

AGENDA
SUWANNEE RIVER WATER MANAGEMENT DISTRICT
GOVERNING BOARD INTERMEDIATE MEETING

OPEN TO THE PUBLIC

May 29, 2012
1:00 p.m.

District Headquarters
9225 CR 49
Live Oak, Florida

1. Roll Call
2. Additions, Deletions, or Changes to the Agenda

Action Items

3. Approval of Agenda
- Page 3 4. Declaration of Water Shortage, Phase III, Final Order 12-0005
- Page 17 5. Entry of Final Order 12-0002 Regarding *SRWMD v. William McCans*
- Page 29 6. Entry of Final Order 12-0003 Regarding *SRWMD v. Karamchand Doobay*
- Page 36 7. Approval of Settlement Agreement and Final Order 12-0004 Regarding *SRWMD v. Larry Sigers*
- Page 41 8. Extension of Temporary Water Use Permit Number 2-11-00063, Richard Douglas Farm, Gilchrist County
- Page 53 9. Approval of Water Use Permit Number 2-97-00005M2, William Douberly Farm, Gilchrist and Levy Counties
- Page 64 10. Request for Authorization to Publish Notice of Rule Development for Part I of Statewide Water Use Consistency (“CUPcon”) Rulemaking

Page 69 11. Declaratory and Injunctive Relief Regarding El Rancho No Tengo, Inc., CE05-0017, Columbia County

Page 71 12. Referral of Amended Petition Requesting Administrative Hearing to Division of Administrative Hearings (DOAH) Regarding CE10-0045, Scott McNulty, Levy County

Informational Items

13. Announcements

Unless otherwise noted, all meetings are at District Headquarters in Live Oak, Florida

June 12, 2012	9:00 a.m.	Board Meeting Workshop
July 10, 2012	9:00 a.m.	Board Meeting Workshop
August 14, 2012	9:00 a.m.	Board Meeting Workshop
September 11, 2012	3:00 p.m.	Board Meeting First Budget Hearing

****Board Workshops immediately follow Board Meetings unless otherwise noted.**

14. Adjournment

The entire meeting of the Governing Board is a public hearing and will be governed accordingly. The Governing Board may take action on any item listed on the agenda. The Governing Board may make changes to the printed agenda only for good cause shown as determined by the Chairman and stated for the record. If any person decides to appeal any decision with respect to any action considered at the above referenced meeting and hearing, such person may need to ensure a verbatim record of the proceeding is made to include testimony and evidence upon which the appeal is made. Public attendance and participation at the District Governing Board Meetings are encouraged.

MEMORANDUM

TO: Governing Board
FROM: Tim Sagul, Senior Professional Engineer
DATE: May 18, 2012
RE: Declaration of Water Shortage, Modified Phase III, Order Number 12-0005

RECOMMENDATION

Staff recommends that the Governing Board hold a public hearing to receive testimony and data on hydrologic conditions and enter Water Shortage Order number 12-0005, declaring a Modified Phase III water shortage ordering water use restrictions within the entire boundary of the District in accordance with Chapter 40B-21, Florida Administrative Code.

BACKGROUND

Staff has reviewed data on hydrologic conditions and the likelihood of drought-ending rainfall events. There is a low chance of a drought-ending storm event before the peak of hurricane season in September based on climatology, therefore it is likely that the drought conditions will persist and may intensify.

A modified Phase III water shortage declaration will require mandatory restrictions for certain water use types and voluntary restrictions for others.

The proposed Order with water use restrictions and conditional exemptions from the restrictions is attached to this memorandum.

TS/rl

SUWANNEE RIVER WATER MANAGEMENT DISTRICT
GOVERNING BOARD ORDER

Order Number: 12-0005
Date Approved: May 29, 2012
Subject: Modified Phase III Water Shortage Order
Approval:



Don Quincey, Chairman

Ray Curtis, Secretary

Modified Phase III Water Shortage Order

The Governing Board of the Suwannee River Water Management District (District), during a regularly scheduled meeting held on May 29, 2012, at District Headquarters in Live Oak, Florida, received testimony, including data and recommendations from District staff regarding hydrologic conditions and the declaration of a water shortage within the District. Based on the testimony, data, and staff recommendations, the Governing Board makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. At its May 29, 2012, meeting, the District's Governing Board declared a Modified Phase III Water Shortage, pursuant to the provisions of 40B-21, Florida Administrative Code (F.A.C.), to remain in effect until September 30, 2012.

2. Drought indicators are summarized as follows:

Rainfall

- For the period May 1, 2011, through April 30, 2012, for the fifteen counties within the District, there was an average rainfall deficit of approximately 17.1 inches based on records beginning in 1932.
- The 12-month rainfall ending April 30 is in the lowest one percent of all 12-month periods, and is the lowest of all May through April 12-month period based on records beginning in 1932.

Groundwater Conditions

- Of the 51 upper Floridan monitor wells measured between May 1 and May 15, 2012, 90 percent had levels in the lowest 10 percent of all records, considered extremely low. Eighty-four percent had levels in the lowest 5 percent of all records. Forty-three percent had record-setting lows.
- In the 12 months prior to May 15, 2012, 55 of 94 upper Floridan monitor wells reported record low levels.

Surfacewater Conditions

- The Suwannee River at Branford gage monitors flow contributed by 79 percent of the 9,973 square mile Suwannee River drainage area and has continuous records since 1931. The average flow rate on May 15, 2012, was in the lowest one percent of all daily flows, the lowest one percent of all 7-day average flows, the lowest 10 percent of all 60-day average flows, and was the lowest of all 365-day average flows.
- The Santa Fe River near Fort White gage monitors flow contributed by 74 percent of the 1,374 square mile Santa Fe River drainage area and has continuous records since 1931. The average flow rate on May 15, 2012, was in the lowest 3 percent of daily and 7-day average flows, the lowest 2 percent of 60-day average flows, and was the lowest of all 365-day average flows.
- On May 15, flow rates at the Econfina River near Perry and the Steinhatchee River near Cross City were in the lowest 2 percent of all daily, 7-day, and 365-day average flows, at gages with continuous data beginning in 1950.
- As of April 26, 2012, Treehouse Spring (a first-magnitude spring in Alachua County) and Levy Blue Spring (a third magnitude spring in Levy County) were observed with no flow for the first time in their records. Hornsby Springs, a first magnitude spring in Alachua County, was also not flowing as of April 26.
- Flow measurements taken between January 1 and April 26, 2012, were the lowest in the record for the following springs: Poe Springs, Suwannee Springs, Alapaha Rise, and Otter Springs. On April 26, the flow rate at Poe Springs was 3 cubic feet per second, which is 16 percent of the previous low flow recorded in 2009.

Drought Indices

- As of May 8, 2012, the U.S. Drought Monitor reported all or part of Taylor, Lafayette, Dixie, Suwannee, Columbia, Baker, Union, Bradford, Gilchrist, and Alachua counties in exceptional drought (D4 status). Most

- of Jefferson, Madison, Hamilton, and Levy counties were in extreme drought (D3 status). Suwannee River tributary basins in South Georgia were in extreme drought (D3 status).
- The Palmer (long-term) Drought Severity Index published by the Climate Prediction Center was -4.23 for North Florida for the week ending April 21, indicating extreme drought.
 - As of May 15, the USGS classified the river basins in the SRWMD and the Suwannee River tributary basins in Georgia as under severe hydrologic drought, with the middle- and lower-Suwannee basin under extreme hydrologic drought, based on 7-day average streamflow compared to historical streamflow for the day of year.

Forecast and Climatology

- Average May rainfall based on records beginning in 1932 is 3.43 inches. Average May evapotranspiration based on University of Florida data at four stations in or near the SRWMD beginning in 2003 is 4.9 inches. On average, May rainfall does not provide reliable groundwater recharge.
- The three-month precipitation probability outlook published by the Climate Prediction Center on April 19, 2012, shows North Florida having equal chances of above normal, normal, or below normal precipitation through July 31, 2012.
- The U.S. Seasonal Drought Outlook published on May 3, 2012, depicts the North Florida drought as ongoing with some improvement through the period ending July 31, 2012. South Georgia is depicted as an area of ongoing drought, likely to persist or intensify.

CONCLUSIONS OF LAW

3. The Governing Board of the District is duly authorized by Section 373.246(2), Florida Statutes (F.S.), and Chapter 40B-21, F.A.C., to issue orders declaring the existence of a water shortage within all or part of the District and to impose such restrictions and require such measures as may be necessary to reduce demand on available water supplies.

4. County and city officials and all law enforcement authorities are required to enforce orders lawfully issued by the District pursuant to Chapter 40B-21, F.A.C., and Section 373.609, F.S.

5. The Governing Board held a public workshop on May 8, 2012, and a hearing on May 29, 2012, at the District's headquarters for the purpose of

considering data, including quantitative and qualitative indicators and staff recommendations.

6. Upon careful consideration of the hydrologic conditions, District data, qualitative factors and staff recommendations, the Executive Director has determined that a District-wide Modified Phase III Water Shortage is necessary and should be so ordered.

ORDERED

THEREFORE, based on the foregoing Findings of Fact and Conclusions of Law, it is hereby ORDERED:

7. A Modified Phase III Water Shortage is declared for all ground and surface waters within the District's fifteen-county area.

8. Water use restrictions are attached to this Order and are hereby incorporated.

9. Water use restrictions shall take effect on May 29, 2012.

10. County and city officials and all law enforcement authorities shall enforce this Order when requested, pursuant to the Plan and Section 373.609, F.S.

11. Water shortage declarations and restrictions enacted prior to this Order by county and city officials affecting their local jurisdictions ("Local Action") that are at least as restrictive as this Modified Phase III Water Shortage Order are hereby ratified and authorized to continue in effect according to their terms. In the event that a Local Action is less restrictive than this Order, this Order shall supersede the Local Action, unless the county or city officials obtain a variance or waiver from this Order from the District.

12. This order shall remain in effect from May 29, 2012, until September 30, 2012, unless otherwise modified, revoked, or rescinded by the Governing Board.

ATTACHMENT
MODIFIED PHASE III WATER SHORTAGE RESTRICTIONS

(1) Indoor uses shall be reduced by employing water conservation measures and by installing water conserving devices.

(2) Essential uses should be reduced to the extent practicable by limiting flushing and other system cleaning activities to a level required to maintain the health, safety, and welfare of the public.

(3) Agricultural uses shall be restricted as follows:

(a) Treated wastewater irrigation shall not be restricted.

(b) Low pressure/low volume irrigation systems shall not be restricted.

(c) Overhead irrigation by high pressure/high volume systems shall be prohibited between the hours of 12:00 p.m. and 9:00 p.m. Systems that have been certified by an independent irrigation laboratory within the past five years prior to the effective date of a water shortage order to be as efficient as practicable or are compliant with applicable water conservation best management practices shall not be restricted.

(d) Flood/seepage irrigation systems shall be operated in a manner that will capture all runoff that is practicable for reuse.

(e) Livestock water users shall, to the extent practicable, reduce their water usage to a level required to maintain the health, safety, and welfare of livestock.

(f) Soil flooding for pest control or soil preservation shall be prohibited.

(g) Soil flooding to permit harvesting of sod shall be prohibited.

(h) Aquaculture water users shall, to the extent practicable, reduce their water usage.

(i) All irrigation systems shall be operated in a manner that will efficiently use the water withdrawn.

(j) All agricultural enterprises should suspend those activities which stimulate the need for increased irrigation, as feasible and appropriate.

(k) No unnecessary off-site discharge from irrigation shall be allowed.

(l) No off-site application or irrigation water on non-targeted areas shall be allowed.

(m) Users having access to more than one source class shall maximize the use of the lesser or least restricted source class.

