor the potential for and prevent any kind of benefit or advantage from being conferred upon the President’s properties as a result of the proposed rule.

Despite the fact that we called for this assessment to occur during the Step One rulemaking, nothing in the record indicates that the EPA or the Army Corps of Engineers has conducted *any* analysis of the potential impacts upon the President’s properties. Upon review of the agencies’ economic analysis and resource and programmatic analysis, neither study considers or even references potential impacts upon golf courses nor the President’s properties, in particular. This failure to respond to comments raised during the public comment period, if not rectified, will result in an arbitrary and capricious rulemaking that is contrary to the law and an abuse of agency discretion.

The proposed relaxation to the 2015 waters of the United States rule will provide tangible, economic benefits to the President in violation of the Domestic Emoluments Clause. One example of a clear benefit that likely would be conferred upon the Trump-branded golf courses is presented by the comments of one agency, filed in the docket regarding the proposal to rescind the 2015 rule. Palm Beach County, Florida submitted comments indicating that the rescission of

⁶ Initial Comments at 5; see Brianne Gorod, et al., Constitutional Accountability Ctr., *The Domestic Emoluments Clause: Its Text, Meaning, and Application to Donald J. Trump* (July 2017), https://www.theconstitution.org/wp-content/uploads/2017/07/20170726_White_Paper_Domestic_Emoluments_Clause.pdf

⁷ *District of Columbia v. Trump*, 315 F. Supp. 3d at 900.

the 2015 rule would confer enormous financial benefits upon golf courses in Florida, and others, by preventing golf course ponds, lakes, and other systems currently permitted as part of the County's MS4 system from being designated jurisdictional waters.⁸ Purely by way of example, the Trump International Golf Club is only one example of a Trump property that has received a permit from Palm Beach County's South Florida Water Management District.⁹

Therefore, we urge the EPA and the Army Corps of Engineers to withdraw this proposal. In the alternative, the EPA and the Corps must provide a complete analysis of the proposed rule's potential impacts upon all Trump-branded golf properties, and either:

- specify that the 2015 rule continues to apply to Trump properties for the remainder of his natural life; or
- specify that the 2015 rule continues to apply to Trump properties while he remains in office; or
- specify that an independent commission would be established to oversee application of the rules to Trump properties to ensure that EPA and the Army Corps of Engineers recuse themselves from decisions related to Trump properties. Such independent commissions would need to be composed of independent, reputable scientists, community-based environmental and recreational organizations, national environmental organizations, community-based social justice organizations, an industry representative, and state and local representatives.

We appreciate the opportunity to comment on this proposal and urge the agencies to ensure that they do not violate the Constitution's Domestic Emoluments Clause.

Respectfully submitted,

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Attachments

1. Free Speech For People/Raritan Headwaters Ass'n comments on Docket No. EPA-HQ-OW-2017-0203 (Sept. 27, 2017)
2. South Florida Water Management Dist., permit modification for Permit No. 50-03925-P (Trump International Golf Course) (June 12, 2001)
3. South Florida Water Management Dist., permit modification for Permit No. 50-03925-P (Trump International Golf Course) (Sept. 20, 2005)

⁸ Comments of Kenneth S. Todd on behalf of Palm Beach County, Florida at 8 (July 31, 2017), https://www.epa.gov/sites/production/files/2017-09/documents/fl-palm_beach_county_2017-07-31-late.pdf.

⁹ See Palm Beach County Permit No. 50-03925-P. Two recent modifications to this permit are attached for illustrative purposes.



September 27, 2017

(submitted via regulations.gov)

Water Docket
Environmental Protection Agency
Office of Water 4504-T
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RE: EPA-HQ-OW-2017-0203: Comments of Free Speech For People and Raritan Headwaters Association on Proposed Rescission of Definition of Waters of the United States

I. Introduction

The Trump Organization and President Trump would be direct beneficiaries of this proposal to rescind the definition of “waters of the United States,” promulgated in 2015. The Trump Organization owns twelve Trump-branded golf courses across the country, from which President Trump earned roughly \$272 million in income in 2016. If the definition of waters of the United States established by the 2015 rule were to go into effect, the Trump Organization would have to expend significant resources to protect water quality, prevent pollution, and adequately manage storm water runoff at each of its golf courses. In addition, if an agency issued a positive jurisdictional determination for waters on or near a Trump golf course, it could prevent the undertaking of new projects, development or construction at one or all of these properties if the resulting jurisdiction limited certain activities, placed conditions upon the proposed development, or required costly permitting or mitigation activities. Conversely, if the rule is rescinded, these Trump-owned properties will realize substantial cost savings and may be subject to preferential treatment under case-by-case decision-making standards. Because the

2015 rule has never been implemented, the EPA and Army Corps of Engineers should conduct an analysis of each of President Trump's properties under the 2015 rule to establish for the record the full scope of the benefits that the proposed rescission would be likely to produce at his properties.

In light of the direct benefits that this proposal would confer upon President Trump's business, the EPA and Army Corps of Engineers' proposed rule will, if promulgated as a final rule, violate the Domestic Emoluments Clause of the U.S. Constitution, which prohibits the federal government from conferring any benefits, financial or otherwise, upon the President other than his fixed presidential compensation. This constitutional violation is an independent reason, apart from the considerable environmental and other policy reasons to retain the 2015 rule, for the EPA and the U.S. Army Corps of Engineers to withdraw the proposal to rescind the 2015 rule. We therefore urge the EPA and the Army Corps of Engineers to withdraw this proposal, or, in the alternative, to ensure that it does not confer any financial benefit, profit, or other advantage upon President Trump or the Trump Organization.

II. Background

On June 29, 2015, after extensive public comment and participation, the EPA and the U.S. Army Corps of Engineers promulgated the "Clean Water Rule: Definition of 'Waters of the United States'" (the "2015 rule"). The rule was intended to provide greater clarity about what waters fall under the jurisdiction of the EPA and the U.S. Army Corps of Engineers for purposes of applying provisions of the Clean Water Act aimed at protecting water quality, managing stormwater runoff, preventing pollution, and protecting wetlands. The 2015 rule affirmed the EPA and U.S. Army Corps of Engineers' jurisdiction over three traditional categories of jurisdictional waters, while also better delineating five categories of waters the jurisdiction over which had been subject to dispute. In addition, the rule categorically excluded from the EPA and the U.S. Army Corp of Engineers'

jurisdiction seven types of water features that had been the source of significant public comment.¹

On February 28, 2017, President Donald Trump signed Executive Order 13778, which directed the EPA and the U.S. Army Corps of Engineers to review the 2015 rule and recommended publishing for notice and comment a proposed rule rescinding or revising that rule. On July 27, 2017, in response to President Trump's Order, the EPA issued a proposed rule to rescind the 2015 rule and recodify the regulations as they existed prior to the 2015 rule ("Proposed Rule"). Rescinding the 2015 rule would, among other things, reinstate a practice of determining jurisdiction for a broad set of waters on a case-by-case basis rather than according to bright-line rules, and could result in the exclusion of bodies of water affecting the drinking water of 117 million people from the Clean Water Act's requirements for water safety and protection.²

III. Identification of the Parties

Free Speech for People is a national non-partisan non-profit organization founded on the day of the U.S. Supreme Court's ruling in *Citizens United v. FEC* that works to defend our Constitution and reclaim our democracy. We work with a broad range of individuals, organizations, and communities to catalyze change, challenge big money in politics and make corporations responsible and accountable to the public. A key part of our mission is combating public corruption. The Raritan Headwaters Association is a non-profit, member-supported conservation association with a mission of "protecting water in our rivers, our streams and our homes." The Raritan Watershed Association works in the 470-square mile Raritan Rivers headwaters region.

IV. The Domestic Emoluments Clause: Purpose and Meaning

¹ 80 Fed. Reg. 37054 (2015).

² U.S. EPA, Geographic Information Systems Analysis of the Surface Drinking Water Provided by Intermittent, Ephemeral, and Headwater Streams in the U.S. (last updated on Oct. 29, 2013), available at http://water.epa.gov/lawsregs/guidance/wetlands/surface_drinking_water_index.cfm.

One of the catalysts for the founding of the United States was the colonists' experience with corruption and self-dealing under the rule of the British monarchy and the governors that represented it. Concerned about the potential for a powerful President who might similarly be swayed by gifts, financial inducements, or other benefits, the Framers included two provisions in the Constitution that prohibited the President from accepting such benefits from both foreign and domestic sources. One of those provisions, enshrined in Article II, Section I, Clause 7, is the Domestic Emoluments Clause, which provides that:

The President shall, at stated Times, receive for his Services, a Compensation, which shall neither be increased nor diminished during the Period for which he shall have been elected, and he shall not receive within that Period any other Emolument from the United States, or any of them.

As constitutional scholars and practitioners have explained, this provision grew out of an explicit concern that the president of a strong national government could be improperly influenced by Congress or the states through any number of means ranging from “bonuses, awards of pensions, grants of land, use of land and public labor for personal profit, sharing in taxes and fees, use of idle public funds as personal capital, tax exemptions, and ‘customary gifts.’”³ As a result, the Framers designed the Domestic Emoluments Clause to prohibit two distinct avenues for conferring additional benefits upon the president in an attempt to influence decision-making. The first portion of the Clause requires the President’s compensation to be fixed and not subject to increases or decreases during his term as president. The second portion of the Clause addresses a much broader realm of corruption by prohibiting the President from accepting “any other Emolument.”

³ Brianne Gorod, et al., *The Domestic Emoluments Clause: Its Text, Meaning, and Application to Donald J. Trump*, Constitutional Accountability Center 4 (July 2017) (citing, e.g. Alvin Rabushka, *Taxation in Colonial America* (2008)) https://www.theconstitution.org/sites/default/files/briefs/20170726_White_Paper_Domestic_Emoluments_Clause.pdf; *See also*, *The Federalist No. 73* (Clinton Rossiter ed., 1961); 1 *The Records of the Federal Convention of 1787* (Max Farrand ed., 1911).

Historical research shows that this particular wording represents an attempt to rein in any actions that could confer a benefit upon the President:

Consistent with the broad goals of this Clause, and its central role in preserving the integrity of the new federal government, the Framers used the expansive term “emolument” to describe the rewards forbidden to the President. That term was understood at the time to mean any benefit, advantage, or profit.⁴

The definitions and usage of the word “emolument” at the time of the drafting of the Constitution clearly demonstrate that the Framers would have understood it to encompass “profit,” “advantage,” or “benefit.” English language dictionaries from 1604 to 1806 included one or more elements of the broader definition including “profit,” “advantage,” “gain,” or “benefit.”⁵

This broad definition is consistent with the Framers’ ambitious goals for the Clause: to prevent all corruption and self-dealing by the nation’s highest officer. Alexander Hamilton emphasized the importance of the Domestic Emoluments Clause in Federalist No. 73 this way:

They can neither weaken his fortitude by operating on his necessities, nor corrupt his integrity by appealing to his avarice. Neither the Union, nor any of its members, will be at liberty to give, nor will he be at liberty to receive, any other emolument than that which may be determined by the first act. He can, of course, have no pecuniary inducement to renounce or desert the independence intended for him by the Constitution.

Hamilton’s description emphasizes that emoluments extend to any kind of “pecuniary inducement,” and state forerunners to the federal Domestic Emoluments Clause bolster this conclusion.⁶ Until now, the Domestic Emoluments Clause has served as a bright line against corruption that Presidents assiduously avoided approaching. President Trump has barreled through it.

⁴*Id.* at 6.

⁵ Samuel Johnson, *A Dictionary of the English Language* (1st ed. 1755); Nathan Bailey, *A Universal Etymological Dictionary* (2^d ed. 1724); Thomas Dyche & William Pardon, *A New General English Dictionary* (8th ed. 1754); John Ash, *The New and Complete Dictionary of the English Language* (1st ed. 1775); John Entick, *The New Spelling Dictionary* (1st ed. 1772).

