



Interoffice Memorandum

December 7, 2019

TO: Mayor Jerry L. Demings
and Board of County Commissioners

FROM: Joseph C. Kunkel, P. E., Director, Public Works Department

CONTACT PERSON: **Pedro L. Medina, P. E., Interim Manager**
Development Engineering Division

PHONE NUMBER: (407) 836-7974

SUBJ: **Farmland Reserve Borrow Pit**
Excavation Permit #15-E4-0061 Modification

Mr. Clint Richardson of Farmland Reserve, Inc. has applied for a modification to the hours of operation and hauling previously approved by the Board for Excavation Permit #15-E4-0061, known as the Farmland Reserve borrow pit for the All Aboard Florida Railroad (a.k.a. Brightline and Virgin Trains USA) project. The Board approved the Excavation Permit #15-E4-0061 on October 16, 2018.

The applicant is requesting to modify the hours of operation and hauling currently approved from 7:00 a.m. to 7:00 p.m., Monday through Saturday. The new proposed hours are 5:00 a.m. to 9:00 p.m., Monday through Sunday. This modification to the hours of operation and hauling shall terminate on January 31, 2022. Thereafter, the hours of operation and hauling will be from 7:00 a.m. to 7:00 p.m., Monday through Saturday.

The All Aboard Florida Railroad project is constructing a railroad from the City of Cocoa to the Orlando International Airport. The new hours of operation are required to meet the All Aboard Florida Railroad project schedule, which is anticipated to start providing passenger service in the summer 2022.

If the modification is approved by the Board, the use of Dallas Boulevard as an access road and/or haul route for the Farmland Reserve borrow pit for the All Aboard Florida Railroad project will be prohibited.

Staff recommends approval of the modification to the Farmland Reserve Borrow Pit subject to General Law and the following requirements:

1. The approved modified haul route will be from the borrow pit east to Farmland Reserve Farm Access Road 2, Farmland Reserve Farm Access Road 2 north to S. R. 528, S. R. 528 east and west to the project site.
2. The use of Dallas Boulevard as an access road and/or haul route for the Farmland Reserve borrow pit for the All Aboard Florida Railroad project is prohibited.

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3. Operating and hauling from 5:00 a.m. to 9:00 p.m., Monday through Sunday through January 31, 2022.
4. Operating and hauling from 7:00 a.m. to 7:00 p.m., Monday through Saturday shall resume February 1, 2022.
5. Notify Development Engineering Inspection at (407) 836-7920 24 hours prior to commencement of operations.
6. Approval of this permit does not constitute either a land-use classification change to Orange County's Comprehensive Plan or a rezoning of any type. Furthermore, solid waste disposal, solid waste management, and the disposal of materials from the construction of demolition of a road or other transportation facility, as contemplated by Section 163.3194 of Florida Statutes, is not in any way a purpose of this permit.
7. No work authorized under this approval shall begin without compliance with all applicable federal, state, and county laws, ordinances, and regulations, which are incorporated herein by reference, except to the extent any applicable laws, ordinances, and regulations are expressly waived or modified by these conditions, or by action by the Board.
8. Pursuant to Section 125.022, Florida Statutes, issuance of this development 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 a state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
9. By accepting this permit, the permittee understands and agrees that the permittee will, at all times, (1) comply with all terms and conditions of the permit and any ordinances and regulations relating to the permit; (2) assume all the risk associated with the exercise or attempted exercise of its rights and privileges under this permit; and (3) indemnify, defend, and save harmless Orange County from and against all losses, damages, costs, and expenses arising in any manner on account of the exercise or attempted exercise of the permittee's rights and privileges under this permit, including, but not limited to, any actions or disputes based on claims of negligence, trespass, quiet title, inverse condemnation, and any actions for injunctive or declaratory relief. Accordingly, the permittee shall pay and reimburse Orange County for all damages, attorney fees, and costs that Orange County may incur as a result of any threatened litigation, actual litigation, trials, appeals arising in any manner from the issuance of this permit, and the permittee's exercise or attempted exercise of its rights and privileges under the permit.

