

# DICKSTEINSHAPIRO<sub>LLP</sub>

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## Via Electronic Filing

January 8, 2008

Ms. Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

Re: Supplemental Material re: Resource Report 2  
Application of Floridian Natural Gas Storage Company, LLC for Certificate  
of Public Convenience and Necessity for a New Natural Gas Storage Facility  
Docket No. CP08-13-000

Dear Ms. Bose:

In connection with the Application of Floridian Natural Gas Storage Company, LLC ("FGS") for a certificate of public convenience and necessity to construct, own and operate a new natural gas storage facility filed on October 31, 2007 (the "Application") in the above-referenced docket, FGS hereby files the following supplemental material relating to the Water Use Permit Applications filed as Appendix 2-D to Resource Report 2 (in Volume II-A of the Application):

1. December 27, 2007 Response of FGS to the November 23, 2007 Request for Additional Information of the South Florida Water Management District re: FGS's Water Use Permit Application No. 070731-10 (Irrigation).

2. December 27, 2007 Response of FGS to the November 23, 2007 Request for Additional Information of the South Florida Water Management District re: FGS's Water Use Permit Application No. 070731-11 (Hydrostatic Testing).

FGS's filing contains only Public material and FGS is making this filing electronically. Electronic copies of this filing are being sent by email to all Parties, as well as to Charles Brown, FERC OEP Environmental Project Manager and Barbara Mohrman, of ERM, the third party environmental contractor for this Project.

**DICKSTEINSHAPIRO**LLP

Ms. Kimberly D. Bose

January 8, 2008

Page 2

If you have any questions about any of these submissions, please do not hesitate to contact me at (202) 420-2745 or Beth Webb at (202) 420-4782.

Sincerely,

A handwritten signature in black ink that reads "Joan M. Darby". The signature is written in a cursive, flowing style.

Joan M. Darby

Enclosures

cc: All Parties  
Charles Brown, FERC  
Barbara Mohrman, ERM  
Tim Gray, Florida Department of Environmental Protection  
John Wrublik, US Fish and Wildlife Service  
Ted Walden, US Environmental Protection Agency, Region 4  
Eric Reusch, U.S. Army Corps of Engineers  
Tom Colios, South Florida Water Management District  
Joseph Walsh, Florida Fish and Wildlife Conservation Commission

**Golder Associates Inc.**  
5100 West Lemon Street  
Suite 114  
Tampa, FL USA 33609  
Telephone: (813) 287-1717  
Fax: (813) 287-1716



December 27, 2007

Our Ref.: 063-9587.0600

South Florida Water Management District  
Water Use Regulation Division  
Water Supply Department  
3301 Gun Club Road  
West Palm Beach, Florida 33406

Attention: Mr. Stephen E. Bell

**RE: RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION  
WATER USE PERMIT APPLICATION NO. 070731-10  
FLORIDIAN NATURAL GAS STORAGE – IRRIGATION  
MARTIN COUNTY**

Dear Mr. Bell:

This correspondence provides the additional information requested by the South Florida Water Management District (the District) concerning the Water Use Permit Application that was submitted to the District by Floridian Natural Gas Storage Company, LLC on July 31, 2007. This information is presented in the same sequence as the requested information in the District's letter dated November 23, 2007, with a restatement of each comment (in bold) followed by a response.

**Comment 1 There are two wetland areas located near PW-1, identified as the irrigation source for the project. Please provide assurances that the proposed irrigation withdrawals will not cause harm to these wetland areas.**

Response Section 3.3.4.1 of the Basis of Review (BOR) for Water Use Permit applications states that an applicant must demonstrate that hydrologic alterations caused by the water use shall not adversely impact the values of wetland functions so as to cause harm to the abundance and diversity of fish, wildlife, and listed species; and habitat of fish, wildlife, and listed species. Section 3.3.4.2 of the BOR states that the water use shall not be considered harmful when the modeled drawdown in the surficial aquifer below the wetland will be less than one foot.

Two wetlands are located near PW-1, as noted by the District. One wetland is approximately 0.37 acres in area and located approximately 230 feet west of the well. Section 3.3.1.B. specifically states that harm to wetlands one half acres or less in area shall not require elimination, reduction, or mitigation.