⁶ Gorod, *Domestic Emoluments Clause*. at 6-7.

V. Trump's Golf Courses and the Domestic Emoluments Clause

A. Trump's Interest in Trump Golf Courses

President Trump's May 2016 financial disclosure confirms that he continues to maintain an ownership interest in and receive income from his golf courses and their associated properties.⁷ The financial disclosure included the following account of income from his United States Golf Courses:⁸

Property	Income Amount
Trump National Golf Course Jupiter	\$17,903,803
Trump National Golf Course Bedminster	\$20,572,150
Trump National Golf Course Charlotte	\$14,125,381
Trump National Golf Course Hudson Valley	\$5,574,955
Trump National Golf Course Philadelphia	\$5,641,122
Trump National Golf Course-Doral	\$131,892,107
Trump Ferry Point LLC	\$7,930,134
Trump International Golf Club Florida	\$17,510,455
Trump National Golf Course Colts Neck	\$7,512,891
Trump National Golf Course Westchester	\$10,313,031
Trump National Golf Course Washington, D.C.	\$17,497,594
Trump National Golf Course L.A.	\$15,635,196

⁷ United States Office of Government Ethics, Executive Branch Personnel Financial Disclosure Form, OGE Form 278e, Submitted by Donald J. Trump (May 16, 2017).

⁸ *Id.* Part 2, Filer's Employment Assets & Income, 16-18, 19, 21, 23.

According to the disclosure, DJT Holdings LLC remains the owner of 99%-100% of each of these properties.⁹ President Trump has also continued to promote his golf course properties through his Twitter account and appearances at the golf courses.¹⁰ In some cases, the properties have also promoted themselves as providing an opportunity to meet with or gain access to the President.¹¹

B. Trump's Refusal to Separate From His Businesses

Because of the vast network of businesses, assets, marketing, and licensing agreements that make up the Trump Organization, ethics experts, including former legal advisers to both Republican and Democratic presidents,¹² urged President Trump to take steps to separate himself from his businesses to avoid violating both the Foreign and Domestic Emoluments Clauses. As early as November 30, 2016, the U.S. Office of Government Ethics announced that the “[o]nly way to resolve these conflicts of interest is to divest.”¹³ President Trump had ample opportunity to resolve these issues during the ten-week transition between his election and the Inauguration.¹⁴ For example, he could have liquidated the business and invested

⁹ *Id.* Part 2, Appendix A.

¹⁰ Amy Wang and Ana Swanson, “President Trump can’t stop crashing parties at his golf clubs,” *Washington Post* (Jun. 11, 2017) <https://www.washingtonpost.com/news/politics/wp/2017/06/11/president-trump-cant-stop-crashing-parties-at-his-golf-clubs/>; Philip Bump, “Trump had a terrible July, but at least he played a lot of golf,” *Washington Post* <https://www.washingtonpost.com/news/politics/wp/2017/07/31/trump-had-a-terrible-july-but-at-least-he-played-a-lot-of-golf/>.

¹¹ Eric Lipton and Susanne Craig, “With Trump in White House, His Golf Properties Prosper,” *New York Times* (Mar. 9, 2017) <https://www.nytimes.com/2017/03/09/us/politics/trump-golf-courses.html?mcubz=3>; Brad Heath et al., “Trump gets millions from golf members. CEOs and Lobbyists get access to president,” *USA Today* (Sept. 6, 2017) <https://www.usatoday.com/story/news/2017/09/06/trump-gets-millions-golf-members-ceos-and-lobbyists-get-access-president/632505001/>.

¹² Richard W. Painter, Norman L. Eisen, Lawrence H. Tribe, Joshua Matz, “Emoluments: Trump’s Coming Ethics Trouble,” *The Atlantic* (January 18, 2017) <https://www.theatlantic.com/politics/archive/2017/01/trumps-ethics-train-wreck/513446/>; Norman L. Eisen and Richard W. Painter, Trump’s Unprecedented War on Ethics, <https://www.usatoday.com/story/opinion/2017/03/20/trump-unprecedented-war-on-ethics-eisen-painter-column/99388636/>.

¹³ Michael D. Shear & Eric Lipton, *Ethics Office Praises Donald Trump for a Move He Hasn’t Committed To*, *N.Y. Times*, Nov. 30, 2016, <http://nyti.ms/2gK988R>.

¹⁴ See Richard Painter & Norman Eisen, *Donald Trump will still be violating the Constitution as soon as he’s sworn in*, *Wash. Post*, Dec. 13, 2016, <http://wpo.st/9EZN2>.

the proceeds in a diversified mutual fund or a true blind trust.¹⁵ Instead, on January 11, 2017, the Trump Organization’s tax law firm announced a plan to transfer *management* control of the Trump Organization to President Trump’s sons and a senior executive, without removing President Trump’s *ownership* stake.¹⁶

In addition, President Trump has transferred his ownership stakes in various Trump business entities to “The Donald J. Trump Revocable Trust.” This trust, of which President Trump’s son and the Trump Organization’s chief financial officer are trustees, has as its purpose “to hold assets for the ‘exclusive benefit’ of the president,” and uses President Trump’s Social Security number as its taxpayer identification number.¹⁷ Furthermore, in February 2017, the trust was amended so that President Trump “shall distribute net income or principal to Donald J. Trump at his request,” or whenever his son and a longtime employee “deem appropriate.”¹⁸ The terms of this revocable trust mean that President Trump can draw upon funds paid to any of the Trump Organization entities at any time.

This is not a “blind trust.” President Trump knows which businesses his trust owns and how his actions as President may affect their income and value—including each of his golf courses and their associated properties. The trust is run not by an independent trustee, but by his own son and a longtime employee. And President Trump can revoke the trust at any time.¹⁹ This arrangement does nothing to diminish President Trump’s interest and ability to enrich himself through Executive Branch actions affecting his business entities, and continues to incentivize his shaping U.S. policy to preserve, promote and benefit his business assets, including his golf courses. Furthermore, it creates a clear avenue for other

¹⁵ See Norman Eisen, Richard W. Painter & Laurence H. Tribe, *5 Ways You’ll Know if Trump Is Playing by the Rules*, Politico, Jan. 10, 2017, <http://politi.co/2iCgLj2>.

¹⁶ See *Donald Trump’s News Conference: Full Transcript and Video*, N.Y. Times, Jan. 11, 2017, <http://nyti.ms/2kHSolf>.

¹⁷ Susanne Craig & Eric Lipton, *Trust Records Show Trump Is Still Closely Tied to His Empire*, N.Y. Times, Feb. 3, 2017, <https://nyti.ms/2kytJlP>.

¹⁸ Drew Harwell, *Trump can quietly draw money from trust whenever he wants, new documents show*, Wash. Post, Apr. 3, 2017, <http://wapo.st/2nQOjgK>.

¹⁹ See Craig & Lipton, *supra*, <https://nyti.ms/2kytJlP>.

federal agencies and branches of government, as well as the states, to confer benefits upon the President in violation of the Domestic Emoluments Clause.

VI. Rescinding the WOTUS Rule Confers Benefits on President Trump in Violation of the Domestic Emoluments Clause

A. The purpose of the 2015 rule and specific benefits of the proposal for Trump's Golf Courses

The 2015 rule defining “waters of the United States” was intended to remedy decades of uncertainty and legal disputes over when and where the protections of the Clean Water Act apply. The EPA and the U.S. Army Corps of Engineers initiated the rulemaking to reduce the costs of regulatory uncertainty by clearly defining “waters of the United States,” while fulfilling the mandate of the Clean Water Act “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.” 33 U.S.C. § 101(a). To that end, the 2015 rule, if allowed to go into effect, would implement “bright-line boundaries to establish waters that are jurisdictional by rule and limit the need for case-specific analysis.” 80 Fed. Reg. 37053 (June 29, 2015).²⁰ The definition set forth by this rule ultimately determines whether a project and/or property is subject to sections 303, 305, 311, 401, 402, and 404 of the Clean Water Act.

The 2015 rule established six categories of waters that would be jurisdictional without additional case-by-case analysis. These include: all waters currently used, used in the past, or that may be susceptible to use in interstate or foreign commerce; all interstate waters, including wetlands; the territorial seas; all tributaries as defined by the rule; and all waters adjacent to a water identified in the preceding categories. The 2015 rule also included two categories of waters that would be subject to case-by-case determinations. These included Prairie potholes,

²⁰ The proposed rule would replace the 2015 rule with a “recodification” of the regulatory text prior to the 2015 rule and would be “informed by applicable guidance documents (e.g. the 2003 and 2008 guidance documents).” Proposed Rule, 11 (July 27, 2017); The 2003 guidance provides: “Field staff should make jurisdictional and permitting decisions on a case-by-case basis considering this guidance, applicable regulations, and any additional relevant court decisions.” 68 Fed. Reg. 1991, 1997-98 (Jan. 15, 2003).

Carolina bays and Delmarva bays, Pocosins, Western vernal pools, and Texas coastal prairie wetlands if they were determined to have a significant nexus to waters covered by Section 230.3(o)(1)(i)-(iii). Such features would also be covered, without a case-by-case determination, if they fell within the definition of “adjacent waters.” Finally, the 2015 rule included all waters located within the 100-year floodplain of a water covered by Section 230.3(o)(1)(i)-(iii) and all waters located within 4,000 feet of the high tide line or ordinary high water mark of waters covered by Section 230.3(o)(1)(i)-(v) if they are determined to have a “significant nexus” to a water identified in Section 230.3(o)(1)(i)-(iii). This shift from predominantly case-by-case decision-making to bright line rules would increase the number of positive jurisdictional determinations even though the actual scope of the rule would be narrower. As the agencies explained in the Economic Analysis:

Compared to a baseline of existing regulations and historic practice, this rule results in a decrease in [Clean Water Act] jurisdiction because the scope of the regulatory jurisdiction in this rule is narrower than under the existing regulations. However, compared to recent practice, this rule is projected to result in a slight increase in [Clean Water Act] jurisdiction by providing clarity about which waters are covered by the Clean Water Act and resolving the uncertainty caused by the key Supreme Court cases that had led to caution in asserting jurisdiction.

One of the key motivations behind developing the 2015 rule was the well documented fact that the agency guidance implementing the line of Supreme Court cases defining waters of the United States had led to a restrictive approach by the Army Corps of Engineers in making jurisdictional determinations under Section 404 of the Clean Water Act.²¹ Under that regime, over 100,000 case-specific jurisdictional determinations had been made between 2008 and 2015, and according to the Government Accountability Office and public comments, the Corps of

²¹ U.S. Governmental Accountability Office, *Waters and Wetlands: Corps of Engineers Needs to Better Support Its Decisions for Not Asserting Jurisdiction* (Sept. 2005); General Accounting Office, *Waters & Wetlands: Corps of Engineers Needs to Evaluate Its District Office Practices in Determining Jurisdiction*, 14, n.14 (Feb. 2004).

Engineers was not adequately documenting negative jurisdictional determinations and was not adequately protecting isolated waters.²²

The 2015 rule was stayed by the Sixth Circuit pending appeal, so neither the EPA nor the Corps of Engineers have yet made any determinations under it. Nonetheless, as set forth below, it is clear that maintaining the guidance and rule that existed prior to promulgation of the 2015 rule would confer benefits, profits, and advantages on the President in violation of the Domestic Emoluments Clause.

B. The Proposed Rescission of the 2015 Rule Will Benefit President Trump

The golf course industry was one of the biggest opponents to the 2015 rule, and associations affiliated with the golf industry have spent, and continue to spend, tens of thousands of dollars lobbying against the 2015 rule and in favor of rescission.²³ According to the golf industry, the 2015 rule “would likely have a devastating economic impact on the golf course industry” because golf courses would be newly required to comply with certain Clean Water Act rules and restrictions.²⁴ Among the regulatory and economic burdens that the golf industry claimed it would face as a result of the 2015 rule were:

- The need to obtain federal permits for land management or use;
- Potential to halt or shut down operations if permits are not granted;
- Federal penalties for failure to comply with permits;
- Costly additions to the development and operational costs for designing and site assessment for new and existing courses;

²² *Id.*

²³ Ben Brody, “Trump’s Golf Courses Would Benefit from His Water Rule Rollback,” Bloomberg (March 1, 2017), <https://www.bloomberg.com/news/articles/2017-03-01/trump-s-golf-courses-would-benefit-from-his-water-rule-rollback>.