(n) For those agricultural enterprises that have best management practices approved by the Department of Agriculture and Consumer Services, irrigation for purposes of watering-in of insecticides, fungicides, herbicides, and fertilizers shall not be restricted. Such watering-in shall be limited to the minimum necessary and shall be accomplished during the hours allowed for normal irrigation.

(4) Commercial and industrial uses shall be restricted as follows:

(a) Use of treated wastewater shall not be restricted.

(b) Phosphate mining and beneficiation operations:

1. Recycled water within the mine site shall be used to the greatest extent practicable to reduce freshwater withdrawals.

2. Water within noncontiguous mine cuts and other impoundments shall be used to the greatest extent practicable to augment the mine's circulation system.

3. Off-site discharges of water shall be reduced or eliminated to the greatest extent practicable.

4. Cleaning requiring water use shall be reduced to the minimum required to protect the efficiency of the operation, prevent damage to equipment, or maintain the health and safety of workers.

5. Washing of vehicles shall be suspended except for health and safety needs.

6. Nonessential uses, plant cleaning, water-cooled air conditioning, and lawn irrigation shall be reduced or eliminated to the greatest extent practicable. Restriction of other uses within the mine site may also apply.

(c) Chemical products processing or manufacturing facilities:

1. The use of fresh water shall be reduced to the greatest extent practicable.

2. Off-site discharge shall be reduced or eliminated to the greatest extent practicable.

3. Recycled water shall be used to replace fresh water to the greatest extent practicable.

4. Nonessential uses, plant cleaning, water-cooled air conditioning, and lawn irrigation shall be reduced or eliminated to the greatest extent practicable.

(d) Limestone, sand, gravel, or other minerals mining operations:

1. On-site impounded surface waters shall be used to replace fresh water withdrawals to the greatest extent practicable.

2. Spraying for dust control in quarry area shall be reduced except for health and safety needs.

3. Reduce general housekeeping that requires the use of water to the greatest extent practicable.

4. Off-site discharge shall be reduced or eliminated wherever practicable.

(e) Cement, concrete, and concrete products manufacturing facilities:

1. Runoff shall be captured and reused to the greatest extent practicable.

2. Spray drift shall be reduced to the greatest extent practicable and spray application shall be adjusted to attain the greatest practicable efficiency.

3. The water content of products shipped shall be reduced to the greatest extent practicable.

(f) Perishable foods processing operations:

1. Off-site discharge shall be reduced or eliminated wherever feasible.

2. Water losses from released steam shall be minimized to the greatest extent practicable.

3. Effluent shall be recycled to the greatest extent practicable.

(g) Perishable foods packing operations:

1. Restrict washing of fruit and plant area to minimum level necessary for health and safety standards.

2. Equipment washing apparatus with automatic shut-off devices shall be used to the greatest extent practicable.

(h) Bottled water and other beverage products operations:

1. Restrict equipment washing operations to the minimum level necessary for health and safety standards.

2. Implement routine process inspections to find and reduce water waste to the greatest extent practicable.

(i) Power generation:

1. Maximize production from generating facilities which are least dependent upon withdrawals from the source experiencing the shortage, and minimize production from generating facilities which are most dependent upon withdrawals from the source experiencing the shortage, to the greatest extent practicable.

2. Non-essential uses of water, plant cleaning, water-cooled air conditioning, and lawn irrigation shall be reduced or eliminated to the greatest extent practicable. Restrictions of other uses may apply.

3. Power companies should encourage customers to reduce power consumption to the greatest extent practicable, so that they may reduce power generation and in turn, reduce water consumption.

(j) Other industrial and commercial uses:

1. Reduce use by employing water conserving measures and by installing water conserving devices.

2. Replace use of fresh water with reclaimed or recycled water wherever appropriate and feasible to the maximum extent practicable.

3. Users having access to more than one source class shall maximize the use of the lesser or least restricted source class.

4. Additional restrictions may apply.

(5) Water utility uses shall be restricted as follows:

(a) To the greatest extent practicable, utilities shall institute conservation measures such as improving and accelerating leak detection surveys and repair programs, installing and calibrating meters, and stabilizing and equalizing system pressures.

(b) New water line flushing and disinfection shall be limited to minimum requirements.

(6) Landscape irrigation uses shall be restricted as follows:

(a) Treated wastewater irrigation shall not be restricted.

(b) Lawns and landscaping.

1. Established lawns and landscaping.

a. The irrigation of established lawns and landscaping is prohibited, except between the hours of 10:00 p.m. and 6:00 a.m.

b. Hand watering is authorized between the hours of 4 p.m. and 10:00 a.m.

c. Lawn watering is limited to a once-per-week schedule as follows:

Addresses with House Numbers:	May only irrigate on:
Ending in 0 or 1	Monday
Ending in 2 or 3	Tuesday
Ending in 4 or 5	Wednesday
Ending in 6 or 7	Thursday
Ending in 8 or 9	Friday
No address (community common areas, etc.)	Friday

d. Irrigation for purposes of watering-in of insecticides, fungicides and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, shall not be restricted; such watering-in shall be limited to the minimum necessary and should be accomplished during the hours allowed for normal irrigation.

e. The operation of irrigation systems for cleaning and maintenance purposes shall not be restricted, except to be limited to the minimum necessary to maintain efficient operation of the system. Each irrigation zone may be tested a maximum of once per week.

2. New lawns and landscaping.

a. Irrigation of new lawns and landscaping shall occur between the hours of 4:00 p.m. and 10:00 a.m. and limited to the minimum amount required for the establishment of the lawn. Sixty days following planting of lawn and landscaping, the restrictions in paragraph 1. Above shall apply.

b. Irrigation for purposes of watering-in of insecticides, fungicides and herbicides, where such watering-in is required by the manufacturer, or by federal, state or local law, shall not be restricted; such watering-in shall be limited to the minimum necessary and should be accomplished during the hours allowed for normal irrigation.

c. The operation of irrigation systems for cleaning and maintenance purposes shall not be restricted, except to be limited to the minimum necessary to maintain efficient operation of the system. Each irrigation zone may be tested a maximum of once per week.

(c) Golf courses.

1. Irrigation of greens and tees shall occur between the hours of 10:00 p.m. and 6:00 a.m.
2. Irrigation of fairways, roughs, and non-play areas on the front nine holes of the course shall be prohibited, except between the hours of 10:00 p.m. and 6:00 a.m. on odd numbered days.
3. Irrigation of fairways, roughs, and non-play areas on the back nine holes of the course shall be prohibited, except between the hours of 10:00 p.m. and 6:00 a.m. on even numbered days.
4. Horticultural practices which stimulate the need for increased irrigation shall be reduced or suspended to the greatest extent practicable.
5. Users having access to more than one source class shall maximize the use of the lesser or least restricted source class.
6. The operation of irrigation systems for cleaning and maintenance purposes shall be restricted to the minimum necessary to maintain efficient operation of the system. Each irrigation zone may be tested a maximum of once per week.
7. Irrigation for purposes of watering-in of insecticides, fungicides, herbicides, and fertilizer where such watering-in is required by the manufacturer or by federal, state or local law, shall not be restricted; such watering-in shall be limited to the minimum necessary and should be accomplished during the hours allowed for normal irrigation.

(7) Miscellaneous uses shall be restricted as follows:

- (a) Recreation area use of water shall be reduced to the greatest extent practicable.
- (b) Washing or cleaning streets, driveways, sidewalks, or other impervious areas with water shall be prohibited except to meet federal, state, or local health or safety standards.
- (c) Mobile equipment washing shall be accomplished using only low-volume methods (excluding commercial car washes).
- (d) Outside pressure cleaning shall be restricted to only low-volume methods.
- (e) Augmentation shall be limited to the minimum necessary to maintain and preserve the long-term integrity of the surfacewater body and associated habitat for fish and wildlife. Where minimum levels have been established by the District, no augmentation shall occur when water levels are above the applicable minimum water level.
- (f) Aesthetic uses.
 1. Outside aesthetic uses of water shall be prohibited.
 2. Inside aesthetic uses of water shall be prohibited.

(g) Car washing.

1. Car washing by individuals and businesses shall be limited to once per week on the designated watering day for the location.

2. Fundraising and commercial car washes, including mobile detail businesses may operate on any day.

3. Emergency and other first responder vehicles may be washed on any day as needed.

**EXCERPTS FOR
SUWANNEE RIVER WATER MANAGEMENT DISTRICT
CHAPTER 40B-21
WATER SHORTAGE PLAN**

40B-21.051 Definitions

When used in this Chapter:

(1) "Even numbered address" means the house address or rural route ending in the numbers 0, 2, 4, 6, 8, or the letters A-M. Post office box numbers are not included.

(2) "Even numbered days" means the days whose dates end in the numbers 0, 2, 4, 6, or 8. For purposes of this chapter, the date shall be determined by the day during which irrigation begins.

(3) "Hand watering" means the low volume irrigation of plants or crops with one hose, fitted with a self-canceling or automatic shutoff nozzle, attended by one person.

(4) "High Pressure/High Volume Irrigation System" shall mean any sprinkler-type irrigation system with an SER greater than 1.2 and will typically include higher pressure (greater than 30 psi) pivots, traveling or walking systems, or in-ground, overhead sprinkler systems.

(5) "Irrigation System Efficiency Ratio (SER)" shall mean the ratio of the water withdrawn to the water requirement of the plant(s) irrigated and shall be determined by comparing volume of water which needs to be pumped for delivery by a particular irrigation system to the net irrigation requirement of a crop. For example, if a particular irrigation system requires 1.2 inches of water in order to apply 1 inch to a crop, the SER is 1.2:1 or simply 1.2. Generally, the excess water is lost to system leakage, evaporation, and wind drift.

(6) "Low Pressure/Low Volume Irrigation System" shall mean any irrigation system with a SER of 1.2 or less and will typically include trickle, drip, micro jet, and low pressure (less than 30 pounds per square inch [psi]) overhead irrigation systems.

(7) "Low-volume mobile equipment washing" means the washing of mobile equipment with a bucket and sponge or a hose with a self-canceling or automatic shutoff nozzle or both.

(8) "Low-volume pressure cleaning" means pressure cleaning by means of equipment which is specifically designed to reduce the inflow volume as accepted by industry standards.

(9) "Method of withdrawal class" means the type of facility or means of extraction or diversion of water employed by the user. Method of withdrawal classes within the District are specified in Rule 40B-21.571, F.A.C.

(10) "Mobile equipment" means any public, private, or commercial automobile, truck, trailer, railroad car, camper, boat, or any other type of similar

equipment. The term shall not include sanitation and sludge vehicles or food vending and transporting vehicles.

(11) "Odd numbered address" means the house address or rural route ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z. Post office box numbers are not included.

(12) "Odd numbered days" means the days whose dates end in the numbers 1, 3, 5, 7, or 9. For purposes of this chapter, the date shall be determined by the day during which irrigation begins.

(13) "Overhead irrigation" means the use of equipment and devices which deliver water under pressure, through the air, above the level of the plant being irrigated.

(14) "Plan" means the water shortage plan authorized in Section 373.246, F.S., and contained in this chapter.

(15) "Seawater" shall mean any ground or surface water with an average total chloride concentration equal to or greater than 15,000 milligrams per liter.

(16) "Source class" means the specified water resource from which a user is obtaining water either directly or indirectly. Source classes within the District are identified in Rule 40B-21.531, F.A.C.

(17) "Use class" means the category describing the purpose for which the user is using water. Use classes within the District are specified in Rule 40B-21.541, F.A.C.

(18) "User" means any person or entity which directly or indirectly takes water from the water resource, including but not limited to uses from private or public utility systems, uses under water use permits issued pursuant to Chapter 40B-2, F.A.C., or uses from individual wells or pumps for domestic or individual home use.

(19) "Water resource" means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, and any related natural systems. However, it does not refer to treated wastewater effluent or seawater.