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Action Requested: Approval of modification to Excavation Permit #15-E4-0061, Farmland Reserve All Aboard Borrow Pit to extend the hours of operation and hauling. District 4.

JCK/DMA/PLM/mjt

Attachments



DESERET RANCHES OF FLORIDA

13754 Deseret Lane
St. Cloud, FL 34773
Tel: 407-892-3672
Fax: 407-892-0491

June 17, 2019

Mr. Miguel J. Tamayo, P. E.
Orange County Public Works Department
Development Engineering Division
4200 S. John Young Parkway
Orlando, Florida 32839-9205

Proj: 15-E4-0061 Farmland Reserve – All Aboard Borrow Pit
Re: Excavation Hours Modification Request

Dear Mr. Tamayo:

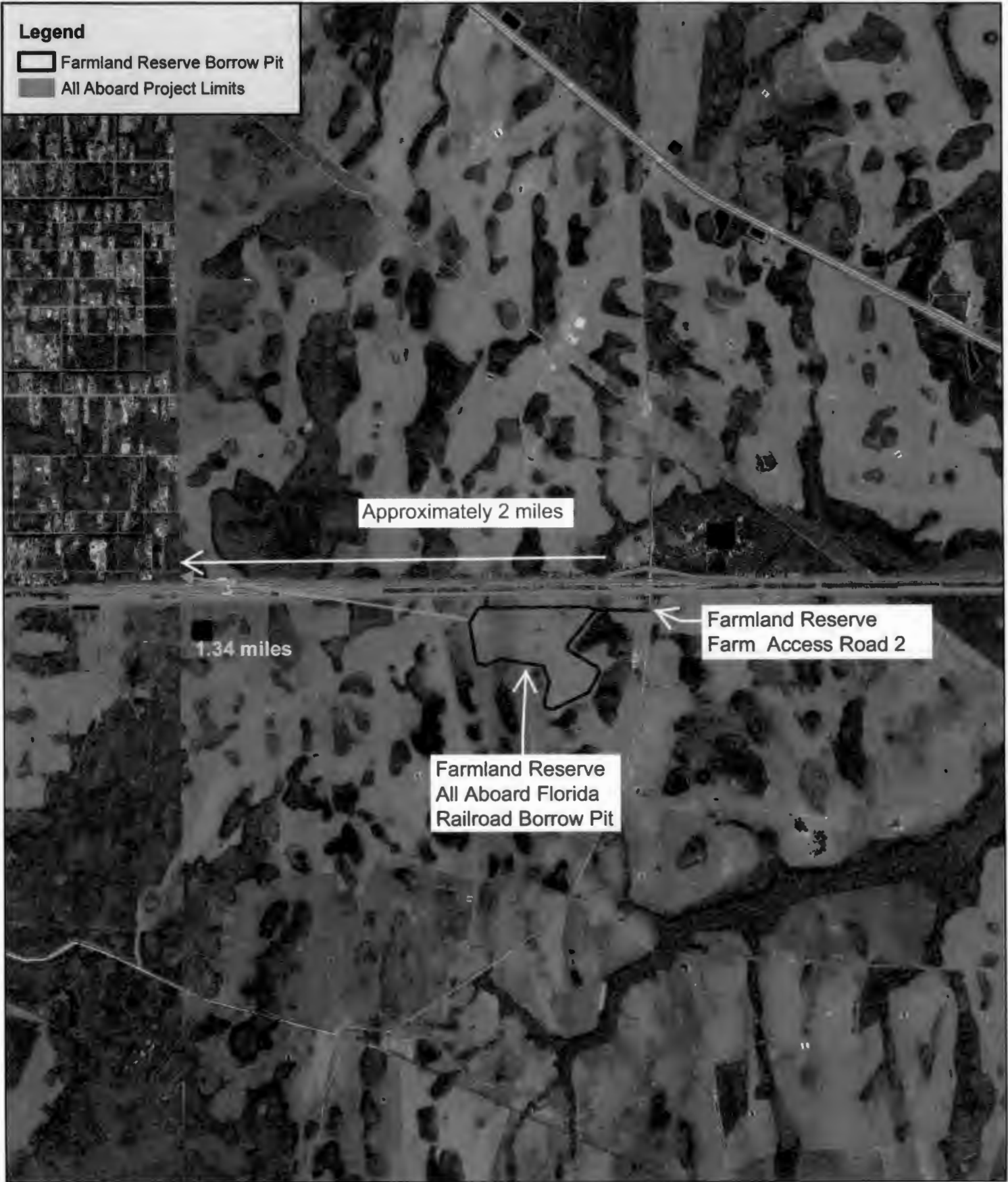
Please accept this letter as our request to modify Condition 2 of the the Farmland Reserve – All Aboard Borrow Pit #15-E4-0061. We request to modify the permit condition operating and hauling hours from Monday to Sunday, 5am to 9pm. The borrow pit is not located adjacent or near any residential communities or single-family homesites and is located within agricultural lands along State Road 528. It is unlikely that extending the hours and excavation days will adversely affect the public.

Should you have any questions or require any additional information, please do not hesitate to Stephanie Salvilla with Bio-Tech Consulting at (407) 894-5969. Thank you.

Sincerely,

Clint Richardson
Assistant Vice President
Farmland Reserve, Inc.

attachments



ORANGE COUNTY PERMIT APPLICATION FOR
EXCAVATION - FILL - MASS GRADING
(Submit typewritten or legibly printed in triplicate)

INITIAL SUBMISSION RENEWAL NUMBER _____

CHECK APPROPRIATE BLOCK	OFFICE USE ONLY		
Annual Permit <input checked="" type="checkbox"/>		Processing	
30 Day Permit <input type="checkbox"/>		Fee \$ <u>298.⁰⁰</u>	District No. <u>4</u>
Excavation <input checked="" type="checkbox"/>	Permit No. <u>15-E40061</u>	Permit	Receipt No. <u>79222</u>
Mass Grading <input type="checkbox"/>	Permit No. _____	Fee \$ <u>2738.⁰⁰</u>	
Fill <input type="checkbox"/>	Permit No. _____		

Applicants Company Name Farmland Reserve Inc
 Applicants Name K. Erik Jacobson Phone No. _____
 Address C/O Tax Division 22nd Floor, 50 East North Temple, Salt Lake City, UT 84150-3620
 Firm designated to do work: Dewberry Engineers Inc. Phone No. 321-354-9641
 Name of contact individual Bobby Johnson, P.E.
 Address 520 South Magnolia Avenue, Orlando, FL 32801
 Reason for excavation, fill and/or mass grading Excavation for suitable fill dirt for the All Aboard Florida Rail Project

Has previous work area been completed per Code yes no If No explain _____

Description of area to be worked this permit year Exploring a proposed borrow pit location which will serve as a borrow source for the All Aboard Florida Rail Project

(Excavation/Fill) Amount of material 5,000,000 ± cu. yds. - (Fill/Mass Grading) Acreage +/- 100 Acres
 Legal description of property to be worked _____

Zoning? _____
 Section 32, Township 23 South, Range 33 East
 Owner of record of property described above and contact individual.
 Name Farmland Reserve Inc Phone No. _____
 Address C/O Tax Division 22nd Floor, 50 East North Temple, Salt Lake City, UT 84150-3620

Where is the material going to or coming from This borrow pit will serve the new All Aboard Florida Project that will run parallel to the Beachline (SR 528)

Zoning? _____
 Section _____, Township _____ South, Range _____ East
 Owner of record of property described above.
 Name _____
 Address _____

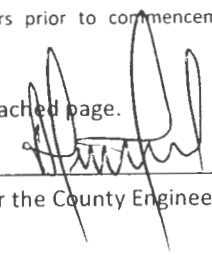
Haul route The haul route will be in Orange County along the southern right of way of the Beachline (SR 528)

Date 6/15/15 Applicants Signature 

SECTION II OFFICE USE ONLY
 Approved on MAY 24 2019 subject to general law and the following additional requirements.