²⁴ Comments of the Golf Course Superintendents Association of America, Club Managers Association of America, National Club Association, American Society of Golf Course Architects, Golf Course Builders Association of America, National Golf Course Owners Association and Professional Golfers Association on the U.S. Environmental Protection Agency’s and U.S. Army Corps of Engineers’ Proposed Rule to Define “Waters of the United States” Under the Clean Water Act, 2-3 (November 14, 2014).

- Renovation and expansion processes that could require costly hydrologic evaluations, wetlands delineations, stream assessments, project design and 404 (dredge and fill) permitting;
- Design constraints and mitigation requirements that would increase costs;
- Routine golf maintenance activities (such as fertilizer and pesticide applications) could require National Pollutant Discharge Elimination System (NPDES) permits;
- Increased liability for managing property as a result of potential citizen suits under the Clean Water Act.²⁵

The golf industry further believed that application of the 2015 rule would increase costs for every phase of owning and operating a golf course, including design, development, renovation, pesticide application and routine maintenance.²⁶ Taking these claims into account, there are three broad areas where rescission of the rule and reinstatement of the existing guidance is likely to confer benefits upon President Trump:

1. Jurisdictional Determinations for 404 Permits;
2. Application of other Clean Water Act Provisions; and
3. Enforcement Actions (either by agencies or citizens).

1. *Jurisdictional Determinations and Section 404 Permits*

Section 404 of the Clean Water Act regulates the discharge of dredged or fill materials into waters of the United States, including wetlands. Typically, before beginning a construction project in an area where there is a question as to whether a particular aquatic feature falls within the definition of waters of the United States, a project developer will apply to the Army Corps of Engineers for a jurisdictional determination.

²⁵ *Id.* 3-10.

²⁶ *Id.* 4, 8, 9.

According to the 2015 EPA Economic Analysis of the 2015 rule, its adoption would result in an estimated annual increase of between 2.84 and 4.65 percent in overall positive jurisdictional determinations across all categories of waters.²⁷ While a seemingly small change, the largest shifts would be seen in changes from negative to positive determinations in a category currently designated “other waters” by the Army Corps of Engineers. The agencies estimated that 34.5 percent of the “other waters” determinations would change from a negative to a positive jurisdictional determination under the 2015 rule.²⁸ In practice, this means that under the 2015 rule, developers would not only be more likely to apply for a jurisdictional determination if in doubt about whether a project triggered permitting requirements, but the Corps would be more likely to issue a positive jurisdictional determination for isolated waters. A positive jurisdictional determination could mean that the developer would choose not to go through with the project or that a permit would be necessary.

This change in jurisdictional determinations would have significant economic impacts for a golf course owner like President Trump. In the last ten years, President Trump’s golf courses have engaged in a substantial number of construction projects from small projects such as the renovation of individual water features or greens to the construction of entirely new courses at existing clubs.²⁹ The Economic Analysis of the 2015 rule estimated that costs for a pre-construction notification for a “typical” construction project could range from \$3,000-\$10,000 and that application costs for a standard or individual permit could range from \$10,000 to \$24,000.³⁰ Estimates for Section 404 permit applications ranged from \$34,000 to \$62,000 plus \$16,800 per acre of impact for individual permits while compensatory

²⁷ U.S. Environmental Protection Agency and U.S. Department of the Army, Economic Analysis of the EPA-Army Clean Water Rule, ix (May 2015).

²⁸ *Id.* at vii.

²⁹ Renovation of Trump National Doral Blue Monster Course in 2014 and plans for upgrades to Red and Gold courses, <http://www.golfchannel.com/news/travel-insider/new-and-improved-blue-monster-trump-doral-resort/>; New course at Trump National Bedminster and rebuild of 18th hole at Trump National Los Angeles <http://www.golf.com/courses-and-travel/trump-goes-public-los-angeles>.

mitigation costs were estimated as high as \$111,985 per acre of wetlands and as high as \$1,000 per linear foot of stream mitigation.³¹

A review of the costs associated with wetland mitigation and stream mitigation in the states where President Trump owns courses presents the potential for even higher costs:

State	Increased jurisdiction wetlands /acres	Unit Cost Low/acre	Unit Cost High/acre	Increased jurisdiction streams/linear feet)	Unit Cost Low	Unit Cost High
CA	122.1	\$18,500	\$350,000	723	\$185	\$343
FL	93.5	\$35,000	\$217,800	47	\$185	\$343
NC	22.8	\$25,874	\$69,736	25	\$289	\$381
NJ	4.8	\$82,489	\$412,433	-	\$185	\$343
NY	145.3	\$50,000	\$94,000	249	\$310	\$420
VA	75.1	\$16,000	\$140,000	-	\$300	\$977

Adding to the complexity of the analysis, however, is the fact that “under the existing implementation of the scope of ‘waters of the United States,’ many of these entities may not believe their discharge affects a protected water and may not have applied for permit coverage.”³² As a result, in order to understand the scope of the benefits and advantages that would be conferred upon the President by rescinding the rule, the EPA and Army Corps of Engineers should conduct an analysis of each of President Trump’s properties under the 2015 rule and determine the full scope of the benefits that the proposed rescission would be likely to produce.

Finally, with respect to jurisdictional determinations, the shift from the bright-line categories included in the 2015 rule back to the existing case-by-case analysis would lead to a situation where every case-by-case analysis conducted for a

³² Economic Analysis of 2015 Rule, 22.

Trump property would be subject to scrutiny and concerns about impropriety. If the 2015 rule is applied, the EPA, the Corps of Engineers, and the state permitting authorities that implement the Clean Water Act would use a bright-line approach to determine applicability of particular sections of the Clean Water Act rather than continuing to make decisions about jurisdiction on a case-by-case basis. The reversion to a rule that relies on case-by-case decision-making is particularly problematic when the President of the United States will be directly affected by the outcomes of such an analysis. Federal agencies and employees conducting the analysis, as well as their state counterparts, would likely be influenced by knowing that any decision they make with respect to a Trump branded golf course could result in recriminations from the Executive Branch. Likewise, if they render a decision that benefits a Trump branded golf course, it could result in favored treatment ranging from increased resources to more access to the President.

The ambiguity and uncertainty that accompanied the application of the previous rule would make it extremely difficult for staff to withstand the temptation to reach a favorable conclusion for a Trump branded property. Such determinations have direct financial consequences as described by the golf industry in their opposition to the 2015 rule. If, for example, a federal or state agency determined that a particular feature on or near a Trump Golf course fell within the definition established by the 2015 rule, that jurisdictional determination would result in virtually every aspect of maintaining, operating, and developing Trump golf courses being subject to applicable provisions such as the National Pollutant Discharge Elimination System permits, section 404 dredge and fill permits, stormwater controls, and restrictions on application of pesticides and fertilizers. Conversely, if a federal or state agency issued a negative jurisdictional determination finding that a feature on or near a Trump golf course did not constitute “waters of the U.S.” then it could save the Trump Organization thousands of dollars in costly hydrological studies and could confer even more financial benefits by preventing the need for permitting applications, permit compliance, and mitigation. In some instances, a determination that an area includes “waters of the U.S.” could preclude additional

site assessments and evaluations prior to any new development entirely. Indeed, such a determination could itself be a violation of the Domestic Emoluments Clause.

As a result, rescinding the 2015 rule would confer direct and substantial financial benefits upon the President by subjecting the golf courses that he owns to a less exacting standard, and could result in preferential treatment for the President's properties, even with respect to other golf course owners or construction.

2. Application of other Clean Water Act Provisions

Although jurisdictional determinations and Section 404 permitting may have the broadest impacts upon President Trump's golf courses, the proposed rescission would also be likely to confer benefits to President Trump because it would make it less likely that his golf clubs would be subject to other provisions, such as Section 402's NPDES stormwater program and its Pesticide General Permitting program. The potential impacts to the President from the stormwater program could vary greatly among his properties as mitigation could range from simply implementing best management practices to obtaining permits for construction activities. For example, in 2015, the Trump Organization spent roughly \$25 million re-developing the Lowe's Island Golf Course in Virginia and cut down 465 trees along one acre of the Potomac River as part of the development without any apparent regard for potential stormwater runoff impacts and without any permitting determinations.³³ If the Trump Organization applied for a jurisdictional determination to conduct this type of construction under the 2015 rule, it would have been much more likely to receive a positive determination that resulted in the need for construction permitting or a NPDES permit for stormwater discharges. The President's Bedminster course is scheduled to host the 2022 PGA championship making it likely that construction and renovations will be undertaken there as well.³⁴

³³ Jonathan O'Connell, "Trump tees up \$25 million in upgrades at Loudoun golf club," Washington Post (Jun. 23, 2015) https://www.washingtonpost.com/news/digger/wp/2015/06/23/trump-tees-up-25-million-in-upgrades-at-loudoun-golf-club/?tid=a_inl.

³⁴ PGA of America, "Trump National Golf Club – Bedminster, N.J. to Host 2022 PGA Championship," PRNewswire (May 1, 2014) <http://www.prnewswire.com/news-releases/trump->

Although the Economic Analysis for the 2015 rule did not estimate costs for individual permits under Section 402, it did conclude that nationwide costs to new permit-holders for stormwater permitting under the 2015 rule could range from \$29.2 to \$60.2 million annually.³⁵ Additional nationwide costs for permitting under the Pesticide General Permitting program were estimated at \$3.3 to \$5.9 million.³⁶ The EPA and Army Corps of Engineers should also conduct an assessment to determine the potential economic benefits that rescinding the 2015 rule could have for President Trump under these programs.

3. Enforcement by Agencies and Citizen Suits

Another key area in which the proposed rescission will confer an advantage upon President Trump as the owner of a golf course is enforcement. Increased certainty about the types of aquatic features that fall within the definition of “waters of the United States” would not only make it easier for an agency to bring an enforcement action against an entity that proceeds with a project without obtaining necessary permits or waivers, but it would also allow residents and organizations who are impacted by the activities to file suit against Trump-owned properties under the citizen suit provision of Section 505 of the Clean Water Act.³⁷ The potential for more rigorous enforcement by agencies and citizens would open the possibility for civil and criminal penalties as well as the potential for an award of attorneys’ fees in citizen suits.

[national-golf-club---bedminster-nj-to-host-2022-pga-championship--trump-national-golf-club---washington-dc-to-host-2017-senior-pga-championship-presented-by-kitchenaid-257518221.html](http://www.nam.org/Issues/Energy-and-Environment/Water-Regulations/Waters-Advocacy-Coalition-Comments-on-Proposed-WOTUS-Rule.pdf).

³⁵ Economic Analysis for 2015 Rule, 25.

³⁶ *Id.* at 31.

³⁷ The Waters Advocacy Coalition, which included several golf industry associations, raised this concern about increased liability for enforcement actions by agencies and citizen suits in its comments on the 2015 rule. *See* Comments of the Waters Advocacy Coalition on the EPA and U.S. Army Corps of Engineers’ Proposed Rule to Define “Waters of the United States Under the Clean Water Act EPA-HQ-OW-2011-0880, 22, 47, 51, 66 (Nov. 2014) <http://www.nam.org/Issues/Energy-and-Environment/Water-Regulations/Waters-Advocacy-Coalition-Comments-on-Proposed-WOTUS-Rule.pdf>.