(20) "Water shortage" means that situation within all or part of the District when insufficient water is available to meet the existing reasonable-beneficial needs of water users and to protect water resources from serious harm. A water shortage may be the result of a drought or the result of human influences on water resources.

(21) "Water shortage emergency" means a situation when the powers which can be exercised under a water shortage declaration are not sufficient to adequately protect the public health, safety, or welfare, the health of animals, fish, or aquatic life.

(22) "Water Use Permit" means a permit issued pursuant to Chapter 40B-2, F.A.C., authorizing the withdrawal and use of water.

**EXCERPTS FOR
SUWANNEE RIVER WATER MANAGEMENT DISTRICT
CHAPTER 40B-21
WATER SHORTAGE PLAN**

40B-21.601 General.

(1) Upon declaration of a water shortage or water shortage emergency, the restrictions presented within this part can be implemented to achieve the desired overall reductions in user demand. The target reduction ultimately chosen during a water shortage will be dependent upon the severity of the particular shortage. The District shall evaluate hydrologic conditions and implement the restrictions found in this Part. The restrictions shall be included in the notice(s) of the shortage, as specified in Rule 40B-21.275, F.A.C.

(2) Restrictions are presented for each use class and various subclasses. It shall be the responsibility of each water user to keep informed as to the restrictions in effect.

(3) In addition to the restrictions specified in this part, all wasteful and unnecessary water use is prohibited regardless of the severity of water shortage. This subsection is not intended to prohibit legal uses of water whether permitted or exempted by rule or statute. Such wasteful and unnecessary water use shall include, but not be limited to:

(a) Allowing water to be dispersed without any practical purpose to the user, regardless of the type of water use;

(b) Allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use;

(c) Allowing water to be dispersed to accomplish a purpose for which water use is unnecessary or which can be easily accomplished through alternative methods without water use; and

(d) Allowing water to be dispersed for purely aesthetic or ornamental uses.

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Senior Professional Engineer

DATE: May 18, 2012

RE: Entry of Final Order Number 12-0002 Regarding CE08-0037, William McCans, Bradford County

RECOMMENDATION

Staff recommends that the Governing Board enter Final Order Number 12-0002 regarding Enforcement Stipulated Settlement Agreement number CE08-0037, William McCans, Bradford County.

BACKGROUND

The signed Stipulated Settlement Agreement was received at the District on May 7, 2012.

Entry of the Final Order will serve as final agency action in this matter.

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Attachment (Signed Stipulated Settlement Agreement)



SUWANNEE RIVER WATER MANAGEMENT DISTRICT

9225 CR 49
Live Oak, FL 32060
TELEPHONE: 386-362-1001
TELEPHONE: 800-226-1066
FAX: 386-362-1056

SUWANNEE RIVER WATER MANAGEMENT DISTRICT,
Petitioner,
vs.
WILLIAM MCCANS

FILE NO. CE08-0037
FINAL ORDER NO. 12-0002

FINAL ORDER

This matter appeared before this Governing Board on May 29, 2012, to be heard on the Settlement Agreement signed by the Respondent and, having considered the record in this proceeding and the Settlement Agreement, this Board orders:

The Settlement Agreement dated May 7, 2012, a copy of which is attached hereto and made a part hereof, is adopted as the Final Order in this proceeding and constitutes final action of this agency in this proceeding.

This order entered by the Governing Board of the Suwannee River Water Management District this 29 day of May, 2012.

By: Donald J. Quincey, Jr.

Attest: Ray Curtis

Filed with the SRWMD District Clerk on this ___ day of ___, 2012.

Deputy Clerk

Copies furnished to: Matt Mitchell
William McCans

IN THE CIRCUIT COURT, EIGHTH
JUDICIAL CIRCUIT, IN AND FOR
BRADFORD COUNTY, FLORIDA

SUWANNEE RIVER WATER
MANAGEMENT DISTRICT,

CASE NO.: 04-2011-CA-64

Plaintiff,

v.

WILLIAM MCCANS

Defendant.

STIPULATED SETTLEMENT AGREEMENT

This Stipulated Settlement Agreement is made and entered into by Suwannee River Water Management District, hereinafter referred to as "District" or "Plaintiff", and William McCans, hereinafter referred to as "McCans" or "Defendant", to settle certain matters at issue between Plaintiff and Defendant pursuant to Chapters 120 and 373, Florida Statutes ("F.S."), and Chapters 28 and 40B, Florida Administrative Code ("F.A.C."), as follows:

FACTS

1. Defendant is William McCans, 7404 Calmont Avenue, Ft. Worth, Texas 76116.
2. Plaintiff is a governmental agency of the State of Florida created and empowered by F.S. Chapter 373, and pursuant to the authority therein, most particularly Chapter 373, Part IV, F.S., has adopted regulations for construction and alteration of surface water management systems in Chapters 40B-1, 40B-4 and 40B-400, F.A.C.
3. McCans is the owner of and in possession and in control of a parcel of real property identified as Parcel No. 03646-0-00000, also known as Sonic Restaurant in Bradford County, Florida ("the Property"). The Property is located within the geographic boundaries of the District, as established by Section 373.069(2)(b), F.S.
4. Chapter 373, F.S. authorizes the District to require permits for actions that affect surface water management systems located within the geographical boundaries of the District.

MAY 07 2012

5. McCans initially obtained Environmental Resource Permit ("ERP") number ERP04-0364 from the District on October 4, 2004, for the construction and operation of a surface water management system serving .44 acres of impervious surfaces on a total project area of .56 acres, which surface water management system incorporated two dry retention ponds.

6. ERP04-0364, which was issued to McCans, states as follows:

"It is your responsibility to insure that adverse off-site impacts do not occur either during or after construction. Any additional construction or alterations not authorized by this permit may result in flood control or water quality problems both on- and off-site and will be a violation of District Rules."

7. Standard Condition #3 of ERP04-0364 states as follows:

"The operational and maintenance phase of an environmental resource permit will not become effective until the owner of his authorized agent certifies that all facilities have been constructed in accordance with the design permitted by the District. If required by the District, such as-built certification shall be made by an engineer or surveyor. Within 30 days after the completion of construction of the system, the permittee shall notify the District that the facilities are complete. If appropriate, the permittee shall request transfer of the permit to the responsible entity approved by the District for operation and maintenance. The District may inspect the system and, as necessary, require remedial measures as a condition of transfer of the permit or release³ for operation and maintenance of the system."

8. Standard Condition #7 of ERP04-0364 states as follows:

"The permit is issued based on the information submitted by the applicant which reasonably demonstrates that adverse off-site water resource impacts will not be caused by the permitted activity. It is the responsibility of the permittee to insure that such adverse impacts do not in fact occur either during or after construction."

9. Standard Condition #12 of ERP04-0364 states as follows:

"The surfacewater management system shall be operated and maintained in a manner which is consistent with the conditions

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of the permit and vchap0ter 40B-4.2040, F.A.C.”

10. Standard Condition #14 of ERP04-0364 states as follows:

“The permit is issued based on the information submitted by the applicant which reasonably demonstrates that adverse off-site water resource impacts will not be caused by the permitted activity. It is the responsibility of the permittee to insure that such adverse impacts do not in fact occur either during or after construction.”

11. Standard Condition #18 of ERP04-0364 states as follows:

“Stabilization measures shall be initiated for erosion and sediment control on disturbed areas as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven days after the construction activity in that portion o the site has temporarily or permanently ceased.”

12. Standard Condition #23 of ERP04-0364 states as follows:

“Within 30 days after completion of construction of the permitted system, or independent portion of the system, the permittee shall submit a written statement of completion and certification by a registered professional engineer or other appropriate individual as authorized by law, using the supplied As-Built Certification Form No. 40B-1.901(16) incorporated by reference in Subsection 40B-1.901(16), F.A.C. When the completed system differs substantially from the permitted plans, any substantial deviations shall be noted and explained and two copies of as-built drawings submitted to the District. Submittal of the completed form shall serve to notify the District that the system is ready for inspection. The statement of completion and certification shall be based on on-site observation of construction (conducted by the registered professional engineer, or other appropriate individual as authorized by law, or under his or her direct supervisions) or review of as-built drawings for the purpose of determining if the work was completed in compliance with approved plans and specifications. As-built drawings shall be the permitted drawings revised to reflect any changes made during construction. Both the original and any revised specifications must be clearly shown. The plans must be clearly labeled as “as-built” or “record” drawing. All surveyed dimensions and elevations shall be certified by a registered surveyor. The following information, at a minimum, shall be verified on the as-

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built drawings:

- a. Dimensions and elevations of all discharge structures including all weirs, slots, gates, pumps, pipes, and oil and grease skimmers;
 - b. Locations, dimensions, and elevations of all filter, exfiltration, or underdrain systems including cleanouts, pipes, connections to control structures, and points of discharge to the receiving waters;
 - c. Dimensions, elevations, contours, or cross-sections of all treatment storage areas sufficient to determine stage-storage relationships of the storage area and the permanent pool depth and volume below the control elevation for normally wet systems, when appropriate;
 - d. Dimensions, elevations, contours, final grades, or cross-sections of the system to determine flow directions and conveyance of runoff to the treatment system;
 - e. Dimensions, elevations, contours, final graded, or cross-sections of all conveyance systems utilized to convey off-site runoff around the system;
 - f. Existing water elevations(s) and the date determined; and
 - g. Elevation and location of benchmark(s) for the survey.
13. On August 2, 2006, the District sent a letter to McCans, requesting that as-built certifications be submitted by August 31, 2006.
14. Subsequently, Sections C of the as-built certifications was submitted to the District.
15. On September 5, 2006, the District sent a letter to McCans, requesting that Sections A and B of the as-built certifications be submitted by September 15, 2006.
16. McCans failed to submit Sections A and B of the as-built certifications.
17. On October 25, 2006, District staff conducted a site inspection and determined that the surface water management system was not functioning as permitted.

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18. On October 26, 2006, District staff sent a letter to McCans requesting that Sections A and B of the as-built certification forms be submitted and demanding that the surface water management system be corrected to function as permitted, or to submit a permit modification on or before November 30, 2006, to modify the system.
19. On November 22, 2006, McCans submitted a letter to the District requesting an extension of time to comply with the demands set forth in the District's letter dated October 26, 2006.
20. The District granted McCans an extension of time until February 1, 2007 to comply with the demands set forth in the District's letter dated October 26, 2006.
21. On February 2, 2007, the District received proposed plans to alter the malfunctioning ponds which included converting the permitted dry ponds to wet detention ponds.
22. On April 23, 2007, the District sent McCans a Notice of Violation requesting a construction schedule to be provided to the District on or before May 11, 2007.
23. On or about May 11, 2007, an agent representing McCans notified the District that remedial work on the surface water management system would be completed by May 18, 2007.
24. On June 21, 2007, the District served a Notice of Violation on McCans requiring Defendant to repair the erosion of the surface water management system that was occurring subsequent to the remediation work and that such repairs must be completed on or before July 21, 2007.
25. On May 14, 2008, a Notice of Violation was served on McCans demanding that the surface water management system be stabilized and corrected and also the as-built certifications be provided to the District on or before June 14, 2008.
26. On June 25, 2008, McCans and Sonic Restaurants, Inc. requested an extension of thirty (30) days to provide a remediation plan and an operation and maintenance plan.
27. District staff granted McCans and Sonic Restaurants, Inc., a 30-day extension to provide a remediation plan and an operation and maintenance plan.
28. McCans and Sonic Restaurants, Inc. failed to submit as-built certification forms and failed to provide a remediation and operation and maintenance plan.

