

Suwannee River Water Management District

Governing Board Materials

Supplemental

The following materials have been reviewed and approved for distribution to the Governing Board and the public.

Assistant Executive Director

Executive Director

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Senior Professional Engineer

DATE: April 5, 2012

RE: Appointment of Mediation Representative Regarding *SRWMD v. Larry Sigers* Mediation Meeting May 10, 2012

RECOMMENDATION

Staff recommends the Governing Board authorize the Executive Director or his designee to represent the District at mediation with said individual having negotiating authority with outcome of mediation to be considered by the Governing Board at their next regularly scheduled meeting.

BACKGROUND

The District opened a compliance proceeding on December 16, 2008, when staff discovered unpermitted dredge and fill of approximately 13.5 acres within a forested wetland. After numerous meetings, Mr. Sigers applied for and was issued an Environmental Resource permit (ERP09-0244). While the permit was being processed, Mr. Sigers signed a Consent Agreement that was executed by the Board in March 2011. The Consent Agreement, upon final signature, became Final Order 11-0001.

As of August 15, 2011, Mr. Sigers had not fulfilled his obligations under the Final Order and the conditions of his ERP. This includes restoration, mitigation, land donation in lieu of penalty and payment of administrative costs and attorneys' fees currently totaling \$2,252.99.

At the September 2011 Governing Board meeting, the Board authorized Counsel to seek resolution. The enforcement file was sent to staff legal counsel on October 5, 2011. On December 6, 2011, Defendant filed a Motion to Dismiss and a Motion for More Definite Statement. On December 8, 2011, Defendant

filed an Amended Motion to Dismiss. The two motions were heard on March 12, 2012. Mediation had been scheduled for May 10, 2012.

Suwannee River Water Management District Compliance and Enforcement Policy adopted March 8, 2011, states *“Counsel may conduct mediation to resolve litigation proceedings. Mediation conducted by court order or stipulation while the case is in the jurisdiction of circuit court will be conducted under the provisions of Rules 1.700-1.730, Florida Rules of Civil Procedure.*

Mediation conducted in administrative proceedings will be conducted in accordance with Section 120.573, Florida Statutes and the Uniform Rules of Administrative Procedure, specifically those rules set forth in sections 28-106.401-405, Florida Administrative Code.

The Governing Board may authorize the Executive Director to either represent the District or designate a staff member to represent the District at mediation. The outcome of the mediation shall be considered by the Governing Board at their next regularly scheduled meeting.”

TS/rl

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Senior Engineer

DATE: April 4, 2012

RE: Approval of a Work Order Increase in the matter of Suwannee River Water Management District (District) v. Larry Sigers

RECOMMENDATION

Staff recommends Governing Board approval of a work order for legal expenditures in the matter of the District v. Larry Sigers for an amount not to exceed \$7,500.

BACKGROUND

At the September 2011 Governing Board meeting, the Board authorized Counsel to seek resolution. Staff sent the enforcement file to staff legal counsel on October 5, 2011, for failure to comply with a Final Order of the Governing Board.

Staff initiated work in this matter by issuing work order number 10/11-144.001 to Robinson, Kennon & Kendron, P.A., for a fee not to exceed \$5,000.

Mr. Robinson has scheduled mediation for this case on May 10, 2012. The additional \$2,500 should be sufficient to cover the cost of mediation.

/rl

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Senior Professional Engineer

DATE: April 5, 2012

RE: Extension of Temporary Water Use Permit Number
2-11-00063, Richard Douglas Farm, Gilchrist County

RECOMMENDATION

Staff recommends the Governing Board extend Temporary Water Use Permit number 2-11-00063 until May 9, 2012, with seventeen standard conditions and six special limiting conditions to Richard Douglas and Joshua Moore in Gilchrist County.

BACKGROUND

The applicant requested a temporary permit on March 23, 2012, following the petition for administrative hearing. This petition was dismissed without prejudice at the March 26, 2012, Intermediate Governing Board meeting. The Executive Director issued the first temporary permit on March 28, 2012, with an expiration date of April 11, 2012.

Section 373.244, Florida Statutes (F.S.), allows the District to issue temporary permits while the application is pending. It also notes that, if granted, temporary permits shall expire on the day following the next regular meeting of the Governing Board. Additionally, the Governing Board shall review temporary permits at each regular meeting and may terminate a temporary permit or refuse to extend it further upon a finding that the water use does not meet the criteria set forth in District rule 40B-2.441, Florida Administrative Code (F.A.C.) that adverse effects are occurring as a result of water use under the temporary permit, or that the water authorized to be used under such permit is no longer required by the permit holder. If the Governing Board extends the term of a temporary permit for subsequent periods, the expiration date shall be on or before the day following the next regular meeting of the Governing Board.