VII. Conclusion

Rescinding the 2015 Rule will confer direct financial benefits, profits, and advantages upon President Trump in direct violation of the Domestic Emoluments Clause and thus will violate 5 U.S.C. § 706(2). At a minimum, the EPA and Army Corps of Engineers need to provide an analysis of how the rescission of the 2015 rule would impact the Trump golf courses to determine the full scope of the benefits and advantages that would be conferred upon them. Such an analysis is necessary to understand the extent to which this proposed rulemaking will violate the Domestic Emoluments Clause. Once that analysis has been performed, the record may show that, in addition to the significant environmental and economic harms that this proposal would cause, the proposed rule would violate the Domestic Emoluments Clause. Therefore, the EPA and the Army Corps of Engineers should withdraw the proposed rule. In the event that EPA and the Army Corps of Engineers refuse to withdraw the proposed rule, in the alternative, they could:

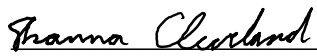
- specify that the 2015 rule continues to apply to Trump properties for the remainder of his natural life; or
- specify that the 2015 rule continues to apply to Trump properties while he remains in office; or
- specify that an independent commission would be established to oversee application of the rules to Trump properties to ensure that EPA and the Army Corps of Engineers recuse themselves from decisions related to Trump properties. Such independent commissions would need to be composed of independent, reputable scientists, community-based environmental and recreational organizations, national environmental organizations, community-based social justice organizations, an industry representative, and state and local representatives.

We appreciate the opportunity to comment on this proposal and urge the agencies to ensure that they do not violate the Domestic Emoluments Clause.

Respectfully submitted,

On behalf of Free Speech For People and
Raritan Headwaters Association

by



Shanna M. Cleveland
Senior Counsel
Free Speech For People
1340 Centre Street
#209
Newton, MA 02459

South Florida Water Management District

BEG. PERMIT
NUMBER 50-03925-P

APPLICATION NO.
010608-9

010608-9
50-03925-P
Dwight
Baldy
Cowan



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • www.sfwmd.gov

CON 24-06

Environmental Resource Regulation Division
Application No.: 010608-9

June 12, 2001

PALM BEACH COUNTY
PALM BEACH INTERNATIONAL AIRPORT
BUILDING 846
WEST PALM BEACH, FL 33406-1491

AND

The Donald J Trump Golf Club LC
1100 South Ocean Blvd
Palm Beach, FL 33480

Dear Permittee:

SUBJECT: PERMIT MODIFICATION NO.: 50-03925-P
Project: TRUMP INTERNATIONAL GOLF COURSE
Location: Palm Beach County, S6/T44S/R43E

District staff has reviewed the information submitted June 08, 2001, for the expansion of the lake area around the 16th Tee and 16th Green for a total addition of 0.49 acre of lake. The excavated material shall be deposited in areas above the 100-year flood plain. Lakes shall have no steeper than 4:1 (H:V) side slopes. Please refer to the four attached exhibits. Based on that information, District staff has determined that the proposed activities are in compliance with the original environmental resource permit and appropriate provisions of FAC Rule 40E-4.331(2)(b). Therefore, these changes have been recorded in our files. Please understand that your permit remains subject to the General Conditions and all other Special Conditions not modified and as originally issued.

Sincerely,

Maria C. Clemente, P.E.
Sr Supv Engineer
Palm Beach Service Center

MC/jg

c: Palm Beach County Engineer
SIMMONS & WHITE INC

GOVERNING BOARD

Nicolas J. Gutiérrez, Jr., Esq., Chairman
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Patrick J. Gleason
Lennart E. Lindahl
Harkley R. Thornton

EXECUTIVE OFFICE

Frank R. Finch, P.E., Executive Director

Site	Site Volume Table: Unadjusted		Cut	78	cu.yds	Net	Method
	Stratum Surf1	Surf2					
Trump International 2	pa2	sp2	fg2		3124	542	2582 (") Ord

16 Tee Trump International

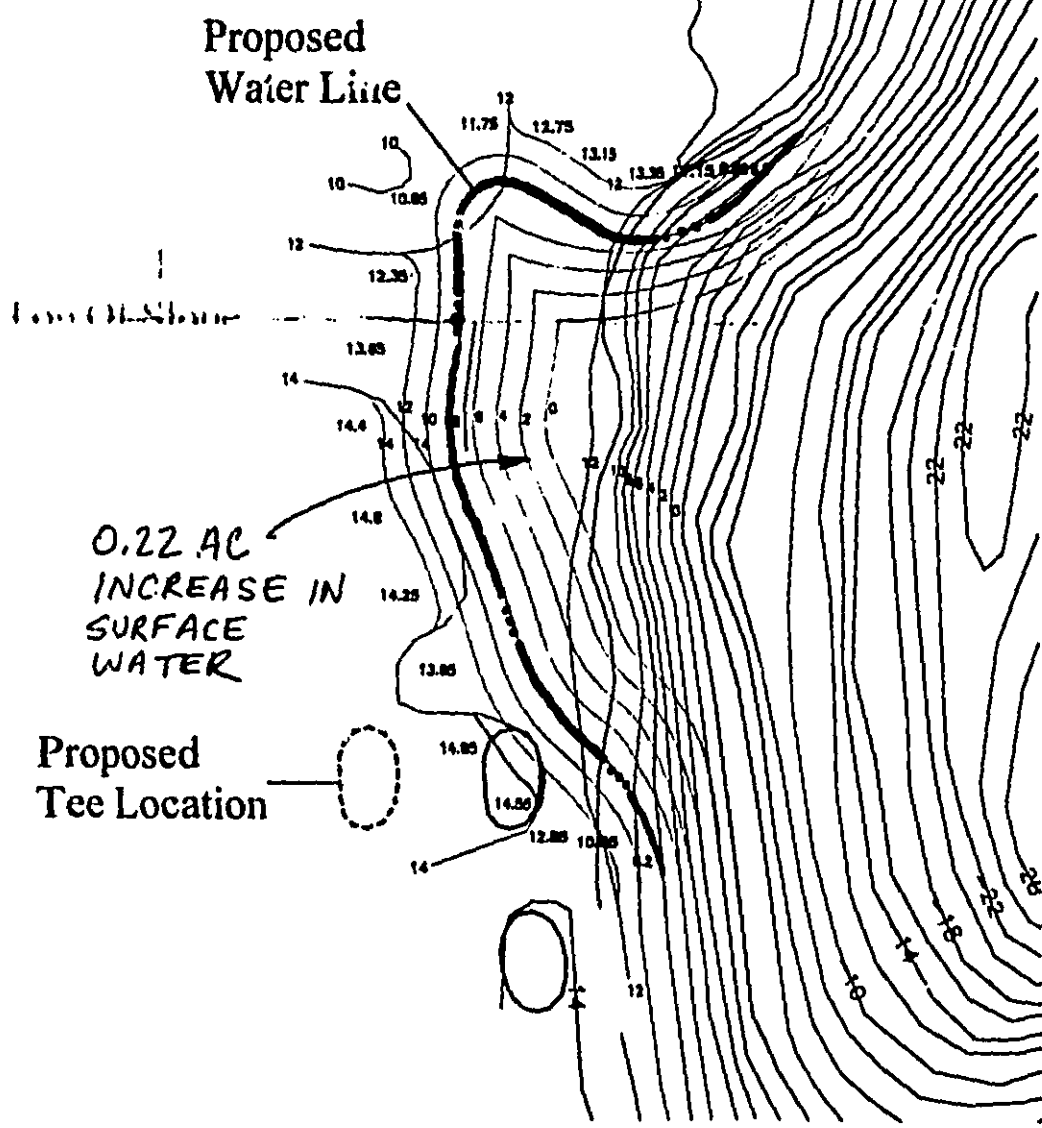
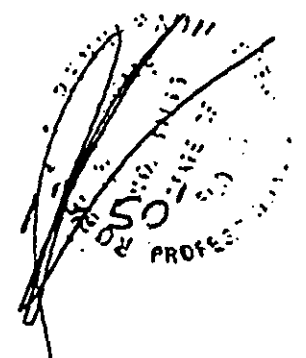
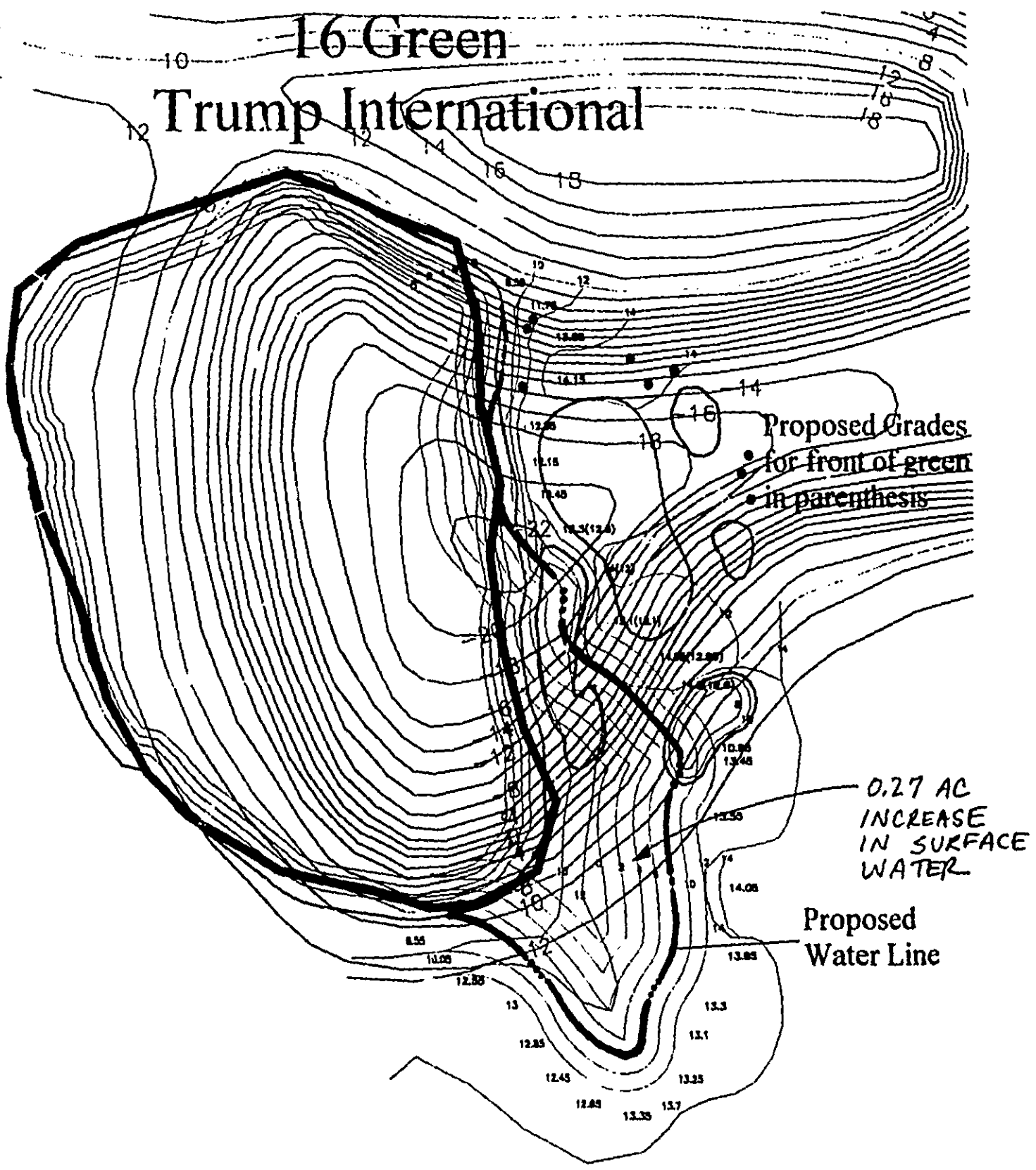


