

MEMORANDUM

TO: Governing Board

FROM: Carlos Herd, Senior Hydrogeologist

DATE: August 29, 2012

RE: Second Amendment to Interagency Agreement Between Suwannee River Water Management District, St. Johns River Water Management District, and Florida Department of Environmental Protection

RECOMMENDATION

Staff recommends the Governing Board authorize the Executive Director to execute the second amendment to the interagency agreement between Suwannee River Water Management District, St. Johns River Water Management District, and Florida Department of Environmental Protection.

BACKGROUND

The parties have identified the need to amend Paragraph B of the Interagency Agreement. As currently written, Paragraph B requires the National Research Council's Water Science and Technology Board (WSTB) to review and provide recommendations to the report jointly prepared by both districts.

This revision to Paragraph B confirms that involvement by the WSTB is no longer necessary because 1) the districts are in agreement regarding the primary factors responsible for the observed changes, 2) the districts continue to make progress with other elements of the Interagency Agreement that are related to the observed aquifer changes, and 3) the cost for the involvement of the WSTB was significant (\$345,000) with the districts agreeing that these financial resources can be applied to other critical water resource initiatives associated with the Interagency Agreement.

Staff has coordinated the proposed second amendment with St. Johns River Water Management District and the Department of Environmental Protection. A copy of this amendment is attached.

JD/dd

**SECOND AMENDMENT TO INTERAGENCY AGREEMENT
BETWEEN
SUWANNEE RIVER WATER MANAGEMENT DISTRICT
AND
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND
FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

THIS SECOND AMENDMENT (“AMENDMENT”), by and between the SUWANNEE RIVER WATER MANAGEMENT DISTRICT, a special taxing district organized under Chapter 373, Florida Statutes, whose address is 9225 County Road 49, Live Oak, Florida 32060, hereinafter referred to as “SRWMD”, and ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, a special taxing district organized under Chapter 373, Florida Statutes, whose address is 4049 Reid Street, Palatka, Florida 32177, hereinafter referred to as “SJRWMD”, and FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION, whose address is 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, hereinafter referred to as the “DEPARTMENT”, is entered into in three originals this _____ day of _____, 2012.

PREMISES

The PARTIES entered into an Interagency Agreement on September 13, 2011, and amended on February 28, 2012, a copy of which is attached hereto as Exhibit A (“AGREEMENT”).

The PARTIES desire to amend the AGREEMENT as specifically set forth herein.

NOW, THEREFORE, the PARTIES hereby amend the AGREEMENT as follows:

1. The following replaces Paragraph B.
 - B) The purpose of this AGREEMENT is to set forth specific responsibilities of SRWMD, SJRWMD, and the DEPARTMENT (hereinafter collectively referred to as “PARTIES”) to achieve appropriate coordination with respect to the Districts’ water supply and consumptive use permitting responsibilities in Northeast Florida. The SRWMD and SJRWMD agree that there have been changes in the level and configuration of the potentiometric surface of the Upper Floridan aquifer in northeast Florida and southeast Georgia (Study

Area). Both districts are united in the determination that additional data and analysis are necessary to better understand the factors that have caused these changes and the potential impact to the water resources within both districts. Both districts agree to evaluate the changes in the level and configuration of the potentiometric surface of the Upper Floridan aquifer.

SRWMD and SJRWMD have developed a scope of work to evaluate changes and potential impacts to the Upper Floridan aquifer and connected water resources, including:

1. Assessing the factors that drive changes in the level and configuration of the potentiometric surface of the Upper Floridan aquifer in the Study Area.
2. To the extent possible, investigating the proportional effect of each factor driving changes in the level and configuration of the potentiometric surface of the Upper Floridan aquifer in the Study Area.
3. Studying the trends in the level and configuration of the potentiometric surface of the Upper Floridan aquifer in the Study Area.
4. To the extent possible, evaluating which hydrologic features are most susceptible to changes in the level and configuration of the potentiometric surface of the Upper Floridan aquifer in the Study Area.
5. Assessing to what extent hydrologic features may be affected by changes in the level and configuration of the potentiometric surface of the Upper Floridan aquifer in the Study Area.

Existing scientific literature and data will provide the basis for successful completion of the scope of work. At their discretion, the Florida Geological Survey will participate in the technical document review and evaluation. The deliverable for the scope of work will be a co-authored report of findings that will supplement the districts' planning and permitting decisions, as well as the other elements of this AGREEMENT.

2. All other terms of the AGREEMENT are hereby ratified and continue in full force and effect.

3. This AMENDMENT shall become effective upon execution by all of the PARTIES. Upon execution by the last of the PARTIES, the date of execution shall be inserted above.

IN WITNESS WHEREOF, each party, or lawful representative, has executed this AMENDMENT on the date set forth next to their signature below.

SUWANNEE RIVER WATER MANAGEMENT DISTRICT

By: _____ Date: _____
Ann B. Shortelle, Ph.D.
Executive Director

ST. JOHNS RIVER WATER MANAGEMENT DISTRICT

By: _____ Date: _____
Hans G. Tanzler, III
Executive Director

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: _____ Date: _____
Herschel T. Vinyard, Jr.
Secretary

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Senior Professional Engineer

DATE: September 5, 2012

RE: Authorization to Withdraw the Order Dismissing, with Prejudice, the Petition for Administrative Hearing Challenging Temporary Water Use Permit Application Number 2-11-00063, Richard Douglas Farm, Gilchrist County and Refer the Petition Challenging the Temporary Water Use Permit Application to the Division of Administrative Hearings (DOAH)

RECOMMENDATION

Staff recommends the Governing Board withdraw the Order dismissing, with prejudice, the Petition for Administrative Hearing challenging temporary water use permit Application Number 2-11-00063, Richard Douglas Farm, Gilchrist County and refer the petition to DOAH.

BACKGROUND

A water use permit application for the referenced project was received on December 28, 2011. The District issued a notice of proposed agency action on February 28, 2012, stating the District intended to issue the Water Use Permit. A petition requesting an Administrative Hearing was received at the District on March 15, 2012. The petition was referred to DOAH with a hearing currently scheduled in November 2012.

Subsequent to receiving the petition on the permit, the applicant requested a temporary water use permit for the project. Several temporary water use permits were issued and a petition regarding the temporary water use permit was received. The petition was referred to the Florida Land and Water Adjudicatory Commission (FLAWAC).

At the August 2012 Governing Board meeting, the Board authorized approval of a settlement agreement concerning the temporary water use permits that have been issued for Richard Douglas Farm. Subsequently, FLAWAC issued a Final Order of Dismissal. The dismissal relinquished the jurisdiction of the appeal back to the District. As conditions of the Final Order, the District was to withdraw its order dismissing the Petitioners petition challenging the temporary water use permit and refer the petition to DOAH. Upon referral to DOAH, the parties will stipulate to consolidation of the temporary water use permit case with an existing case in which the petitioner is challenging the non-temporary water use permit.

A copy of the FLAWAC Final Order for Dismissal follows this memorandum.

TJS/rl
Attachment

**BEFORE THE GOVERNING BOARD OF THE SUWANNEE RIVER
WATER MANAGEMENT DISTRICT**

**BARBARA WRAY SUGGS,
individually, and as Trustee of
THE BARBARA WRAY
SUGGS LIVING TRUST
DATED THE 14TH DAY OF
OCTOBER, 1999, and GINNIE
SPRINGS, OUTDOORS, LLC.,
a Florida limited liability company,**

Petitioners,

v.

DISTRICT PERMIT NO. 2-11-00063

**SUWANNEE RIVER WATER
MANAGEMENT DISTRICT,
JOSHUA D. MOORE and
RICHARD DOUGLAS,**

Respondents,

_____ /

ORDER
WITHDRAWING MAY 8, 2012, ORDER DISMISSING WITH PREJUDICE
PETITION FOR ADMINISTRATIVE HEARING CHALLENGING TEMPORARY
WATER USE PERMIT ISSUED ON APRIL 11, 2012, AND
REFERRING PETITION TO 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 FINAL ORDER OF DISMISSAL filed by the Florida Land and Water Adjudicatory Commission ("FLAWAC") on August 28, 2012, related to the DISTRICT's May 8, 2012, Order Dismissing with Prejudice the Petition for Administrative Hearing Challenging Temporary Water Use Permit Issued on April 11, 2012, and the BOARD hereby finds as follows:

1. BARBARA WRAY SUGGS, individually ("SUGGS"), and as Trustee of THE

BARBARA WRAY SUGGS LIVING TRUST DATED THE 14TH OF OCTOBER, 1999 (the “TRUSTEE”), and GINNIE SPRINGS OUTDOORS, LLC (“GINNIE SPRINGS”), as Petitioners, and JOSHUA D. MOORE (“MOORE”), RICHARD DOUGLAS (“DOUGLAS”), and the DISTRICT, as Respondents, were involved in a certain appeal styled *Suggs, et al v. Suwannee River Water Management District, et al*, Case No. WMD-12-002, which was pending before FLAWAC (the “FLAWAC APPEAL”);

2. In the FLAWAC APPEAL, SUGGS, the TRUSTEE, and GINNIE SPRINGS were challenging the DISTRICT’s Order Dismissing With Prejudice Petition for Administrative Hearing Challenging Temporary Water Use Permit Issued on April 11, 2012, which dismissed their petition for administrative hearing challenging a temporary water use permit issued to MOORE and DOUGLAS on April 11, 2012 (the “TEMPORARY PERMIT PETITION”);

3. There is pending before the State of Florida, Division of Administrative Hearings (“DOAH”) the case of *Ginnie Springs v. Moore, et. al.*, DOAH Case No. 12-1632 (the “NON-TEMPORARY PERMIT CASE”) in which GINNIE SPRINGS challenges the DISTRICT’s issuance of a non-temporary water use permit issued to MOORE and DOUGLAS;

4. The parties each believed that they had good and meritorious positions in the FLAWAC APPEAL but recognized that the issues of law and fact raised in the TEMPORARY PERMIT PETITION are similar to the issues of law and fact raised in the NON-TEMPORARY PERMIT CASE and that the two cases may be more efficiently determined at one time before DOAH;

5. All parties entered into a Settlement Agreement to settle all issues and matters related to the FLAWAC APPEAL;

6. In the Settlement Agreement, among other terms and conditions, all parties agreed that the FLAWAC APPEAL would be dismissed and jurisdiction over the matters set out in the FLAWAC APPEAL relinquished to the DISTRICT. All parties further agreed in the Settlement Agreement that, upon relinquishment of jurisdiction, the DISTRICT would withdraw the May 8, 2012 Order Dismissing with Prejudice Petition for Administrative Hearing Challenging Temporary Water Use Permit Issued on April 11, 2012, and refer the TEMPORARY PERMIT PETITION to the Florida Division of Administrative Hearings for proceedings therein;

7. On August 28, 2012, FLAWAC filed the FINAL ORDER OF DISMISSAL, which incorporated the Settlement Agreement of the parties, dismissed the FLAWAC APPEAL, and relinquished jurisdiction to the DISTRICT for action as stated above. A true and correct copy of the FINAL ORDER OF DISMISSAL is attached hereto as Exhibit "1";

THEREFORE it is hereby ORDERED and ADJUDGED that:

A. Pursuant to FLAWAC's FINAL ORDER OF DISMISSAL, the DISTRICT withdraws the May 8, 2012, Order Dismissing with Prejudice Petition for Administrative Hearing Challenging Temporary Water Use Permit Issued on April 11, 2012; and

B. The Petition for Administrative Hearing Challenging Temporary Water Use Permit Issued on April 11, 2012, is hereby referred to the Division of Administrative Hearings to conduct all necessary proceedings pursuant to §120.569 and 120.57, Fla. Stat. ; and

C. 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 by fax and mail:

Mr. Richard L. Maguire
Ms. Emily J. Pierce
Ms. Cristine M. Russell
1301 Riverplace Boulevard, Suite 1500
Jacksonville, Florida 32207
Fax No. (904) 396-0663
Attorneys for the Petitioners

Jennifer B. Springfield
806 NW 16th Avenue
Suite B
Gainesville, Florida 32601
Fax No. (352) 377-4077
Attorneys for Moore and Douglas

on _____, 2012.

