



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

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LT. GOVERNOR

JONATHAN P. STEVERSON
SECRETARY

FINAL ORDER GRANTING VARIANCE

APPLICANT:

Lee County Electric Cooperative
(LCEC), Inc.
P.O. Box 3455
North Fort Myers, FL 33918

PROJECT NAME: LCEC Agualinda
Line

AGENT:

W.Dexter Bender and Associates, Inc.
c/o Paul Owen
4470 Camino Real Way
Fort Myers, FL 33966

FILE No. 36-0293378-004-EV

OGC NO. 14-0719

Lee County

FINAL ORDER BY THE DEPARTMENT:

The Department of Environmental Protection (Department) hereby grants, to Lee County Electric Cooperative (LCEC), Inc., a variance from the requirements of Rule 62-330.302(1)(c), Florida Administrative Code (F.A.C.), to allow the removal of an existing power line, construction of 11 new power poles, approximately 60' north of the existing line, and restoration of seagrass in Matlacha Pass Aquatic Preserve, Class II, Outstanding Florida Waters, conditionally approved for shellfish harvesting, in Lee County.

This variance will allow for the removal of an existing power line, construction of 11 new power poles, approximately 60' north of the existing line, and restoration of seagrass in Matlacha Pass. This variance shall only be valid during the construction activities authorized in the associated Environmental Resource Permit No. 36-0293378-002 and shall expire within 24 months of the issuance date of this final order.

After reviewing the Petition for Variance, the Department concluded the Petitioner demonstrated that the hardship asserted as a basis for the need for a variance is peculiar to the affected property and not self-imposed and that the grant of this variance is consistent with the general intent and purpose of Chapter 403, Florida Statutes. Additionally, the Petitioner demonstrated that compliance with the particular requirements from which the variance is sought is needed to relieve or prevent hardship.

The Notice of Intent to Issue a Variance from Rule 62-330.302(1)(c), F.A.C., notified Lee County Electric Cooperative (LCEC), Inc., of the Department's proposed agency action and advised them of their right to a hearing pursuant to Sections 120.569 and 120.57, F.S. On February 9, 2015, notice was given in The New-Press and on February 5, 2015, notice was given in the Florida Administrative Register informing the public of the Department's intended action and offering an opportunity for hearing pursuant to Sections 120.569 and 120.57, F.S.

The Petitioner and interested parties having been advised of their rights under Chapter 120, F.S., and having failed or declined to file a Petition pursuant to Sections 120.569 and 120.57, F.S., are hereby deemed to have waived those rights. Acceptance of the variance constitutes notice and agreement that the Department will periodically review this variance for compliance, including site inspections where applicable, and may initiate enforcement action for violation of the conditions and requirements thereof. It is therefore:

ORDERED by the State of Florida, Department of Environmental Protection, that the Petition of the Lee County Electric Cooperative (LCEC), Inc. requesting a variance be and is hereby granted, subject to the conditions specified by the Department in Permit No. 36-0293378-002, as may be subsequently modified from time to time.

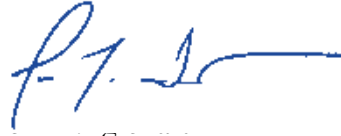
The variance shall also be subject to the following conditions:

- a. This variance is valid only for activities authorized under ERP File No. 36-0293378-002-ES, as may be subsequently modified from time to time, and is subject to any and all conditions of the permit.

Any Party to this Order has the right to seek judicial review of the Order Pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of the Appellate Procedure, with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Order is filed with the clerk of the Department.

DONE AND ORDERED this 9th day of March, 2015, in Fort Myers, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Director of District Management
South Florida District

Copies furnished to:

Krystle Hoenstine, Krystle.Hoenstine@dep.state.fl.us
U.S. Army Corps of Engineers

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to Section 120.52, Florida Statutes, with the designated
Department Clerk, receipt of which is hereby acknowledged.

Marie Vidrine
Deputy Clerk

March 9, 2015
Date

Prepared by: Patricia Clune