

**AGENDA**  
**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**  
**GOVERNING BOARD MEETING AND PUBLIC HEARING**

**OPEN TO THE PUBLIC**

May 16, 2013  
9:00 a.m.

Cedar Key Library  
Cedar Key, Florida

1. Call to Order
2. Roll Call
3. Additions, Deletions, or Changes to the Agenda
4. Approval of Agenda
5. Items Recommended on Consent
  - Agenda Item 7 - Approval of Minutes – April 9, 2013 Governing Board Meeting and Workshop and April 25, 2013 Meeting Minutes
  - Agenda Item 10 - Approval of March 2013 Financial Report
  - Agenda Item 18 - Approval of Water Use Permit Application Number 2-01-00038.003, Batson Place, Gilchrist County
  - Agenda Item 19 - Approval of Water Use Permit Application Number 2-04-00099.003, Lee Farm, Madison County
  - Agenda Item 20 - Approval of Water Use Permit Application Number 2-08-00063.002, Sam Jones Farm, Hamilton County
  - Agenda Item 21 - Approval of Water Use Permit Application Number 2-84-00492.004, Friar Farm, Suwannee County
  - Agenda Item 22 - Approval of Water Use Permit Application Number 2-05-00102.004, House Pivot, Gilchrist County
  - Agenda Item 23 - Approval of Water Use Permit Application Number 2-84-00203.003, Russell's Pivot, Gilchrist County
  - Agenda Item 24 - Approval of Water Use Permit Application Number 2-00-00081.002, Gaylard Farm, Suwannee County
6. Approval of Recommended Consent Items
7. Approval of Minutes – April 9, 2013 Governing Board Meeting and Workshop and April 25, 2013 Meeting Minutes – **Recommend Consent**
8. Items of General Interest for Information/Cooperating Agencies and Organizations
  - A. Presentation of Hydrologic Conditions by Megan Wetherington, Senior Professional Engineer
  - B. Cooperating Agencies and Organizations
  - C. Public Comment

9. Legal Matters

- Agenda Item 36 - El Rancho No Tengo, Inc.

**BUREAU OF ADMINISTRATIVE SERVICES**

**Dave Dickens, Manager**

- AS Page 1      10. Approval of March 2013 Financial Report – **Recommend Consent**
- AS Page 4      11. FY 2012/2013 First Budget Amendment to Recognize Revenues

**DIVISION OF LAND RESOURCES**

**Charles H. Houder, III, Director**

- LR Page 1      12. Consideration of Resolution No. 2013-09 Payment in Lieu of Taxes for Properties Acquired through 2012
- LR Page 5      13. Authorization to Conduct a Detailed Assessment and Commence Negotiations with Milton C. Hitson on a Fee Simple Purchase in Hamilton County
- LR Page 9      14. Authorization to Procure Appraisal for Florida Gateway College
- LR Page 14     15. Authorization to Amend the Conservation Easement with Plum Creek to Allow Installation of a Non-Commercial Communication Tower in Levy County
- LR Page 28     16. Land Resources Activity Summary

**DIVISION OF WATER SUPPLY**

**Carlos Herd, P.G., Director**

- WS Page 1      17. Lower Santa Fe and Ichetucknee Rivers and Springs Minimum Flows and Levels Peer Review

**DIVISION OF WATER RESOURCES**

**Erich Marzolf, Ph.D., Director**

No Items

**DIVISION OF RESOURCE MANAGEMENT**

**Tim Sagul, P.E., Director**

- RM Page 1      18. Approval of Water Use Permit Application Number 2-01-00038.003, Batson Place, Gilchrist County – **Recommend Consent**
- RM Page 13     19. Approval of Water Use Permit Application Number 2-04-00099.003, Lee Farm, Madison County – **Recommend Consent**

