Florida Department of
Environmental Protection

Southwest District Office
13051 North Telecom Parkway
Temple Terrace, Florida 33637-0926

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

April 15, 2010

Casey Key Estates Homeowners Association, Inc.
c/o Dietmar Wittmann, President
Post Office Box 1004
Nokomis, FL 34274

Subject: Noncompliance with Environmental Resource Permit No. 58-0211279-001/002
Warning Letter No. 10-28-DF58SWD

Dear Mr. Wittmann:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. A site inspection conducted on March 23, 2010 of the property located on Lots 7 and 8 on Gulfwinds Way, Nokomis, Section 26, Township 38 South, Range 18 East, Sarasota County, within Little Sarasota Bay, a Class III Outstanding Florida Waterbody and part of the Sarasota Bay Estuarine System indicates that a violation of Florida Statutes and Rules may exist. Department of Environmental Protection personnel observed the following at the above-described property:

- Unauthorized construction of approximately 25 square feet of additional docking structure.

Chapter 62-343, Florida Administrative Code, provides that: a permit is required from the Department prior to dredging or filling in, on, or over wetlands or other surface waters. The activities indicated above and any other activities at the facility that may be contributing to violations of the above-described statutes or rules should be ceased.

In addition, a subsequent file review indicates that the project may not be in compliance with the following conditions of the permits referenced above:

- Noncompliance with General Condition No. 13: *Within 30 days after completion of construction of the permitted activity, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, utilizing the required "Environmental Resource Permit As-Built Certification by a Registered Professional" (Form No. 62-343.900(5), F.A.C.), and "Request for Transfer of Environmental Resource Permit Construction Phase to Operation Phase" (Form 62-343-900(7), F.A.C.). Additionally, if deviations from the approved drawings are discovered during the certification process the certification must be accompanied by a copy of the approved permit drawings with deviations noted.* To date, the Department has no record of receiving the required forms.

- Noncompliance with General Consent Condition No. 1: *No activities other than those set forth in the permit are authorized. Any additional activities on state-owned sovereignty, submerged lands must receive further consent from the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund or their properly designated agent.* During the inspection, Department staff observed approximately 25 square feet of additional docking structure

- Noncompliance with Specific Condition No. 22: *Mitigation monitoring reports shall be submitted to the District office for a minimum of semi-annual for the first year, and annually for the second and third year.* To date, the Department has no record of receiving the required monitoring reports.

- Noncompliance with Specific Condition No. 26: *The mitigation shall be deemed successful when the following criteria has been continuously met for a period of at least one year, without intervention in the form of irrigation, removal of undesirable vegetation, or replanting of desirable vegetation: (a) planted herbaceous species have achieved a minimum 85% cover, (b) total contribution to percent cover by non-native wetland species and species not listed in 62-340.450, F.A.C, shall be maintained below 10%.* During the inspection, Department staff observed greater than 10% cover of non-native wetland species, mainly Brazilian pepper, within the mitigation area.

Section 403.161, Florida Statutes states that: "It shall be a violation of this chapter, and it shall be prohibited for any person to fail to obtain any permit required by this chapter or to violate or fail to comply with any permit issued by the Department."

You are requested to contact Lauren Greenfield (813) 632-7600, extension 485 within fifteen (15) days of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely yours,

Deborah A. Getzoff
District Director
Southwest District