The other wetland is approximately 6.31 acres in area and located approximately 460 feet east of the well. A finite element groundwater model (MODFLOW) was developed to estimate the drawdown that will be caused in the surficial aquifer by pumping at 30 gallons per minute (gpm; 0.042 million gallons per day) at well PW-1 on a steady-state basis. The model was developed using the hydrogeologic data

developed for the design and operation of the groundwater remediation system under the direction and approval of the USEPA and FDEP. A summary of the hydrogeologic model for the site was submitted to Mr. Stephen Bell of the District via electronic mail on November 28, 2007. The results of the groundwater model indicated that the drawdown due to withdrawing the requested irrigation water from PW-1 will be approximately five inches at of distance approximately 460 feet from the well.

The environmental impacts of the project, including those on wetlands and habitat, have been studied and reviewed extensively by ecologists from Golder Associates during the past year. Several local, state and federal agencies (i.e., Martin County, US Environmental Protection Agency, US Fish and Wildlife Service, Florida Fish and Wildlife Conservation Commission, Federal Energy Regulatory Commission, Florida Department of Environmental Protection, U.S. Army Corps of Engineers, and South Florida Water Management District) have been involved in reviewing the environmental impacts by the proposed project to wetlands, habitats, and listed species. Personnel from some of these agencies have also visited the site, specifically to observe the conditions and functional value of the wetlands at the site.

Data obtained from the Second Five Year Review Report dated April 2006 by Ardaman & Associates indicate that approximately 148 million gallons of groundwater was withdrawn between April 1997 and October 2005 (approximately 17.4 million gallons per year) from the wells in the vicinity of these two wetlands as part of the operation of the groundwater remediation system at the site. To our knowledge, no agency personnel reviewing the environmental impacts of the proposed project has observed or commented that wetlands have been harmed due to historic withdrawals from the wells in the vicinity of these two wetlands as part of the operation of the groundwater remediation system.

Based on the groundwater model results, history of withdrawals associated the remedial activities, and the current condition of these wetlands, we conclude that the proposed irrigation withdrawals will not adversely impact the functional values of these wetlands so as to cause harm to the abundance and diversity of fish, wildlife, and listed species; and habitat of fish, wildlife, and listed species.

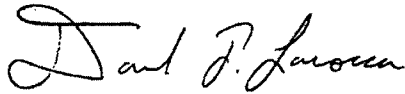
**Comment 2** Please provide a copy of the Environmental Resource Permit from the Florida Department of Environmental Protection for the project when issued. A water use permit will not be issued in conjunction with a surface water management or environmental resource conceptual permit without the required construction permit.

Response A copy of the Environmental Resource Permit from the Florida Department of Environmental Protection will be provided when it is issued.

If you should have any questions regarding this letter and attachments, please do not hesitate to contact us.

Sincerely,

**GOLDER ASSOCIATES INC.**



David Larocca  
Project Manager

Kerem Esin, P.E.  
Senior Engineer

Attachment: Figure 1

cc: Brad Williams, Floridian Natural Gas Storage Facility

DL/KHE/khe

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## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

November 23, 2007

Mr. Karem Essen, P.E.  
Golder Associates, Inc.  
5100 West Lemon Street, Suite 114  
Tampa, Florida 33609

Dear Mr. Essen:

**Subject: Water Use Permit Application No. 070731-10**  
**Project: Floridian Natural Gas Storage – Irrigation**  
**Section 35, Township 39S, Range 38E**  
**County: Martin County**

A review of the application for the above project indicates that additional information will be required in order to complete the evaluation, pursuant to Rule 40E-1.603, Florida Administrative Code (F.A.C.). Please answer all parts of the following comments:

1. There are two wetland areas located near well PW-1, identified as the irrigation source for the project. Please provide assurances that the proposed irrigation withdrawals will not cause harm to these wetland areas.
2. Please provide a copy of the Environmental Resource Permit from the Florida Department of Environmental Protection for the project when issued. A water use permit will not be issued in conjunction with a surface water management or environmental resource conceptual permit without the required construction permit.

Electronic versions of applicable statutes, rules, basis of review, permit applications, and forms may be found at the following internet address: <http://www.sfwmd.gov/org/reg/>

In accordance with Rule 40E-1.603, F.A.C., a response is required within 30 days of receipt of this letter requesting additional. Please use the enclosed transmittal form when responding and include four (4) copies of the information. Should you have any questions regarding this application or this letter, please contact me at (800) 432-2045 ext. 6935 or (561) 682-6935. Thank you for your cooperation in this matter.

