



Interoffice Memorandum

March 2, 2018

TO: Mayor Teresa Jacobs  
-AND-  
Board of County Commissioners

FROM: Jon V. Weiss, P.E. Director  
Community, Environmental and Development  
Services Department

**CONTACT PERSON: David D. Jones, P.E., CEP, Manager  
Environmental Protection Division  
(407) 836-1405**

SUBJECT: March 20, 2018 – Public Hearing  
Shoreline Alteration/Dredge and Fill Permit Application for  
Thomas and Joanne Fry (SADF-17-05-006)

Thomas and Joanne Fry are requesting a Shoreline Alteration/Dredge and Fill (SADF) Permit to install a slalom ski course on their property and property they have leased on Lake Bessie. The Parcel ID's for the sites are 17-23-28-0000-00-002 (owned) and 17-23-28-9336-00-010 (leased). Lake Bessie is located in District 1.

Notification of the public hearing was sent to all lakeshore property owners on Lake Bessie.

Pursuant to Orange County Code, Chapter 33, Article IV, Environmental Protection Division (EPD) staff has evaluated the proposed SADF application and required documents.

The applicants are proposing to install an approximately 902 foot long slalom ski course, consisting of 22 buoys. The minimum setback from the shoreline at the proposed location is 310 feet. The buoys will consist of polyvinyl inflated turn balls and styrofoam boat guides connected with polyvinyl rope, vinyl coated stainless steel cable, and 2-inch PVC piping. The ski course will be anchored utilizing steel augur anchors and five-gallon buckets of concrete with rebar.

The submerged lands of Lake Bessie are not sovereign. The applicants own Parcel ID No. 17-23-28-0000-00-002, which is completely submerged, and have signed a lease agreement with the adjacent property owner to the south for the installation of the course over a portion of the submerged lands on Parcel ID No. 17-23-28-9336-00-010. Use of the ski course will be reserved for the applicant, the lessor, and their customary guests.

An enforcement case was opened on May 5, 2017, when it came to EPD's attention that the slalom course was installed on the south east side of Lake Bessie without a permit. On August 24, 2017, EPD verified on site that the course was completely removed from the water and the enforcement case was closed.

### **Staff Recommendation**

Approval of the Shoreline Alteration/Dredge and Fill Permit, subject to the following conditions:

#### **Specific Conditions:**

1. This permit shall become final and effective upon expiration of the thirty (30) calendar day appeal period following the date of issuance, unless an appeal has been filed within this timeframe. Any appeal shall stay the effective date of this permit until all appeals are resolved.
2. Construction activities shall be completed in accordance with the site plans submitted by Thomas Fry, received by the Environmental Protection Division (EPD) on September 29, 2017, and December 11, 2017. The permitted work must commence within six (6) months and be completed within one (1) year from the date of issuance of the permit. In the event this project has not commenced within six (6) months or been completed within a year this permit is void.
3. No filling is approved with this permit.
4. The permittee shall apply and maintain reflective tape on the buoys at all times.
5. No portion of the slalom course shall be located in or over aquatic vegetation.
6. The buoys shall be firmly anchored to the bottom of the water body.
7. Within thirty (30) days of installation, the permittee shall provide EPD with specific GPS coordinates for each of the buoys.
8. The use of the course is limited to daylight hours.
9. The use of the course is limited to private recreational purposes.
10. If the permittee no longer owns lands riparian to Lake Bessie, the course shall be removed within thirty (30) days of conveyance.
11. Any permit extensions for the approved construction may be approved by way of Consent Agenda if there are no changes.