EXHIBIT 1

010608-9



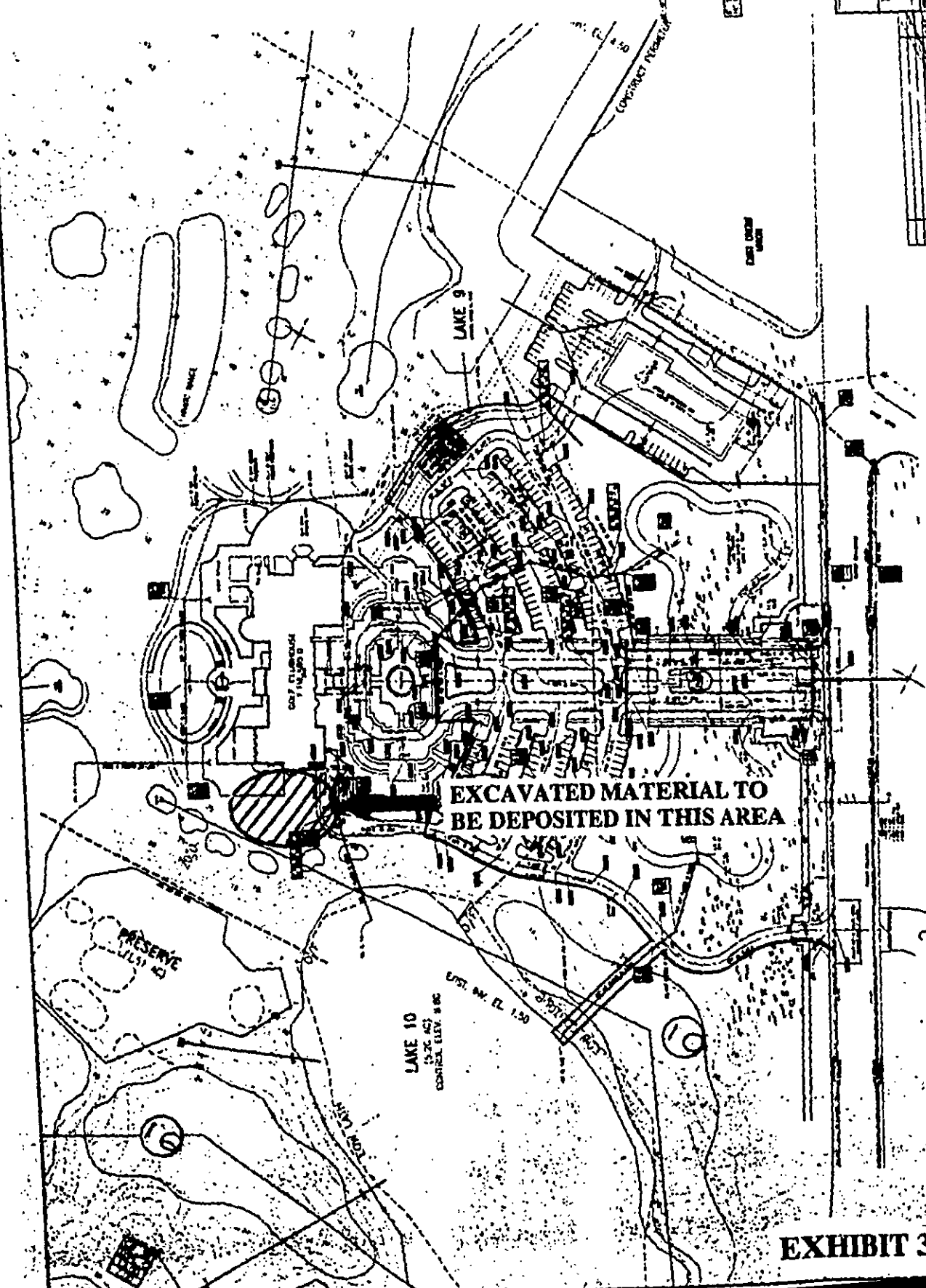
16 Green Trump International



Site	Site Volume Tables Unadjusted		FIR	Net	Method
	Surface Surf1	Surf2			
Trump International	8081	75	5883 (C)	0/4	

1" = 50'

EXHIBIT 2



LEGEND

- CONTRACT NUMBER
- DATE
- PROJECT CHAIRMAN
- PROJECT ENGINEER
- PROJECT ARCHITECT
- PROJECT LANDSCAPE ARCHITECT
- PROJECT CIVIL ENGINEER
- PROJECT MECHANICAL ENGINEER
- PROJECT ELECTRICAL ENGINEER
- PROJECT PLUMBING ENGINEER
- PROJECT SANITARY ENGINEER
- PROJECT STRUCTURAL ENGINEER
- PROJECT GEOTECHNICAL ENGINEER
- PROJECT ENVIRONMENTAL ENGINEER
- PROJECT HISTORIC PRESERVATION ARCHITECT
- PROJECT TRAFFIC ENGINEER
- PROJECT FIRE ENGINEER
- PROJECT SOUND ENGINEER
- PROJECT LIGHTING ENGINEER
- PROJECT VIDEO ENGINEER
- PROJECT TELEVISION ENGINEER
- PROJECT AUDIO ENGINEER
- PROJECT SECURITY ENGINEER
- PROJECT CONSTRUCTION ENGINEER
- PROJECT OPERATIONS ENGINEER
- PROJECT MAINTENANCE ENGINEER
- PROJECT TRAINING ENGINEER
- PROJECT RESEARCH ENGINEER
- PROJECT DEVELOPMENT ENGINEER
- PROJECT MARKETING ENGINEER
- PROJECT FINANCIAL ENGINEER
- PROJECT LEGAL ENGINEER
- PROJECT PUBLIC RELATIONS ENGINEER
- PROJECT COMMUNITY RELATIONS ENGINEER
- PROJECT ENVIRONMENTAL ENGINEER
- PROJECT HISTORIC PRESERVATION ARCHITECT
- PROJECT TRAFFIC ENGINEER
- PROJECT FIRE ENGINEER
- PROJECT SOUND ENGINEER
- PROJECT LIGHTING ENGINEER
- PROJECT VIDEO ENGINEER
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- PROJECT DEVELOPMENT ENGINEER
- PROJECT MARKETING ENGINEER
- PROJECT FINANCIAL ENGINEER
- PROJECT LEGAL ENGINEER
- PROJECT PUBLIC RELATIONS ENGINEER
- PROJECT COMMUNITY RELATIONS ENGINEER

SCHAEFER & FAGAN
CONSULTING ENGINEERS, INC.
TRUMP INTERNATIONAL GOLF CLUB
CLUBHOUSE - MAINLY
PAVING & DRAINAGE PLAN
JAN 22 1987

EXCAVATED MATERIAL TO BE DEPOSITED IN THIS AREA

EXHIBIT 3

SIMMONS & WHITE, INC.

Engineers • Planners • Consultants

South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

June 8, 2001

Attention: Mr. Jeff Gronborg

Reference: Trump International Golf Course
Permit No. 50-03925-P
Palm Beach County, Florida

RECEIVED

JUN 08 2001

ENV RES REGULATION

Dear Mr. Gronborg:

Enclosed for your review are three sets of plans (one color set and two copies) outlining proposed modifications to the 16th hole at the above referenced project. The modifications consist of the net excavation of approximately 2582 cubic yards at the 16th tee (see volume summary on attached plans) and the net excavation of approximately 5985 cubic yards at the 16th green. The excavation is being performed for the sole reason of improving the play of the 16th hole. No other modifications are proposed and the proposed activities are in compliance with the original environmental resource permit and appropriate provisions of FAC Rule 40E-4.331(2)(b). We therefore request a letter modification for the construction. We understand that the permit remains subject to the general conditions and all other special conditions not modified and as originally issued.

As you discussed with Mr. Fazio, we are now prepared to commence de-watering activities tomorrow (6/9/01) and construction on Tuesday (6/12/01). Please call me with any questions or comments or to authorize work. Thank you again for your help with this matter.

Sincerely,

SIMMONS & WHITE, INC.

Robert F. Rennebaum, P.E.

RR/kg
00-21
0021Gronborg
cc: Jim Fazio
Wes Blackman

5601 Corporate Way, Suite 200, West Palm Beach, Florida 33407
Telephone (561) 478-7848 • Fax (561) 478-3738
www.simmonsandwhite.com

Certificate of Authorization Number 3452

EXHIBIT 4

bc:

J. Gronborg
B. Ratcliffe
T. Waterhouse
Permit File
Day Files

PERMIT APPLICATION ROUTING
 Environmental Resource Regulation Division

Application Number: 010608-9 Permit Number: 50-03925-P
 Related Application Number:
 Applicant: PALM BEACH COUNTY
 Project: TRUMP INTERNATIONAL GOLF COURSE
 County: Palm Beach Permit Type: ERP Land Use Type: REC

30 Day Deadline: 7/8/01
 No Fee Required:
 Fee Received: \$100.00 Fee Due: \$_____ Fee Code: PS15
 (Do Not Issue Permit)

		DATE RECEIVED	DATE OUT
PROCESSED BY:	<u>Fran Beedy</u>	<u>06/11/01</u>	<u>06/11/01</u>
ROUTE TO:			
<u>JEFF GRONBORG</u>	_____	_____	_____
<u>Don Medallin</u>	_____	_____	_____
<u>HUGO CARTER</u>	_____	_____	_____
<u>GIS</u>	_____	_____	_____
<u>RIGHT-OF-WAY</u>	<u>5730</u>	_____	_____
<u>WEEKLY MAIL/FRAN</u>	_____	_____	_____

NRM Signoff: _____ Date: _____
 COMMENTS: ERP LTR MOD PER JEFF GRONBORG ON 6/11/01. GIVEN TO JEFF G. PER HIS REQUEST!
 3 SETS OF 2 DIFFERENT PLANS (JEFF (1) NRM (1) CORP (1))

FOR RIM USE ONLY

Application Submittal Included:
 Application Form: 0 Plans: 2 Aerials: 0 Engineer Reports: 0 Adjacent Property Owners Lists: 0

PERMIT APPLICATION ROLLING
 Environmental Resource Regulation Division

Application Number: 010608-9 Permit Number: 50-03925-P
 Related Application Number:
 Applicant: PALM BEACH COUNTY
 Project: TRUMP INTERNATIONAL GOLF COURSE
 County: Palm Beach Permit Type: ERP Land Use Type: REC

30 Day Deadline: 7/8/01
 No Fee Required:
 Fee Received: \$100.00 Fee Due: \$ Fee Code: PS15
 (Do Not Issue Permit)

		DATE RECEIVED	DATE OUT
PROCESSED BY:	<u>Fran Beedy</u>	<u>06/11/01</u>	<u>06/11/01</u>
ROUTE TO:			
<u>JEFF GRONBORG</u>	_____	_____	_____
<u>Don Medellin</u>	_____	_____	_____
<u>HUGO CARTER</u>	_____	_____	_____
<u>GIS</u>	_____	_____	_____
<u>RIGHT-OF-WAY</u>	<u>5730</u>	_____	_____
<u>WEEKLY MAIL/FRAN</u>	_____	_____	_____

NRM Signoff: _____ Date: _____
 COMMENTS: ERP LTR MOD PER JEFF GRONBORG ON 6/11/01. GIVEN TO JEFF G. PER HIS REQUEST!
 3 SETS OF 2 DIFFERENT PLANS (JEFF (1) NRM (1) CORP (1))

FOR RIM USE ONLY
 Application Submittal Included:
 Application Form: 0 Plans: 2 Aerials: 0 Engineer Reports: 0 Adjacent Property Owners Lists: 0

SIMMONS & WHITE, INC.

Engineers • Planners • Consultants

South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

June 8, 2001

Attention: Mr. Jeff Gronborg

Reference: Trump International Golf Course
Permit No. 50-03925-P
Palm Beach County, Florida

RECEIVED

JUN 08 2001

ENV RES REGULATION

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Sincerely,

SIMMONS & WHITE, INC.


Robert F. Rennebaum, P.E.