Tim Sagul
Deputy Agency Clerk

STATE OF FLORIDA
LAND AND WATER ADJUDICATORY COMMISSION

BARBARA WRAY SUGGS, individually, and
as Trustee of THE BARBARA WRAY SUGGS
LIVING TRUST DATED THE 14TH DAY OF
OCTOBER, 1999, and GINNIE SPRINGS
OUTDOORS, LLC, a Florida limited liability
company,

Petitioners,

FLWAC Case No. WMD-12-002

vs.

SUWANNEE RIVER WATER MANAGEMENT
DISTRICT, JOSHUA D. MOORE, and RICHARD
DOUGLAS,

Respondents.

FINAL ORDER OF DISMISSAL

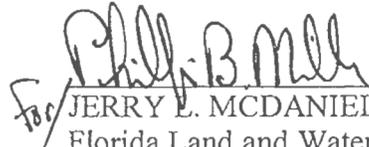
This cause came before the Secretary of the Florida Land and Water Adjudicatory Commission (“Commission”) upon the August 16, 2012, filing of a Stipulated Motion to Dismiss Appeal and Relinquish Jurisdiction to Suwannee River Water Management District (“Motion”). The Motion is attached hereto as Exhibit A and contains a copy of the parties’ fully-executed Settlement Agreement settling all matters related to the instant appeal. All of the parties to this proceeding executed the Settlement Agreement and consent to the Motion.

The Commission grants the Motion of the parties and hereby dismisses the above titled appeal and relinquishes jurisdiction to the Suwannee River Water Management District.

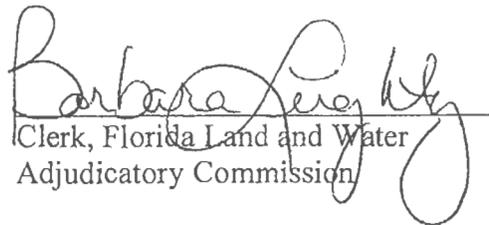
NOTICE OF RIGHTS

Any party to this Order has the right to seek Judicial review of the Final Order pursuant to section 120.68, Florida Statutes, by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Commission, Office of Policy and Budget, Executive Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001; and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the appropriate District Court of Appeal. Notice of Appeal must be filed within 30 days of the day this Order is filed with the Clerk of the Commission.

DONE AND ORDERED this 27th day of August, 2012.

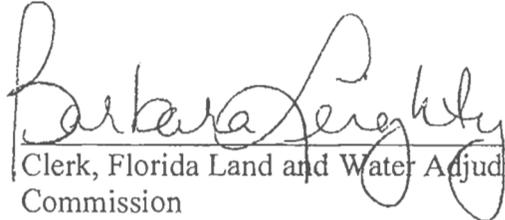

For/ JERRY E. MCDANIEL, Secretary
Florida Land and Water
Adjudicatory Commission

58th FILED with the Clerk of the Florida Land and Water Adjudicatory Commission this
58th day of August, 2012.


Clerk, Florida Land and Water
Adjudicatory Commission

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the forgoing was delivered to the following persons by United States Mail, electronic transmission, or hand delivery this 28th day of August, 2012.


Clerk, Florida Land and Water Adjudicatory
Commission

Honorable Rick Scott
Governor
The Capitol
Tallahassee, Florida 32399

Honorable Jeff Atwater
Chief Financial Officer
The Capitol
Tallahassee, Florida 32399

Honorable Pam Bondi
Attorney General
The Capitol
Tallahassee, Florida 32399

Honorable Adam Putnam
Commissioner of Agriculture
The Capitol
Tallahassee, Florida 32399

L. Mary Thomas, Esquire
Office of the Governor
The Capitol, Suite 209
Tallahassee, Florida 32399-0001

Richard L. Maguire, Esquire
Cristine M. Russell, Esquire
Emily G. Pierce, Esquire
Rogers Towers, P.A.
1301 Riverplace Boulevard
Suite 1500
Jacksonville, Florida 32207

Herschel Vinyard, Secretary
Lea Crandall, Clerk
Florida Department of Environmental Protection
3600 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399

Frederick T. Reeves, Esquire
Davis Schnitker Reeves & Browning. P.A.
5709 Tidalwave Drive
New Port Richey, Florida 34652

Jennifer B. Springfield, Esquire
806 NW 16th Avenue
Suite B
Gainesville, Florida 32601

Richard Douglas
6524 NE 55 Street
High Springs, Florida 32643

David Still, Executive Director
Suwannee River Water Management District
9225 CR 49
Live Oak, Florida 32060

Florida Administrative Law Reports
Post Office Box 385
Gainesville, Florida 32602

Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060

Christine M. Francescani, Esquire
Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399

STATE OF FLORIDA
LAND AND WATER ADJUDICATORY COMMISSION

BARBARA WRAY SUGGS, individually, and
as Trustee of THE BARBARA WRAY
SUGGS LIVING TRUST DATED THE 14TH
DAY OF OCTOBER, 1999, and GINNIE
SPRINGS OUTDOORS, LLC, a Florida
limited liability company,

FLAWAC Case No. WMD-12-002

Petitioner,

v.

SUWANNEE RIVER WATER
MANAGEMENT DISTRICT,
JOSHUA D. MOORE and
RICHARD DOUGLAS,

Respondents.

**STIPULATED MOTION TO DISMISS APPEAL
AND RELINQUISH JURISDICTION TO
SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

Petitioners, Barbara Wray Suggs, individually, and as Trustee of the Barbara Wray Suggs Living Trust Dated the 14th Day of October, 1999, and Ginnie Springs Outdoors, LLC, and Respondents, Suwannee River Water Management District (hereinafter the "District"), Joshua D. Moore (hereinafter "Moore") and Richard Douglas (hereinafter "Douglas"), all of the parties to this proceedings, state:

1. This appeal was initiated by Petitioners on May 25, 2012, by the filing and service of the Petition for Review of a Final Order of the Suwannee River Water Management District.
2. The parties have now settled all matters related to this appeal, and a true and correct

copy of the parties' fully-executed Settlement Agreement ("SA") is attached hereto as Exhibit 1.

3. Generally, the SA provides for dismissal of this appeal and relinquishment of jurisdiction to the District. After relinquishment of jurisdiction, the SA provides that the District will withdraw its order dismissing Petitioners' petition challenging the issuance of a temporary water use permit to Moore and Douglas and refer the petition to the Florida Division of Administrative Hearings (hereinafter "DOAH"). Upon referral to DOAH, the SA provides that the parties will stipulate to consolidation of the temporary water use permit case with an existing case in which Petitioner, Ginnie Springs Outdoors, LLC, is challenging Moore's and Douglas' non-temporary water use permit. The parties also stipulate to other terms and conditions in the SA. Nothing in this paragraph shall be deemed in any way to amend or otherwise change the terms and conditions of the Settlement Agreement, or to add or eliminate any terms or conditions of the Settlement Agreement.

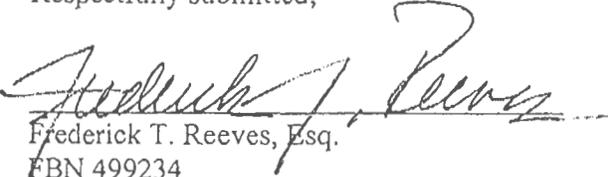
4. Pursuant to the SA, ¶2, "(t)he FLAWAC APPEAL shall be dismissed and jurisdiction over the matters set out in the FLAWAC APPEAL shall be relinquished to the DISTRICT."

5. Pursuant to the SA, ¶9, "(u)pon execution of this Agreement by all of the parties, the DISTRICT shall file a motion to dispose of the FLAWAC APPEAL with FLAWAC as set out in this Agreement. Such motion shall have a copy of the Agreement attached. The parties agree that FLAWAC may dispose of the FLAWAC APPEAL as set forth in this Agreement, without a hearing or notice to any party."

WHEREFORE, all of the parties to this appeal, pursuant to the Settlement Agreement attached hereto as Exhibit 1, respectfully request the State of Florida Land and Water Adjudicatory Commission to (1) dismiss this appeal and (2) relinquish jurisdiction to the Suwannee River Water

Management District for further action consistent with the Settlement Agreement.

Respectfully submitted,



Frederick T. Reeves, Esq.
FBN 499234

Of Counsel

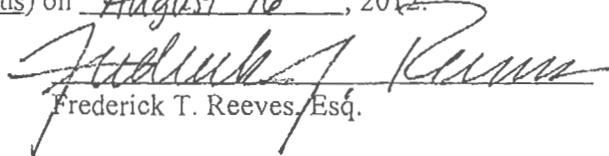
Davis Schnitker Reeves & Browning, P.A.
5709 Tidalwave Drive
New Port Richey, Florida 34652

Telephone (727) 844-3006
Facsimile (727) 844-3114
e-mail freeves@tbaylaw.com

Attorneys for Respondent Suwannee River
Water Management District

Certificate of Service

I CERTIFY that a true and correct copy of the foregoing has been filed on August 16, 2012, on Barbara Leighty, Clerk, Florida Land and Water Adjudicatory Commission, Room 1801, The Capitol, Tallahassee, FL 32399-0001, via facsimile to (850) 717-9513 and by electronic transmission to FLWAC.Clerk@LASPBS.STATE.FL.US and served by electronic transmission on Lea Crandall, Clerk, Florida Department of Environmental Protection, 3900 Commonwealth Blvd., M.S. 49, Tallahassee, FL 32399 to lea.crandall@dep.state.fl.us; and by e-mail and First Class U.S. Mail on Richard L. Maguire, Esq., Rogers Towers, PA, 1301 Riverplace Blvd., Ste. 1500, Jacksonville, FL 32207-9000 (e-mail: rmaguire@rtlaw.com); Emily G. Pierce, Esq., Rogers Towers, PA, 1301 Riverplace Blvd., Ste. 1500, Jacksonville, FL 32207-9000 (e-mail: epierce@rtlaw.com); Cristine M. Russell, Esq., Rogers Towers, PA, 1301 Riverplace Blvd., Ste. 1500, Jacksonville, FL 32207-9000 (e-mail: crussell@rtlaw.com); Jennifer B. Springfield, Esq., 806 NW 16th Ave., Suite B, Gainesville, FL 32601 (e-mail: jennifer@springfieldlawpa.com); and Christine M. Francescani, Esq., Dept. of Environmental Protection, MS 35, 3900 Commonwealth Blvd., Tallahassee, FL 32399-6575 (christine.francescani@dep.state.fl.us) on August 16, 2012.



Frederick T. Reeves, Esq.