- RM Page 25      20. Approval of Water Use Permit Application Number 2-08-00063.002, Sam Jones Farm, Hamilton County – **Recommend Consent**
- RM Page 37      21. Approval of Water Use Permit Application Number 2-84-00492.004, Friar Farm, Suwannee County – **Recommend Consent**
- RM Page 49      22. Approval of Water Use Permit Application Number 2-05-00102.004, House Pivot, Gilchrist County – **Recommend Consent**
- RM Page 61      23. Approval of Water Use Permit Application Number 2-84-00203.003, Russell's Pivot, Gilchrist County – **Recommend Consent**
- RM Page 73      24. Approval of Water Use Permit Application Number 2-00-00081.002, Gaylard Farm, Suwannee County – **Recommend Consent**
- RM Page 85      25. Approval of Water Use Permit Application Number 2-13-00020.001, Sandy Pines, Madison County
- RM Page 97      26. Approval of Water Use Permit Application Number 2-87-00015.004, Gary Cone Farm, Hamilton County
- RM Page 110     27. Approval to Enter Into Contracts for the 3rd Round District Agricultural Cost-Share Program
- RM Page 113     28. Approval to Enter Into Contracts for the 3rd Round Department of Environmental Protection Santa Fe River Basin Management Action Plan (BMAP) Agricultural Cost-Share Program
- RM Page 116     29. Authorization to Amend Contract Number 03/04-258 with the Florida Department of Agriculture and Consumer Services (FDACS) for Continuation of the Two Positions for the Suwannee River Partnership for the Period July 1, 2013 through June 30, 2014
- RM Page 117     30. Authorization to Amend Contract Number 10/11-021 for Suwannee River Partnership (SRP) Cooperative Conservation Technician Services with Florida Department of Agriculture and Consumer Services (FDACS)
- RM Page 118     31. Amendment to Contract 12/13-157 for Water Use Monitoring Equipment and Authorization for Implementation of a Nutrient Reduction Project
- RM Page 120     32. First Amendment to Interagency Agreement between the Suwannee River Water Management District and the St. Johns River Water Management District for the Designation of Regulatory Responsibility of Gainesville Regional Utilities for Consumptive Use Permitting



SUWANNEE RIVER WATER MANAGEMENT DISTRICT  
MINUTES OF  
GOVERNING BOARD MEETING AND PUBLIC HEARING

Note: A digital recording system has been used to record these proceedings and is on file in the permanent files of the District. A copy of the Governing Board materials and handouts are a part of the record as if set out in full herein, and are filed in the permanent files of the District.

9:00 a.m., Tuesday  
April 9, 2013

District Headquarters  
Live Oak, Florida

Governing Board:

<b>Seat</b>	<b>Name</b>	<b>Office</b>	<b>Present</b>	<b>Not Present</b>
Aucilla Basin	George M. Cole, Ph.D.		X	
Coastal River Basin	Donald Ray Curtis, III	Secretary/ Treasurer		X
Lower Suwannee River Basin	Don Quincey, Jr.	Chairman	X	
Santa Fe & Waccasassa Basins	Kevin W. Brown		X	
Upper Suwannee River Basin	Alphonas Alexander	Vice Chairman	X	
At Large	Virginia H. Johns		X	
At Large	Virginia Sanchez		X	
At Large	Guy N. Williams		X	
At Large	Gary Jones		X	

Governing Board General Counsel

<b>Name</b>	<b>Firm</b>	<b>Present</b>	<b>Not Present</b>
Fred Reeves	Davis, Schnitker, Reeves & Browning, P.A.	X	

Staff:

<b>Position</b>	<b>Name</b>	<b>Present</b>	<b>Not Present</b>
Executive Director	Ann Shortelle	X	
Assistant Executive Director	Jon Dinges	X	
Governmental Affairs and Communications Director	Steve Minnis		X
Administrative Services Bureau Manager	Dave Dickens	X	
Land Resources Division Director	Charlie Houder	X	
Water Supply Division Director	Carlos Herd	X	
Water Resources Division Director	Erich Marzolf	X	
Resource Management Division Director	Tim Sagul	X	
GB & HR Coordinator	Lisa Cheshire	X	

Guests:

Kevin Wright, SRWMD  
Megan Wetherington, SRWMD  
Rhonda Scott, SRWMD  
Marc Minno, SRWMD  
Richard Rocco, SRWMD  
Bob Heeke, SRWMD  
Vanessa Fultz, SRWMD  
Bill McKinstry, SRWMD  
Warren Zwanka, SJRWMD  
Hugh Thomas, DACS  
Charles Williams, City of Jasper  
Jeffery Hill, Hill Farms, Lake City  
Eric Williams, Tri County Irrigation, Live Oak  
Randall Dasher, Dasher Farms, McAlpin  
Sidney Koon, Koon's Farm, Mayo  
Jon Deas, Jennings  
Richard Terry, Terry Farms, Madison  
William Lloyd, Haystack Farms Inc., Lake City  
Billy Murphy, Murphy Citrus Nursery Inc., Perry  
Keith Shaw, Mayo Fertilizer, Mayo  
Ed Henderson, Shenandoah Dairy, Live Oak  
Merrilee Malwitz-Jipson, Our Santa Fe River, Inc., Fort White  
William Carte, Stonewall Farm, Live Oak  
Eric Olsen, Hopping, Green and Sams, Tallahassee  
Todd Lawrence, Farmers Cooperative Inc., Live Oak  
Keith Shiver, Shiver Dairy, Mayo  
Roger Deas, Deas Brother Farms Inc., Jennings  
Anne Deas, Deas Brothers Farms Inc., Jennings  
Damon Deas, Deas Brothers Farms Inc., Jennings  
Lee Townsend, Townsend Brothers Farm Inc., Live Oak  
Clif Townsend, Townsend Brothers Farm Inc., Live Oak  
Kevin Coggins, Coggins Farms, Lake Park, Georgia  
Brett Crawford, H2O Mobile Lab, High Springs  
Cory Mikell, H2O Mobile Lab, High Springs  
Barney Cannon, Chiefland  
Renate Cannon, Chiefland  
Paul Still, BSWCD, Starke  
Annette Long, Chiefland

The meeting was called to order at 9:00 a.m.

Agenda Item No.3 - Additions, Deletions, or Changes to the Agenda.

Updates:

- Agenda Item 17 – Amend Contract Number 10/11-015 with INTERA, Inc.
- Agenda Item 24 – Consideration of Resolution 2013-05

Deletions:

- Land Resources - Approval of an Easement for Ingress, Egress, Maintenance and Utilities to Dixie County.

Agenda Item No. 4 – Approval of Agenda.

DR. COLE MADE A MOTION TO ACCEPT THE AGENDA. THE MOTION WAS SECONDED BY MR. JONES. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: ALEXANDER, BROWN, COLE, JOHNS, JONES, SANCHEZ, WILLIAMS AND QUINCEY)

Agenda Item No.5 – Consent Agenda.

- Agenda Item 7– Approval of Minutes – March 12, 2013, Governing Board meeting
- Governing Boards' SRWMD and SJRWMD Joint Workshop minutes March 11, 2013
- Agenda Item 10 - Approval of February 2013 Financial Report
- Agenda Item 16 – WilsonMiller, Inc., Agreement to Substitute Parties, Contract 10/11-06

Agenda Item No. 6 – Approval of Recommended Consent Items.

MR. ALEXANDER MADE A MOTION TO ACCEPT THE CONSENT AGENDA AS READ. THE MOTION WAS SECONDED BY DR. COLE. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: ALEXANDER, BROWN, COLE, JOHNS, JONES, SANCHEZ, WILLIAMS AND QUINCEY.)

Agenda Item No.7– March 11, 2013 SRWMD and SJRWMD Joint Governing Board Workshop Minutes and March 12, 2013 Governing Board Meeting Minutes. Approved on consent.

Agenda Item No.8 - Items of General Interest for Information/Cooperating Agencies and Organizations.

- A presentation of the Hydrologic Conditions was given by Megan Wetherington, Senior Professional Engineer.
- Cooperating agencies and Organizations
- Public Comments: (Notations Provided as Written on Sign In Sheet)

The following citizens addressed the Governing Board:

1. Charles Williams-Thank the Board for their conveyance of 30 acres to the City of Jasper
2. Merrilee Malwitz-Jipson – Moratorium on CUPs until science can prove otherwise
3. Keith Shaw – Agriculture concerns
4. Bill Murphy – Agriculture concerns
5. William Lloyd – Importance of water to our farms
6. Randall Dasher – Farming water issues
7. Jeffery Hill – Status of controversy

8. Annette Long – Presented information on the nitrate condition of the Sana Fe River
9. Paul Still – SJRWMD

Agenda Item No.9 – Public Hearings.  
None

## **DIVISION OF ADMINISTRATIVE SERVICES**

Agenda Item No. 10 – Approval of February 2013 Financial Report. Approved on Consent.

## **DIVISION OF LAND RESOURCES**

Agenda Item No. 11 – Authorization to Enter into a Contract with Blanton Longleaf Container Nursery for Pine Seedling Production. Bill McKinstry, Land Operations Manager, presented the staff recommendation to authorize the Governing Board to enter into a contract with Blanton Longleaf Container Nursery for pine seedling production for an amount not to exceed \$34,500, as provided in the board materials.