RR/kg

00-21

0021Gronborg

cc: Jim Fazio

Wes Blackman

5601 Corporate Way, Suite 200, West Palm Beach, Florida 33407
Telephone (561) 478-7848 • Fax (561) 478-3738
www.simmonsandwhite.com

Certificate of Authorization Number 3452



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • www.sfwmd.gov

NOTICE

June 11, 2001

Subject: Environmental Resource Permit Application
Application No. 010608-9
Applicant: **Palm Beach County**
Palm Beach County, S 6/T 44 S/R 43 E

The South Florida Water Management District is currently processing the attached application. If you have any comments or objections concerning this project, please submit them in writing to this office within 30 days of receipt of this notice.

This is also an opportunity for applicable State agencies to concur with or object to the proposed project under the federal consistency provision of the Coastal Zone Management Act. Review must be in accordance with the procedures adopted by the Interagency Management Committee on October 25, 1989. Findings of inconsistency must describe how the project conflicts with your agency's statutory authorities in the Florida Coastal Management Program and provide alternative measures, if any, which would make the project consistent. Commenting agencies must provide a copy of all consistency comments letters to the Florida Coastal Management Program Director, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

Please refer to the applicants name and application number as referenced above in any correspondence to help facilitate processing. Questions concerning this project should be addressed to Rob Robbins at (561) 682-6951 or Tony Waterhouse at (561) 682-6867.

BAC:lb

Attachments

c: US Army Corps of Engineers
Palm Beach County Department of Resources Management

GOVERNING BOARD

Nicolás J. Gutiérrez, Jr., Esq., *Chairman*
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Pamela Brooks-Thomas

Michael Collins
Hugh M. English
Gerardo B. Fernández

Patrick J. Gleason
Lennart F. Lindahl
Harkley Thornton

EXECUTIVE OFFICE

Frank R. Finch, P.E., *Executive Director*

010608-9

PATS_ADM_S South Florida Water Management District
FBEDDY APPLICATION ADMIN

11-JUN-2001

Administrative Information

App No: ~~950006-10~~
App Rcvd Date: 06-MAR-1997
App Status: COMPLETE
Permit No: 50-03925-P
Permittee Org: CNTY
Location: WPB Palm Beach
Issuing Agency: SFWMD
Permit Duration:
Project Name: DEPARTMENT OF AIRPORTS GOLF COURSE
App Sign Date:
ReqMaxDay Alloc:
Comments:

Legal Comp Date: 03-OCT-1997
Actual Permit File: IND
Final Action Date: 13-NOV-1997
Active Mod:
Water Body: C-51 CANAL VIA LWDD
Project Acreage: 215.00
Acres Served: 237.90

(MG)

CANNOT UPDATE PERMIT NO IF FINAL ACTION DATE HAS BEEN ENTERED
Count: 1 <Replace>

Admin info Query screens rEports Spec func Hot keys Main menu
PATS_POC_S South Florida Water Management District 11-JUN-2001
FBEEDY RELEVANT PARTIES INFORMATION

Application Number Permit Number Issuing Agency
~~00000000~~ 50-03925-P SFWMD

Relevant Parties Information

Assoc. Type: APPL Priority: 1 Permit Issued To:
Salutation:
First Name: Email:
Last Name:
Company: PALM BEACH COUNTY
Address: PALM BEACH INTERNATIONAL AIRPORT
BUILDING 846
City: WEST PALM BEACH Country: UNITED STATES OF AMERICA
State: FL Zip: 33406-1491 Fax No:
Phone:

Type of Relevant Party (OWNER, APPLICANT, CONSULTANT, etc.) - LOV <List><Replace>
Count: 2

Admin info Query screens Reports Spec func Hot keys Main menu

PATS_POC_S South Florida Water Management District 11-JUN-2001
FBEDY RELEVANT PARTIES INFORMATION

Application Number Permit Number Issuing Agency
~~5762~~ 50-03925-P SFWMD

--- Relevant Parties Information

Assoc. Type: OPER Priority: 1 Permit Issued To:
Salutation:
First Name: Email:
Last Name: Company: PALM BEACH COUNTY
Address: City: zip: Country: UNITED STATES OF AMERICA
State: Phone: Fax No:

Type of Relevant Party (OWNER, APPLICANT, CONSULTANT, etc.) - LOV <List><Replace>
Count: * 5

Admin info Query screens Reports Spec func Hot keys Main menu

PATS_POC_S South Florida Water Management District 11-JUN-2001
FBEDY RELEVANT PARTIES INFORMATION

Application Number Permit Number Issuing Agency
~~500306-10~~ 50-03925-P SFWMD

Relevant Parties Information

Assoc. Type: LESE Priority: 1 Permit Issued To:

Salutation:
First Name:
Last Name:
Company: THE DONALD J. TRUMP GOLF CLUB, I.C.
Address: 1100 SOUTH OCEAN BOULEVARD

Email:

City: PALM BEACH
State: FL Zip: 33480
Phone:

Country: UNITED STATES OF AMERICA
Fax No:

Type of Relevant Party (OWNER, APPLICANT, CONSULTANT, etc.) - LOV <List><Replace>
Count: *5

PATS_APP_CNTY_S South Florida Water Management District 11-JUN-2001
FBEDY COUNTY INFORMATION FOR THIS APPLICATION

App Number Permit Number Agency County Priority
~~990106-10~~ 50-03925-P SFWMD PALM BEACH 1

Section	Township	Range	Land Grant
6	44	43	

The primary key for a record in the table
Count: *1 <Replace>

Admin info Query screens rEports Spec func Hot keys Main menu

PATS LAND_USE_S South Florida Water Management District 11-JUN-2001
FBEDY LAND / WATER USE INFORMATION

Agency
SFWMD

Permit Number
50-03925-P

Application Number
~~006204-10~~
Permit Type App Type App Kind App Purpose Letter Type
ERP IND NEW CO

Application Landuse Information

Description
RECREATIONAL

Priority
1

Description for landuse (Agricultural, Citrus, Residential - LOV
Count: *1 <Replace>



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • www.sfwmd.gov

CON 24-06

**Regulation Department
Application No.: 010608-9**

June 12, 2001

**The Donald J Trump Golf Club LC
1100 South Ocean Blvd.
Palm Beach, FL 33480**

Dear Sir or Madam:

**Subject: Permit Modification No.: 50-03925-P
Project: Trump International Golf Course 16th Tee and Green Lake
Modifications,
Location: Palm Beach County, S6/T44S/k43E**

District staff has reviewed the information submitted on June 8, 2001 for the expansion of the lake area around the 16th Tee and 16th Green for a total addition of 0.49 acre of lake. *Fill will be deposited in areas above to 100-year flood plain. Lakes shall have no slope than 4:1 (H/V) side slopes.*
Based on this information, District staff has determined that the proposed activities are in compliance with the original environmental resource permit and appropriate provisions of FAC Rule 40E-4.331(2)(b). Therefore, these changes have been recorded in our files. Please understand that your permit remains subject to the Standard Limiting Conditions and all other Special Conditions not modified and as originally issued.

Sincerely,

**Maria Clemente, P.E.
Senior Supervising Engineer
Environmental Resource Compliance Department**

MC/JG

**c: Mr. Rob Rennebaum, P.E., Simmons and White, Inc.
Palm Beach County Engineer
Palm Beach County International Airport**

GOVERNING BOARD

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Hugh M. English
Gerardo B. Fernandez

Patrick J. Gleason
Lennart E. Lindahl
Harkley R. Thornton

EXECUTIVE OFFICE

Frank R. Finch, P.E., *Executive Director*

bc: J. Gronborg
B. Ratcliffe
T. Waterhouse
Permit File
Day Files

SOUTH FLORIDA WATER MANAGEMENT DISTRICT

MAPS
FOR PERMIT NO.

50-03925-P

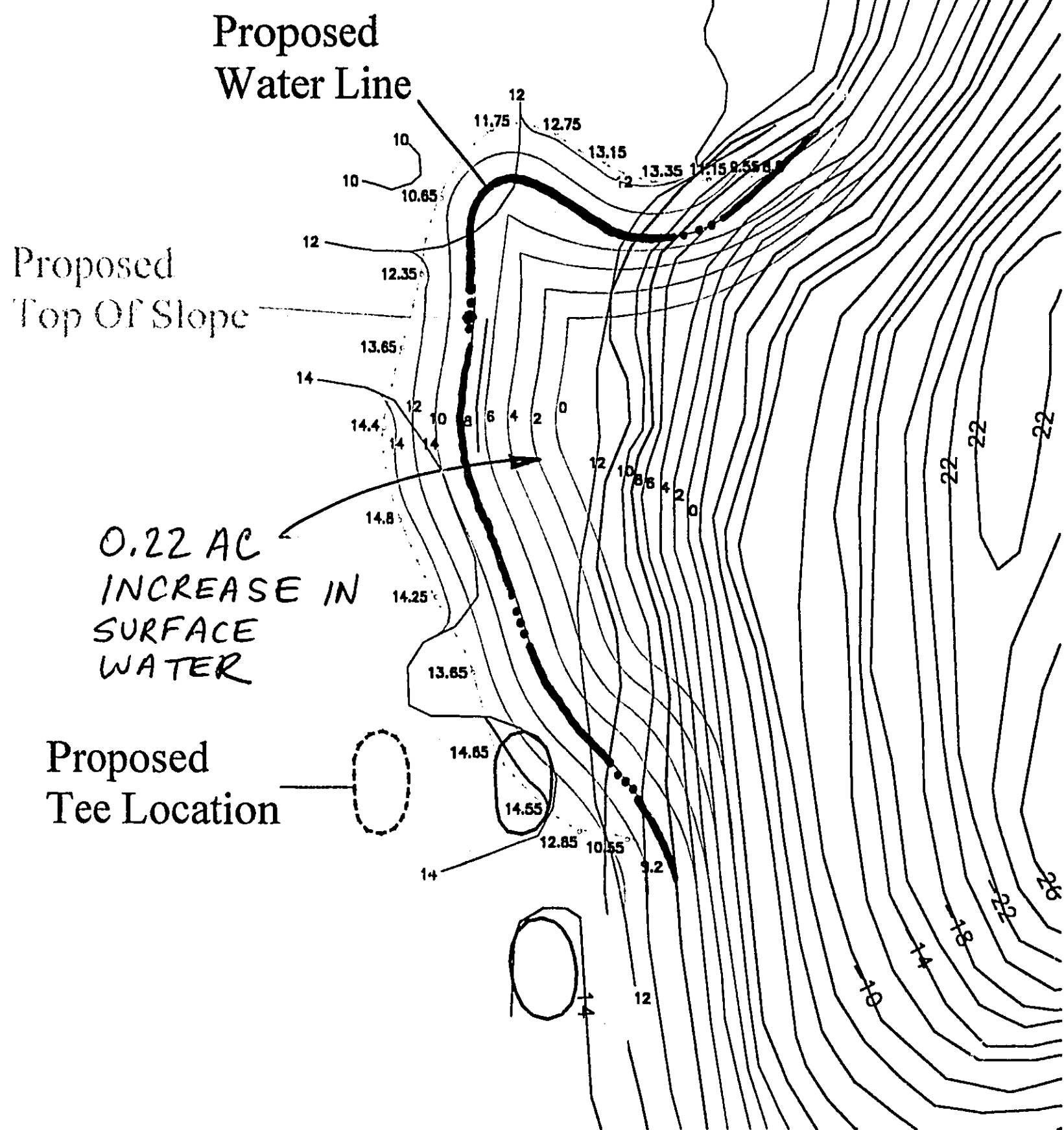
APPLICATION NO. 010608-9

(BOX NO.)