SETTLEMENT AGREEMENT

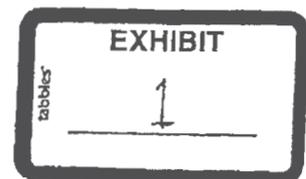
This is an agreement by and between the SUWANNEE RIVER WATER MANAGEMENT DISTRICT, a Florida water management district (the "DISTRICT"), BARBARA WRAY SUGGS, individually ("SUGGS"), BARBARA WRAY SUGGS, as Trustee of THE BARBARA WRAY SUGGS LIVING TRUST DATED THE 14TH DAY OF OCTOBER, 1999 (the "TRUSTEE"), GINNIE SPRINGS OUTDOORS, LLC, a Florida limited liability company ("GINNIE SPRINGS"), JOSHUA D. MOORE, individually ("MOORE"), and, Kenneth Lynn White, as Attorney-in-Fact for RICHARD DOUGLAS ("DOUGLAS"), all of whom agree as follows:

WHEREAS the parties are currently involved in a certain appeal styled *Suggs, et al v. Suwannee River Water Management District, et al*, Case No. WMD-12-002 which is presently pending before the State of Florida Land and Water Adjudicatory Commission (the "FLAWAC APPEAL"); and,

WHEREAS, in the FLAWAC Appeal, SUGGS, the TRUSTEE, and GINNIE SPRINGS are challenging the DISTRICT's Order Dismissing With Prejudice Petition for Administrative Hearing Challenging Temporary Water Use Permit Issued on April 11, 2012, which dismissed their Petition for Administrative Hearing challenging a temporary water use permit issued to MOORE and DOUGLAS on April 11, 2012 (the "TEMPORARY PERMIT PETITION"); and,

WHEREAS, there is presently also pending before the State of Florida, Division of Administrative Hearings ("DOAH") the case of *Ginnie Springs v. Moore, et. al.*, DOAH Case No. 12-1632 (the "NON-TEMPORARY PERMIT CASE") in which GINNIE SPRINGS challenges the DISTRICT's issuance of a non-temporary water use permit issued to MOORE and DOUGLAS; and,

WHEREAS, the parties each believe that they have good and meritorious positions in the



FLAWAC APPEAL but recognize that the issues of law and fact raised in the TEMPORARY PERMIT PETITION are similar to the issues of law and fact raised in the NON-TEMPORARY PERMIT CASE and that the two cases may be more efficiently determined at one time before DOAH; and,

WHEREAS, all parties have entered into this Agreement to settle all issues and matters related to the FLAWAC APPEAL.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the DISTRICT, SUGGS, the TRUSTEE, GINNIE SPRINGS, MOORE and DOUGLAS all agree as follows:

1. The above recitals are incorporated herein as an integral part hereof.
2. The FLAWAC APPEAL shall be dismissed and jurisdiction over the matters set out in the FLAWAC APPEAL shall be relinquished to the DISTRICT;
3. After relinquishment of jurisdiction, the DISTRICT shall withdraw its May 8, 2012 ORDER DISMISSING WITH PREJUDICE PETITION FOR ADMINISTRATIVE HEARING CHALLENGING TEMPORARY WATER USE PERMIT ISSUED ON APRIL 11, 2012, and refer the TEMPORARY PERMIT PETITION to DOAH for a formal administrative hearing;
4. The parties shall request, and so stipulate, that DOAH consolidate the DOAH case that will result from the referral of the TEMPORARY PERMIT PETITION with the NON-TEMPORARY PERMIT CASE and hold the formal administrative hearing on both cases simultaneously. Any party may file a copy of this Agreement with DOAH to show the requests and stipulations herein.
5. Nothing in this Agreement shall be construed to give standing to SUGGS, the TRUSTEE,

or any other party to appear or participate in the NON-TEMPORARY PERMIT CASE as a party or otherwise challenge the issuance of the permit which is the subject of the NON-TEMPORARY PERMIT CASE. Further, no party waives any objection it may have to the standing of any other party. Also, nothing in this Agreement shall be construed to require the DISTRICT to issue any permit to MOORE or DOUGLAS, or to renew any permit issued to MOORE or DOUGLAS.

6. The temporary permit which is the subject of the TEMPORARY PERMIT PETITION, and all renewals and extensions thereof, shall remain in full force and effect and shall be operative during the pendency of the DOAH case or cases that result from the referral of the TEMPORARY PERMIT PETITION.
7. In the FLAWAC APPEAL, each party shall be responsible for its own attorneys fees and costs.
8. This Agreement may be executed in counterparts.
9. Upon execution of this Agreement by all of the parties, the DISTRICT shall file a motion to dispose of the FLAWAC APPEAL with FLAWAC as set out in this Agreement. Such motion shall have a copy of this Agreement attached. The parties agree that FLAWAC may dispose of the FLAWAC APPEAL as set forth in this Agreement, without a hearing or notice to any party.

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Barbara Wray Suggs
Barbara Wray Suggs, individually

DATED: June 21, 2012

Barbara Wray Suggs
Barbara Wray Suggs, as Trustee of the
Barbara Wray Suggs Living Trust dated the
14th day of October, 1999

DATED: June 21, 2012

Ginnie Springs Outdoors, LLC

By Mark D. Gray
Its

DATED: June 22, 2012

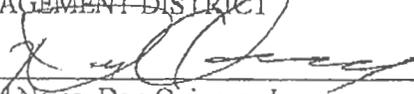
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Joshua D. Moore
Joshua D. Moore
DATED: 7-25-12

Jennifer B. Springfield
Jennifer B. Springfield, Attorney at Law for
Kenneth Lynn White, as Attorney in Fact
for Richard Douglas
DATED: July 25, 2012

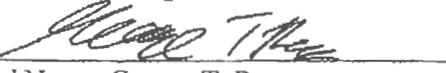
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SUWANNEE RIVER WATER
MANAGEMENT DISTRICT

By: 
Printed Name: Don Quincey, Jr.
Title: SRWMD Governing Board, Chair

DATED: 8-14-2012

Approved as to Form and Legality
SRWMD Governing Board Counsel

By: 
Printed Name: George T. Reeves
Title: SRWMD Governing Board Counsel

DATED: 8-14-2012

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BEFORE THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT

BARBARA WRAY SUGGS, individually, and
as Trustee of THE BARBARA WRAY
SUGGS LIVING TRUST DATED THE 14TH
DAY OF OCTOBER, 1999, and GINNIE
SPRINGS OUTDOORS, LLC, a Florida
limited liability company,

Petition for Administrative Hearing
Temporary Water Use Permit No. 2-11-00063

Petitioners,

v.

SUWANNEE RIVER WATER
MANAGEMENT DISTRICT,
JOSHUA D. MOORE and
RICHARD DOUGLAS,

Respondents.

PETITION FOR ADMINISTRATIVE HEARING

BARBARA WRAY SUGGS, individually, and as Trustee of THE BARBARA WRAY SUGGS LIVING TRUST DATED THE 14TH DAY OF OCTOBER, 1999, and GINNIE SPRINGS OUTDOORS, LLC ("Petitioners"), by and through undersigned counsel, hereby file this petition for formal administrative hearing (the "Petition") pursuant to Sections 120.569(1) and 120.57(1), Florida Statutes, and Chapter 28-106.2015, Florida Administrative Code, against the SUWANNEE RIVER WATER MANAGEMENT DISTRICT (the "District"), JOSHUA D. MOORE ("Moore") and RICHARD DOUGLAS ("Douglas"). This Petition concerns the issuance of a temporary permit by the District to Douglas and Moore. In support of the Petition, Petitioners state as follows:

PARTIES

1. Petitioner BARBARA WRAY SUGGS (“Ms. Suggs”) is the Trustee of the Barbara Wray Suggs Living Trust Dated the 14th Day of October, 1999 (the “Trust”). The Trust owns approximately 600 acres of property at 7300 NE Ginnie Springs Road in High Springs, Florida (“Ginnie Springs Property”). Prior to the establishment of the Trust, Ms. Suggs owned the Ginnie Springs Property. She subsequently transferred it to the Trust.

2. Petitioner GINNIE SPRINGS OUTDOORS, LLC, is a Florida limited liability company and leases the Ginnie Springs Property from the Trust.

3. Petitioners are represented in this matter by Richard L. Maguire, Emily G. Pierce and Cristine M. Russell of Rogers Towers, P.A., 1301 Riverplace Boulevard, Suite 1500, Jacksonville, Florida 32207, (904) 398-3911.

4. The name and address of the District, the affected agency, is the Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386) 362-1001.

5. The name and address of Douglas is: 6524 NE 55 Street, High Springs, Florida 32643 (the “Property”). Douglas is the owner of the Property and the applicant (the “Applicant”) for Water Use Permit Application Number 2-11-00063 (the “Application”).

6. The name and address of Moore is: 4520 River Close Boulevard, Valrico, Florida 33596, (352) 258-6309. On January 12, 2012, Moore entered into a lease with Douglas to operate a high intensity watermelon and vegetable farm (the “Farm”) on the Property; the water to be withdrawn if the Application is approved will be used for irrigation on the Farm.

NOTICE OF AGENCY ACTION

7. Douglas submitted the Application for the subject Water Use Permit on December 27, 2011 (the “Proposed Use”).

8. The District's file or identification number for the Water Use Permit Application is: 2-11-00063.

9. Petitioners received notice of a District decision on February 24, 2012, when a letter from the District was received, referencing the Water Use Permit Application Number 2-11-00063 and advising that the District staff proposes to issue the above-mentioned permit and the proposed action was subject to final approval by March 16, 2012. A copy of that letter (the "District Letter") is attached hereto as Exhibit "A".

10. A Petition for Administrative Hearing (the "Petition") was served on the District on March 14, 2012.

11. The District Governing Board issued an ORDER DISMISSING THE PETITION, WITHOUT PREJUDICE, on March 26, 2012, for failure to explain "how the Petitioner's substantial interests will be affected by the agency determination."

12. The Order set a "deadline for filing an amended petition curing the above defect" of 15 days after service of the Order.

13. The Order was furnished to the undersigned counsel by fax and U.S. Mail on March 30, 2012.

14. An Amended Petition for Administrative Hearing was filed on April 11, 2012.

15. A letter requesting issuance of "permit #2-11-00063 on a temporary basis" was submitted by Moore on March 23, 2012. A copy of that letter is attached hereto as Exhibit "B".

16. Temporary Permit 2-11-00063 (the "Temporary Permit") was issued on March 28, 2012, with an expiration date of April 11, 2012. A copy of that permit is attached hereto as Exhibit "C".

17. An extension of the Temporary Permit was considered by the District Governing Board on April 10, 2012.

18. On April 9, 2012, undersigned counsel submitted a letter requesting the extension be denied. A copy of that letter is attached hereto as Exhibit "D".

19. On April 10, 2012, undersigned counsel appeared at the Governing Board meeting requesting denial of the extension of the Temporary Permit.

20. The District Governing Board approved the extension of the Temporary Permit on April 10, 2012. A copy of that temporary permit dated April 10, 2012, with Notice of Rights, is attached hereto as Exhibit "E".

21. The Temporary Permit was issued pursuant to the Application, which was made a part of the Permit by reference.

PETITIONERS' SUBSTANTIAL INTERESTS
AFFECTED BY THE AGENCY DETERMINATION

Ms. Suggs, Individually:

22. The substantial interests of Ms. Suggs, individually, will be directly affected by the determination of the agency, the District, to extend the Temporary Permit.

23. Located on the Ginnie Springs Property are several water supply wells (the "Supply Wells") from which water is withdrawn for use at a spring water bottling plant (the "Plant") located in the immediate area. That withdrawal is a present existing legal use, permitted

by the District, pursuant to Water Use Permit No. 2-93-00093M. Ms. Suggs was the original applicant and permittee for Water use Permit No. 2-93-00093M.

24. In 1994, prior to the time that she established the Trust, Ms. Suggs granted water extraction rights to a business entity from which she received and continues at present to receive a percentage of the income derived from the sale of spring water bottled pursuant to those extraction rights.

25. The Proposed Use will degrade water resources; harm water resources of the area; interfere with present existing legal uses of water; and harm offsite land uses, including but not limited to the Supply Wells from which water is withdrawn for sale as bottled spring water from which Ms. Suggs derives a significant benefit.

26. The Proposed Use sought to be approved by the Application will severely and negatively impact the value of the water extraction rights granted by Ms. Suggs, will reduce her income and will interfere with the enjoyment of water and natural resources, including but not limited to Ginnie Springs and several freshwater springs (the "Ginnie Springs Group"), and the Santa Fe River.

The Trust:

27. The Trust's substantial interests will be directly affected by the determination of the agency, the District, to extend the Temporary Permit.

28. The Trust owns the Ginnie Springs Property, which is adjacent to the Douglas Property. The Ginnie Springs Property contains the Ginnie Springs Group, which is adjacent to the Santa Fe River, a river that has been designated as an "Outstanding Florida Water."

29. The Trust leases a portion of the Ginnie Springs Property to Ginnie Springs Outdoors, LLC.

30. The Proposed Use will degrade water resources; harm water resources of the area; interfere with the Trust's present existing legal uses of water, and harm offsite land uses, including but not limited to that used by Ginnie Springs Outdoors, LLC, for its existing business.

31. If the Water Use Permit is issued, the Trust will suffer an immediate injury to its existing legal use and to its use and enjoyment of the air, water, and natural resources of the Ginnie Springs Group and the Santa Fe River.

Ginnie Springs Outdoors, LLC:

32. Ginnie Springs Outdoors, LLC's substantial interests will be directly affected by the determination of the agency, the District, to extend the Temporary Permit.

33. Petitioner Ginnie Springs Outdoors, LLC, operates a business located on approximately 250 acres of the Ginnie Springs Property. Ginnie Springs Outdoors, LLC, uses the Ginnie Springs Property for various recreational activities, such as camping and picnicking, diving in springs, tubing and canoeing on the Santa Fe River and has made such recreational uses available to the public since 1975.