Staff has determined that the temporary application is complete and satisfies the conditions for issuance in Chapter 40B-2, F.A.C., and Chapter 373, F.S.

KW/tm

April 5, 2012

Richard Douglas
6524 NE 55th Street
High Springs, FL 32643

Subject: Approval of Temporary Water Use Permit Number
2-11-00063, Richard Douglas Farm, Gilchrist County

Dear Mr. Douglas:

Suwannee River Water Management District (District) staff proposes to recommend that the Governing Board extend the above-mentioned temporary permit until May 9, 2012.

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on April 10, 2012, which is open to the public.

Please call permitting staff at 386.362.1001 if you have any questions.

Sincerely,

Tim Sagul, P. E.
Senior Professional Engineer

TS/tm

Enclosure

Cc: Richard Maguire
Tommy Reeves

Certified Mail Receipt Number: 7010 1060 0001 1350 1932

April 5, 2012

Joshua Moore
PO Box 145
Bell, FL 32619

Subject: Approval of Temporary Water Use Permit Number
2-11-00063, Richard Douglas Farm, Gilchrist County

Dear Mr. Moore:

Suwannee River Water Management District (District) staff proposes to recommend that the Governing Board extend the above-mentioned temporary permit until May 9, 2012.

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on April 10, 2012, which is open to the public.

Please call permitting staff at 386.362.1001 if you have any questions.

Sincerely,

Tim Sagul, P. E.
Senior Professional Engineer

TS/tm

Enclosure

Cc: Richard Maguire
Tommy Reeves

Certified Mail Receipt Number: 7010 1060 0001 1350 1949

STAFF REPORT

TEMPORARY WATER USE PERMIT

DATE: April 3, 2012

PROJECT: Richard Douglas Farm

APPLICANT:

Richard Douglas
6524 NE 55th Street
High Springs, FL 32643

Joshua Moore
PO Box 145
Bell, FL 32619

PERMIT APPLICATION NO.: 2-11-00063

DATE OF ORIGINAL APPLICATION: December 28, 2011

DATE OF TEMPORARY PERMIT REQUEST: March 23, 2012

	Previous Quantities:		Proposed Quantities:	
Average Daily Rate (ADR)	-	mgd	0.1671	mgd

Recommended Agency Action

Staff recommends extension of Temporary Water Use Permit 2-11-00063 for growing watermelons within Gilchrist County. The temporary water use permit meets the criteria of subsection 373.223(1), Florida Statutes, and all applicable administrative rules. The permit will include seventeen standard conditions and six special limiting conditions. The temporary permit will expire on May 9, 2012.

Project Review Staff

Kevin Wright, P.E.; Ronald Spencer; and Tim Sagul, P.E., have reviewed the application.

Project Location

The withdrawal facilities are located in Township 08 South, Range 16 East, Section 03 in Gilchrist County. The project is located within the Santa Fe River basin according to the USGS National Hydrography Dataset, Hydrologic Unit Code-8 subbasins.

Project Description

The project area consists of approximately 145 acres with approximately 72 acres being irrigated with a drip system supplied by groundwater. Richard Douglas is the landowner, with Josh Moore as the lessee. The temporary permit is only for a watermelon crop.

Since the temporary permit will have a duration of 29 days, staff converted the annual allocation for watermelon into a seasonal allocation (15.038 million gallons over the 90-day growing season). Staff then proportioned the 90-day growing season into a 29-day temporary allocation (4.8456 million gallons for 29-days).

The Average Daily Rate (ADR) will be 0.1671 mgd. The ADR equates to 2.5 inches of supplemental irrigation during the 29-day temporary permit duration.

The project has one 10-inch irrigation well with a capacity of 1,000 gallons per minute.

Demonstration of Need

The applicant has provided information that supports the requested allocation, based upon crop types and irrigated acres.

Water Conservation

Joshua Moore has completed the water conservation worksheets for the drip irrigation system.

Minimum Flows and Levels Compliance

Staff determined through the SRWMD North Florida Model, version 1.0, that the proposed water use would not violate minimum flows and levels (MFLs) at any downstream MFL points established along the Suwannee River or its tributaries. However, a special limiting condition has been included in the permit for the District to seek a modification to the permit to assist in the recovery and/or prevention strategy associated with an adopted MFL.

Unforeseen or Unforeseeable Circumstances

The applicant submitted the original application on December 28, 2011, well within the traditional timeframes for evaluation and issuance of this relatively low-

quantity water use permit (ie. one well, one irrigation system). Due to the relatively low quantities requested, the applicant did not foresee any administrative challenges to his permit application.

Due to the limited timeframes for marketability of watermelons in Florida, watermelon plants must be grown during the middle of March to meet the summer market. Watermelon plants will only last approximately four days in a dry, unirrigated state. The applicant would be forced to lose his crop if this temporary water use permit is not issued.

