

Jack Duich

Wed, Sep 29, 9:01 PM
(13 days ago)

to Robert, Russell, Stacy, Patti, board@saddlebagcreek.org

From what read & interpret, SWFWMD is not bothered by these ongoing changes to Croteau's property. I think this is a dead end. Hope I'm wrong though. I'd be interested to understand FDOT's take on entrance widening and other "possible non-permitted" changes to the previous permit, if one actually existed.

Thanks though – Jack

Jack Duich
President
Saddlebag Creek Ranches Home Owners Association
561-543-9151 (cell)
<http://saddlebagcreek.org/>

From: Robert Lincoln <robert.lincoln@flalandlaw.com>
Sent: Wednesday, September 29, 2021 4:09 PM
To: Russell Ireland <irelandjr@aol.com>; Jack Duich <ждуич@outlook.com>
Cc: Stacy Dillard-Spahn <stacy.dillard@flalandlaw.com>
Subject: FW: Mallarany Site

From: Robert Lincoln
Sent: Monday, September 27, 2021 6:59 PM
To: Darin Rushnell <darin.rushnell@mymanatee.org>; Tom Gerstenberger <tom.gerstenberger@mymanatee.org>; Robert Wenzel <robert.wenzel@mymanatee.org>
Cc: Kenneth Kohn <kenneth.kohn@mymanatee.org>; Chad Butzow <chad.butzow@mymanatee.org>; Scott May <scott.may@mymanatee.org>; Ogden Clark <Ogden.Clark@mymanatee.org>; Mark Luchte <Mark.Luchte@swfwmd.state.fl.us>; William Clague <william.clague@mymanatee.org>; Jan Burke <Jan.Burke@swfwmd.state.fl.us>; Jeff Whealton <Jeff.Whealton@swfwmd.state.fl.us>; Thomas Stevens <Thomas.Stevens@swfwmd.state.fl.us>; Scott Hopes <scott.hopes@mymanatee.org>; Stacy Dillard-Spahn <stacy.dillard@flalandlaw.com>
Subject: RE: Mallarany Site

Darin, Tom and Robert:

I'm now reprising this older correspondence – along with an image of the Mallaranny property with the “agriculturally classified lands” identified because it demonstrates that Mallaranny violated the earthmoving code.

1. Only the lands marked in red on the property appraiser's aerial are classified as agriculture by the Property Appraiser with any exemption under state law.
2. The LIDAR image depicts three new culverts on the south property line:
 - a. Those would not be necessary if Mallaranny did not place fill up to the property line, in violation of any exemption from the requirement to obtain an earthmoving permit.
 - b. Those would not be necessary if Mallaranny had removed all the fill from the 100 year floodplain, as it had been directed to do by Jeff Whealton but clearly did not (at least not in those areas).

Now that some of the other impediments to bringing enforcement against Mallaranny may be addressed, I hope you will immediately (and finally) issue (or re-issue) an NOV against these activities and require Mallaranny to obtain the major earthmoving permit it clearly required.

Best regards,
Robert Lincoln

From: Mark Luchte <Mark.Luchte@swfwmd.state.fl.us>

Sent: Wednesday, April 21, 2021 9:10 AM

To: Jeff Whealton <Jeff.Whealton@swfwmd.state.fl.us>; Darin Rushnell <darin.rushnell@mymanatee.org>

Cc: Tom Gerstenberger <tom.gerstenberger@mymanatee.org>; Kenneth Kohn <kenneth.kohn@mymanatee.org>; bobbie.windham@manateeclerk.com; Martye Gruhl <martye.gruhl@manateeclerk.com>; Chad Butzow <chad.butzow@mymanatee.org>; Scott May <scott.may@mymanatee.org>; Jeffrey Bowman <Jeffrey.Bowman@mymanatee.org>; John Barnott <john.barnott@mymanatee.org>; Robert Wenzel <robert.wenzel@mymanatee.org>; Jeffrey Bowman <Jeffrey.Bowman@mymanatee.org>; Robert Wenzel <robert.wenzel@mymanatee.org>; Nicholas Azzara <nicholas.azzara@mymanatee.org>; Christian Zitzow <christian.zitzow@mymanatee.org>; Ogden Clark <Ogden.Clark@mymanatee.org>; Jan Burke <Jan.Burke@swfwmd.state.fl.us>; Thomas Stevens <Thomas.Stevens@swfwmd.state.fl.us>; Chet Brown <chet.brown@mymanatee.org>
Subject: RE: Mallarany Site

Darin:

That's a nicely produced graphic and summary and we appreciate you grabbing all of the information for those culverts. In an ideal world the following happens:

- Replacement of historical (pre-Oct 1984 rule) culverts: same size and invert elevation with a photo of the pre and post replacement situation. Enlarging these culverts can cause problems

downstream and shrinking their conveyance capacity can impede runoff coming from upstream. Always match the old removed culverts.

- New culverted road crossings should have the new culvert invert at the bottom of the previous swale/ditch bottom. For sizing, we typically aren't ever worried about a new culvert in a new crossing location being too big. The landowner should look up and downstream for historical culverts. In general, culverts get bigger as you head downstream so matching the downstream historical culvert size is a safe bet. Of course, the closer a new culvert is placed near the upstream property line, the more care needs to be taken to ensure the newly proposed culvert isn't too small. Sometimes, professional assistance (P.E. analyzing the contributing area, etc.) may need to be applied.