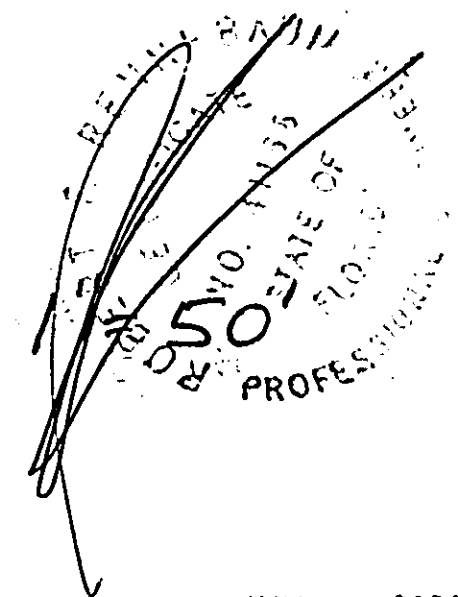
OF

Site Volume Table: Unadjusted										
Site	Stratum	Surf1	Surf2	cu.yds	Cut	cu.yds	Fill	cu.yds	Net	Method
Trump International 2	calcs2	eg2	fg2		3124		542		2582 (C)	Grid

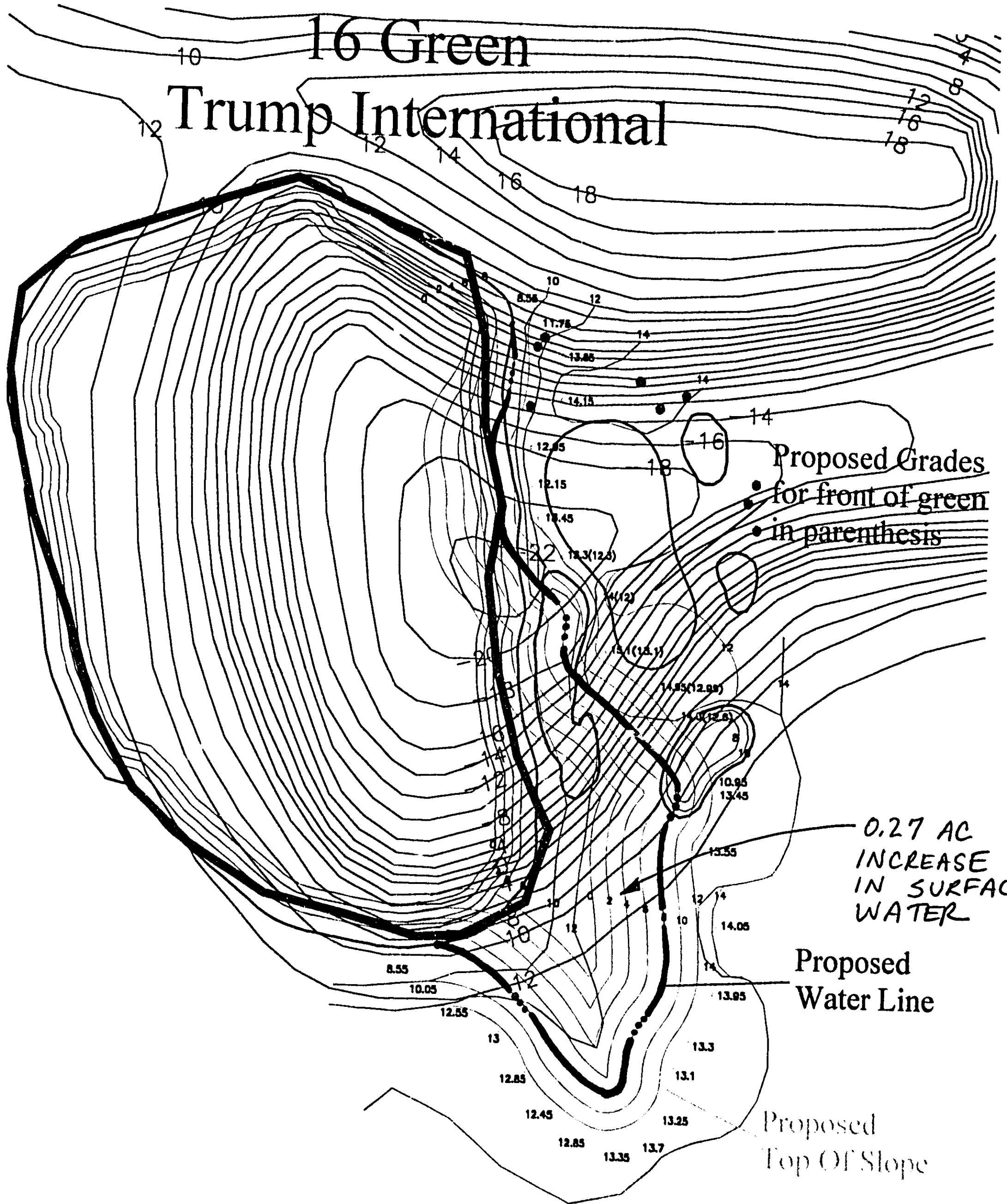
16 Tee Trump International



010608-9



JUN 08 2001

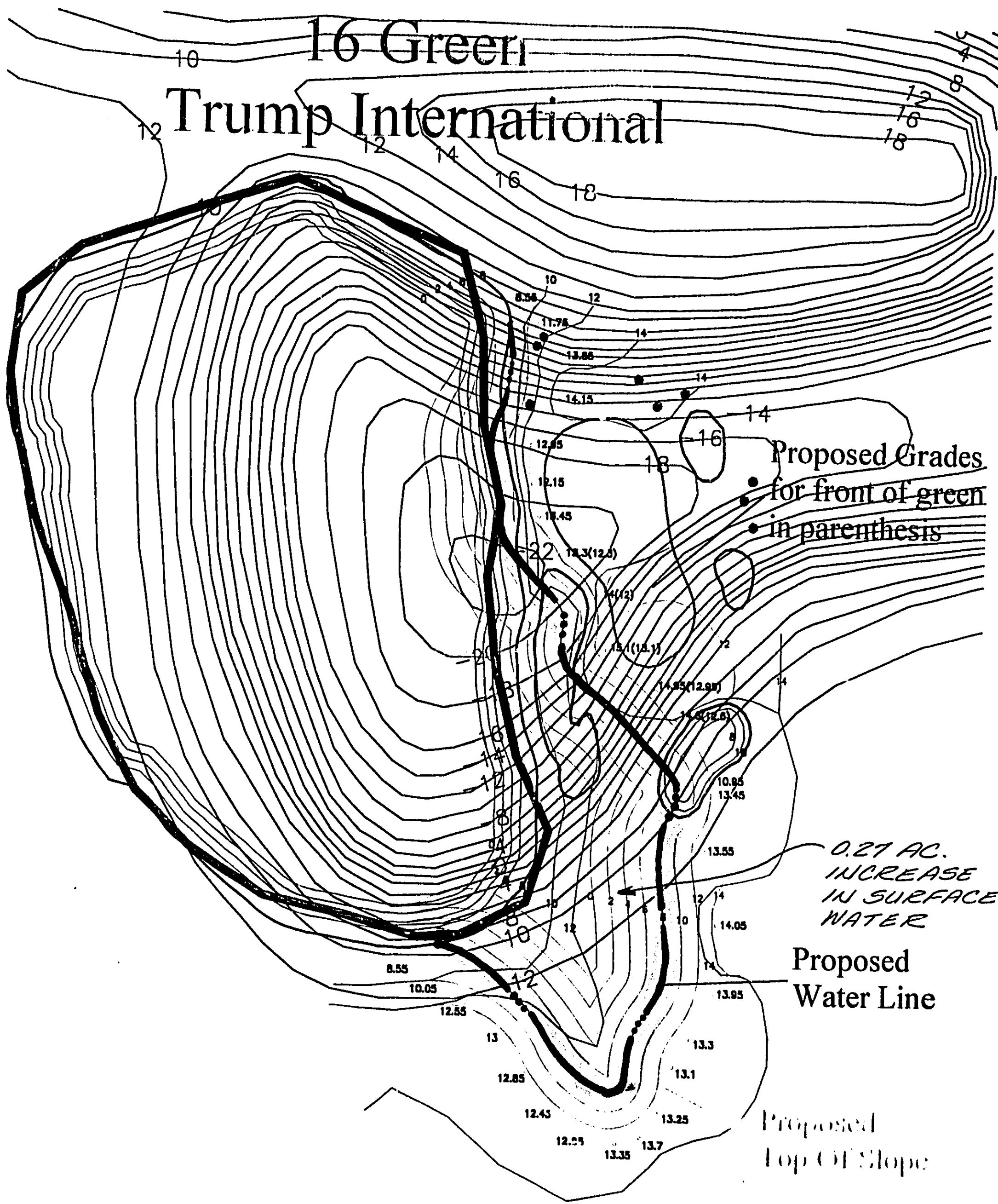


Site	Stratum		Site Volume Table: Unadjusted		Fill	Net	Method
	Surf1	Surf2	Cut	cu.yds			
Trump International	ce	ce	fg	fg	8061	75	5985 (C) Ord

1" = 50'

010608-9

JUN 08 2001



Site	Stratum		Site Volume Table: Unadjusted		Fill	Net	Method
	Surf1	Surf2	cu.yds	Cut			
Trump International	colca	eg fg	8081	75	5985 (C)	Grid	1"=50'

[Handwritten Signature]
JUN 08 2001



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • www.sfwmd.gov

Environmental Resource Regulation
Application No.: 050819-12

September 20, 2005

PALM BEACH COUNTY
DEVELOPMENT & OPERATION
3323 BELVEDERE RD BLDG 503
WEST PALM BEACH, FL 33406

Dear Permittee:

SUBJECT: PERMIT NO.: 50-03925-P
Project : TRUMP INTERNATIONAL GOLF CLUB
Location: Palm Beach County, S6/T44S/R43E

District staff has reviewed the information submitted August 19, 2005, for minor modifications to the Trump International Golf Club project, as shown on the attached Exhibit 2.1A, which is signed and sealed by Gregory F. Bolen, P.E. of Simmons & White, Inc., on August 18, 2005. The proposed project consists of the addition of bulkhead to Lake No. 2 for aesthetic purposes. The total linear footage of bulkhead proposed (2,588 linear feet) is less than the 40% of the total shoreline of the proposed lakes (7,746 linear feet of shoreline proposed). Lake No. 2 has been excluded from the water quality calculation to show that the project still provides adequate water quality treatment below the weir elevation (water quality treatment provided at elevation 9.42 feet). In addition, 29,090 square feet of littoral zones have been added to the plan to meet Palm Beach County Environmental Resource Management's criteria for required littoral zone area per linear foot of bulkhead (bringing the total proposed littoral zone area to 91,395 square feet compared to 82,672 S.F. required). No other modifications are approved by this authorization.

Based on that information, District staff has determined that the proposed activities are in compliance with the original environmental resource permit and appropriate provisions of FAC Rule 40E-4.331(2)(b). Therefore, these changes have been recorded in our files.

Please understand that your permit remains subject to the General Conditions and all other Special Conditions not modified and as originally issued.

Should you have any questions concerning this matter, please contact this office.

Sincerely,


Hugo A. Carter, P.E.
Sr Supv Engineer
Palm Beach Service Center

GOVERNING BOARD

Kevin McCarty, *Chair*
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Lennart E. Lindahl, P.E.
Harkley R. Thornton
Malcolm S. Wade, Jr.

EXECUTIVE OFFICE

Carol Ann Wehle, *Executive Director*

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 (SFWMD) 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. Code, (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 SFWMD 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 SFWMD 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 SFWMD 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 the 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 SFWMD 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 SFWMD 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 the which is attached to this Notice of Rights.

c. Administrative Complaint and Order: If a Respondent objects to a SFWMD 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 a 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 SFWMD'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 SFWMD 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 SFWMD 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 SFWMD 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 SFWMD 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 the 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 SFWMD'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

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:

(1) the name, address, and telephone number of the person requesting mediation and that person's representative, if any;

(2) a statement of the preliminary agency action;

(3) an explanation of how the person's substantial interests will be affected by the agency determination; and

(4) 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(5), 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.

28-106.301 INITIATION OF PROCEEDINGS
(NOT 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 concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
 - (e) A demand for relief.