MAY 07 2012

29. On January 13, 2009, an agent for McCans and Sonic Restaurants, Inc. provided the District a report on the as-built conditions of the surface water management system.
30. In June, 2009, District staff conducted a site inspection of the property and found that the surface water management system was not functioning properly or as permitted.
31. On June 22, 2009, the District notified McCans and Sonic Restaurants, Inc. that the surface water management system failed to function properly or as permitted and also that as-built certifications needed to be submitted.
32. On August 31, 2009, District staff again notified McCans and Sonic Restaurants, Inc.'s agent that the surface water management system failed to function properly or as permitted and potential options for resolving the problems were provided.
33. On January 28, 2010, a Notice of Violation was sent to McCans requesting a remediation plan and a schedule to implement the plan by February 16, 2010.
34. McCans and Sonic Restaurants, Inc. failed to respond to the Notice of Violation, and also failed to submit a new remediation plan and schedule.
35. On May 13, 2010, District staff served a Notice of Violation ("NOV") on McCans regarding the failure of the surface water management system to function properly or as permitted.
36. On July 22, 2010, counsel for the District sent McCans a NOV regarding the non-functioning surface water management system and demanded that the system be properly repaired and brought into compliance with permit conditions, District rules, and Florida Statutes, and also demanded payment of a penalty, attorney's fees and District investigative and administrative costs.
37. McCans failed to comply with the requirements outlined in the July 22, 2010 NOV and, as a result, District filed its Complaint in the Circuit Court of Bradford County on or about January 31, 2011.
38. McCans was served with the Complaint on or about February 22, 2011 and filed his Answer and Affirmative Defenses on or about March 25, 2011.

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REGULATIONS OR LAWS VIOLATED

39. The parties stipulate that certain provisions of ERP04-0364, specifically, Standard Conditions #3, 7, 12, 14, 18 and 23 of ERP04-0364, Chapters 40B-1, 40B-4 and 40B-400, F.A.C. and Part 4 of Chapter 373, F.S. have been violated.

ASSESSED PENALTY, ADMINISTRATIVE COSTS AND ATTORNEYS FEES

40. It is stipulated and agreed between the District and McCans that McCans shall pay the following amounts within thirty (30) days from the date that this Stipulated Settlement Agreement is approved by the Governing Board of the District.

Assessed Penalty:	\$ 4,000.00
Administrative Costs	\$ 2,170.90
Attorneys' Fees and Costs:	\$ 3,000.00
 TOTAL:	 \$ 9,170.90

REMEDIAL ACTION

41. Within thirty (30) days of the approval of this Stipulated Settlement Agreement by the Governing Board of the District, McCans shall apply for an Environmental Resource Permit Modification to ERP08-0037 which requires a permit modification fee of \$200.00 and required bond or other form of surety for \$1,000.00 pursuant to Rule 40B-1.704, F.A.C.
42. The proposed stormwater management system improvements, contemplated in the ERP modification required above, must meet applicable conditions for issuance of Environmental Resource Permits pursuant to Rule 40B-4.2030, F.A.C., and content of application pursuant to Rule 40B-4.2020, F.A.C.
43. If the modified stormwater management system, contemplated in the ERP modification required above, is to revise the existing ponds from "dry" retention ponds to "wet" detention ponds, then the design of the ponds must meet the appropriate criteria for "wet" detention ponds set forth in Chapters 40B-4 and 40B-400, F.A.C.
44. If the modified stormwater management system, contemplated in the ERP modification required above, will discharge directly to the existing drainage system within US 301, approvals from the Florida Department

part 10
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of Transportation and the City of Starke must be obtained by Defendant prior to the issuance of a modified ERP.

45. The modified stormwater management system, contemplated in the ERP modification required above, must correct and remedy the seepage from the ponds, which is causing unsafe conditions on the adjacent sidewalk within the US 301 right-of-way.
46. McCans shall timely and cooperatively provide any and all additional information required and/or requested by the District to issue or deny the ERP modification described above.
47. Upon final approval and issuance of the ERP Modification by the District, McCans shall timely and in good-faith perform all actions required by the approved ERP Modification to properly and permanently remedy the current non-functioning storm water ponds and associated seepage issues.
48. Within thirty (30) days from the date that all actions necessary to fully comply with the approved ERP Modification, McCans shall submit Sections A and B of the as-built certification forms and shall cause Section C, as-built certification form to be submitted to District by a licensed engineer.
49. Within thirty (30) days of receiving Sections A, B and C as-built certification forms, the District shall inspect the system on the Property to determine if the system is functioning in accordance with the permitted plan, permit conditions and District Rules. If District determines that further remediation is required on the system, District shall notify McCans within thirty (30) days from the date District determines additional work is required.
50. Within thirty (30) days of notification by District staff that additional work on the system is required, McCans shall complete, to the District's satisfaction any and all additional work required to bring the Property's surface water management system into full compliance with the terms and conditions of McCans' Environmental Resource Permit, District Rules, and Florida Statutes. McCans shall timely and in good faith cooperate with District staff to resolve any additional remedial measures that may be required to bring the system in to full compliance with District Rules, Florida Statutes and terms and conditions of McCans' Environmental Resource Permit.
51. No modifications of the terms of this Stipulated Settlement Agreement

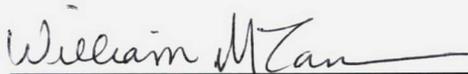
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shall be effective until put in writing and executed by both District and McCans. The parties agree that the Court reserves jurisdiction to enforce any and all terms of this Stipulated Settlement Agreement.

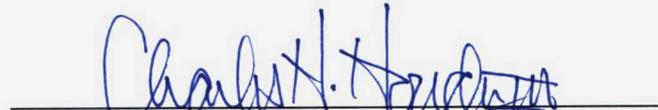
52. The parties hereby waive any and all rights and options which they have or might have to bring or maintain any such litigation or action in the federal court system of the United States or in any United States Federal District Court. The parties hereby waive any and all rights and options which they have or might have to a trial by jury. Venue and exclusive jurisdiction for any such action shall lie and be only in the appropriate state courts of the State of Florida in and for Suwannee County, Florida. If any further court action is necessary to enforce any or all provisions of this Stipulated Settlement Agreement, the prevailing party shall be entitled to their reasonable attorneys' and paralegals' fees, costs and expenses from the non-prevailing party, in addition to any other relief to which they may be entitled.

DEFENDANT

**SUWANNEE RIVER WATER
MANAGEMENT DISTRICT**



William McCans
7404 Calmont Avenue
Ft. Worth, TX 76116
Date Signed: 4.11.12



Charles H. Houder, III
Assistant Executive Director
9225 County Road 49
Live Oak, Florida 32060
Telephone: 386.362.1001



Wesley R. Douglas, Esquire
Florida Bar No. 0011124
Foreman McInnis
P.O. Box 550
Lake City, FL 32056-0550
Telephone: 386-752-8420
Attorney for Defendant



Matthew C. Mitchell, Esquire
Florida Bar No. 0028155
Brannon, Brown, Haley & Bullock, P.A.
P.O. Box 1029
Lake City, Florida 32056-1029
Telephone: 386.752.3213
Attorneys for Plaintiff

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APPROVAL AND ACCEPTANCE BY GOVERNING BOARD

The Governing Board of the Suwannee River Water Management District hereby approves of and accepts the terms and conditions set forth in this Stipulated Settlement Agreement.

ACCEPTED AND APPROVED this _____ day of _____,
2012, in Live Oak, Florida.

**SUWANNEE RIVER WATER
MANAGEMENT DISTRICT**

Donald J. Quincey, Jr.
Governing Board Chairman
9225 County Road 49
Live Oak, Florida 32060
Telephone: 386/362-1001

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MAY 07 2012

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Senior Professional Engineer

DATE: May 18, 2012

RE: Entry of Final Order Number 12-0003 Regarding CE10-0060,
Karamchand Doobay, Florida Gateway Resort, LLC, Hamilton County

RECOMMENDATION

Staff recommends that the Governing Board enter Final Order Number 12-0003 on Consent Agreement number CE10-0060, for Karamchand Doobay, Florida Gateway Resort, LLC, Hamilton County.

BACKGROUND

The Consent Agreement and Order was received at the District on May 7, 2012.

Entry of the Final Order will serve as final agency action in this matter.

/rl

Attachment (Signed Consent Agreement)



SUWANNEE RIVER WATER MANAGEMENT DISTRICT

9225 CR 49
Live Oak, FL 32060
TELEPHONE: 386-362-1001
TELEPHONE: 800-226-1066
FAX: 386-362-1056

SUWANNEE RIVER WATER MANAGEMENT DISTRICT,
Petitioner,
vs.
KARAMCHAND DOOBAY,
Individually, on behalf of
FLORIDA GATEWAY RESORT, LLC

FILE NO. CE10-0060
FINAL ORDER NO. 12-0003

FINAL ORDER

This matter appeared before this Governing Board on May 29, 2012, to be heard on the Consent Agreement signed by the Respondent and, having considered the record in this proceeding and the Consent Agreement, this Board orders:

The Consent Agreement and Order dated May 7, 2012, a copy of which is attached hereto and made a part hereof, is adopted as the Final Order in this proceeding and constitutes final action of this agency in this proceeding.

This order entered by the Governing Board of the Suwannee River Water Management District this 29th day of May 2012.

By: Donald J. Quincey, Jr.

Attest: Ray Curtis

Filed with the SRWMD District Clerk on this ___ day of ___, 2012.

Deputy Clerk

Copies furnished to: Matt Mitchell
Karamchand Doobay, Florida Gateway Resort, LLC

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

**SUWANNEE RIVER WATER
MANAGEMENT DISTRICT,**

PETITIONER

VS.

**KARAMCHAND DOOBAY, individually, and
As Managing Member of FLORIDA GATEWAY
RESORT, LLC,**

RESPONDENT.

CONSENT AGREEMENT CE10-0060 AND ORDER

This Consent Agreement and Order is made and entered into by Suwannee River Water Management District, hereinafter referred to as "District" or "Petitioner", and Karamchand Doobay, individually, and as Managing Member of Florida Gateway Resort, LLC, hereinafter referred to as "Respondent", to settle certain matters at issue between Petitioner and Respondent pursuant to Chapters 120 and 373, Florida Statutes ("F.S."), and Chapter 28, Florida Administrative Code ("F.A.C."), as follows:

FACTS

1. Respondent is Karamchand Doobay, individually, and as Managing Member of Florida Gateway Resort, LLC, 7516 Southeast 113th Boulevard, Jasper, Florida 32052.
2. Petitioner is a governmental agency of the State of Florida created and empowered by Chapter 373, F.S., and pursuant to the authority therein, most particularly Chapter 373, Part IV, F.S., has adopted regulations for construction and alteration of surface water management systems in F.A.C. Chapters 40B-1, 40B-4 and 40B-400.
3. Respondent was issued Environmental Resource Permit ("ERP") 07-0301 on November 19, 2007, for the construction and operation of a surfacewater management system serving 0.29 acres of impervious surface on a total project area of 49.30 acres in a manner consistent

with the application package submitted by Bailey, Bishop & Lane, Inc., certified on November 12, 2007.

4. On June 23, 2010, Petitioner received from Respondent an application for modification of the ERP to allow paving of the existing roads with asphalt, add a "Lazy River," change RV parking areas to allow "cottages" and modify the stormwater management system. The total impervious area proposed to be covered was 224,852 ft.
5. On July 1, 2010, Petitioner sent Respondent a Request for Additional Information ("RAI"). In response, Respondent submitted additional information on July 8, 2010. Petitioner then sent a second RAI to Respondent on August 6, 2010.
6. On November 3, 2010, Respondent submitted an extension request to Petitioner. After receiving no further information from Respondent, Petitioner inspected the project on December 14, 2010.
7. Upon inspecting the project on December 14, 2010, Petitioner observed that work was in progress on the project, which resulted in Petitioner serving Respondent with a Notice of Violation and Stop Work Order on or about December 16, 2010.
8. On or about December 21, 2010 and/or February 14, 2011 and/or May 17, 2011, Respondent contacted Petitioner and indicated no further work would be performed on the project until a modified ERP was approved and issued.
9. On June 28, 2011, Petitioner inspected the project and discovered that additional work had been performed on the project.

REGULATIONS OR LAWS VIOLATED

10. Without Respondent admitting liability, it appears conditions of Chapters 40B-1, 40B-4, and 40B-400, F.A.C. and Part IV, Chapter 373, F.S., have been violated. Specifically, Rules 40B-1.702, 40B-4.1040, F.A.C. and Section 373.413, F.S., appears to have been violated for failure to obtain a permit for initiating a project that includes dredging and filling and the construction of surface water management systems. In addition, Section 12.0 of the Environmental Resource Permit Applicant's Handbook ("Handbook"), adopted by reference in Rule 40B-400.091, F.A.C., states that by statute or rule,

permits are required for the construction, alteration, operation, maintenance, abandonment, and removal of systems so that the Petitioner can conserve the beneficial functions of these communities. The term "systems" includes areas of dredging or filling, as those terms are defined in Section 373.403, F.S.

ASSESSED PENALTY, ADMINISTRATIVE COSTS AND ATTORNEYS FEES

11. Pursuant to Section 120.57, F.S., Petitioner finds and it is agreed that Respondent shall pay the following:

Assessed Penalty:	\$ 1,500.00
Attorneys' Fees and Costs:	\$ 2,000.00
Administrative Costs:	\$ 243.80
TOTAL:	\$ 3,743.80

REMEDIAL ACTION

12. Within thirty (30) days of execution of this Consent Agreement, Respondent shall:
- A. Submit to District all additional information requested in the August 6, 2010 RAI;
 - B. Timely and cooperatively respond to any other RAI's that may be necessary prior to the granting of the modified ERP;
 - C. Pay the total amount of \$3,743.80, which amount is comprised as follows:
 - i. Assessed Penalty: \$1,500.00
 - ii. District Administrative Costs: \$ 243.80
 - iii. Attorneys' Fees: \$2,000.00
 - D. Within thirty (30) days after completion of construction authorized by ERP07-0301M, submit to the District all as-built certification forms.
13. By execution of this Consent Agreement, Respondent waives his rights to an administrative hearing pursuant to Section 120.57, F.S.,

and their right of appeal pursuant to Section 120.68, F.S., or Chapter 373, F.S., with regard to the terms of this Consent Agreement.

14. Nothing herein shall be construed to limit the authority of the District to undertake enforcement or legal actions against Respondent in response to conditions that may present an imminent hazard to the public health, welfare, or the environment.
15. Entry of this Consent Agreement does not relieve Respondent of the need to comply with any applicable federal, state, or local laws, regulations, or ordinances.
16. The terms and conditions set forth in this Consent Agreement may be enforced in a court of competent jurisdiction, pursuant to Section 120.69, F.S., and Chapter 28, F.A.C., or any other applicable rule or statute, and Respondent consents to entry of final judgment by a court of competent jurisdiction to enforce the terms of this agreement plus attorneys' fees and costs, pursuant to Section 373.129, F.S., if Respondent fails to comply. Failure to comply with the terms of this Consent Agreement shall constitute a violation of Chapter 28, F.A.C., and the appropriate statutes.
17. Petitioner hereby expressly reserves the right to initiate appropriate administrative or legal action to prevent or prohibit future violation of applicable statutes or any rules promulgated there under, or to protect the public health, safety, or general welfare.
18. This Consent Agreement is final agency action of the Suwannee River Water Management District pursuant to Section 120.69, F.S., and Chapter 28, F.A.C., and it is final and effective on the date filed with the District Clerk of the Suwannee River Water Management District.
19. Respondent agrees District shall have 60 days from receipt of this document, to accept and sign this Consent Agreement and Order.
20. No modification of the terms of this Consent Agreement shall be effective until put in writing and executed by both Respondent and Petitioner.

RESPONDENT



Karamchand Doobay
Florida Gateway Resort, LLC
7516 Southeast 113th Boulevard
Jasper, Florida 32052

Date: 4.14.2012

**SUWANNEE RIVER WATER
MANAGEMENT DISTRICT**



David Still *CHARLES H. HOUDER III*
Executive Director, *ACTING*
9225 County Road 49
Live Oak, Florida 32060
Telephone: 386.362.1001



Matthew C. Mitchell, Esquire
Florida Bar No. 0028155
Brannon, Brown, Haley & Bullock, P.A.
P.O. Box 1029
Lake City, Florida 32056-1029
Telephone: 386.752.3213
Attorneys for Petitioner

ORDER

The Parties hereto having entered into the above Consent Agreement, it is therefore ORDERED that the terms of said Consent Agreement are incorporated in this Order and said Consent Agreement is hereby the Order of the Suwannee River Water Management District.

DONE AND ORDERED this _____ day of _____,
_____, in Live Oak, Florida.

**SUWANNEE RIVER WATER
MANAGEMENT DISTRICT**

Donald J. Quincey, Jr.
Governing Board Chairman
9225 County Road 49
Live Oak, Florida 32060
Telephone: 386/362-1001

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Senior Professional Engineer

DATE: May 18, 2012

RE: Approval of Settlement Agreement, Final Order Number 12-0004,
Regarding CE08-0072, Larry Sigers, Columbia County

RECOMMENDATION

Staff recommends the Governing Board approve the mediation agreement and Final Order Number 12-0004, as stated in the attached agreement.

BACKGROUND

This project has been in enforcement for several years. In an attempt to bring the project into compliance without proceeding with further litigation, the involved parties held a mediation conference on May 10, 2012.

A copy of the original mediation agreement is attached.

TS/rl



SUWANNEE RIVER WATER MANAGEMENT DISTRICT

9225 CR 49
Live Oak, FL 32060
TELEPHONE: 386-362-1001
TELEPHONE: 800-226-1066
FAX: 386-362-1056

SUWANNEE RIVER WATER MANAGEMENT DISTRICT,
Petitioner,
vs.
LARRY SIGERS

FILE NO. CE08-0072
FINAL ORDER NO. 12-0004

FINAL ORDER

This matter appeared before this Governing Board on May 29, 2012, to be heard on the Settlement Agreement at Mediation signed by the Respondent, Bruce Robinson, Esq., Terrance Brown, Esq., and the Suwannee River Water Management District and, having considered the record in this proceeding and the Consent Agreement, this Board orders:

The Settlement Agreement at Mediation dated May 10, 2012, a copy of which is attached hereto and made a part hereof, is adopted as the Final Order in this proceeding and constitutes final action of this agency in this proceeding.

This order entered by the Governing Board of the Suwannee River Water Management District this 29 day of May, 2012.

By: Donald J. Quincey, Jr.

Attest: Ray Curtis

Filed with the SRWMD District Clerk on this day of , 2012.

Deputy Clerk

Copies furnished to: Brice Robinson
Larry Sigers

MAY 10 2012

IN THE CIRCUIT COURT, THIRD JUDICIAL CIRCUIT
IN AND FOR SUWANNEE COUNTY, FLORIDA

Original to File _____
Copies to _____

SUWANNEE RIVER WATER
MANAGEMENT DISTRICT,

Plaintiff,

v.

CASE NO.: 2011-CA-299

LARRY SIGERS,

Defendant.

_____ /

SETTLEMENT AGREEMENT AT MEDIATION

The parties hereto have reached the following ~~the~~ resolution to resolve the above-style case.

Handwritten signatures and initials: N.M., J.M.D., J.A.B.

1. Defendant shall comply with the terms of the consent agreement attached here to as Exhibit A.

2. This means also Defendant shall complete the remedial action set forth in paragraph 10(B) and 10(C) of the consent agreement attached hereto as Exhibit A within 45 days of the date of mediation which is May 10, 2012 and shall pay the sum set forth in paragraph 8 of said consent agreement within 30 days of the date of mediation.

4. As to the conveyance of land as set forth in paragraphs 8 and 10 (A) of said consent agreement plaintiff shall have until May 31, 2012 to approve the title of the thirty-one acres of land and failing approval of the title by the Suwannee River Water Management District Governing Board Defendant shall pay the penalty of \$13,980 in lieu of said conveyance of thirty-one acres. Said payment shall occur within 45 days of the date of mediation if title is not accepted. If the title is approved by the Governing Board of the Suwannee River Water Management District then Defendant shall convey

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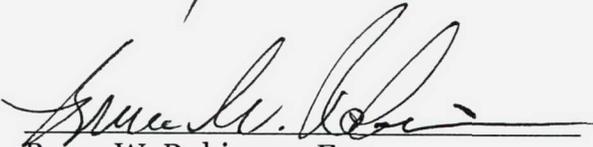
Original to File _____
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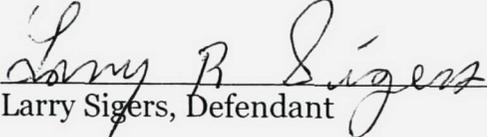
said thirty-one acres to the Suwannee River Water Management District with no other exceptions other than those on the previously provided title insurance binder and shall convey said property by warranty deed to the Suwannee River Water Management District within 45 days of the date of mediation.

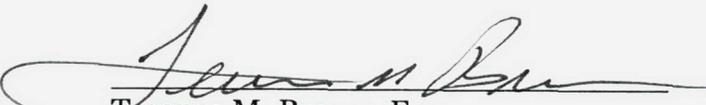
5. This settlement agreement in its entirety must be approved by the Suwannee River Water Management District Governing Board to have any force and effect.

Executed by the parties this 10th day of May 2012, at Gainesville, Alachua County, Florida.

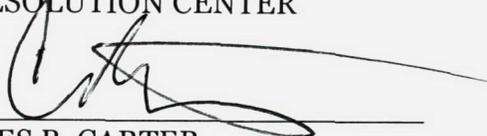

Suwannee River Water Mgt., Plaintiff
By: Jon Dinges (print name)
Capacity: Department Director


Bruce W. Robinson, Esq.
582 West Duval Street
Lake City, FL 32056-1178
Attorney for Plaintiff


Larry Sigers, Defendant


Terence M. Brown, Esq.
PO Box 40
Starke FL 32091
Attorney for Defendant

THE RESOLUTION CENTER


CHARLES B. CARTER
Certified Circuit Civil Mediator & Arbitrator
4719 NW 53rd Avenue, Suite A
Gainesville, FL 32653
Telephone: (352) 381-9991
Fax No.: (352) 381-8298
Certification No. 18072CR
FL Bar No. 281840

Received
SRWMD

MAY 10 2012

Copies Furnished To:

Bruce W. Robinson, Esq.
582 West Duval Street
Lake City, FL 32056-1178
Attorney for Plaintiff

Terence M. Brown, Esq.
PO Box 40
Starke FL 32091
Attorney for Defendant

Original to File _____
Copies to _____

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Senior Professional Engineer

DATE: May 18, 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 June 13, 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. The Board reauthorized the temporary permit at the April and May 2012 meetings. The current permit will expire on June 13, 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

May 18, 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 June 13, 2012.

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 29, 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 3608

May 18, 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 June 13, 2012.

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 29, 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 3615

STAFF REPORT
TEMPORARY WATER USE PERMIT

DATE: May 18, 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 June 13, 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 sub basins.

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 14 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 14-day temporary allocation (2.3392 million gallons for 14-days).

The Average Daily Rate (ADR) will be 0.1671 mgd. The ADR equates to 1.2 inches of supplemental irrigation during the 14-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 (i.e. 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, un-irrigated 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. The Board reauthorized the temporary permit at the April and May 2012 meetings. The current temporary permit expires on June 13, 2012.

Conditions of Issuance

Is this a reasonable–beneficial use?

[ref. 40B-2.301(1)(a)]

Yes, based on the evaluation of criteria listed in 40B-2.301(2)(a)-40B-2.301(2)(k).

Will this use interfere with any presently existing legal use of water?