Application Timeline

The original application was received on December 28, 2012. A request for additional information was sent on January 17, 2012. The applicant requested a temporary permit on March 23, 2012, following the petition for administrative hearing. This petition was dismissed without prejudice at the March 26, 2012 Intermediate Board meeting. The Executive Director issued the first temporary permit on March 28, 2012, with an expiration date of April 11, 2012.

Standard Conditions

1. Nothing in this permit should be construed to limit the authority of the Suwannee River Water Management District to declare a water shortage and issue orders pursuant to Section 373.175, Florida Statutes, (F.S.) or to formulate a rule for implementation during times of water shortage pursuant to Section 373.246, Florida Statutes. In the event of water shortage as declared by the Board, the permittee shall adhere to any limitations on withdrawal or use ordered by the District.
2. This permit is classified as unconfined Floridan aquifer for low volume irrigation.
3. Permittee shall allow District personnel at reasonable times and at District expense or with District equipment to monitor withdrawal rates and volumes authorized by this permit.
4. Capping of Withdrawals Not In Use: Any wells not in use, and in which pumping equipment is not installed shall be capped or valved in a water tight manner in accordance with Chapter 62-532.500(4)(a)4., F.A.C.
5. The permittee may apply for a permit modification at any time in accordance with Section 40B-2.331, F.A.C.

6. In the event of a District-declared water shortage, the permittee must immediately comply with any restrictions or requirements ordered in accordance with the District's Water Shortage Plan, Chapter 40B-21, F.A.C.
7. Permittee must mitigate interference with existing legal uses caused in whole or in part by the permittee's withdrawals, consistent with a District-approved mitigation plan. As necessary to offset such interference, mitigation may include, but is not limited to, reducing pumpage, replacing the existing legal user's withdrawal equipment, relocating wells, changing withdrawal source, supplying water to existing legal user, or other means needed to mitigate the impacts.
8. Permittee must mitigate harm to existing off-site land uses caused by the permittee's withdrawals. When harm occurs, or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
9. Permittee must mitigate harm to the natural resources caused by the permittee's withdrawals. When harm occurs or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
10. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to Chapter 373, F.S.
11. Authorized representatives of the District, upon reasonable notice to the permittee, shall be permitted to enter and inspect the permitted water use to determine compliance with the permit conditions.
12. This permit does not relieve the permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.
13. This permit does not convey to the permittee any property rights or privileges other than those specified herein.
14. Permittee shall notify the District in writing within 90 days of any sale, conveyance, or other transfer of ownership or control of the real property on which the permitted water use activities are located. All water use permit transfers are subject to the requirements of section 40B-2.301, F.A.C.
15. Permittee must notify the District in writing prior to implementing any changes in the water use that may alter the permit allocations. Such changes include, but are not limited to, change in irrigated acreage, crop type, irrigation system, water treatment method, or entry into one or more large water use agreements. In the event a proposed change will alter the allocation, permittee must first obtain a permit modification.

16. When the District provides a permanent identification tag, the tag shall be prominently displayed at the withdrawal site by permanently affixing such tag to the pump, headgate, valve, or other withdrawal facility. If the permit covers several facilities such as a well field, a tag shall be affixed to each facility. Failure to display a tag as prescribed herein shall constitute a violation of the permit. The permittee shall be allowed ten (10) days after the notice of violation of this section to obtain a replacement tag.

17. The District reserves the right to open this permit, following notice to the permittee, to include a permit condition prohibiting withdrawals for resource protection.

Special Limiting Conditions

18. All correspondence sent to the District regarding this permit must include the permit number 2-11-00063.

19. The Permittee shall ensure that the irrigation systems will water target areas only under field operations. Irrigation of non-target areas (roads, woods, structures, etc.) is prohibited.

20. The Permittee shall implement and/or maintain the conservation practices selected on the Water Conservation Worksheet(s) which are associated with this permit. Any new practices selected shall be implemented in one year from the date of permit issuance. Practices that involve scheduling methods or maintenance shall be documented. Documentation for implementation and/or maintenance shall be maintained on all practices and available upon request.

21. The permitted water withdrawal facilities consist of, and are limited to, one 10-inch well with the pumping capacity of 1000 gallons per minute.

22. This Permit is a temporary permit issued pursuant to Section 373.244, Florida Statutes. The issuance of this Permit shall not in any way be construed as a commitment by the District to issue any water use permit pursuant to Sections 373.219 and 373.229, Florida Statutes. Further, the issuance of this Permit shall not affect the ability of the District to deny any pending application for a water use permit pursuant to Sections 373.219 and 373.229, Florida Statutes.

23. Unless extended by the District's Governing Board, this Permit shall expire on May 9, 2012.