MR. ALEXANDER MADE A MOTION TO AUTHORIZE THE GOVERNING BOARD TO ENTER INTO A CONTRACT WITH BLANTON LONGLEAF CONTAINER NURSERY FOR PINE SEEDLING PRODUCTION FOR AN AMOUNT NOT TO EXCEED \$34,500. THE MOTION WAS SECONDED BY MR. JONES. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: ALEXANDER, BROWN, COLE, JOHNS, JONES, SANCHEZ, WILLIAMS AND QUINCEY.)

Agenda Item No. 12 – Approval of Resolution No. 2013-04 Authorizing Conveyance of the Jasper Wellfield to the City of Jasper. Richard Rocco, Real Estate Coordinator, presented the staff recommendation to the Governing Board to adopt Resolution No 2013-04 authorizing conveyance of the Jasper Wellfield to the City of Jasper at no charge as provided in the board materials.

DR. COLE MADE A MOTION TO ADOPT RESOLUTION 2013-04 AUTHORIZING CONVEYANCE OF JASPER WELLFIELD TO THE CITY OF JASPER AT NO CHARGE. THE MOTION WAS SECONDED BY MR. ALEXANDER. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: ALEXANDER, BROWN, COLE, JOHNS, JONES, SANCHEZ, WILLIAMS AND QUINCEY.)

Agenda Item No. 13 – Approval of an Easement for Ingress, Egress, Maintenance and Utilities to Dixie County. Deleted.

Agenda Item No. 14 – Approval of Resolution No. 2013-08 Aucilla Land Partners, LLC Exchange for Mt. Gilead\Lamont. Mr. Rocco presented the staff recommendation to the Governing Board to adopt Resolution No 2013-08 authorizing the Executive Director to exercise an option to purchase the Aucilla Land Partners, LLC Conservation Easement in exchange for Mt. Gilead\Lamont

Conservation Easement and requesting approval of the use of funds from the Water Management Lands Trust Fund for costs associated with acquisition process as provided in the board materials.

Mr. Alexander stated a possible conflict of interest and abstained from voting on Agenda Item 14 – Approval of Resolution No. 2013-08 Aucilla Land Partners, LLC Exchange for Mt. Gilead\Lamont.

Mr. Alexander signed a conflict of interest form and this form is hereby made a part of these minutes and is filed in the permanent Governing Board meeting minutes files of the District.

DR. COLE MADE A MOTION TO ADOPT RESOLUTION 2013-08 AUTHORIZING THE EXECUTIVE DIRECTOR TO EXERCISE AN OPTION TO PURCHASE THE ACUILLA LAND PARTNERS, LLC CONSERVATION EASEMENT IN EXCHANGE FOR MT. GILEAD\LAMONT CONSERVATION EASEMENT AND APPROVE THE USE OF FUNDS FROM THE WATER MANAGEMENT LANDS TRUST FUND FOR COSTS ASSOCIATED WITH ACQUISITION PROCESS. THE MOTION WAS SECONDED BY MR. BROWN. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: BROWN, COLE, JOHNS, JONES, SANCHEZ, WILLIAMS AND QUINCEY.) MR. ALEXANDER ABSTAINED FROM VOTING DUE TO A POSSIBLE CONFLICT OF INTEREST.

Agenda Item No. 15– Land Resources Activity Summary. - The Land Resources Activity Summary was provided as an informational item in the Board materials.

## **DIVISION OF WATER SUPPLY**

Agenda Item No.16 – Approval for WilsonMiller, Inc., Agreement to Substitute Parties, Contract 10\11-06 Approved on Consent.

Agenda Item No. 17 – Authorization to Amend Contract No 10/11-015 with INTERA, Inc., for Revision of the District’s North Florida Groundwater Flow Model. Carlos Herd, P.G., Water Supply Division Director, presented the staff recommendation to the Governing Board to authorize the Executive Director to amend Contract No. 10/11-015 with INTERA, Inc., for an additional fee not to exceed \$30,000 to complete the model calibration, technical report, and electronic file documentation of the District’s North Florida Groundwater Flow Model as provided in the board materials.

DR. COLE MADE A MOTION TO AUTHORIZE THE EXECUTIVE DIRECTOR TO AMEND CONTRACT 10/11-015 WITH INTERA, INC., FOR AN ADDITIONAL FEE NOT TO EXCEED \$30,000 TO COMPLETE THE MODEL CALIBRATION, TECHNICAL REPORT, AND ELECTRIC FILE DOCUMENTATION OF THE DISTRICT’S NORTH FLORIDA GROUNDWATER FLOW MODEL. THE MOTION WAS SECONDED BY MRS. JOHNS. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: ALEXANDER, BROWN, COLE, JOHNS, JONES, SANCHEZ, WILLIAMS AND QUINCEY.)