34. In addition, water for use as drinking water is withdrawn from three wells (the "Drinking Water Wells") located on the Ginnie Springs Property operated by Petitioner Ginnie Springs Outdoors, LLC.

35. Ginnie Springs Outdoors, LLC's withdrawal from the Drinking Water Wells is an existing legal use, permitted by the District.

36. The Proposed Use will degrade water resources; harm water resources of the area; interfere with Ginnie Springs Outdoors, LLC's present existing legal uses of water, and harm offsite land uses, including but not limited to that used by Ginnie Springs Outdoors, LLC, for its existing business.

37. The Proposed Use sought to be approved by the Application will severely and negatively impact the value of Ginnie Springs Outdoors, LLC's existing business, will reduce income and will interfere with the enjoyment of water and natural resources, including but not limited to Ginnie Springs, the Ginnie Springs Group, and the Sante Fe River.

DISPUTED ISSUES OF MATERIAL FACTS

38. Specific disputed issues of material fact in this proceeding include, but are not limited to, the following:

(a) Whether the Governing Board, prior to extending the Temporary Permit, considered whether it appeared that the Proposed Use met the criteria set forth in Section 373.223(1), Fla. Stat. (2012);

(b) Whether the Governing Board considered whether such Temporary Permit was necessary for consumptive use of water prior to final action on the Application;

(c) Whether the Governing Board considered whether the Proposed Use to be authorized by the Temporary Permit was a reasonable-beneficial use, would not interfere with any presently existing legal use, and is consistent with the public interest;

(d) Whether the Temporary Permit was necessary because there existed a serious set of unforeseen or unforeseeable circumstances;

(e) Whether the filing of a Petition for an Administrative Hearing is an unforeseen or unforeseeable circumstance;

(f) Whether the request for a Temporary Permit was submitted by the Applicant;

(g) Whether the request for a Temporary Permit contained the reason for the request, the amount requested, the proposed use of the water, the source of the water and the length of time the water is needed; and

(h) Whether the issuance of the Temporary Permit was required because of the failure of the Applicant to properly plan for the need to use water.

(i) Whether the Proposed Use will degrade water resources, including the groundwater, the Ginnie Springs Group and other springs and the Santa Fe River, an Outstanding Florida Water ("OFW");

(j) Whether the Applicant has provided reasonable assurances that the use of the water is a reasonable-beneficial use, both reasonable and consistent with the public interest;

(k) Whether the Temporary Permit contains such reasonable conditions as are necessary to assure that such use is consistent with the overall objectives of the District and is not harmful to the water resources of the area;

(l) Whether the Applicant has provided reasonable assurances that the Proposed Use of water will not interfere with any presently existing legal use of water;

(m) Whether the Applicant has provided reasonable assurances that the Proposed Use of water is consistent with the public interest;

- (n) Whether the Applicant has provided reasonable assurances that the Proposed Use of water will not degrade the source from which it is withdrawn;
- (o) Whether the Applicant has provided reasonable assurances that the Proposed Use of water will not harm off-site land uses;
- (p) Whether the Applicant has provided reasonable assurances that the Proposed Use of water will not cause harm to surface waters;
- (q) Whether the Applicant has provided reasonable assurances that the use will not cause or contribute to a violation of State water quality standards in waters of the State, including but not limited to Outstanding Florida Waters;
- (r) Whether the Applicant has provided reasonable assurances that the Proposed Use of water is a reasonable beneficial use considering the purpose and value of the use and the extent and amount of harm to be caused;
- (s) Whether the District has considered the practicality of mitigating any harm by adjusting the quantity or method of use;
- (t) Whether the District has considered the feasibility of alternative sources of water;
- (u) Whether the District has considered the present and projected demand for the source of water for the Proposed Use;
- (v) Whether the District has determined whether the impact of the withdrawal for the Proposed Use extends to land not around nor legally controlled by the Applicant;

(w) Whether the District has complied with its own regulations in reviewing the Application, including but not limited to:

- i. Processing a well permit and the Application as one application;
- ii. Determining whether the Applicant has provided reasonable assurance of satisfying conditions for issuance through data collection, evaluation and modeling;
- iii. Determining the impact to surface water bodies;
- iv. Determining whether the proposed water use would cause degradation of surface or groundwater quality to the extent that sources are rendered unusable for reasonable-beneficial uses of water or pollutants would interfere with an existing legal use;
- v. Determining whether the Applicant has developed a plan that incorporates the applicable Best Management Practices approved by the Florida Department of Agriculture and Consumer Services;
- vi. Determining the necessity for monitoring, including but not limited to: number and placement of monitoring wells; monitoring frequency; constituents to be monitored; actions levels; and the method to respond to detection; and
- vii. Considering standard permit conditions to include mitigation of any harm to off-site land uses and mitigation of any harm to natural resources.

(x) Whether the Applicant has affirmatively demonstrated that the Proposed Use is clearly in the public interest and the existing ambient water quality within Outstanding Florida Waters will not be degraded or lowered as a result of the Proposed Use of water;

(y) Whether the Ginnie Springs Group is part of the Santa Fe River System;

(z) Whether the Santa Fe River System is an OFW;

(aa) Whether the Governing Board, prior to extending the Temporary Permit, considered whether it appeared that the Proposed Use met the criteria set forth in Section 373.223(1), Fla. Stat. (2012);

(bb) Whether the Governing Board considered whether such Temporary Permit was necessary for consumptive use of water prior to final action on the Application;

(cc) Whether the Governing Board considered whether the Proposed Use to be authorized by the Temporary Permit was a reasonable-beneficial use, would not interfere with any presently existing legal use, and is consistent with the public interest;

(dd) Whether the Temporary Permit was necessary because there existed a serious set of unforeseen or unforeseeable circumstances;

(ee) Whether the filing of a Petition for an Administrative Hearing is an unforeseen or unforeseeable circumstance;

(ff) Whether the request for a Temporary Permit was submitted by the Applicant;

(gg) Whether the request for a Temporary Permit contained the reason for the request, the amount requested, the proposed use of the water, the source of the water and the length of time the water is needed; and

(hh) Whether the issuance of the Temporary Permit was required because of the failure of the Applicant to properly plan for the need to use water.

ULTIMATE FACTS ALLEGED

39. District staff has issued, and the Governing Board has extended, a Temporary Permit that is not in compliance with applicable standards and criteria of the Florida Statutes and the Florida Administrative Code as well as the District's Water Use Permitting Guide.

40. Douglas and Moore have failed to comply with the applicable standards and criteria set forth in the Florida Statutes, the Florida Administrative Code, and the District's Water Permitting Guide by failing to provide the necessary reasonable assurances and by failing to provide required data.

41. The District has failed to evaluate the impact on existing legal users, off-site land uses and the Santa Fe River System, an OFW.

SPECIFIC RULES THAT REQUIRE REVERSAL OR MODIFICATION

OF THE RESPONDENTS' ACTION

1. *Water Use Permit Statutes:*

a. **Section 373.016, Fla. Stat. (2012) - Declaration of Policy:**

(i) Section 373.016(2), Fla. Stat. (2012) - DEP and the WMDs "shall take into account cumulative impacts on water resources and manage those resources in a manner to ensure their sustainability.

(ii) Section 373.016(3), Fla. Stat. (2012) - It is declared to be policy of the Legislature “(f) To minimize degradation of water resources by the discharge of stormwater; (g) To preserve natural resources, fish, and wildlife, . . . (i) To promote recreational development. . .”

b. Section 373.019, Fla. Stat. (2012) - Definitions

Section 373.019(16), Fla. Stat. (2012) - ““Reasonable-beneficial use” means the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.”

c. Section 373.219, Fla. Stat. (2012) - Permits required:

Section 373.219(1), Fla. Stat. (2012) - WMDs may require a permit for the consumptive use of water “and may impose such reasonable conditions as are necessary to assure that such use is consistent with the overall objectives of the district or department and is not harmful to the water resources of the area.”

d. Section 373.223, Fla. Stat. (2012) - Conditions for a permit:

Section 373.223(1), Fla. Stat. (2012) - “To obtain a permit . . . the applicant must establish that the proposed use of water:

- (a) Is a reasonable-beneficial use as defined in s. 373.019;
- (b) Will not interfere with any presently existing legal use of water; and
- (c) Is consistent with the public interest.”

e. Section 373.244, Fla. Stat. (2012) - Temporary permits:

Section 373.244(1), Fla. Stat. (2012) - The governing board may authorize its executive director to issue temporary permits for the consumptive use of water while an application is pending.

Section 373.244(2), Fla. Stat. (2012) - “At such (next regularly scheduled meeting of the governing board), the governing board shall consider whether it appears that the

proposed use meets the criteria set forth in s. 373.223(1) and that such temporary permit is necessary for consumptive use of water prior to final action on an application for a permit ...” (emphasis added).

Section 373.244(5), Fla. Stat. (2012) - “The notice and hearing that might otherwise be required pursuant to s. 373.116(2) and chapter 120 shall not be required prior to issuance or extension of a temporary permit pursuant to the provisions of this section.”

2. *Suwannee River Water Management District Water Use Permit Rules:*

a. Section 40B-2.301, Fla. Admin. Code - Conditions for Issuance of Permits.

Section 40B-2.301(1), Fla. Admin. Code - “To obtain a permit . . . the applicant must provide reasonable assurances that the proposed use of water:

- (a) Is a reasonable-beneficial use;
- (b) Will not interfere with any presently existing legal use of water; and
- (c) Is consistent with the public interest.”

Section 40B-2.301(2), Fla. Admin. Code - the following criteria must be met in order for a use to be considered reasonable-beneficial:

“(a) The use must be in such quantity and of such quality as is necessary for economic and efficient use.

(b) The use must be for a purpose that is both reasonable and consistent with the public interest.

(c) The source of the water must be capable of producing the requested amounts and appropriate quality of water.

(d) The use will not degrade the source from which it is withdrawn.

(e) The use will not cause or contribute to flooding.

(f) The use will not harm offsite land uses.

(g) The use will not cause harm to wetlands or other surface waters. Harm to wetlands 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.

(h) The use will not cause or contribute to a violation of either minimum flows or levels.

(i) The use will not cause or contribute to a violation of state water quality standards in waters of the state as set forth in Chapters 62-301, 62-302, 62-520 and 62-550, F.A.C.

(j) The use is otherwise a reasonable-beneficial use as defined in Section 373.019(2), Fla. Stat. (2012), with consideration given to the factors set forth in 62-40.410(2), F.A.C.”

Section 40B-2.301(3), Fla. Admin. Code - The standards and criteria of the Water Use Permitting Guide are incorporated into this Chapter.

b. Section 40B-2.441, Fla. Admin. Code - Temporary water use permits.

Section 40B-2.441(1), Fla. Admin. Code - “The Governing Board hereby delegates to the Executive Director the authority to issue temporary permits ...”.

Section 40B-2.441(2), Fla. Admin. Code - “At the next regular meeting of the Governing Board, the Governing Board shall consider:

(a) whether the proposed use is a reasonable-beneficial use, will not interfere with any presently existing legal use, and is consistent with the public interest; and

(b) whether a temporary permit is necessary prior to final action on the application. In order for a temporary permit to be necessary prior to final action on the application, there must exist a serious set of unforeseen or unforeseeable circumstances" (emphasis added).

3. *Section 62-40.410, Fla. Admin. Code - Water Supply Protection and Management.*

Section 62-40.410(2), Fla. Admin. Code - additional factors incorporated by reference into 40B-2.301(2)(j), Fla. Admin. Code, to be considered when determining if a use is reasonable-beneficial:

(2) In determining whether a water use is a reasonable-beneficial use, the following factors will be considered:

- (a) The quantity of water requested for the use;
- (b) The demonstrated need for the use;
- (c) The suitability of the use to the source of water;
- (d) The purpose and value of the use;
- (e) The extent and amount of harm caused;
- (f) The practicality of mitigating any harm by adjusting the quantity or method of use;
- (g) Whether the impact of the withdrawal extends to land not owned or legally controlled by the user;
- (h) The method and efficiency of use;
- (i) Water conservation measures taken and available to be taken;
- (j) The feasibility of alternative sources such as reclaimed water, stormwater, aquifer storage and recovery, brackish water and salt water;

- (k) The present and projected demand for the source of water;
- (l) The long-term yield available from the source of water;
- (m) The extent of water quality degradation caused;
- (n) Whether the proposed use would cause or contribute to flood damage;
- (o) Whether the proposed use would significantly induce or increase saltwater intrusion;
- (p) The amount of water which can be withdrawn without causing harm to the resource;
- (q) Whether the proposed use would adversely affect public health; and
- (r) Whether the proposed use would significantly affect natural systems.