Sincerely,

Stephen E. Bell  
Staff Hydrogeologist  
Water Use Regulation Division  
Water Supply Department

Enclosures: RAI Transmittal Form

c: Jonathan Shaw – Golder Associates, Inc.  
Bradley Williams - Floridian Natural Gas

**Golder Associates Inc.**  
5100 West Lemon Street  
Suite 114  
Tampa, FL USA 33609  
Telephone: (813) 287-1717  
Fax: (813) 287-1716



December 27, 2007

Our Ref.: 063-9587.0600

South Florida Water Management District  
Water Use Regulation Division  
Water Supply Department  
3301 Gun Club Road  
West Palm Beach, Florida 33406

Attention: Mr. Stephen E. Bell

**RE: RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION  
WATER USE PERMIT APPLICATION NO. 070731-11  
FLORIDIAN NATURAL GAS STORAGE – HYDROSTATIC TESTING  
MARTIN COUNTY**

Dear Mr. Bell:

This correspondence provides the additional information requested by the South Florida Water Management District (District) concerning the Water Use Permit Application that was submitted to the District by Floridian Natural Gas Storage Company, LLC on July 31, 2007. This information is presented in the same sequence as the requested information in the District's letter dated November 23, 2007, with a restatement of each comment (in bold) followed by a response.

**Comment 1 Please provide a map of the project depicting the final location of the points of withdrawal and discharge of water from the C-44 canal when determined. Please provide documentation of legal control of the withdrawal facilities, pursuant to Section 2.1.2, Legal Control of Withdrawal Facilities, of the Water Use Basis of Review.**

Response A map showing the points of withdrawal and discharge were submitted with our last correspondence on October 24, 2007 and are also included as Exhibit "A" (Option 1) of the consent to easement with the USACE. A copy of the agreement is attached hereto.

**Comment 2 Please be advised that this project is in an area covered by water use restrictions pursuant to an Emergency Order issued by the Governing Board of the South Florida Water Management District. Withdrawal of any previously unallocated water from a source subject to water use restrictions in an Emergency Order, whether an initial use in a new permit, or as an increased amount over the allocation in an existing permit that is being renewed or modified, is not authorized until the Governing Board rescinds the emergency Order and lifts the water use restrictions in the area of the project.**

Response The advisory concerning water use restrictions pursuant to the Emergency Order is acknowledged. The permittee will accept the restrictions of this order on the permit to be issued by the District.

If you should have any questions regarding this letter and attachments, please do not hesitate to contact us.

Sincerely,

**GOLDER ASSOCIATES INC.**



David Larocca  
Project Manager



Kerem H. Esin, P.E.  
Senior Engineer

Attachment: Figure

cc: Brad Williams, Floridian Natural Gas Storage Facility

**DEPARTMENT OF THE ARMY  
CONSENT TO EASEMENT  
TO USE CORPS OF ENGINEERS RIGHT-OF-WAY**

Consent No. DACW17-9-08-0013  
Project: Intracoastal Waterway-  
Tributary Channel, Okeechobee  
Waterway, Martin County, Florida  
Tract Nos. 777 and 778

**THIS CONSENT TO EASEMENT AGREEMENT**, made by and between the **UNITED STATES OF AMERICA, DEPARTMENT OF THE ARMY**, hereinafter referred to as the "Government", acting by and through the Chief, Real Estate Division, U.S. Army Corps of Engineers, Jacksonville District, hereinafter referred to as "said officer," and **Floridian Natural Gas Storage Company, LLC**, hereinafter referred to as the "Grantee":

**WHEREAS**, the Government has acquired a right-of-way easement over the above-numbered tracts of land, which easement, by its terms, reserves to the Government, in perpetuity, the right to use said easement for the construction, improvement, and maintenance of the Intracoastal Waterway-Tributary Channel, Okeechobee Waterway, Martin County, Florida; and

**WHEREAS**, the Grantee has requested permission to install a temporary pump, waterline, mobile man-shelter and above ground diesel fuel tank, in, on, over, and under a portion of the lands identified as Tract Nos. 777 and 778, Sections 10 and 11, Township 40 South, Range 38 East, Glades County, Florida. The area comprising 0.13 acres, more or less, is shown in red on Exhibit "A" attached hereto and made a part hereof.

**NOW THEREFORE**, this consent is granted and accepted under the following conditions:

1. That this consent shall be for a five(5) year term commencing on 1 January 2008 and ending on 31 December 2012.
2. That it is understood that this consent is effective only insofar as the property rights of the Government in the land to be occupied are concerned, and that it does not relieve the Grantee from the necessity of obtaining grants from the owners of the fee and/or other interests, therein, nor does it obviate the requirement that the Grantee obtain State or local assent required by law for the activity authorized herein.

3. That any proposed improvements or use authorized herein shall not be commenced until appropriate rights shall have been obtained by the Grantee from the record owners and encumbrancers of the fee title to the lands involved, or until the Grantee has obtained all Federal, State, or local permits required by law.

4. That the proposed improvements or use authorized herein shall be consistent with the terms and conditions of this consent; and that any improvements or use not specifically identified and authorized shall constitute a violation of the terms and conditions of this consent which may result in a revocation of this consent and in the institution of such legal proceedings as the Government may consider appropriate, whether or not this consent has been revoked or modified.

5. That the exercise of the privileges hereby consented to shall be without cost or expense to the Government and under the supervision of and subject to the approval of the said officer having immediate jurisdiction over the property and subject to such regulations as he may from time to time prescribe, including, but not limited to, the specific conditions, requirements, and specifications set forth in paragraph 15 below.

6. That the Grantee shall supervise and maintain the said improvements and cause it to be inspected at reasonable intervals, and shall immediately repair any damage found therein as a result of such inspection, or when requested by said officer to repair any defects. Upon completion of the installation of said improvements or the making of any repairs thereto, the premises shall be restored immediately by the Grantee, at the Grantee's own expense, to the same condition as that in which they existed prior to the commencement of such work, to the satisfaction of said officer.

7. That any property of the Government damaged or destroyed by the Grantee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Grantee to the satisfaction of the said officer, or in lieu of such repair or replacement, the Grantee shall, if so required by said officer and at his option, pay to the Government an amount sufficient to compensate for the loss sustained by the Government by reason of damage to or destruction of Government property.

8. That the Government shall not be responsible for damages to the property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for

damages to the property of the Grantee, or for damages to the property or injuries to the person of the Grantee, or the persons of Grantee's officers, agents, servants, or employees, or others who may be on said premises at the invitation of the Grantee or the invitation of one of them, arising from Governmental activities on or in the vicinity of the said premises, and the Grantee shall hold the Government harmless from any and all claims.

9. That the Government shall in no case be liable for any damage, either hidden or known, to any improvements herein authorized which may be caused by any action of the Government, under the rights obtained in its easements, or that may result from the future operations undertaken by the Government, and no claim or right to compensation shall accrue from such damage, and if further operations of the Government require the alteration or removal of any improvements herein authorized, the Grantee shall, upon due notice, from said officer, alter or remove said improvements without expense to the Government and subject to the supervision and approval of the said officer and no claim for damages shall be made against the Government on account of such alterations or removal.

10. That construction and/or operation, maintenance, and use of any improvements incident to the exercise of the privileges herein granted shall be in such a manner as not to conflict with the rights of the Government, nor to interfere with the operations by the Government under such rights nor to endanger lives and safety of the public.

11. That this consent may be terminated by the Government or said officer upon reasonable notice to the Grantee if the Government or said officer shall determine that any improvements or use to which consent is herein granted interferes with the use of said land or any part thereof by the Government, and this consent may be annulled and forfeited by the declaration of the Government or said officer for failure to comply with any or all of the provisions and conditions of this consent, or for nonuse for a period of two (2) years, or for abandonment.

12. That upon relinquishment, termination, revocation, forfeiture, or annulment of this consent, the Grantee shall vacate the premises, remove all property of the Grantee there from, and restore the premises to a condition satisfactory to the said officer. If the Grantee shall fail or neglect to remove the said property and so restore the premises, then at the option of the Government or said officer, the said property shall either become the property of the Government without compensation

therefor, or the Government or said officer, may cause it to be removed, and the premises to be so restored at the expense of the Grantee, and no claim for damages against the Government, or its officer or agents, shall be created by or made on account of such removal and restoration.

13. That the Grantee within the limits of its respective legal powers shall comply with all Federal, interstate, State, and/or local governmental regulations, conditions, or instructions for the protection of the environment and all other matters as they relate to real property interests granted herein.

14. That the Grantee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural, or other cultural artifacts, relics, vestiges, remains, or objects of antiquity. In the event such items are discovered on the premises, the Grantee shall immediately notify the District Engineer, Jacksonville District, Post Office Box 4970, Jacksonville, Florida 32232-0019, and the site and the material shall be protected by the Grantee from further disturbance until a professional examination of them can be made or until a clearance to proceed is authorized by the District Engineer.

