

PROJECT RE-DEVELOPMENT: INQUIRIES WITH THE WATER MANAGEMENT DISTRICT

By William A. Hartmann, PE



The times, they may be changing, at least the way the Southwest Florida Water Management District views project re-development and the (potential) need for an Environmental Resource Permit (ERP).

Over the years, it has been a reasonable conclusion that much of the re-development of existing sites has qualified for an “exemption” from drainage permitting. The exemptions essentially qualified on the basis that the project improvements had been constructed prior to 1984 (i.e., “existing”); the proposed activities would not constitute an “alteration” such that there would be no increase in pollutant loadings; the manner and points of discharge would not be changed; there were no known flooding issues associated with the existing improvements; there were no issues associated with floodplains; and so on. (The definition of an “alteration” is found in the District’s Basis of Review, and describes these parameters.)

By and large, re-development requests have consisted of a client desiring to re-develop an existing site with pavement and buildings. A common example of this situation is an outparcel within an existing shopping center. Another example might entail a small business facility (i.e., gas station) that would be demolished completely to make way for a new business of similar improved areas.

In view of the above scenarios, the evaluation of “permit inquiries” by the Water Management Districts is taking on a direction that is likely to be perceived differently than the way things may have been done in the past. A recent example that was dealt with out of the Lakeland Office underscores what the Chastain-Skillman team and their clients may experience.

Project specifics for the **existing site** were characterized as follows:

- Existing site was an outparcel within a shopping center that was in place for a number of years (i.e., prior to 1984).
- The site was developed at 100% impervious with one building and pavement.
- The site runoff patterns drained internally (via sheetflow) across the existing pavement to inlets within the shopping center.
- The site had a relatively short period of “dormancy” (abandonment) prior to the client purchasing for re-development. (The period of dormancy can be somewhat subjective and needs to be well-documented.)

Project specifics for the **proposed site** were outlined as follows:

- The site was to be re-developed with a new building and pavement. Although some pavement was to be removed, most of the existing pavement would be used in its current state and/or resurfaced as appropriate.
- An overall reduction in the amount of impervious area was expected, with a net reduction in the vehicular/pavement areas.
- The site runoff patterns were to remain essentially unchanged in the re-developed state.
- The local government was requesting the developer/consultant to provide a copy of an approved District drainage permit or a permit “exemption” before they would process their associated approvals.

For the above scenario, an exemption was granted. However, the *key* to the exemption granted by the Water Management District in this case was due to the time of dormancy, which had been deemed to be relatively short.

Otherwise, the above scenario would have required an Environmental Resource Permit prior to the initiation of construction. The (drainage) permitting would have likely entailed a stormwater management system that addressed water quality concerns. For the illustration given above, a stormwater treatment system that used underground storage chambers would have been necessary to meet the District's treatment requirements in order to maintain the client's expectation of a high percentage of usable area. Although the storage chambers weren't necessary for this situation, one can quickly see the obstacles that could have been encountered involving existing infrastructure, underground utilities, poor soil conditions and so on.

As a final footnote to this article, one needs to bear in mind the importance of having an "active" site that can demonstrate an inherent pollution loading. By this, it is meant that the site should have an ongoing (historic) usage of vehicular traffic, buildings and other improvements. Moreover, when coaching a client as to proceeding with demolition work, it may be best to hold off with this activity until it is demonstrated to the District that the site has had a relatively active use/history and that the new land use will not constitute a significant alteration.

In closing, it should not be an assumption on the part of the consultant or the client, that the project is "exempt" from District permitting and, when putting together a project proposal, there should be a provision to cover potential permitting when crafting a contract for services.

Yes, the times, at least the way they have been perceived in the past, may be changing.

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