4. *Suwannee River Water Management District Water Use Permitting Guide*
(Incorporated by Reference into 40B-2.301(3), Fla. Admin. Code)

1.7: The request for a temporary water use permit must be submitted to the District in the form of a letter and that “letter must contain the reason for the request, the amount requested, the proposed use of the water, the source of the water, and the length of time the water is needed.” A water use permit application for the proposed use must be pending with the District. “Temporary water use permits shall not be issued as a result of the applicant’s failure to properly plan for the need to use water” (emphasis added).

2.7: In the event a Water Use Permit (“WUP”) requires a well permit, the water well application is deemed part of the WUP application and they are processed as one application under the WUP procedures.

3: acknowledges that Section 373.223, Fla. Stat. (2012), provides a three (3) pronged test for evaluating a proposed water use, notes that the three prongs must be met individually and cumulatively.

3.1.1.(b): for projects located either wholly or in part within a water resource caution area, the applicant “shall” provide a feasibility assessment for alternative water supplies. The criteria which must be used to demonstrate feasibility include: environmental feasibility, technical feasibility, and economic feasibility.

3.1.2: the applicant shall provide reasonable assurance of satisfying conditions for issuance through data collection, evaluation, and modeling except when the District possesses sufficient information to enable it to evaluate the application.

3.1.3: impacts to wetlands and surfacewater bodies shall be considered regardless of whether an ERP permit is involved.

3.1.6: is the no-harm standards and thresholds, it specifically states that “withdrawals” cannot cause or contribute to a change in water levels and flow for springs.

3.1.11: “A water use permit application shall be denied if the withdrawals would cause degradation of surface or groundwater quality through the induced movement of pollutants into a water source to the extent that sources are rendered unusable for reasonable-beneficial uses of water or pollutants interfere with an existing legal use” (emphasis added).

3.1.12: “The permit application shall be denied based on inconsistency with the public interest if the proposed withdrawals of water would cause an unmitigated adverse impact on an adjacent land use existing at the time of the permit application.” Adverse impacts include, but are not limited to, reduction in water quality in adjacent surfacewaters and springs, damage to wetlands and other surface waters and damage to habitat of endangered or threatened species.

3.1.14: “The issuance of a permit will be denied if the withdrawal or use of water would otherwise be harmful to the water resources.”

3.3.2.7: The District presumes compliance with 40B-2 and the permitting guide if the applicant develops a plan that incorporates the applicable best management practices

approved by the Florida Department of Agriculture and Consumer Services.

3.4: monitoring may be required.

3.6.1: lists out the standard permit conditions which include mitigation of any harm to off-site land uses and mitigation of any harm to natural resources.

3.6.2: allows for special permit conditions.

3.6.2.3: applies to agricultural uses and requires implementation of a District approved water conservation plan, a water use compliance report every 5 years, and restrictions on use of water for frost/freeze protection.

3.6.2.7: regulates well construction.

5. *Florida's Antidegradation Policy & Outstanding Florida Waters Regulations*

Section 62-4.242, Fla. Admin. Code - Antidegradation Permitting Requirements; Outstanding Florida Waters; Outstanding National Resource Waters; Equitable Abatement.

Section 62-4.242(1)(a), Fla. Admin. Code, states: "Permits shall be issued when consistent with the antidegradation policy set forth in Rule 62-302.300, F.A.C., and, if applicable, Rule 62-302.700, F.A.C."

Section 62-4.242(2)(a), Fla. Admin. Code, states that no permit "shall be issued for any proposed activity or discharge within an Outstanding Florida Waters, or which significantly degrades, either alone or in combination with other stationary installations, any Outstanding Florida Waters, unless the applicant affirmative demonstrates that: . . . 2. The Proposed activity or discharge is clearly in the public interest, and . . . the existing ambient water quality within Outstanding Florida Waters will not be lowered as a result of the proposed activity or discharge . . ."

Section 62-4.242(2)(c), Fla. Admin. Code, "existing ambient water quality" means either that which existed for the baseline year of an Outstanding Florida Water designation or that which existed during the year prior to the permit application.

Section 62-302.300, Fla. Admin. Code - Findings, Intent, and Antidegradation Policy for Surface Water Quality.

Section 62-302.300(5), Fla. Admin. Code, states that water quality standards apply equally to the public and private sector.

Section 62-302.300(6), Fla. Admin. Code, states that private activities conducted for private purposes may also be in the public interest.

Section 62-302.300(11), Fla. Admin. Code, states that it is the public policy of the State to conserve, protect, maintain and improve the quality of the states water.

Section 62-302.300(12), Fla. Admin. Code, states that DEP assures the achievement of the highest standards thru "all cost-effective and reasonable best management practices for nonpoint source" activities.

Section 62-302.300(13), Fla. Admin. Code, states "The Department finds that excessive nutrients (total nitrogen and total phosphorus) constitute one of the most severe water quality problems facing the State. It shall be the Department's policy to limit the introduction of man-induced nutrients into waters of the State. . . . Also, particular consideration shall be given to the protection from nutrient enrichment of those waters presently containing very low nutrient concentrations: less than 0.3 milligrams per liter total nitrogen or less than 0.04 milligrams per liter total phosphorus."

Section 62-302.300(14), Fla. Admin. Code, states: "Existing uses and the level of water quality necessary to protect the existing uses shall be fully maintained and protected."

Section 62-302.400, Fla. Admin. Code - Classification of Surface Waters, Usage, Reclassification, Classified Waters.

Section 62-302.400(14), Fla. Admin. Code all surface waters of the state are Class III waters unless otherwise designation. Waters may also be Outstanding Florida Waters.

Section 62-302.500, Fla. Admin. Code - Surface Waters, Minimum Criteria, General Criteria.

Section 62-302.500(1)(a), Fla. Admin. Code states that all surface waters of the state shall be “at all times” free from agricultural discharges “which, alone or in combination with other substances or in combination with other components of discharges: . . . 4. Are acutely toxic; or 5. Are present in concentrations which are carcinogenic, mutagenic, or teratogenic to human beings or to significant, locally occurring, wildlife or aquatic species, unless specific standards are established for such components . . . or 6. Pose a serious danger to the public health, safety, or welfare.”

Section 62-302.500(1)(e), Fla. Admin. Code states that a violation of any surface water quality criterion constitutes pollution.

Section 62-302.700, Fla. Admin. Code - Special Protection, Outstanding Florida Waters, Outstanding National Resource Waters.

Section 62-302.700(1), Fla. Admin. Code “It shall be the Department policy to afford the highest protection to Outstanding Florida Waters and Outstanding National Resource Waters. No degradation of water quality . . . is to be permitted in Outstanding Florida Waters . . .”

Section 62-302.700(8), Fla. Admin. Code, for OFWs the last day of the baseline year for defining the existing ambient water quality is March 1, 1979.

Section 62-302.700(9)(i)(28) OFW/Special waters: Santa Fe River System - consisting of the Santa Fe River, Lake Santa Fe, Little Lake Santa Fe, Santa Fe Swamp, Olustee Creek, and the Ichetucknee River below S.R. 27, but excluding all other tributaries.

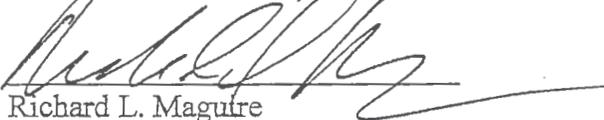
RELIEF SOUGHT BY PETITIONER

WHEREFORE, Petitioners respectfully request the following relief:

1. That a formal administrative hearing be conducted in accordance with Sections 120.569 and 120.57(1), Florida Statutes;
2. That recommended and final orders be issued;
3. That the Temporary Permit be revoked;
4. That in the alternative, conditions be included in any permit that will provide the necessary reasonable assurances that the proposed use is a reasonable-beneficial use, will not interfere with existing legal uses, is consistent with the public interest, and will not degrade the groundwater, springs or Outstanding Florida Waters;
- 4 That attorneys' fees and costs be awarded to Petitioners; and
- 5 That such further relief as may be deemed appropriate be granted.

RESPECTFULLY SUBMITTED this 26th day of April, 2012.

ROGERS TOWERS, P.A.



Richard L. Maguire

Florida Bar No. 0177702

Emily G. Pierce

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Cristine M. Russell

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1301 Riverplace Boulevard, Suite 1500

Jacksonville, Florida 32207

(904) 398-3911 (telephone)

(904) 396-0663 (facsimile)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition for Administrative Hearing was furnished to the Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060 via Federal Express; and to Richard Douglas, 6524 NE 55 Street, High Springs, Florida 32643; and Joshua D. Moore, 4520 River Close Boulevard, Valrico, Florida 33596 by U.S. Mail, this 26th day of April, 2012.


Richard L. Maguire
Attorney for Petitioner



**SUWANNEE
RIVER
WATER
MANAGEMENT
DISTRICT**

February 23, 2012

REC'D. 2/24/12
CLIENT: G A R P
MATTER: 28112 Other: _____
CC: _____

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

DON QUINCEY, JR.
Chairman
Chiefland, Florida

ALPHONAS ALEXANDER
Vice Chairman
Madison, Florida

RAY CURTIS
Secretary / Treasurer
Perry, Florida

KEVIN BROWN
Alachua, Florida

GEORGE COLE
Monticello, Florida

HEATH DAVIS
Cedar Key, Florida

JAMES L. FRALEIGH
Madison, Florida

CARL E. MEECE
O'Brien, Florida

GUY N. WILLIAMS
Lake City, Florida

DAVID STILL
Executive Director
Lake City, Florida

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

Dear Mr. Douglas:

Suwannee River Water Management District (District) staff proposes to issue the above-mentioned permit.

This proposed action is subject to final approval by March 16, 2012.

Persons considered to be affected by this proposed agency action may request an administrative hearing. The request must be written and must adhere to the requirements of Chapter 28-106, Florida Administrative Code. Please see the enclosed Notice of Rights. All requests for administrative hearings shall be sent to the District at 9225 County Road 49, Live Oak, Florida 32060. Please call permitting staff at 386.362.1001 if you have any questions.

Sincerely,

Tim Sagul, P.E.
Senior Professional Engineer

JD/tm
Enclosure

Cc: Joshua Moore
Richard L. McGuire

3/23/12

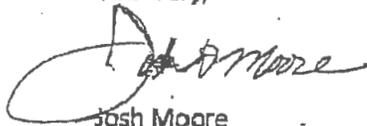
John Dinges
Suwannee River Water Management District
9225 CR 49
Live Oak, FL 32060

Dear Mr. Dinges

I would like to request the Suwannee River Water Management District to issue permits #2-11-00063 on a temporary basis until the petitions are resolved. Please use the original application information for this request.

I appreciate your consideration on the request.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Moore", with a large, stylized initial "J" that loops around the start of the name.

Josh Moore



**Suwannee
River
Water
Management
District**

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

**TEMPORARY
WATER USE PERMIT
2-11-00063**

ISSUED TO:

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

Joshua D. Moore
PO Box 145
Bell, FL 32619

DATE ISSUED: 3/28/2012

DATE EXPIRES: 4/11/2012

PROJECT: RICHARD DOUGLAS FARM

AUTHORIZING: The average daily withdrawal and use of 0.1671 million gallons per day or a maximum daily withdrawal and use of 1.4400 million gallons per day for a total allocation not to exceed 2.3392 million gallons for the duration of the permit.

LOCATED IN: Gilchrist County, Township 8 South, Range 16 East, Section 3

This permit is issued pursuant to Application 2-11-00063, dated March 23, 2012, for the Use of Water as specified above and subject to the Conditions as set forth below. The letter application referenced the original application and the permit in reliance on the information contained in the original application. Said Application, including all plans and specifications attached thereto, is by reference made a part hereof. If there is any conflict between the Application and the conditions of this Permit, the Permit shall supersede.