[ref. 40B-2.301(1)(b)]

No. Based on the SRWMD North Florida Model, version 1.0, the use will not interfere with any presently existing legal uses of water.

Will this use be consistent with the public interest?

[ref. 40B-2.301(1)(c)]

Yes. Based on the provided information, the water will be used efficiently, will not be wasted, and is for an economically beneficial use. The use meets the criteria listed in 40B-2.301(2)(a)-40B-2.301(2)(k).

Will this use be in such a quantity and of such quality as is necessary for economic and efficient use?

[ref. 40B-2.301(2)(a)]

Yes. Based on IFAS crop water needs table, the use is such a quantity and such quality as is necessary for economic and efficient use.

Is this use for a purpose that is both reasonable and consistent with the public interest?

[ref. 40B-2.301(2)(b)]

Yes. Based on IFAS crop water needs this use is both reasonable and consistent with the public interest.

Will the source of the water be capable of producing the requested amounts and appropriate quality of water?

[ref. 40B-2.301(2)(c)]

Yes. Based on the SRWMD North Florida Model, version 1.0, of the source will be capable of producing the requested amounts and appropriate quality of water.

Will the use degrade the source from which it is withdrawn?

[ref. 40B-2.301(2)(d)]

No. Based on the SRWMD North Florida Model, version 1.0, the use will not degrade the source from which it is withdrawn.

Will the use cause or contribute to flooding?

[ref. 40B-2.301(2)(e)]

No. Based on crop types and proposed farm practices, flooding is not a concern for this operation.

Will the use harm offsite land uses?

[ref. 40B-2.301(2)(f)]

No. Based on the existing land uses surrounding the operation, harm to offsite land uses is not a concern.

Will the use cause harm to wetlands or other surface water? Harm to wetland or other surface waters must be mitigated after completion of reduction or elimination of harm in accordance with sections 3.1.8. through 3.1.10. of the Water Use Permitting Guide.

[ref. 40B-2.301(2)(g)]

No. Based on the SRWMD North Florida Model, version 1.0, the use will not cause harm to wetlands or other surface waters.

Will the use cause or contribute to a violation of either minimum flows or levels?

[ref. 40B-2.301(2)(h)]

No. Based on the SRWMD North Florida Model, version 1.0, the use will not cause or contribute to a violation of either minimum flows or levels.

Will the use cause or contribute to a violation of state water quality standard in waters of the state as set forth on Chapters 62-301, 62-302, 62-520, and 62-550, Florida Administrative Code (F.A.C.)?

[ref. 40B-2.301(2)(i)]

No. Based on the SRWMD North Florida Model, version 1.0, the use will not cause or contribute to a violation of state water quality standards.

Is this use otherwise a reasonable-beneficial use as defined in Section 373.019(2), Florida Statutes, (F.S.) with consideration given to the factors set forth on subsection 62-40.410(2), F.A.C.?

[ref. 40B-2.301(2)(j)]

Yes, Staff has deemed the use a reasonable-beneficial use after considering the factors set forth in subsection 62-40.410(2), F.A.C.

Has the permit applicant's proposed reasonable-beneficial use of an alternative water supply presumed to be in the public interest?

[ref. 40B-2.301(2)(k)]

No, the applicant has not proposed to use an alternative water supply.

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.

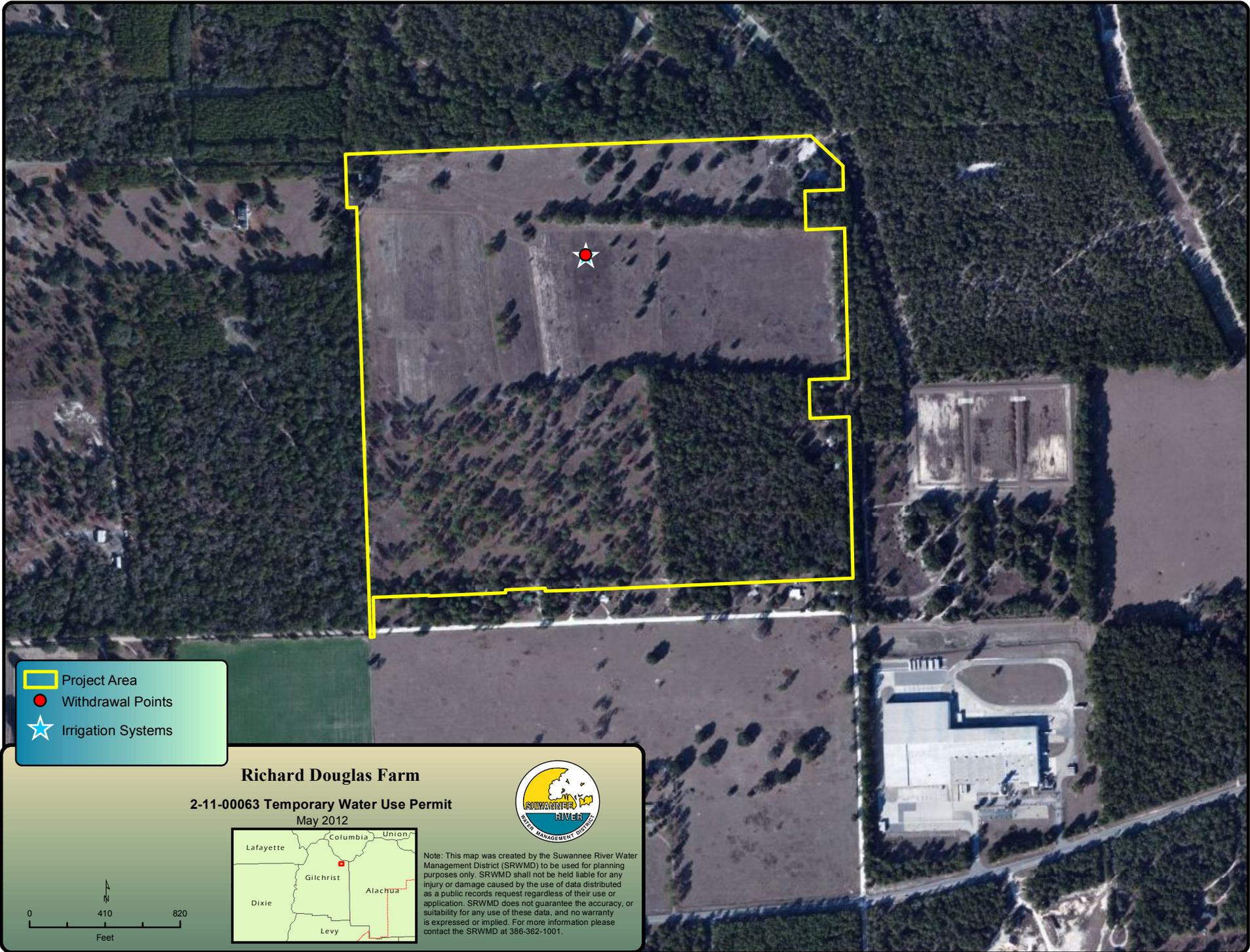
19. The Permittee shall ensure that the irrigation systems will water target areas only under field operations. Irrigation of non-target areas (roads, woods, structures, etc.) is prohibited.

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.

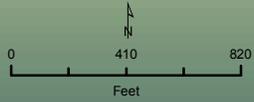
23. Unless extended by the District's Governing Board, this Permit shall expire on June 13, 2012.



-  Project Area
-  Withdrawal Points
-  Irrigation Systems

Richard Douglas Farm

2-11-0063 Temporary Water Use Permit
 May 2012



Note: This map was created by the Suwannee River Water Management District (SRWMD) to be used for planning purposes only. SRWMD shall not be held liable for any injury or damage caused by the use of data distributed as a public records request regardless of their use or application. SRWMD does not guarantee the accuracy, or suitability for any use of these data, and no warranty is expressed or implied. For more information please contact the SRWMD at 386-362-1001.

MEMORANDUM

TO: Governing Board
FROM: Tim Sagul, Senior Professional Engineer
DATE: May 18, 2012
RE: Approval of Water Use Permit Number
2-97-00005M2, William Douberly Farm, Gilchrist and Levy Counties

RECOMMENDATION

Staff recommends the Governing Board approve Water Use Permit number 2-97-00005M2, with seventeen standard conditions and six special limiting conditions, and rescind the temporary permit for William Douberly Farm in Gilchrist and Levy Counties.

BACKGROUND

The applicant requested a temporary permit on February 1, 2012, following the referral of the petition for administrative hearing to the Division of Administrative Hearings at the January 2012 Governing Board meeting. The Executive Director issued the first temporary permit on February 2, 2012, with an expiration date of February 15, 2012. At the February, March, April, and May 2012 Governing Board meetings, the Board reauthorized the temporary permit. The current temporary permit expires on June 13, 2012.

During this time, staff and counsel spent numerous hours working with the petitioner to resolve the concerns regarding this project. Accordingly, on May 9, 2012, the Division of Administrative Hearings closed the file and relinquished jurisdiction back to the District.

Staff has determined that the application is complete and satisfies the conditions for issuance in Chapter 40B-2, F.A.C., and Chapter 373, F.S. Through the Division of Administrative Hearings process, only the permit duration was changed.

KW/tm

May 18, 2012

William P. Douberly, Jr.
13720 Southwest 4th Lane
Newberry, FL 32669

Subject: Approval of Water Use Permit Number 2-97-00005M2,
William Douberly Farm, Gilchrist and Levy Counties

Dear Mr. Douberly:

Suwannee River Water Management District (District) staff proposes to recommend to the Governing Board that the above-mentioned project be approved.

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 29, 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
Certified Mail Receipt Number: 7010 1060 0001 1350 3622

NOTICE OF RIGHTS

1. A person whose substantial interests are or may be determined has the right to request an administrative hearing by filing a written petition with the Suwannee River Water Management District (District), or may choose to pursue mediation as an alternative remedy under Section 120.569 and 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth in Sections 120.569 and 120.57 Florida Statutes. Pursuant to Rule 28-106.111, Florida Administrative Code, the petition must be filed at the office of the District Clerk at District Headquarters, 9225 C.R. 49, Live Oak, Florida 32060 within twenty-one (21) days of receipt of written notice of the decision or within twenty-one (21) days of newspaper publication of the notice of District decision (for those persons to whom the District does not mail actual notice). A petition must comply with Chapter 28-106, Florida Administrative Code.
2. If the Governing Board takes action which substantially differs from the notice of District decision to grant or deny the permit application, a person whose substantial interests are or may be determined has the right to request an administrative hearing or may choose to pursue mediation as an alternative remedy as described above. Pursuant to Rule 28-106.111, Florida Administrative Code, the petition must be filed at the office of the District Clerk at District Headquarters, 9225 C.R. 49, Live Oak, Florida 32060 within twenty-one (21) days of receipt of written notice of the decision or within twenty-one (21) days of newspaper publication of the notice of District decision (for those persons to whom the District does not mail actual notice). Such a petition must comply with Chapter 28-106, Florida Administrative Code.
3. A substantially interested person has the right to a formal administrative hearing pursuant to Section 120.569 and 120.57(1), Florida Statutes, where there is a dispute between the District and the party regarding an issue of material fact. A petition for formal hearing must comply with the requirements set forth in Rule 28-106.201, Florida Administrative Code.
4. A substantially interested person has the right to an informal hearing pursuant to Section 120.569 and 120.57(2), Florida Statutes, where no material facts are in dispute. A petition for an informal hearing must comply with the requirements set forth in Rule 28-106.301, Florida Administrative Code.
5. A petition for an administrative hearing is deemed filed upon receipt of the petition by the Office of the District Clerk at the District Headquarters in Live Oak, Florida.
6. Failure to file a petition for an administrative hearing within the requisite time frame shall constitute a waiver of the right to an administrative hearing pursuant to Rule 28-106.111, Florida Administrative Code.

NOTICE OF RIGHTS

7. The right to an administrative hearing and the relevant procedures to be followed is governed by Chapter 120, Florida Statutes, and Chapter 28-106, Florida Administrative Code.
8. Pursuant to Section 120.68, Florida Statutes, a person who is adversely affected by final District action may seek review of the action in the District Court of Appeal by filing a notice of appeal pursuant to the Florida Rules of Appellate Procedure, within 30 days of the rendering of the final District action.
9. A party to the proceeding before the District who claims that a District order is inconsistent with the provisions and purposes of Chapter 373, Florida Statutes, may seek review of the order pursuant to Section 373.114, Florida Statutes, by the Florida Land and Water Adjudicatory Commission, by filing a request for review with the Commission and serving a copy of the Department of Environmental Protection and any person named in the order within 20 days of adoption of a rule or the rendering of the District order.
10. For appeals to the District Courts of Appeal, a District action is considered rendered after it is signed on behalf of the District, and is filed by the District Clerk.
11. Failure to observe the relevant time frames for filing a petition for judicial review, or for Commission review, will result in waiver of the right to review.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Rights has been sent by U.S. Mail to:

William P. Douberly, Jr.
13720 Southwest 4th Lane
Newberry, FL 32669

At 4:00 p.m. this _____ day of _____, _____

Jon Dinges
Deputy Clerk
Suwannee River Water Management District
9225 C.R. 49
Live Oak, Florida 32060
386.362.1001 or 800.226.1066 (Florida only)

STAFF REPORT
WATER USE PERMIT

DATE: May 18, 2012

PROJECT: William Douberly Farm

APPLICANT:
William Douberly Farm
13720 SW 4th LN
Newberry, FL 32066

PERMIT APPLICATION NO.: 2-97-00005M2

DATE OF APPLICATION: January 8, 2007

APPLICATION COMPLETE: October 3, 2011

	Previous Quantities:		Proposed Quantities:	
Average Daily Rate (ADR)	0.6723*	mgd	1.1691	mgd

* This will void the Richard Beauchamp permit (2-93-00097*)

Recommended Agency Action

Staff recommends approval of Water Use Permit 2-97-00005M2 for the continued use of an existing row crop and livestock operation within Gilchrist and Levy County. This will void the Richard Beauchamp permit (2-93-00097*) in order to consolidate both operations. The permit will include seventeen standard conditions and six special limiting conditions. The permit will expire on December 31, 2021.

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 10 South, Range 15 East, and Section 35, Township 11 South, Range 16 East, and Sections 6 & 7 in Levy County, and Township 10 South, Range 16 East, and Sections 31 & 32 in Gilchrist County. The project is located within the lower Suwannee River and Waccasassa River basins according to the USGS National Hydrography Dataset, Hydrologic Unit Code-8 sub basins.

Project Description

The project area consists of approximately 1,695 acres (388 owned acres, 1,307 leased acres) with approximately 505 acres being irrigated using groundwater. Irrigation of the applicants 505 wetted acreage is accomplished using six center pivots, two proposed pivots, and drip tape. The operation also includes approximately 400 beef cows.

The water use calculations are based upon the irrigated acreage, livestock and crop types provided by William P. Douberly Jr. Crops include corn, peanuts, watermelon, sorghum and winter rye. The Average Daily Rate (ADR) of withdrawal will be 1.1691 mgd. The ADR equates to 31.1 inches of supplemental irrigation annually and an average of 15 gallons per day per head of cattle.

The project area includes eight active wells and one inactive well. Use of the wells will be for irrigation and livestock. The well inventory includes the following: one 2-inch well, two 4-inch wells, and six 10-inch wells. A list of wells can be found in the table on Attachment A.

Demonstration of Need

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

Water Conservation

The applicant has completed the Water Conservation worksheets for Center Pivot Irrigation, Livestock Watering, and Drip Irrigation Systems.

Harm Analysis

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.

Application Timeline

Staff recommended issuance of the modification at the December 13, 2011, Governing Board meeting. A petition requesting an Administrative Hearing was received on January 3, 2012. The Governing Board referred the petition to DOAH on January 10, 2012. The Executive Director issued the first temporary permit on February 2, 2012, with an expiration date of February 15, 2012. At the February, March, April, and May 2012, Governing Board meetings, the Board reauthorized the temporary permit. The current temporary permit expires on June 13, 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 overhead 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 2-97-00005M2.

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.

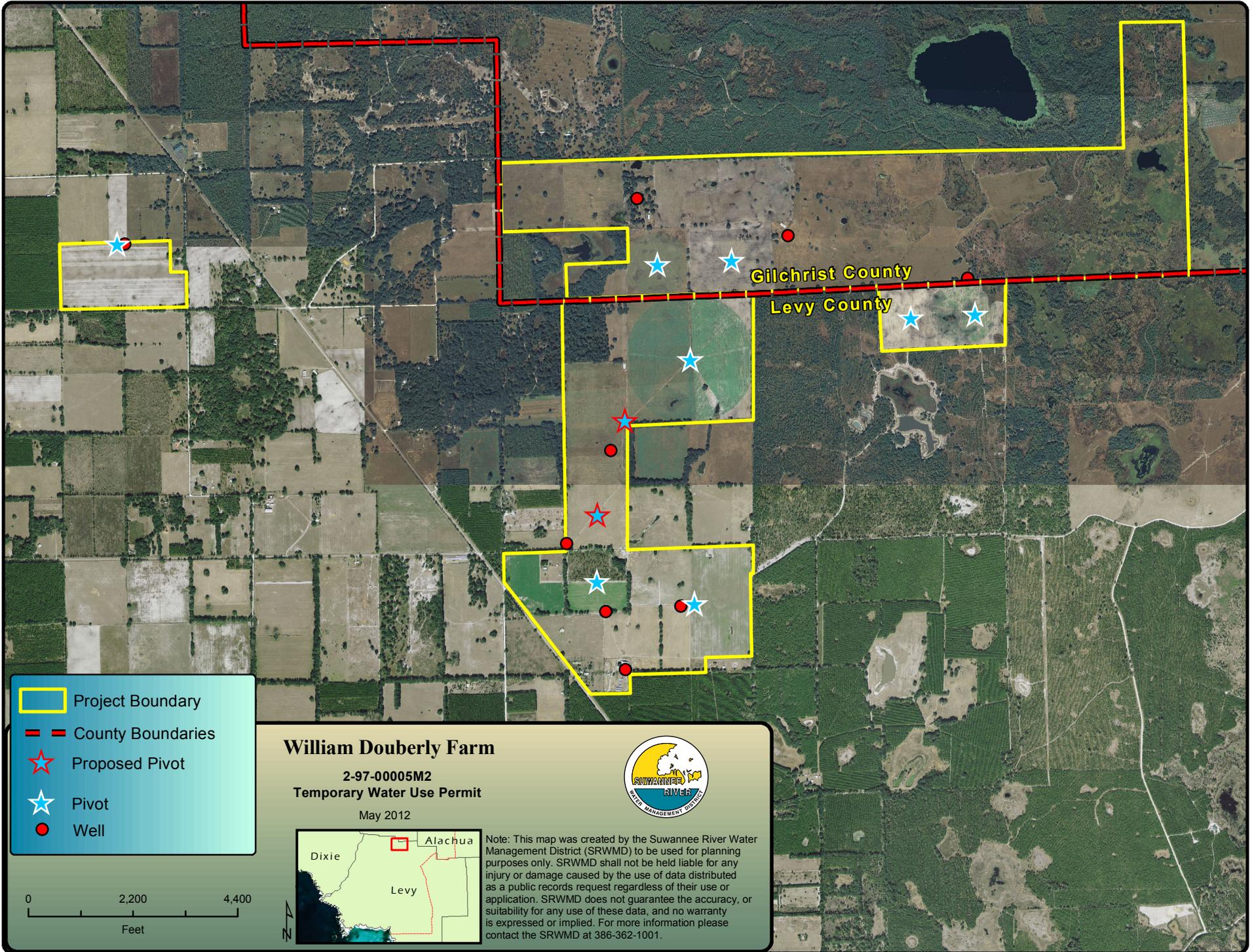
21. The Permittee shall implement automated monitoring of groundwater withdrawals, at Permittee's expense, upon commencement of withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each well of inside diameter eight inches or greater at land surface and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may opt for a standardized SRWMD automated monitoring system to fulfill this requirement.

22. The permitted water withdrawal facilities are listed in the table on Attachment A.

23. This permit shall expire on December 31, 2021. The Permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.041(2), F.A.C. and the required fee to the District pursuant to section 40B-2.361, F.A.C., prior to this expiration date in order to continue the use of water.

Attachment A
2-97-00005M2
William Douberly Farm

Name	Status	Diameter	Capacity (gpm)	Water Use
Beauchamp Well	Active	10	600	Irrigation
Hay Barn Well	Active	10	1000	Irrigation
Cow Pen Well	Active	2	15	Livestock
Brock Well	Active	10	800	Irrigation
Money Pit Well	Inactive	10	400	Irrigation
Beasley Well	Active	10	1000	Irrigation
Johnson 120 Well	Active	10	1000	Irrigation
Campsite Well	Active	4	20	Livestock
Barn Well	Active	4	28	Livestock



MEMORANDUM

TO: Governing Board
FROM: Tim Sagul, Senior Professional Engineer
DATE: May 18, 2012
RE: Publication of Notice of Rule Development for Part I of Statewide Water Use Consistency (“CUPcon”) Rulemaking

RECOMMENDATION

Staff recommends that the Governing Board authorize publication of the attached Notice of Rule Development in the Florida Administrative Weekly.

BACKGROUND

The Florida Department of Environmental Protection (DEP) is coordinating CUPcon, a statewide effort to improve consistency in the water use permitting (WUP) programs implemented by the water management districts (WMDs). DEP has stated that the WMDs have developed WUP rules that are inconsistent (amongst the WMDs). While some of the differences may be due to differing physical and natural characteristics, DEP has indicated that other differences are due to the development of separate rules and procedures.

In November and December 2011, DEP met with stakeholders around the state from the following five groups: public water supply, agricultural water users, industrial water users, recreational and small water supply, and environmental interests. The stakeholders identified many issues that should be addressed to improve consistency in WUP.

DEP’s goals for CUPcon include:

1. Make the WUP program less confusing for applicants, particularly those who work in more than one WMD;
2. Treat applicants equitably statewide;
3. Provide consistent protection of the environment;

4. Streamline the process; and
5. Incentivize behavior that protects water resources, including conservation.

DEP intends for the WMDs to amend their rules in three parts - - Part I covering easier to address CUPcon issues, Part II covering more complex issues that require stakeholder participation, and Part III covering the most complex issues that require stakeholder participation.

DISCUSSION

The attached Notice of Rule Development, if approved, will begin the rulemaking process to amend the District's WUP, MFL, and water supply-related rules on the following 16 broad subjects of Part I of the CUPcon issues:

- (1) water use permit criteria;
- (2) limiting conditions (permit conditions by rule);
- (3) permit thresholds;
- (4) permit types;
- (5) permit duration;
- (6) water conservation requirements;
- (7) annual allocation requirements and other rules needed to provide continuous reasonable assurance throughout the duration of a permit;
- (8) modification of permits;
- (9) 10-year compliance reports;
- (10) compliance monitoring and forms;
- (11) application forms;
- (12) permit fees to address related changes to permit thresholds or permit types;
- (13) procedural rules in chapter 40B-1, F.A.C.;
- (14) water shortage plan rules in chapter 40B-21, F.A.C.;
- (15) minimum flows and levels (MFLs) rules in chapter 40B-8, F.A.C.;
and

- (16) other rules for which conforming amendments may be needed along with any rule changes made in the subject areas identified above.

The attached Notice of Rule Development describes the general subjects of the rulemaking and includes a miscellaneous category for related rule changes that may be needed to effectuate Part I of the CUPcon rulemaking. No rule language is available at this time because the CUPcon core team is still working on the Part I language.

The other four water management districts have either initiated rule development or are planning to do so by the end of May 2012.

TS/rl
Attachment

NOTICE OF RULE DEVELOPMENT

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

RULE NO.:

RULE TITLE:

40B-2, F.A.C.

Permitting of Water Use

PURPOSE AND EFFECT: The Suwannee River Water Management District (SRWMD) gives notice that it is developing rules as part of a statewide effort headed by the Florida Department of Environmental Protection (DEP) and joined by all five water management districts (WMDs), to increase consistency in the water use permit (WUP), minimum flows and levels (MFLs), and water supply related programs of the WMDs. This rule development is proposed to be coordinated with similar rule development by the other WMDs throughout Florida. This rule development will make appropriate rule amendments to SRWMD's Chapters 40B-1, 40B-2, 40B-21, and 40B-8, F.A.C., and the Water Use Permitting Guide to address the following goals of the DEP and the WMDs for this rulemaking: (1) making the WUP rules less confusing for applicants; (2) treating applicants equitably statewide; (3) providing consistent protection of the environment; (4) streamlining the application and permitting process; and (5) incentivizing behavior that protects water resources, including water conservation. Additional information about the statewide WUP consistency initiative is available at DEP's website at:

www.dep.state.fl.us/water/waterpolicy/cupcon.htm.

SUBJECT AREA TO BE ADDRESSED: Among other things, this rule development will cover the amendment, repeal, or development of rules as needed to accomplish WUP consistency goals, on the following subjects: (1) water use permit criteria; (2) limiting conditions (permit conditions by rule); (3) permit thresholds; (4) permit types; (5) permit duration; (6) water conservation requirements; (7) annual allocation requirements and other rules needed to provide continuous reasonable assurance throughout the duration of a permit; (8) modification of

permits; (9) 10-year compliance reports; (10) compliance monitoring and forms; (11) application forms; (12) permit fees to address related changes to permit thresholds or permit types; (13) procedural rules in chapter 40B-1, F.A.C.; (14) water shortage plan rules in chapter 40B-21, F.A.C.; (15) minimum flows and levels (MFLs) rules in chapter 40B-8, F.A.C.; and (16) other rules for which conforming amendments may be needed along with any rule changes made in the subject areas identified above.

Note: Members of the District's Governing Board may attend the scheduled Rule Development Workshop.

RULEMAKING AUTHORITY: 373.044, 373.113, 373.171, FS.

LAW IMPLEMENTED: 373.042, 373.0421, 373.109, 373.118, 373.219, 373.223, 373.227, 373.229, 373.236, 373.239, 373.246, 373.250, FS.

RULE DEVELOPMENT WORKSHOPS WILL BE HELD AT THE DATE, TIME AND PLACES SHOWN BELOW:

DATE AND TIME: August 7, 2012 at 9:00 a.m.

PLACE: Suwannee River Water Management District, 9225 CR 49, Live Oak, Florida

AND

DATE AND TIME: August 8, 2012 at 9:00 a.m.

PLACE: Tommy Usher Community Center, 506 SW 4th Ave, Chiefland, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE

DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:

Tim Sagul, Senior Professional Engineer, Suwannee River Water Management District, 9225 CR 49, Live Oak, FL 32060, tjs@srwmd.org, 386.362.1001.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Senior Professional Engineer

DATE: May 18, 2012

RE: Declaratory and Injunctive Relief Regarding El Rancho No Tengo, Inc., CE05-0017, Columbia County

RECOMMENDATION

Staff recommends that the Governing Board authorize counsel to file and serve a complaint against El Rancho No Tengo, Inc. (ERNT) and Jeffrey L. Hill, Sr. (Hill), which seeks declaratory and injunctive relief, foreclosure, and/or avoidance of transfer of title with respect to property previously acquired by the District from ERNT through a Sheriff's Sale and Deed.

BACKGROUND

In Suwannee River Water Management v. El Rancho No Tengo, Inc., Columbia County, Third Judicial Circuit Court, Case No. 06-203-CA, the District executed two final judgments on real property owned by ERNT in satisfaction of civil penalties, costs, and attorney's fees awards. Prior to the completing the execution and sheriff's sale process, ERNT transferred the property to Hill and Hill filed a Chapter 12 bankruptcy action in federal court.

These two events have cast doubt on whether title to this property clearly resides with the District. Recent consultations with Board counsel and staff counsel have convinced staff that the most efficient and certain means of removing such doubt is to file the attached draft complaint.

In the Complaint, the District asks the court to declare that title to the property now lies in the District and to enjoin Hill from further interfering with such title; to

enter a final judgment of foreclosure and order a new sale of the property; and/or to enter judgment avoiding the transfer of title to Hill as fraudulent.

For additional details, please refer to the May 2012 Monthly Enforcement Report.

/js
Attachment

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Senior Professional Engineer

DATE: May 18, 2012

RE: Referral of Amended Petition Requesting Administrative Hearing to Division of Administrative Hearings (DOAH) Regarding CE10-0045, Scott McNulty, Levy County

RECOMMENDATION

Staff recommends the Governing Board authorize the referral of the above-referenced amended petition to DOAH regarding CE10-0045, Scott McNulty, Levy County.

BACKGROUND

The District served Mr. McNulty with an administrative complaint on March 29, 2012. Mr. McNulty's counsel responded with an Answer, Affirmative Defense and a Request for Hearing (the Petition) on April 19, 2012. Pursuant to 120.569, Florida Statutes, the District must take action on the Petition within 15 days of the filing with the District.

Due to fact that the Petition did not contain all of the required matters, the Executive Director executed an Order on May 3, 2012, to dismiss the Petition without prejudice with leave to amend. At the May 8, 2012, Board meeting, the Governing Board ratified the Executive Director's Order. An amended Petition was filed on May 17, 2012, that cured the above referenced defects.

A copy of the proposed Order and petition follows this memorandum.

KW/rl
Attachment

BEFORE THE GOVERNING BOARD OF THE SUWANNEE RIVER
WATER MANAGEMENT DISTRICT

SCOTT MCNULTY,

Petitioner,

v.

DISTRICT CASE NO. CE 10-0045

SUWANNEE RIVER WATER
MANAGEMENT DISTRICT,

Respondent.

**ORDER REFERRING PETITION TO THE
DIVISION OF ADMINISTRATIVE HEARINGS**

THIS CAUSE having come before the GOVERNING BOARD (the “BOARD”) of the SUWANNEE RIVER WATER MANAGEMENT DISTRICT (the “DISTRICT”) on the AMENDED PETITION FOR HEARING, (the “AMENDED PETITION”), filed on May 17, 2012, by the petitioner(s), SCOTT MCNULTY, (the “PETITIONER(S)”) concerning an enforcement action brought by the DISTRICT under the above styled case number and having reviewed the above, the BOARD hereby finds as follows:

1. Upon receipt of a petition, the DISTRICT is required to review the petition to determine if the petition contains those items required by rule and is timely and dismiss those petitions which are not in substantial compliance with such requirements. § 120.569(2)(c-d), Fla.Stat.

2. On April 19, 2012 the PETITIONER(S) filed its ANSWER, AFFIRMATIVE DEFENSE AND REQUEST FOR HEARING, (the “PETITION”).

3. On May 3, 2012, the Executive Director of the DISTRICT entered his ORDER

DISMISSING PETITION, WITHOUT PREJUDICE in which the PETITION was dismissed, because it did not substantially comply with the requirements of Fla. Admin. Code R. 28-106.201(2).

4. On May 8, 2012, the GOVERNING BOARD ratified the ORDER DISMISSING PETITION, WITHOUT PREJUDICE.

5. The ORDER DISMISSING PETITION, WITHOUT PREJUDICE expressly allowed the PETITIONER(S) to file an amended petition curing the above defects by a certain deadline.

6. The AMENDED PETITION was filed within the deadline set out in the ORDER DISMISSING PETITION, WITHOUT PREJUDICE.

7. The AMENDED PETITION is in substantial compliance with the requirement that a petition include those items required by the uniform rules adopted pursuant to § 120.54(5)(b), Fla.Stat.

8. By entering this, or any other order, the DISTRICT does not intend to make any concession or relinquish any right to file responsive or defensive pleadings or motions as may be permitted concerning any matter, including without limitation, timeliness and standing, nor does this or any other order admit the validity of the allegations in any petition. This order is intended only to determine that the minimum pleading requirements have been met.

THEREFORE it is hereby ORDERED and ADJUDGED that:

1. The AMENDED PETITION is hereby referred to the Division of Administrative Hearings to conduct all necessary proceedings pursuant to § 120.569 and 120.57(1), Fla.Stat.

2. The Executive Director of the DISTRICT shall promptly provide a copy of this

order to all parties.

DONE and ORDERED on _____, 2012.

GOVERNING BOARD OF THE SUWANNEE
RIVER WATER MANAGEMENT DISTRICT

By: _____

Don Quincey, Jr
Chair

ATTEST: _____

Ray Curtis
Secretary/Treasurer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of this order has been furnished to the following persons:

BRUCE W. ROBINSON, ESQUIRE
582 West Duval Street
Lake City, Florida 32056-1178
Fax No. (386) 755-1336
Attorney for the DISTRICT

EDITH R. RICHMAN, ESQUIRE
Post Office Box 10
Archer, Florida 32618
Fax No. (352) 495-1400
Attorney for PETITIONER(S)

by fax and mail on _____, 2012.

Tim Sagul
Deputy Agency Clerk

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

SUWANNEE RIVER WATER MANAGEMENT
DISTRICT,

Petitioner,

File No. CE 10-0045

-vs-

RECEIVED
SRWMD

SCOTT McNULTY,

MAY 17 2012

Respondent.

ORIGINAL TO FILE CE 10-0045
COPIES TO _____

AMENDED PETITION FOR HEARING

Respondent, SCOTT McNULTY, through counsel amends his
petition for hearing as follows:

A. The name and address of the agencies affected are:

Levy County, Florida
355 South Court Street
Bronson, Florida

Suwannee River Water Management District
9225 CR 49
Live Oak, FL 32060

B. The petitioner's name and address is:

Scott McNulty
7850 SW 126 Terrace
Cedar Key, FL 32625

C. Petitioner received notice of the agency decision by
letter dated March 22, 2011.

D. All disputed issues of material fact are:

1. Whether Petitioner's improvement to the subject road
impacted wetlands.

2. Whether Petitioner's improvement to the subject road
required an Environmental Resource Permit.

3. Whether the road is owned by Levy County, Florida or a private easement in the subdivision of Cedar Key Heights.

4. Whether Suwannee River Water Management District supervised and approved Petitioner's improvements to the subject road.

5.

E. Petitioner intends to show that his improvement to the subject road did not impact wetlands, that the subject road is a county-owned easement in a private residential subdivision and cannot be closed, that Levy County, Florida is responsible for obtaining any permits or no permit is required because the road has been in existence since about 1926, that the District is not entitled to any fees or costs because the District supervised and approved the road improvements by Petitioner.

F. Specific rules that Petitioner relies on, in part, is Florida Statute 95.361. Petitioner reserves to add additional rules.

G. The relief sought by petitioner is dismissal of the Administrative Complaint, with prejudice.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by fax and U.S. Mail this 17 day of May, 2012 to:

BRUCE W. ROBINSON, ESQUIRE
582 West Duval Street
Lake City, FL 32056-1178

FAX 386-755-1336



EDITH R. RICHMAN, ESQUIRE
P.O. Box 10
Archer, FL 32618
TEL: (352) 495-9123
FAX: (352) 495-1400
Email: erichman@cox.net
Florida Bar #339903
Attorney for Respondent

RECEIVED
SRWMD

MAY 17 2012

ORIGINAL TO FILE CE10-0045
COPIES TO _____