General Conditions:

12. Subject to the terms and conditions herein, the permittee is hereby authorized to perform or cause to be performed the impacts shown on the application and approved drawings, plans, and other documents attached hereto or on file with EPD. The permittee binds itself and its successors to comply with the provisions and conditions of this permit. If EPD determines at any time that activities, including without limitation the performance of the required mitigation, are not in accordance with the conditions of the permit, work shall cease and the permit may be revoked immediately by the Environmental Protection Officer. Notice of the revocation shall be provided to the permit holder promptly thereafter.
13. Prior to construction, the permittee shall clearly designate the limits of construction on-site. The permittee shall advise the contractor that any work outside the limits of construction, including clearing, may be a violation of this permit.
14. Construction plans shall be submitted to EPD prior to initiating any construction activities for review and approval. The construction plans shall include, but are not limited to, a site plan clearly depicting the location and acreage of the impacts and preservation.
15. The permittee shall require the contractor to maintain a copy of this permit, complete with all approved drawings, plans, conditions, attachments, exhibits, and modifications, in good condition at the construction site. The permittee shall require the contractor to review the permit prior to commencement of the activity authorized by this permit. The complete permit shall be available upon request by Orange County staff.
16. Issuance of this permit does not warrant in any way that the permittee has riparian or property rights to construct any structure permitted herein and any such construction is done at the sole risk of the permittee. In the event that any part of the structure(s) permitted herein is determined by a final adjudication issued by a court of competent jurisdiction to encroach on or interfere with adjacent property owner's riparian or other property rights, permittee agrees to either obtain written consent or to remove the offending structure or encroachment within sixty (60) days from the date of the adjudication. Failure to comply shall constitute a material breach of this permit and shall be grounds for its immediate revocation.
17. This permit does not release the permittee from complying with all other federal, state, and local laws, ordinances, rules and regulations. Specifically, this permit does not eliminate the necessity to obtain any required federal, state, local and special district authorizations prior to the start of any activity approved by this permit. This permit does not convey to the permittee or create in the permittee any property rights, or any interest in real property, nor does it authorize any entrance upon or activities upon property which is not owned or controlled by the permittee, or convey any rights or privileges other than those specified in the permit and Chapter 33, Article IV of the Orange County Code. If these permit conditions conflict with those of any other regulatory agency the permittee shall comply with

the most stringent conditions. Permittee shall immediately notify EPD of any conflict between the conditions of this Permit and any other permit or approval.

18. The permittee is hereby advised that Section 253.77, Florida Statutes, states that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, without obtaining the required lease, license, easement or other form of consent authorizing the proposed use. Therefore, the permittee is responsible for obtaining any necessary authorizations from the Board of Trustees prior to commencing activity on sovereignty lands or other state-owned lands.
19. Should any other regulatory agency require changes to the property, permitted activities, or approved mitigation, the permittee shall provide written notification to EPD of the change prior to implementation so that a determination can be made whether a permit modification is required.
20. The permittee shall immediately notify EPD in writing of any previously submitted information that is later discovered to be inaccurate.
21. The permittee shall hold and save the County harmless from all damages, claims or liabilities, which may arise because of the activities authorized by the permit.
22. All costs, including attorney's fees, incurred by the County in enforcing the terms and conditions of this permit shall be required to be paid by the permittee.
23. The Permittee agrees that any dispute arising from matters relating to this permit shall be governed by the laws of Florida, and initiated only in Orange County.
24. Turbidity and sediment shall be controlled to prevent off-site, unpermitted impacts and violations of water quality standards pursuant to Rules 62-302.500, 62-302.530, and 62-4.242 Florida Administrative Code (FAC). Best Management Practices (BMPs), as specified in the State of Florida Erosion and Sediment Control Designer and Reviewer Manual (2013 or most current version), shall be installed and maintained at all locations where there is the possibility of transferring sediment, turbidity, or other pollutants, into wetlands and/or surface waters due to the permitted activities. BMPs are performance based. If selected BMPs are ineffective or if site-specific conditions require additional measures, then the permittee shall implement additional or alternative measures as necessary to prevent adverse impacts to wetlands and/or surface waters. Turbidity discharging from a site must not exceed 29 nephelometric turbidity units (NTU) over background for State designated waters and their tributaries or 0 NTU over background for those surface waters and tributaries designated as Outstanding Florida Waters.

25. Pursuant to Section 125.022, Florida Statutes, issuance of this permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022 Florida Statutes, the applicant shall obtain all other applicable state or federal permits before commencement of development.

**ACTION REQUESTED: Approval of Shoreline Alteration/Dredge and Fill permit request (SADF-17-05-006) for Thomas and Joanne Fry, subject to the conditions listed in the staff report. District 1**

JVW/DJ: mg

Attachments