Upon written notice to the permittee, this permit may be modified, or restricted under a Declaration of Water Shortage or a Declaration of Emergency due to Water Shortage in Accordance with provisions of Ch. 373, Florida Statutes and applicable rules and regulations of the Suwannee River Water Management.

In compliance with Florida Statutes, the District is establishing Minimum Flows & Levels (MFLs) for priority water bodies within the Suwannee River Water Management District. In some cases, these MFLS may indicate that there is insufficient water available to protect the water resources from significant harm

Permit No: 2-11-00063
Project: RICHARD DOUGLAS FARM

as defined by the District Governing Board. In such cases, it may be necessary for the District to modify existing water use permits in order to provide protection from significant harm to the water resources.

Therefore, upon written notice to the permittee, this permit may be modified in accordance with provisions of Ch. 373, Florida Statutes, and applicable rules and regulations of the Suwannee River Water Management District.

This permit may be permanently or temporarily revoked, in whole or in part, for the violation of the conditions of the permit or for the violation of any provision of the Water Resources Act and regulations thereunder.

This permit does not convey to permittee any property rights or privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation, or requirement affecting the rights of other bodies or agencies.

FINDINGS:

Pursuant to Florida Administrative Code 40B-2.441, the following findings are made:

1. The use allowed in this Permit is a reasonable-beneficial use.
2. The use allowed in this Permit will not interfere with any presently existing legal use.
3. The use allowed in this Permit is consistent with the public interest.
4. There exist a serious set of unforeseen or unforeseeable circumstances which make it necessary to issue this Permit prior to final action on the Permittee's application for a water use permit pursuant to Sections 373.219 and 373.229, Florida Statutes.

STANDARD CONDITIONS ARE AS FOLLOWS:

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.

Permit No: 2-11-00063

Project: RICHARD DOUGLAS FARM

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.

Permit No: 2-11-00063

Project: RICHARD DOUGLAS FARM

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 MADE PART OF THIS PERMIT ARE AS FOLLOWS:

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.

Permit No: 2-11-00063
Project: RICHARD DOUGLAS FARM

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 April 11, 2012.

SUWANNEE RIVER WATER MANAGEMENT
DISTRICT, BY ITS GOVERNING BOARD



SEAL

By Charles W. Bruden III
Asst. EXECUTIVE DIRECTOR

Terry J. [Signature]
DISTRICT RULES CLERK

March 28, 2012
DATE

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 chose 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.

Permit No: 2-11-00063
Project: RICHARD DOUGLAS FARM

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.
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:

RICHARD DOUGLAS
6524 NE 55TH STREET
HIGH SPRINGS, FL 32643

At 4:00 p.m. this 28th day of March, 2012



Jen Dinges
Deputy Clerk

Permit No: 2-11-00063

Project: RICHARD DOUGLAS FARM

Suwannee River Water Management District

9225 C.R. 49

Live Oak, Florida 32060

386.362.1001 or 800.226.1066 (Florida only)

cc: File Number: 2-11-00063

Project Description

The project area consists of approximately 145 acres with approximately 72 acres being irrigated using groundwater. Richard Douglas is the land owner, with Josh Moore as the lessee

The water use calculations are based upon the irrigated acreage and crop type provided by Richard Douglas. Crops for the extent of the temporary permit are watermelon. The lessee will use drip irrigation to water the crops. The Average Daily Rate (ADR) of withdrawal is calculated as 0.1671 mgd.

The project area includes one 10-inch diameter well. The pumping capacity for the well is 1.4400 mgd.

Demonstration of Need

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

Water Conservation

The lessee has completed the Water Conservation Worksheets for 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 Unforseeable Circumstances

The applicant submitted the original application on December 28, 2011, well within the traditional timeframes for evaluation and issuance of this relatively low-quantity water use permit (ie. one well, one irrigation system). Due to the relatively low quantities requested, the applicant did not foresee any administrative challenges to his permit application.

Due to the limited timeframes for marketability of watermelons in Florida, watermelon plants must be grown during the middle of March to meet the

summer market. Watermelon plants will only last approximately four days in a dry, unirrigated state. The applicant would be forced to lose his crop if this temporary water use permit is not issued.

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.
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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 April 11, 2012.



ATTORNEYS AT LAW

Richard L. Maguire

904.346.5564
RMaguire@rtlaw.com

1301 Riverplace Boulevard - Suite 1500
Jacksonville, Florida 32207

904.398.3911 Main
904.396.0663 Fax
www.rtlaw.com

April 9, 2012

Via E-Mail

Mr. Charles Houder
Acting Executive Director
Suwannee River Water Management District
9225 County Road 49
Live Oak, FL 32060

**Re: Objection to Approval of Temporary Water Use Permit 2-11-00063, Richard Douglas Farm, Gilchrist County
Our File: S1160-28112**

Dear Mr. Houder:

This firm represents Ginnie Springs Outdoors, LLC, who recently filed a Petition for an Administrative Hearing concerning Water Use Permit Application Number 2-11-00063; we will shortly be filing an Amended Petition for Administrative Hearing in accordance with the Order Dismissing the Petition, Without Prejudice. Subsequent to the filing of the original Petition, The Suwannee River Water Management District (the "District"), at the request of Mr. Joshua Moore, issued a Temporary Water Use Permit to authorize the water use requested in the original Application. For the reasons set forth below, Ginnie Springs Outdoors, LLC, objects to the proposed extension of the referenced temporary permit by the Governing Board at their meeting on April 10, 2012. I request that this letter be delivered to the Governing Board prior to its consideration of the proposed extension on April 10, 2012.

Temporary permits are authorized by Section 373.244, Florida Statutes ("F.S."). That section requires that, to extend a temporary permit, the Governing Board shall consider whether the proposed use meets the criteria set forth in Section 373.223(1), F.S., and also whether such temporary permit is necessary for consumptive use of water prior to final action on an application. The District has enacted its own regulation implementing the statutory authority at Section 40B-2.441, Florida Administrative Code ("FAC"). That regulation requires that, to find a temporary permit to be "necessary, there must exist a serious set of unforeseen or unforeseeable circumstances." The submittal of a Petition for Administrative Hearing in response to an application for a water use permit is certainly not an unforeseen or unforeseeable circumstances.

Section 373.223(1), F.S., requires the applicant to establish that the proposed use of water is a reasonable-beneficial use, will not interfere with any presently existing legal use of water and is consistent with the public interest. Since the applicant has not submitted any information on which the District could determine that the applicant had met the conditions for a permit, there is no basis for issuance of the temporary permit. We are not aware of any information

Mr. Charles Houder
April 9, 2012
Page -2-

“establishing,” for example, the extent of any interference with any presently existing legal use of water.

Therefore, we request that the request to extend the temporary permit not be approved.

Sincerely,



Richard L. Maguire

RLM:sja

cc: Jon Dinges
Tim Sagul



**Suwannee
River
Water
Management
District**

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

**TEMPORARY
WATER USE PERMIT
2-11-00063**

ISSUED TO:

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

Joshua D. Moore
PO Box 145
Bell, FL 32619

DATE ISSUED: 4/10/2012

DATE EXPIRES: 5/9/2012

PROJECT: RICHARD DOUGLAS FARM

AUTHORIZING: The average daily withdrawal and use of 0.1671 million gallons per day or a maximum daily withdrawal and use of 1.4400 million gallons per day for a total allocation not to exceed 4.8456 million gallons for the duration of the permit.

LOCATED IN: Gilchrist County, Township 8 South, Range 16 East, Section 3

This permit is issued pursuant to Application 2-11-00063, dated March 23, 2012, for the Use of Water as specified above and subject to the Conditions as set forth below. The letter application referenced the original application and the permit in reliance on the information contained in the original application. Said Application, including all plans and specifications attached thereto, is by reference made a part hereof. If there is any conflict between the Application and the conditions of this Permit, the Permit shall supersede.

Upon written notice to the permittee, this permit may be modified, or restricted under a Declaration of Water Shortage or a Declaration of Emergency due to Water Shortage in Accordance with provisions of Ch. 373, Florida Statutes and applicable rules and regulations of the Suwannee River Water Management.

In compliance with Florida Statutes, the District is establishing Minimum Flows & Levels (MFLs) for priority water bodies within the Suwannee River Water Management District. In some cases, these MFLs may indicate that there is insufficient water available to protect the water resources from significant harm

Permit No: 2-11-00063
Project: RICHARD DOUGLAS FARM

as defined by the District Governing Board. In such cases, it may be necessary for the District to modify existing water use permits in order to provide protection from significant harm to the water resources.

Therefore, upon written notice to the permittee, this permit may be modified in accordance with provisions of Ch. 373, Florida Statutes, and applicable rules and regulations of the Suwannee River Water Management District.

This permit may be permanently or temporarily revoked, in whole or in part, for the violation of the conditions of the permit or for the violation of any provision of the Water Resources Act and regulations thereunder.

This permit does not convey to permittee any property rights or privileges other than those specified herein, nor relieve the permittee from complying with any law, regulation, or requirement affecting the rights of other bodies or agencies.

FINDINGS:

Pursuant to Florida Administrative Code 40B-2.441, the following findings are made:

1. The use allowed in this Permit is a reasonable-beneficial use.
2. The use allowed in this Permit will not interfere with any presently existing legal use.
3. The use allowed in this Permit is consistent with the public interest.
4. There exist a serious set of unforeseen or unforeseeable circumstances which make it necessary to issue this Permit prior to final action on the Permittee's application for a water use permit pursuant to Sections 373.219 and 373.229, Florida Statutes.

STANDARD CONDITIONS ARE AS FOLLOWS:

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.

Permit No: 2-11-00063

Project: RICHARD DOUGLAS FARM

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Permit No: 2-11-00063

Project: RICHARD DOUGLAS FARM

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

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Permit No: 2-11-00063
Project: RICHARD DOUGLAS FARM

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

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



SEAL

SUWANNEE RIVER WATER MANAGEMENT
DISTRICT, BY ITS GOVERNING BOARD

By Charles H. Anderson
Asst. EXECUTIVE DIRECTOR

Timothy J. Sykes
DISTRICT RULES CLERK

April 11, 2012
DATE

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 chose 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.
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:

RICHARD DOUGLAS
6524 NE 55TH STREET
HIGH SPRINGS, FL 32643

At 4:00 p.m. this 11th day of April, 2012



Jon Dinges
Deputy Clerk

Permit No: 2-11-00063

Project: RICHARD DOU AS FARM

Suwannee River Water Management District

9225 C.R. 49

Live Oak, Florida 32060

386.362.1001 or 800.226.1066 (Florida only)

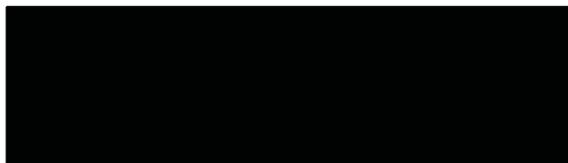
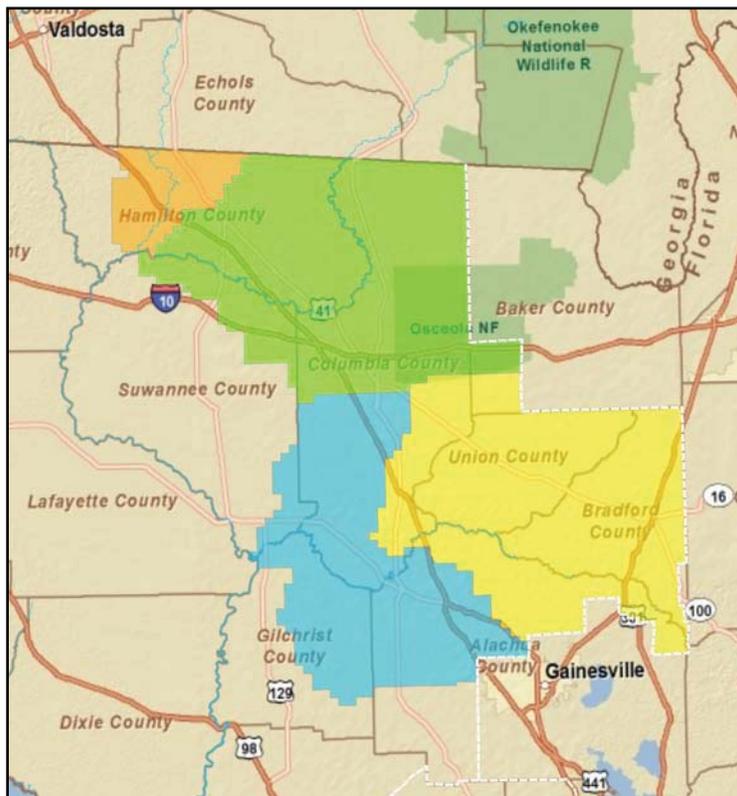
cc: File Number: 2-11-00063

MEMORANDUM

TO: Governing Board
FROM: Kevin Wright, Professional Engineer
DATE: September 6, 2012
RE: Report on Investigation of Non-use of Water Use Permits

At the August 14, 2012, Governing Board Workshop, the Governing Board requested that staff evaluate the water use permit inventory to determine if there were any permits that have not been used for a period of two or more years.