1. The approved haul route will be from the borrow pit to S. R. 528 east and west to the project sites.
2. Operating and hauling from 7:00 a.m. to 7:00 p.m., Monday through Saturday.
3. Notify Development Engineering at (407) 836-7920 Forty-Eight (48) hours prior to commencement of operations.

See additional conditions and requirements on attached page.

This permit expires on MAY 23 2020 Approved by 

For the County Engineer

4. All construction activities shall stay at least one hundred feet away from any jurisdictional wetland until an approved Conservation Area Impact (CAI) permit is issued. The northwest access road shall be at least fifty feet away from any jurisdictional wetlands. The easternmost access road shall only be used when and if a CAI permit is issued.
5. Approval of this permit does not constitute either a land-use classification change to the Orange County's Comprehensive Plan or a rezoning of any type. Furthermore, solid waste disposal, solid waste management, and the disposal of materials from the construction or demolition of a road or other transportation facility, as contemplated by Section 163.3194 of Florida Statutes, is not in any way a purpose of this permit.
6. No work authorized under this approval shall begin without compliance with all applicable federal, state and county laws, ordinances and regulations, which are incorporated herein by reference, except to the extent any applicable laws, ordinances and regulations are expressly waived or modified by these conditions, or by action approved by the Board of County.
7. Pursuant to Section 125.022, Florida Statutes, issuance of this development 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 a state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
8. By accepting this permit, the permittee understands and agrees that the permittee will, at all times, (1) comply with all terms and conditions of the permit, and any ordinances and regulations relating to the permit; (2) assume all the risk associated with the exercise or attempted exercise of its rights and privileges under this permit; and (3) indemnify, defend, and save harmless Orange County from and against all losses, damages, costs and expenses arising in any manner on account of the exercise or attempted exercise of the permittee's rights and privileges under this permit, including, but not limited to, any actions or disputes based on claims of negligence, trespass, quiet title, inverse condemnation, and any actions for injunctive or declaratory relief. Accordingly, the permittee shall pay and reimburse Orange County for all damages, attorney fees and costs that Orange County may incur as a result of any threatened litigation, actual litigation, trials, appeals arising in any manner from the issuance of this permit and the permittee's exercise or attempted exercise of its rights and privileges under the permit.

INSTRUCTIONS AND CONDITIONS

THE ISSUANCE OF THIS PERMIT IS GOVERNED BY AND REGULATED BY THE FOLLOWING APPLICABLE DIRECTIVES

FLORIDA STATE STATUTES
ORANGE COUNTY CODE, CHAPTER 16, EXCAVATIONS AND FILL
AND ANY ADDITIONAL REQUIREMENTS OF THE BOARD OF COUNTY COMMISSIONERS

SECTION I

To be completely filled out by all applicants.
Non-Applicable portions of sentences should be stricken.

APPLICATION FEES will be computed in accordance with the schedule of fees adopted by the Board of County Commissioners and are payable upon submission of permit application.

PERMIT FEES AND SURETY to be in possession of County Engineer prior to release of permit.

DEVELOPMENT ENGINEERING DEPARTMENT USE ONLY

SECTION II

Applicant's additional requirements (if any); and expiration date; to be completed by the Orange County Development Engineering Department.

SECTION III

Completion Certificate - To be completed by the Orange County Development Engineering Inspector.

LATE CHARGE

Any work that commences without the required permits available on the job site shall be immediately suspended until such time as the required permits have been acquired. A late charge for work commenced without a valid permit issued may be charged in addition to the normal permit fee. The late charge shall be as prescribed by the Board of County Commissioners.

INSPECTIONS

Inspections by the Orange County Development Engineering Department are required prior to, during, and upon completion of an approved excavation or fill operation. Permittees are required to notify the Inspection Section of the Development Engineering Department a minimum of 24 hours in advance of any of the aforementioned periods.