15. That any Corps of Engineers right-of-way survey monuments impacted must be removed, preserved and relocated by a Florida registered land surveyor at the Grantee's expense with two copies of the survey provided to the U.S. Army Corps of Engineers, South Florida Operations Office, 525 Ridgelawn Drive, Clewiston Florida 33440. That any survey monuments damaged and unusable must be replaced in kind with 4"x4" concrete monuments and the old monuments returned to the South Florida Operations Office. Grantee shall notify the South Florida Operations Office prior to commencement and upon completion of all work.

16. That this consent may not be transferred to a third party without the prior written notice to the Chief, Real Estate Division, U.S. Army Corps of Engineers, Jacksonville District, Post Office Box 4970, Jacksonville, Florida 32232-0019, and by the transferee's written agreement to comply with and be bound by all the terms and conditions of this consent. In addition, if the Grantee transfers the improvements authorized herein by conveyance of realty, the deed shall reference this consent and the terms and conditions herein and the consent shall be recorded along with the deed in the Registrar of Deeds or with other appropriate official.

This consent is not subject to Title 10, United States Code, and Section 2662.

IN WITNESS WHEREOF, I have hereunto set my hand, by authority of the Secretary of the Army, this 20<sup>th</sup> day of December 2007.

UNITED STATES OF AMERICA

BY: \_\_\_\_\_  
SHARON W. CONKLIN  
Chief, Real Estate Division  
U.S. Army Engineer District  
Jacksonville, Florida

AGREED TO AND ACCEPTED

FLORIDIAN NATURAL GAS STORAGE  
COMPANY, LLC

[Signature]  
Witness

BY: [Signature]  
President

[Signature]  
Witness



CORPORATE CERTIFICATE

I, DAVID W SHAFF, certify that I am an officer  
(other than consent signatory)  
of the corporation named as grantee in the foregoing Consent;  
that BRAE WILLIAMS who signed said Consent  
(consent signatory)  
on behalf of the Grantee was the PRESIDENT  
of said corporation; and that said Consent was duly  
signed for and in behalf of said corporation by authority of its  
governing body, and is within the scope of its corporate powers.

(Corporate Seal)

David W. Shaff  
(Signature)

December 29, 2007  
(Date)



## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

November 23, 2007

Mr. Karem Essen, P.E.  
Golder Associates, Inc.  
5100 West Lemon Street, Suite 114  
Tampa, Florida 33609

Dear Mr. Essen:

**Subject: Water Use Permit Application No. 070731-11**  
**Project: Floridian Natural Gas Storage – Hydrostatic Testing**  
**Section 35, Township 39S, Range 38E**  
**County: Martin County**

A review of the application for the above project indicates that additional information will be required in order to complete the evaluation, pursuant to Rule 40E-1.603, Florida Administrative Code (F.A.C.). Please answer all parts of the following comments:

1. Please provide a map of the project depicting the final location of the points of withdrawal and discharge of water from the C-44 canal when determined. Please provide documentation of legal control of the withdrawal facilities, pursuant to Section 2.1.2, Legal Control of Withdrawal Facilities, of the Water Use Basis of Review.
2. Please be advised that this project is in an area covered by water use restrictions pursuant to an Emergency Order issued by the Governing Board of the South Florida Water Management District. Withdrawal of any previously unallocated water from a source subject to water use restrictions in an Emergency Order, whether an initial use in a new permit, or as an increased amount over the allocation in an existing permit that is being renewed or modified, is not authorized until the Governing Board rescinds the emergency Order and lifts the water use restrictions in the area of the project.

Electronic versions of applicable statutes, rules, basis of review, permit applications, and forms may be found at the following internet address: <http://www.sfwmd.gov/org/req/>

In accordance with Rule 40E-1.603, F.A.C., a response is required within 30 days of receipt of this letter requesting additional. Please use the enclosed transmittal form when responding and include four (4) copies of the information. Should you have any questions regarding this application or this letter, please contact me at (800) 432-2045 ext. 6935 or (561) 682-6935. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Stephen E. Bell".

Stephen E. Bell  
Staff Hydrogeologist  
Water Use Regulation Division  
Water Supply Department  
Enclosures: RAI Transmittal Form  
c: Joniathan Shaw – Golder Associates, Inc.  
Bradley Williams - Floridian Natural Gas