Staff gave priority to the water use permits located within the four Water Resource Caution Areas shown in the figure below.



To evaluate non-use, staff used well data and imagery to determine whether the permits were being used based on whether or not a well had been constructed. Using the District Geographic Information System (GIS), staff determined that there were over 2,400 existing wells in the Water Resource Caution areas. These wells represent 900 water use permits. Staff examined the largest 300 permits (based on permitted allocation). During the evaluation, staff discovered 11 water use permits that may not be fully used, were never used, or are duplicates.

Staff will contact each of these permittees to better understand current status of their operations. If staff confirms that permits have not been used for two or more years, then staff will bring those permits to the Governing Board for discussion on future action.

Staff intends to complete this investigation within the Water Resource Caution Areas by October 5, 2012, and bring a full report to the Governing Board at a workshop in the near future.

Following completion of this investigation within the Water Resource Caution Areas, staff will continue working through the balance of the District and reporting the results to the Governing Board on a monthly basis.

KW/tm

MEMORANDUM

TO: Governing Board
FROM: Charlie Houder, Assistant Executive Director
DATE: September 7, 2012
RE: R. O. Ranch, Inc. Endowment and Trust Agreement

RECOMMENDATION

Staff recommends that the Governing Board:

- (1) authorize the transfer the funds in the R. O. Ranch endowment fund to R. O. Ranch, Inc., and**
- (2) approve and execute the Trust Agreement for the management of the funds.**

BACKGROUND

In April 2006 Frank and Olive Schulte donated a 54% interest in their property to R. O. Ranch, Inc., a 501(c)(3) non-profit corporation established by the District Governing Board. In July 2006 the District purchased the property from the Schultes and R. O. Ranch, Inc., thereby creating a \$3.5 million fund for R. O. Ranch Inc. In accordance with Resolution 2006-19, the funds were deposited in a separate sub-account of the District's account with the Florida State Board of Administration account. This account has been managed such that the principal is preserved, and only the income generated from these funds is withdrawn for the purposes of supporting R.O. Ranch, Inc.

Based on input from the Executive Office of the Governor, legislative staff, and the Department of Environmental Protection, the endowment is not included in the District's FY 2012-13 budget. Staff has worked with the R. O. Ranch Board of Directors to arrange for the transfer of funds from District accounts to an account controlled by R. O. Ranch, Inc. It has been the intent of the Board of Directors that the funds be governed by a trust that would protect its principal as well as shield it from potential claims in the future.

The total amount of the R. O. Ranch endowment was \$3,857,199.09 at the close of business on August 31. The bulk of these funds are invested in the State's Special Purpose Investment Account (SPIA). A small amount is held in the State Board of Administration (SBA) Fund A and approximately \$67,000 is held in SBA Fund B. The funds in SPIA and SBA Fund A can be drawn down and available for transfer with a few days notice. SBA Fund B was created during the investment crisis of 2007 and holds obligations that are not immediately liquid. The District is able to transfer about \$1,100 per month out of Fund B. Therefore, staff recommends that an amount equal to the funds in SBA Fund B be drawn from other reserves for transfer to R. O. Ranch, Inc. These funds would be replenished over time from those in SBA Fund B.

Mr. Schulte had the draft Trust Agreement review by his attorney who made several substantive revisions. Principally, two co-trustees, Mr. Schulte's son and Mr. Schulte's business associate, Travis Birdsong, were added. Accordingly, the provision for successor trustees was revised and it was specified that the powers of the Trust could only be exercised with the concurrence of all three Trustees. The revised draft strengthens the intent to use only 75% of the net income to the Trust for management and maintenance of the ranch. It also grants Mr. Schulte's son with the primary authority to name a charitable entity to receive the Trust property should R. O. Ranch, Inc. ever be dissolved.

The Schulte draft was then reviewed by staff and Board Counsel. The resulting document which is attached was presented to the R.O. Ranch, Inc. Board of Directors on September 6, and was approved subject to a final review by Mr. Schulte's attorney. The biggest substantive change from the Schulte draft was the addition of a requirement that the Beneficiary, R. O. Ranch, Inc. must concur with all actions of the Trustees. In addition, the provisions for successor trustees was revised significantly and provisions regarding the payment of taxes and the waiver of a jury trial were reinserted.

There was additional discussion between staff and Board Counsel as to the need for the District to become a party to the Trust Agreement. We concluded that it would be beneficial for the District to assist in the establishment of the Trust, but that the Governing Board may wish to resign from the Trust at some point once it is operating smoothly.

The latest draft was transmitted to Mr. Schulte's attorney and his response is pending. Should there be any additional revisions, they will be forwarded to the Governing Board as quickly as possible. If the Governing Board is not able to adequately review a final document in time to take action on September 11, staff would recommend deferring action on the Trust Agreement until September 25. The R. O. Ranch, Inc. Board of Directors has also made provisions for a special meeting in the event that additional action on the Trust Agreement is needed prior to October 1, 2012.

gal
enclosure

TRUST AGREEMENT

This trust agreement (the "Trust Agreement") is made and entered into this _____ day of _____, 2012, by and between the SUWANNEE RIVER WATER MANAGEMENT DISTRICT (the "DISTRICT"), a Florida water management district created pursuant to Section 373.069, Florida Statutes, whose address is 9225 CR 49, Live Oak, FL 32060 and FRANK SCHULTE, JR. ("SCHULTE"), whose address is 1050 Roslyn Street, Mt. Clemens, MI 48043-2935, and TRAVIS BIRDSONG ("BIRDSONG"), whose address is 3069B N. Westwood Boulevard, Poplar Bluff, MO 63901, who are co-trustees, under this Trust Agreement (hereinafter collectively the "TRUSTEES"), and R.O. RANCH, INC., a Florida not-for-profit corporation whose address is 696 SE CR 357, Mayo, FL 32066, who is the beneficiary under this Trust Agreement (hereinafter "R.O. RANCH" or the "BENEFICIARY").

RECITALS

WHEREAS, the DISTRICT purchased that certain real property in Lafayette County, Florida described on attached Exhibit "A" (the "Property") from R.O. RANCH in 2006; and

WHEREAS, net cash proceeds in the amount of \$3,487,021.48 (the "Net Proceeds") were generated from the above referenced transaction; and

WHEREAS, as agreed between the DISTRICT and R.O. RANCH, the Net Proceeds were retained by the DISTRICT and held in trust for the benefit of R.O. RANCH for its use in the management and maintenance of the Property; and

WHEREAS, the Property was acquired by the DISTRICT to protect water resources in the upper Steinhatchee River basin; and

WHEREAS, pursuant to Section 373.1391, Florida Statutes, the DISTRICT is required to manage and maintain the Property, to the extent practicable, in such a way as to ensure a balance between public access, general public recreational purposes, and restoration and protection of their natural state and condition; and

WHEREAS, the parties agree that an appropriate compatible use of the Property is to provide lands to accommodate recreation, including an equestrian oriented park and campground together with other facilities for public and private use for private and public events and functions such as meetings, concerts, reunions, community events, etc.; and

WHEREAS, certain structures and improvements, including without limitation, equestrian oriented parks and trails, campgrounds and other related recreational facilities (the "Current Facilities") have been constructed on the Property, and certain other structures and improvements may be constructed on the Property in the future (the "Future Facilities"), and the Current Facilities and the Future Facilities are collectively referred to herein as the "Facilities"; and

WHEREAS, pursuant to Section 373.1401, Florida Statutes, the DISTRICT contracted with R.O. RANCH for the improvement, management, and maintenance of the Property including the Facilities (as used hereinafter the term "Property" shall also include the "Facilities"), and accordingly the DISTRICT and R.O. RANCH entered into a Management Agreement (the "Management Agreement"), which provided, among other things, that R.O. RANCH would manage and maintain the Property; and

WHEREAS, it was and is intended by the DISTRICT and R.O. RANCH that the Net Proceeds be used to provide funds for the improvement, management and maintenance of the Property, and

WHEREAS, interest has accrued on the Net Proceeds since closing the above referenced transaction, and some of that interest income has been spent on management and maintenance of the Property, and as of the date of this Trust Agreement, the Net Proceeds including all unspent interest totals \$ _____ as of September 1, 2012; and

WHEREAS, the DISTRICT is presently in possession of the Net Proceeds, but will transfer the Net Proceeds to R.O. RANCH, and then R.O. RANCH will transfer the Net Proceeds to the TRUSTEES to be held and managed by the TRUSTEES pursuant to the terms of this Trust Agreement, and

WHEREAS, the TRUSTEES and R.O. RANCH desire to create and enter into this Trust Agreement to provide the terms under which the TRUSTEES will manage, use and dispose of the Net Proceeds and all other assets of this trust.

NOW THEREFORE, in consideration of Ten and No/100 (\$10.00) Dollars and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

Section I
Recitals

The above recitals are true and correct and incorporated herein by reference.

Section II
Name of Trust

The name of this trust shall be the R.O. RANCH TRUST.

Section III
Trust Property

The Trust Property shall consist of the Net Proceeds presently in the possession of the DISTRICT and ultimately transferred to the TRUSTEES as set forth above, plus all interest subsequently accruing thereon (the "Trust Property"). All of the Trust Property shall be subject to the terms and conditions of this Trust Agreement. As further evidence of this assignment, the BENEFICIARY has executed or will execute or cause to be executed all instruments as may be required to complete assignment or transfer of title of the Trust Property to the TRUSTEES. The TRUSTEES accept transfer and assignment of the Trust Property as trustees and undertake to hold, manage, and dispose of the Trust Property in accordance with the provisions of this Trust Agreement.

Section IV
Additions to Trust

The BENEFICIARY and any other person shall have the right at any time to add to the principal of the trust any property that is acceptable to the TRUSTEES. Such property, when received and accepted by the TRUSTEES, shall become part of the Trust Property and shall be administered, held, controlled, and distributed by the TRUSTEES in accordance with the terms and conditions of this Trust Agreement.

Section V
Disposition of Principal and Income

The TRUSTEES shall hold, manage, invest, and reinvest the Trust Property, shall collect and receive the income, and after deducting all necessary expenses incident to the administration of the trust, dispose of the principal and income as follows:

1. The TRUSTEES shall make one annual payment from the Trust Property to the BENEFICIARY which payment shall be made automatically and without the need of any demand. Each annual payment shall be made no later than December 1 of each year and shall be in an amount equal to seventy-five (75%) percent of the net income earned on the Trust Property during the immediately preceding 12 month period (October 1 through September 30).

2. In the event the BENEFICIARY believes that the above annual payment is insufficient to fulfill the BENEFICIARY'S duties under the Management Agreement, the BENEFICIARY may request additional payments from the Trust Property to the BENEFICIARY. Should the TRUSTEES determine that such requests are consistent with the BENEFICIARY'S responsibilities under the Management Agreement, the TRUSTEES may make such requested payment to the BENEFICIARY. This provision does not give the BENEFICIARY any right to additional payments of Trust Property.