In this case, the upstream landowners are worried that the newly installed culverts are too small while the downstream landowner is worried that the newly installed culverts are too big. As I mentioned, I'm not too concerned about any new culverts in new crossing locations being too big. Furthermore, the ones installed don't seem to be way too small like we've seen on other cases. They seem appropriate for the ditch size they are located in...but could they still technically be too small? We'd have to prove that they are too small...either through a watershed model analysis, employing a neutral outside consultant to look at the situation, letting a P.E. representing the upstream properties submit supporting data, or the District can send it to the Florida Department of Agriculture & Consumer Services – Office of Agricultural Water Policy (FDACS-OAWP) for a binding determination opinion. Upon cursory review, the new culverted crossings seem reasonable. I don't think we're at that point of claiming the new culverted crossings are woefully inadequate and we're willing to spend lots of time and effort to prove it.

Mark Luchte, P.E.
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Environmental Resource Permit Bureau
Regulation Division
Southwest Florida Water Management District
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Mark.Luchte@swfwmd.state.fl.us

From: Jeff Whealton <Jeff.Whealton@swfwmd.state.fl.us>
Sent: Wednesday, April 21, 2021 7:58 AM
To: Darin Rushnell <darin.rushnell@mymanatee.org>
Cc: Mark Luchte <Mark.Luchte@swfwmd.state.fl.us>; Tom Gerstenberger <tom.gerstenberger@mymanatee.org>; Kenneth Kohn <kenneth.kohn@mymanatee.org>; bobbie.windham@manateeclerk.com; Martye Gruhl <martye.gruhl@manateeclerk.com>; Chad Butzow <chad.butzow@mymanatee.org>; Scott May <scott.may@mymanatee.org>; Jeffrey Bowman <Jeffrey.Bowman@mymanatee.org>; John Barnott <john.barnott@mymanatee.org>; Robert Wenzel <robert.wenzel@mymanatee.org>; Jeffrey Bowman <Jeffrey.Bowman@mymanatee.org>; Robert Wenzel <robert.wenzel@mymanatee.org>; Nicholas Azzara

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Jan Burke <Jan.Burke@swfwmd.state.fl.us>; Thomas Stevens
<Thomas.Stevens@swfwmd.state.fl.us>; Chet Brown <chet.brown@mymanatee.org>
Subject: Re: Mallarany Site

Hey Darin...

I don't believe anybody at the district directed him to put in a particular size, in a particular location, or a particular type pipe. When an agriculturalists puts in an elevated ag road, there is a risk that it may block historical flow. In this case there was a historical flow from the Ireland property to the west and from the land to north. The culverts installed on the subject site maintain that flow and allow the water to continue to the South. By the way, on your exhibit I believe you missed the Culvert leading off site from the Ireland ditch.

Also, you stated that these are new discharges in your email... Though they may be new structures, removing them and restoring the ground to natural grade would still allow the historic discharge to occur at these locations.

Questions about the adequacy of the structures would probably best be directed to Mark or Thomas... Both copied on this message. But as of now, the district doesn't have any outstanding compliance issues with this property.

By the way, I will probably have to go back out to this site next week to investigate a report of dredging and filling of the wetland to the South of these structures and the creation of an earthen dam which may cause serious impacts upstream. This is what I emailed you yesterday about. Not that we need to have all the people we had at our site meeting here last week, but if you and Chet would like to accompany me (as you guys seem to be the point people at the county), I'll try to make that happen. That is, if an impact such as this on the neighboring site would fall under your jurisdiction as well.

Jeff Whealton
Senior Environmental Scientist
District Agricultural Team
Southwest Florida Water Management District
813.985.7481/800.836.0797 x6119
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www.WaterMatters.org/ePermitting

From: Darin Rushnell <darin.rushnell@mymanatee.org>
Sent: Tuesday, April 20, 2021 5:32 PM
To: Jeff Whealton <Jeff.Whealton@swfwmd.state.fl.us>
Cc: Mark Luchte <Mark.Luchte@swfwmd.state.fl.us>; Tom Gerstenberger <tom.gerstenberger@mymanatee.org>; Kenneth Kohn <kenneth.kohn@mymanatee.org>; bobbie.windham@manateeclerk.com <bobbie.windham@manateeclerk.com>; Martye Gruhl <martye.gruhl@manateeclerk.com>; Chad Butzow <chad.butzow@mymanatee.org>; Scott May <scott.may@mymanatee.org>; Jeffrey Bowman <Jeffrey.Bowman@mymanatee.org>; John Barnott <john.barnott@mymanatee.org>; Robert Wenzel <robert.wenzel@mymanatee.org>; Jeffrey Bowman <Jeffrey.Bowman@mymanatee.org>; Robert Wenzel <robert.wenzel@mymanatee.org>; Nicholas Azzara <nicholas.azzara@mymanatee.org>; Christian Zitzow <christian.zitzow@mymanatee.org>; Ogden Clark <Ogden.Clark@mymanatee.org>
Subject: Mallarany Site

[EXTERNAL SENDER] Use caution before opening.

Jeff,

Follow up post site visit, You stated that the impacts to wetlands were corrected from your first visit and no further Violations per District were noted. Question as far as the new discharge in 2- 18in (HDPE)ADS and 1- 12" PVC pipes? Who instructed the owner of what size/type/ location of culverts to be installed for the volume discharge of stormwater runoff?

Darin Rushnell

Public Works Stormwater Engineering
Senior Engineering Technician/FAA drone pilot
941-708-7450 ext. 7278

(usually in the field after 10:00)

Robert Lincoln <robert.lincoln@flalandlaw.com>

Thu, Sep 30, 9:27 AM
(12 days ago)

to Jack, Russell, Stacy, Patti, board@saddlebagcreek.org

Jack –

This was addressed primarily to the County's stormwater management people, who apparently wanted to pursue the earthmoving code violations against Mallaranny but were shut down by the folks now out on administrative leave.

FDOT granted a permit for the driveway after they reapplied through a real engineer. I'm trying to find out if that permit included any particular terms or limits.

Best
Robert