28-107.004 SUSPENSION, REVOCATION, ANNULMENT, OR WITHDRAWAL

- (3) Requests for hearing filed in accordance with this rule shall include:
- (a) The name and address of the party making the request, for purposes of service;
 - (b) A statement that the party is requesting a hearing involving disputed issues of material fact, or a hearing not involving disputed issues of material fact; and
 - (c) A reference to the notice, order to show cause, administrative complaint, or other communication that the party has received from the agency.

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 requirements, provisions and purposes of Chapter 373, F.S., 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

(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.

28-107.005 EMERGENCY ACTION

(1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall summarily suspend, limit, or restrict a license.

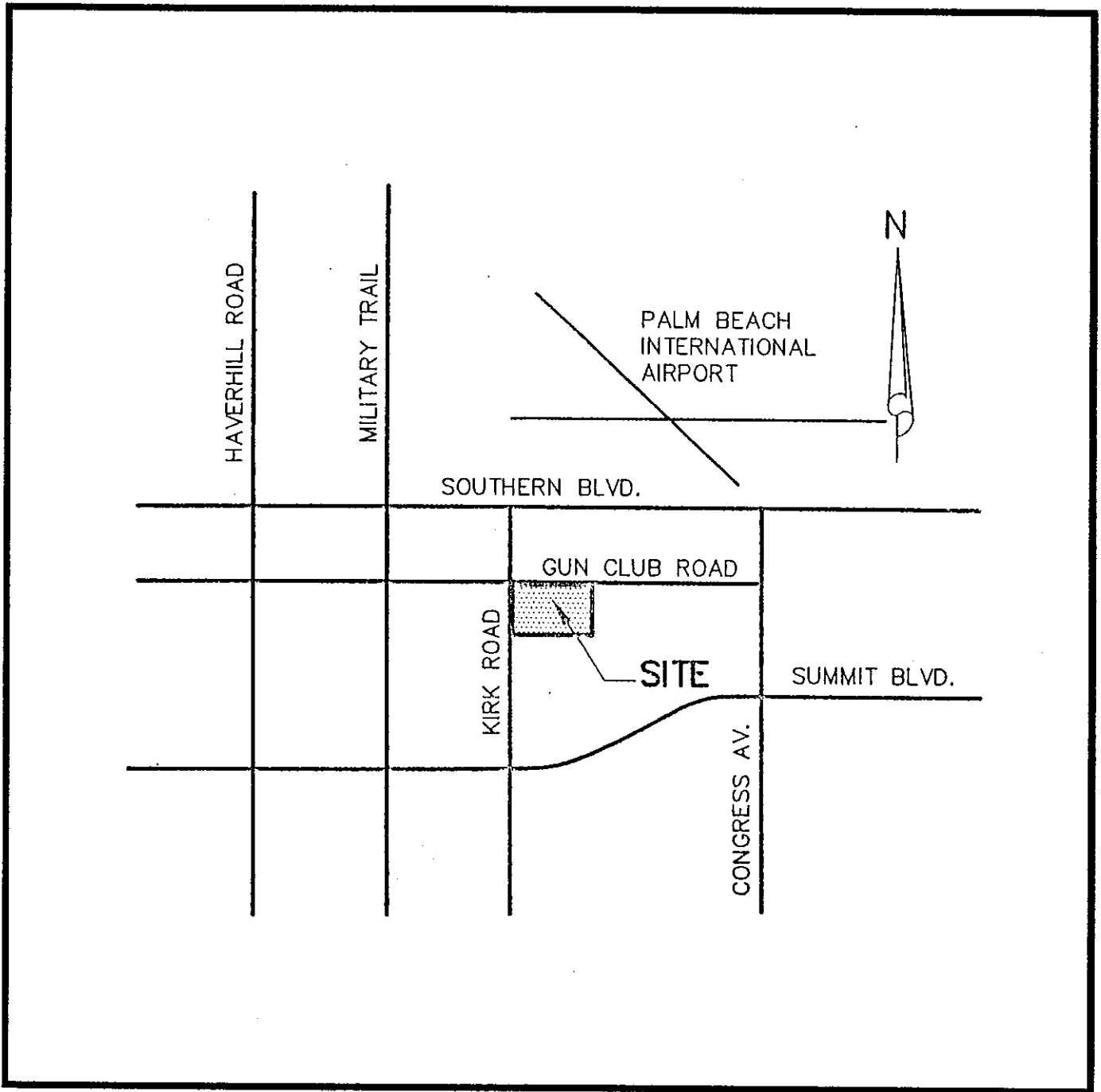
(2) the 14-day notice requirement of Section 120.569(2)(b), F. S., does not apply and shall not be construed to prevent a hearing at the earliest time practicable upon request of an aggrieved party.

(3) Unless otherwise provided by law, within 20 days after emergency action taken pursuant to paragraph (1) of this rule, the agency shall initiate a formal suspension or revocation proceeding in compliance with Sections 120.569, 120.57, and 120.60, F.S.

40E-1.611 EMERGENCY ACTION

(1) An emergency exists when immediate action is necessary to protect public health, safety or welfare; the health of animals, fish or aquatic life; the works of the District; a public water supply, or recreational, commercial, industrial, agricultural or other reasonable uses of land and water resources.

(2) The Executive Director may employ the resources of the District to take whatever remedial action necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

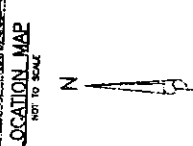
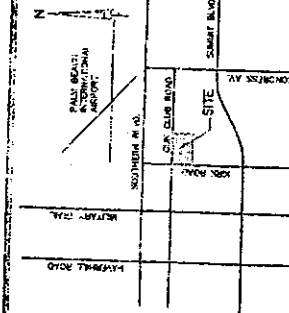


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TRUMP INTERNATIONAL GOLF CLUB LOCATION MAP

APP. NO. 050819-12

EXHIBIT 1

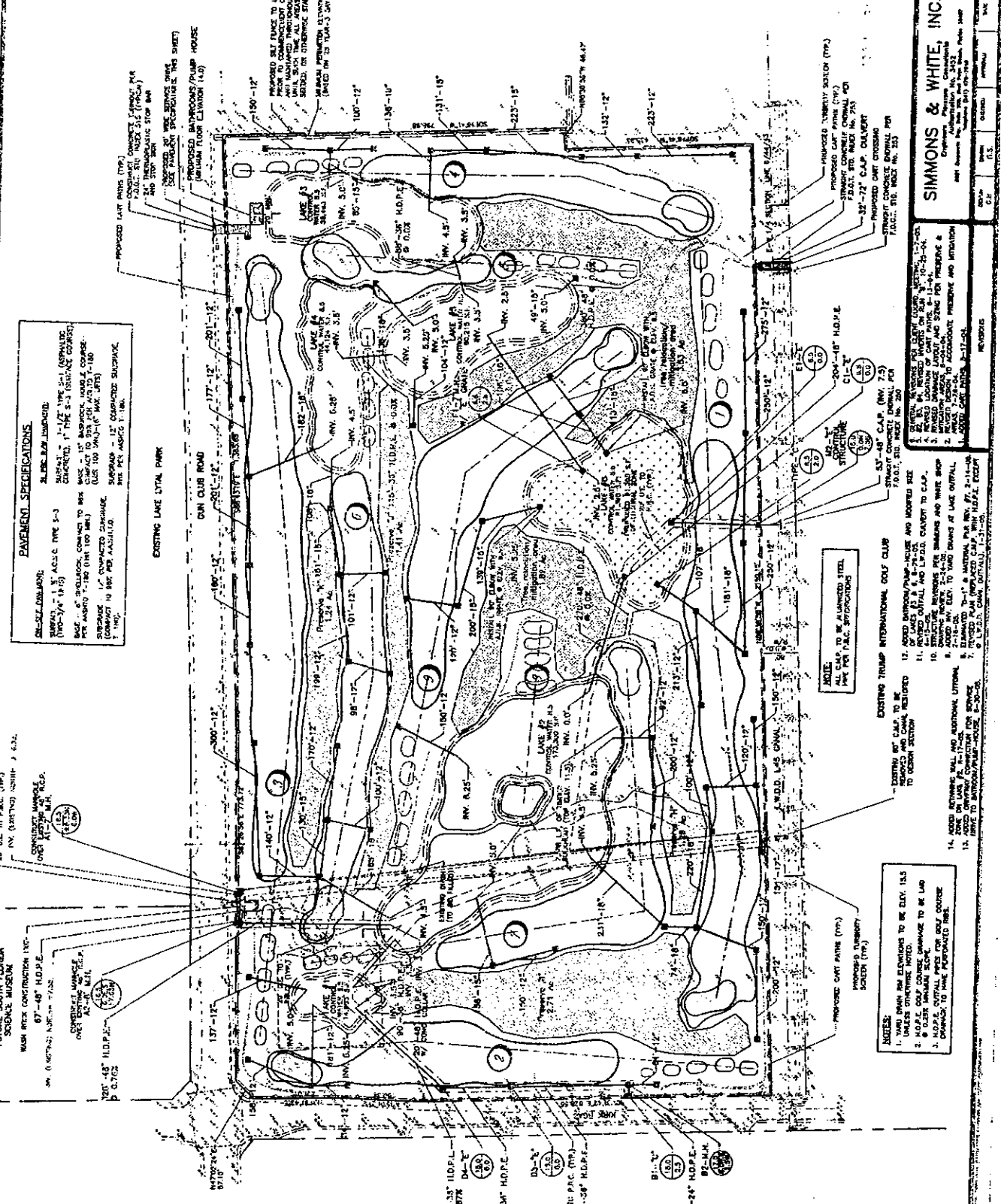


POLLUTION PREVENTION NOTES:

1. CONTRACTOR IS RESPONSIBLE TO ENSURE THAT NO OIL OR GREASE IS DISCHARGED INTO THE SITE OR INTO ANY OTHER WATERWAY.
2. ALL OIL AND GREASE MUST BE STORED IN APPROVED CONTAINERS AND MUST BE PROTECTED FROM SPILLAGE.
3. ALL OIL AND GREASE MUST BE CLEANED UP IMMEDIATELY AND DISPOSED OF PROPERLY.
4. ALL OIL AND GREASE MUST BE STORED IN APPROVED CONTAINERS AND MUST BE PROTECTED FROM SPILLAGE.
5. ALL OIL AND GREASE MUST BE CLEANED UP IMMEDIATELY AND DISPOSED OF PROPERLY.
6. ALL OIL AND GREASE MUST BE STORED IN APPROVED CONTAINERS AND MUST BE PROTECTED FROM SPILLAGE.
7. ALL OIL AND GREASE MUST BE CLEANED UP IMMEDIATELY AND DISPOSED OF PROPERLY.
8. ALL OIL AND GREASE MUST BE STORED IN APPROVED CONTAINERS AND MUST BE PROTECTED FROM SPILLAGE.
9. ALL OIL AND GREASE MUST BE CLEANED UP IMMEDIATELY AND DISPOSED OF PROPERLY.
10. ALL OIL AND GREASE MUST BE STORED IN APPROVED CONTAINERS AND MUST BE PROTECTED FROM SPILLAGE.

**TRUMP INTERNATIONAL GOLF CLUB
SECTION 6, TOWNSHIP 33S, RANGE 43E,
PALM BEACH COUNTY, FLORIDA
STORMWATER MANAGEMENT PLAN**

DATE: 11/15/05
DRAWN BY: J. L. SMITH
CHECKED BY: J. L. SMITH
SCALE: AS SHOWN



PAVEMENT SPECIFICATIONS

RESURFACING: 1.5" AC, C. TYPE 5-3 (1.5" MIN. THICKNESS)
BASE: 4" 1.5" AC, C. TYPE 5-3 (1.5" MIN. THICKNESS)
SUBGRADE: 1.5" COMPACTED SUBGRADE
CONCRETE: 4" 1.5" COMPACTED SUBGRADE
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HC/rt

c: Palm Beach County Engineer
Simmons & White Inc

bc: Robert Lazo
Environmental Resource Compliance - 4230
Henry Bittaker, Pbcsc - 6150
Permit File - 4240