3. The income of the trust not distributed shall be accumulated and added to the Trust Property and shall be administered, held, controlled, and distributed by the TRUSTEES in accordance with the terms and conditions of this Trust Agreement.

Section VI
Irrevocability of the Trust

The trust created hereby shall be irrevocable. The BENEFICIARY hereby expressly waives all rights and powers, whether alone or in conjunction with others, to alter, amend, revoke, or terminate the trust or the terms of this Trust Agreement, in whole or in part. Except as may be otherwise provided in this Trust Agreement, the BENEFICIARY relinquishes absolutely and forever any interest, either vested or contingent, including any reversionary right or possibility of reverter, in the Trust Property, and any power to determine or control, by alteration, amendment, revocation, termination, or otherwise, the beneficial interest in the Trust Property.

Section VII
Powers of Trustees

This trust shall be administered by three (3) TRUSTEES. The TRUSTEES shall have the following powers:

1. To retain any property or assets contributed to this trust, or to sell, exchange, or otherwise dispose of any such property or assets, at public or private sale, without application to court, on any terms, including the extension of credit, which the TRUSTEES deem advisable.
2. To acquire, by purchase or otherwise, any property, real or personal, without being limited by any provision of law which restricts investments by fiduciaries and without regard to any principles of diversification, including, but not limited to, common and preferred stocks, bonds, mutual funds, common trust funds, secured and unsecured obligations, and mortgages; or to sell, exchange, or otherwise dispose of any such property, at public or private sale, without application to court, on any terms, including the extension of credit, which the TRUSTEES deem advisable.
3. To acquire and pay for, exercise, or sell any options or subscription rights in connection with securities or any other property.
4. To hold securities in the names of nominees of in bearer form.
5. To operate, repair, alter, improve, insure, grant options upon, mortgage, partition, or lease for any period of time any real property or interest in real property held by the TRUSTEES.
6. To retain and pay, as an expense of administration, accountants, attorneys, investment advisors, and other assistants, and to delegate discretionary investment management authority to such individuals, the delegation to be exercised consistent with the spirit of this Trust Agreement.
7. To borrow money from any source and for any purpose, including but not limited to the payment of taxes, and to pledge or mortgage any assets held by the TRUSTEES as security for money borrowed.

8. To make distributions from the trust in cash or in kind, or partly in each, and to allocate property other than ratably.

9. To hold property of separate trusts in common investments for the convenience of investment or administration.

10. To enter such contracts or agreements or to compromise or settle any debts, claims, or controversies as they deem necessary or advisable.

11. To vote personally or by proxy any share of stock held by the TRUSTEES.

The TRUSTEES may act freely under all of the powers given to the TRUSTEES after forming their judgment based upon all the circumstances as to the wisest and best course to pursue, without the necessity of obtaining the consent or approval of any interested person or any court, and notwithstanding that the TRUSTEES may be interested in connection with the same matters in other capacities.

The powers granted to the TRUSTEES shall be deemed to be supplementary to and not exclusive of the general powers of trustees pursuant to law and shall include all powers necessary to carry the same into effect.

Section VIII Limitations on Powers of Trustees

Notwithstanding anything else herein to the contrary, the TRUSTEES shall not have the power to make any distribution of the Trust Property to any person or entity other than the BENEFICIARY. Notwithstanding anything else herein to the contrary, the TRUSTEES shall not have the authority to exercise any of the powers set out herein, except upon the concurrence of all TRUSTEES and the BENEFICIARY.

Section IX Compensation of Trustees

The TRUSTEES waive compensation for their services herein.

Section X Successor Trustees

Any of the TRUSTEES, or any successor TRUSTEES, may resign at any time by giving written notice 60 days before resignation shall take effect, to the BENEFICIARY and the other TRUSTEES. On the death, resignation or removal of any of the TRUSTEES, SCHULTE or his successor trustee shall designate a successor trustee by written notice to the remaining trustee and the BENEFICIARY within 30 days after receipt of such notice of resignation. In the event that

SCHULTE or his successor trustee fails to, or is unable to designate a successor trustee within 30 days after such death, resignation or removal, then BIRDSONG or his successor trustee shall designate a successor trustee by written notice to the remaining trustee and the BENEFICIARY within 30 days after SCHULTE's or SCHULTE's successor trustee's failure to do so. In the event a successor trustee shall not be designated within the time frames set out above, for any reason, the BENEFICIARY shall designate a successor trustee for such position or positions by written notice to the remaining trustee(s), if any. Any resigning TRUSTEE or resigning successor trustee shall be discharged as trustee and shall have no further powers, discretions, rights, obligations, or duties with reference to the Trust Property, after the effective date of such resignation. All such powers, discretions, rights, obligations, and duties of the resigning trustee shall be binding on successor trustee. Any trustee or successor trustee, named or appointed must be neither the BENEFICIARY nor a "related or subordinate party" as that term is defined for federal tax purposes.

Section XI
Payment of Taxes

The TRUSTEES shall pay federal and/or state income tax, if any, on the income earned by the trust from the Trust Property immediately upon the same becoming due. Under no circumstances shall the TRUSTEES, either individually or collectively, have the obligation to pay federal and/or state income tax on the income earned by the trust from any sources other than the Trust Property.

Section X
Disposition of Trust Property in the Event of Dissolution of R.O. Ranch

In the event that R.O. RANCH, INC. is dissolved, SCHULTE or his successor TRUSTEE shall transfer and deliver to a charitable entity of his or his successor's sole choosing, all Trust Property. In the event that R.O. RANCH is dissolved and SCHULTE and his successor TRUSTEE is unable to designate a charitable entity or entities within 120 days of dissolution of R.O. RANCH, BIRDSONG or his successor TRUSTEE shall designate a charitable entity or entities of his sole choosing to receive all such Trust Property.

Section XI
Discretion of Trustees

All powers granted to or vested in the TRUSTEES by any provision of this Trust Agreement are to be exercised in the sole and absolute discretion of the TRUSTEES. However, discretion shall be exercised in a fiduciary capacity, primarily in the interest of the BENEFICIARY.

Section XII
Acts of Trustees

Any instrument executed by the TRUSTEES shall be binding on the BENEFICIARY.

Section XIII
Spendthrift Provision

Except as otherwise expressly provided, all income or principal to be paid to the BENEFICIARY shall be paid by the TRUSTEES directly to and only to the BENEFICIARY. The TRUSTEES shall not recognize any transfer, mortgage, pledge, hypothecation, order, or assignment of the BENEFICIARY by way of anticipation of income or principal. The income and principal of the trust shall be exempt from the claims of creditors or other claimants and from orders, decrees, levies, attachments, garnishments, executions, and other legal or equitable process or proceedings to the fullest extent permissible by law. If any creditor or other claimant attempts by any means to subject to the satisfaction of the claim of the creditor or claimant the interest of the BENEFICIARY then notwithstanding any other provisions of this Trust Agreement, the BENEFICIARY, during such time thereafter as TRUSTEE, in TRUSTEES' absolute discretion, shall deem advisable, shall not be entitled to receive payments from the trust.

Section XIV
Allocation Between Principal and Income

Unless otherwise specifically provided in this Trust Agreement, the TRUSTEES, in the TRUSTEES' absolute discretion, may determine the allocation of receipts between principal and income and may apportion dividends between principal and income.

Section XV
Accounting

TRUSTEES at any time shall, with 30 days after demand by the BENEFICIARY, render to the BENEFICIARY an account of the acts of TRUSTEES and transactions with respect to the Trust Property from the date of the creation of the trust or from the date of the last previous account of TRUSTEES. The BENEFICIARY shall have sixty (60) days after receipt of such accounting to review such accounting and, should the BENEFICIARY find something objectionable, give written notice specifying the objections, to the TRUSTEES. Should the BENEFICIARY fail to make any objections within the above time frame the accounting shall be deemed approved by the BENEFICIARY and such approval shall constitute a full and complete discharge and release of TRUSTEES from all further liability, responsibility, and accountability for or with respect to the acts and transactions of TRUSTEES as set forth in such account, both as to income and principal. Should any objections be timely made all objections not presented within such time frame shall be irrevocably and forever waived.

Section XVI
Bond

The DISTRICT shall not be required to give any bond. Any person or persons other than the DISTRICT appointed to act as trustee or successor trustee under this trust, except any corporate

trustee authorized to engage in the trust business in Florida, before entering on his or her duties of trusteeship, shall execute a bond payable to the trust, with an authorized surety company as surety, to secure the faithful performance of trustee's duties. Bond shall be in an amount not less than the value of the Trust Property and the probable value of one year's annual income from the Trust Property. The cost of bond shall be assessed to the trust, chargeable either to income or principal as the TRUSTEES in the TRUSTEES' discretion shall determine. The requirement of bond may be waived by the BENEFICIARY.

Section XVII
Severability

If any provision of this Trust Agreement should be invalid or unenforceable, the remaining provisions shall continue to be fully effective.

Section XVIII
Venue and Jurisdiction of Litigation

The exclusive venue and jurisdiction for any litigation enforcing, construing or relating to this Trust Agreement shall be the Circuit Court or the County Court in and for Suwannee County, Florida.

Section XIX
Waiver of Jury Trial

The TRUSTEES and the BENEFICIARY mutually and forever waive any and all right to trial by jury in any legal proceeding arising out of or relating to this Trust Agreement. The TRUSTEES and the BENEFICIARY agree to have any such actions decided by a judge alone, without a jury.

Section XX
No Waiver of Sovereign Immunity

Notwithstanding anything else herein to the contrary, nothing herein shall be construed to waive or to otherwise affect the DISTRICT's sovereign immunity and/or the protections given the DISTRICT under Section 768.28, Florida Statutes.

Section XXI
No Third Party Beneficiaries

No provision of this Trust Agreement shall be deemed for the benefit of any person or entity other than the TRUSTEES and the BENEFICIARY and no other person or entity shall acquire any rights under this Trust Agreement.

Section XXII
Entire Agreement

Other than the Management Agreement, which remains valid and unchanged by this Trust Agreement and is to co-exist with and be interpreted consistent with this Trust Agreement, this Trust Agreement supersedes all previous agreements governing the Trust Property, oral or written, between the TRUSTEES and the BENEFICIARY, and represents the whole and entire agreement between the parties with regard to the distribution of the Trust Property. Neither party has entered into this Trust Agreement in reliance upon any fact or representation not expressly provided in this Trust Agreement and/or the Management Agreement.

Section XXIII
Amendment, Revocation or Abandonment of this Trust Agreement

This Trust Agreement may not be amended, revoked, or abandoned except through a written agreement executed by the parties with the same formalities as this Trust Agreement.

Section XXIV
Trust Agreement not to be Construed against Either Party

This Trust Agreement is the product of the negotiation between the parties hereto. Thus the terms of this Trust Agreement shall not be construed against any party to this Trust Agreement as the drafter.

Section XXV
Acceptance of Trustees and Governing Law

This trust has been accepted by the TRUSTEES and will be administered in the State of Florida, its validity, construction, and rights shall be governed by the laws of that state, without regard to its conflict of laws rules.

Section XXVI
Miscellaneous

The headings used herein are intended solely for use as reference and are not intended to be a part of this Trust Agreement. Where necessary or appropriate to the meaning in this Trust Agreement, the singular and plural are interchangeable, and words of any gender include all genders. Once fully executed, photocopies of this Trust Agreement have the same force and effect as the original.

IN WITNESS WHEREOF, the TRUSTEES, and the BENEFICIARY have signed this Trust Agreement as set out below.

EXECUTED by the DISTRICT on this _____ day of _____, 2012.

SUWANNEE RIVER WATER
MANAGEMENT DISTRICT

By: _____
Don Quincey, Jr.
Chair of its Governing Board

ATTEST:

By: _____
Donald R. Curtis, III
Secretary/Treasurer

EXECUTED by FRANK SCHULTE, JR. on this _____ day of _____, 2012.

FRANK SCHULTE, JR.

EXECUTED by TRAVIS BIRDSONG on this _____ day of _____, 2012.

TRAVIS BIRDSONG

EXECUTED by the R.O. RANCH on this ____ day of _____, 2012.

R.O. RANCH, INC.

By: _____
Donald R. Curtis, III
Chair of its Board of Directors

ATTEST:

By: _____
Print Name:
Title: