

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

WHEREAS, Southwest Florida Pipeline Company has properly filed an application for a phasing amendment to the Development of Regional Impact Development Order for Fort Myers Petroleum Storage Terminal, State DRI #12-9091-110; and

WHEREAS, the subject property is located on the west side of Fuel Farm Road, in Section 19, Township 45 South, Range 26 East, Lee County, Florida; and

WHEREAS, proper authorization has been given to Pavese, Garner, Haverfield, Dalton, Harrison & Jensen, by David R. Shultz of Southwest Florida Pipeline Company, to act as agent to pursue this DRI Amendment application; and

WHEREAS, a public hearing was legally and properly advertised and held before the Lee County Board of County Commissioners; and in the legislative process the Lee County Board of County Commissioners gave full and complete consideration to the recommendations of the staff, the documents on file with the county, and the testimony of all interested persons.

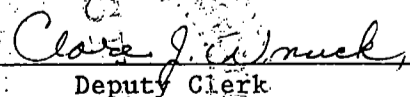
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS, that the Board of County Commissioners does hereby make a finding of No Substantial Deviation under the provisions of Section 380.06(19), Florida Statutes; and ADOPT the DRI Development Order Amendment.

The foregoing Resolution was adopted by the Lee County Board of County Commissioners upon a motion by Commissioner Franklin B. Mann, and seconded by Commissioner John E. Albion and, upon being put to a vote, the result was as follows:

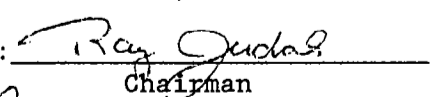
John E. Manning	Aye
Douglas R. St. Cerny	Absent
Ray Judah	Absent
Franklin B. Mann	Aye
John E. Albion	Aye

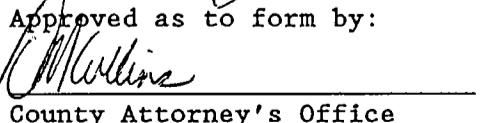
DULY PASSED AND ADOPTED this 18th day of August, A.D., 1993.

ATTEST: 
CHARLIE GREEN, CLERK

BY: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: 
Chairman

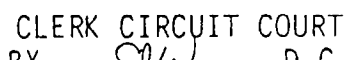
Approved as to form by: 
County Attorney's Office

HEARING NUMBER 91-12-03-DRI-02(a)
7656

FILED

RESOLUTION NUMBER Z-93-061
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AUG 31 1993

CLERK CIRCUIT COURT
BY  DC

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SECOND DEVELOPMENT ORDER
AMENDMENT
FOR
FORT MYERS PETROLEUM STORAGE TERMINAL
A DEVELOPMENT OF REGIONAL IMPACT
STATE DRI #12-9091-110
COUNTY CASE #91-12-03-DRI-02-(a)

WHEREAS, ON JULY 14, 1993, SOUTHWEST FLORIDA PIPELINE COMPANY, THE OWNER OF FORT MYERS PETROLEUM STORAGE TERMINAL, REQUESTED AN AMENDMENT TO THE ORIGINAL DEVELOPMENT ORDER ADOPTED BY THE LEE COUNTY BOARD OF COUNTY COMMISSIONERS ON FEBRUARY 3, 1992, AS AMENDED; AND

WHEREAS, the developer of Fort Myers Petroleum Storage Terminal is requesting a time extension of 4 years for the commencement date, the phase end dates and the buildout date for the Development Order; and

WHEREAS, under Section 380.06(19), Florida Statutes, the proposed change must be reviewed and evaluated to determine whether it is, or is not, a substantial deviation from the terms of the existing Development Order; and

WHEREAS, the Board of County Commissioners has reviewed the proposed Amendment and finds the change not to be a substantial deviation; however, any additional extensions of the buildout date, or any Notices of Change shall be reviewed cumulatively for determination as to whether or not a substantial deviation has occurred pursuant to Section 380.06(19), Florida Statutes; and

WHEREAS, the proposed changes to the Fort Myers Petroleum Storage Terminal Development Order described herein are consistent with the adopted Comprehensive Land Use Plan of Lee County and applicable local land development regulations; and

WHEREAS, the proposed change to the Fort Myers Petroleum Storage Terminal Development Order will not unreasonably interfere with the achievement of the objectives of the adopted State Land Development Plan applicable to the area; and

WHEREAS, the proposed changes are consistent with the State Comprehensive Plan; and

Second Development Order Amendment for
Fort Myers Petroleum Storage Terminal

NOW, THEREFORE, LET IT BE ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, that conditions of the Development Order for Fort Myers Petroleum Storage Terminal adopted February 3, 1992 and subsequent amendment are further amended as follows, with new language underlined and deletions struck through. All other portions of the original Development Order and subsequent amendment shall remain in full force and effect.

SECTION ONE

I. FINDINGS OF FACT/CONCLUSIONS OF LAW

A. The "Fort Myers Petroleum Storage Terminal DRI" site is located in central Lee County on 66.59± acres at the Southwest Florida International Airport. The Lee County Port Authority has made the land available to the Developer under an option lease agreement with 30± acres of land for the first phase of the terminal and an additional 36.6± acres for future expansion. The project at buildout will total 16 petroleum storage tanks and one wastewater storage tank. Total capacity of the petroleum storage tanks will be 775,000 barrels. The petroleum products to be stored at the site include various grades of gasoline, diesel fuel and jet fuel. The site will have 14.80 acres of wetland preservation areas and is planned in three phases over a twenty-one year period with buildout in ~~2013.~~ 2018.

H. GENERAL CONSIDERATIONS

1. The development phasing schedule presented within the ADA shall be incorporated as a condition of approval. The effective date of the DRI shall be January 29th, 1993, the date the FLAWAC entered its Final Order of Dismissal of the Appeal. ~~and as adjusted to the effective to the effective date of the Development Order shall be incorporated as a condition of approval.~~ If Development Order conditions and applicant commitments incorporated within the Development Order, ADA or sufficiency round responses to mitigate regional impacts are not carried out as indicated to the extent or in accord with the timing schedules specified, then the local government shall determine if a substantial deviation has occurred for the affected regional issue. If the local government, during the course of monitoring the development, can demonstrate that substantial changes in the conditions underlying the approval of the Development Order has occurred or the the Development Order was based on substantially inaccurate information provided by the developer, resulting in additional substantial regional impacts, then a substantial deviation determination shall be made by the local government.

The Developer shall have until January 30, 1998, to commence development of the project. Once the Developer commences development, the phasing schedule set forth in the ADA shall control. The first phase must be completed by January 30, 1998. The second phase must be completed by January 30, 2008, and the third phase must be completed by January 28, 2018.

Second Development Order Amendment for
Fort Myers Petroleum Storage Terminal

SECTION TWO

Certified copies of this Development Order will be transmitted to the Southwest Florida Regional Planning Council, the developer, and appropriate state agencies. This Development Order is rendered as of the date of that transmittal, but shall not be effective until the expiration of the statutory appeals period (45 days from rendition) or until the completion of any appellate proceedings, whichever time is greater. Upon this Development Order Amendment becoming effective, notice of its adoption shall be recorded by the applicant as provided in Chapter 380, Florida Statutes.

THE MOTION TO ADOPT the above amendments to the development order was offered by Commissioner Franklin B. Mann, and seconded by Commissioner John E. Albion and, upon poll of the members present, the vote was as follows:

John E. Manning	Aye
Douglas R. St. Cerny	Absent
Ray Judah	Absent
Franklin B. Mann	Aye
John E. Albion	Aye

DULY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF
LEE COUNTY, FLORIDA, THIS 18th DAY OF August, A.D. 1993.

FILED

AUG 31 1993

CLERK CIRCUIT COURT
BY [Signature] D.C.

ATTEST:

Charles J. Green, CLERK

BY: Charles J. Green
DEPUTY CLERK

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

BY: Ray Judah
(CHAIRMAN)

APPROVED AS TO FORM

BY: [Signature]
COUNTY ATTORNEY'S OFFICE

Charlie Green

**Clerk Of Circuit Court
Lee County, Florida**

STATE OF FLORIDA

COUNTY OF LEE

I, Charlie Green, Clerk of Circuit Court, Lee County, and ex-Officio Clerk to the Board of County Commissioners, Lee County, Florida, do hereby certify that the foregoing is a true and photostatic copy of the Second Development Order Amendment for Fort Myers Petroleum Storage Terminal, DRI, State DRI No. 12-9091-110 and County Case No. 91-12-03-DRI-02(a) adopted by the Board of County Commissioners on August 18, 1993.

Given under my hand and seal at Fort Myers, Florida, this 31st day of August, 1993.

CHARLIE GREEN,
Clerk, Circuit Court
Lee County, Florida.

By Clare J. Wack
Deputy Clerk