## **DIVISION OF WATER RESOURCES**

No Items

## **DIVISION OF RESOURCE MANAGEMENT**

### Agenda Item No 18 – Approval of Resolution No. 2013-07 Requesting Reimbursement of Restoration Expenses for Steinhatchee Rise Restoration and Enhancement Project in Dixie County.

Tim Sagul, Division Director, Resource Management, presented the staff recommendation to the Governing Board to adopt Resolution No. 2013-07 requesting the Department of Environmental Protection reimburse the District from the Florida Forever Trust Fund for restoration expenses for Steinhatchee Rise Dispersed Water Storage Project in Dixie County for the amount of \$23,194.33, as provided in the board materials.

MR. ALEXANDER MADE A MOTION TO ADOPT RESOLUTION 2013-07 REQUESTING THE REIMBURSEMENT OF RESTORATION EXPENSES FOR STEINHATCHEE RISE RESTORATION AND ENHANCEMENT STORAGE PROJECT IN DIXIE COUNTY FROM THE DEPARTMENT OF ENVIRONMENTAL PROTECTION FLORIDA FOREVER TRUST FUND IN THE AMOUNT OF \$23,194.33. THE MOTION WAS SECONDED BY MRS. SANCHEZ. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: ALEXANDER, BROWN, COLE, JOHNS, JONES, SANCHEZ, WILLIAMS AND QUINCEY.)

Agenda Item No 19 —Permitting Summary Report. The Permitting Summary Report was provided as an informational item in the Board materials.

## **GOVERNING BOARD LEGAL COUNSEL**

Agenda Item No. 20 – Governing Board Counsel Monthly Report. The Governing Board Counsel Monthly Report was provided as an informational item in the Board materials.

## **EXECUTIVE OFFICE**

### Agenda Item No. 21 – Approval of Resolution No. 2013-06, Appreciation and Commendation for the Service of Carl Meece to the Citizens of the Suwannee River Water Management District.

Dr. Ann Shortelle, Executive Director, presented the staff recommendation to the Governing Board to adopt Resolution No. 2013-06 appreciation and commendation for the service of Carl Meece to the citizens of the Suwannee River Water Management District as provided in the board materials.

DR. COLE MADE A MOTION TO ADOPT RESOLUTION 2013-06, APPRECIATION AND COMMENDATION FOR THE SERVICE OF CARL MEECE TO THE CITIZENS OF THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT. THE MOTION WAS SECONDED BY MR. JONES. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: ALEXANDER, BROWN, COLE, JOHNS, JONES, SANCHEZ, WILLIAMS AND QUINCEY.)

Agenda Item No. 22- Approval to Declare April 2013 as Springs Protection Awareness Month. Dr. Shortelle presented the staff recommendation to the Governing Board to declare April 2013 as Springs Protection Awareness Month as provided in the board materials.

MRS. JOHNS MADE A MOTION TO APPROVE APRIL 2013 AS SPRINGS PROTECTION AWARENESS MONTH. THE MOTION WAS SECONDED BY DR. COLE. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: ALEXANDER, BROWN, COLE, JOHNS, JONES, SANCHEZ, WILLIAMS AND QUINCEY.)

Agenda Item No. 23 – Delegation of Expenditure Authority for the Executive Director, Governing Board Directive No. 13-0002. Dr. Shortelle presented the staff recommendation to the Governing Board to approve Board Directive No. 13-0002 and authorize the Executive Director to enter into service contracts and equipment purchase contracts for an amount not to exceed \$30,000 per expenditure as provided in the board materials.

DR. COLE MADE A MOTION TO APPROVE BOARD DIRECTIVE 13-0002 AND AUTHORIZE THE EXECUTIVE DIRECTOR TO ENTER INTO SERVICE CONTRACTS AND EQUIPMENT PURCHASE CONTRACTS FOR AN AMOUNT NOT TO EXCEED \$30,000 PER EXPENDITURE. THE MOTION WAS SECONDED BY MR. JONES. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: ALEXANDER, BROWN, COLE, JOHNS, JONES, SANCHEZ, WILLIAMS AND QUINCEY.)

Agenda Item No. 24 – Consideration of Resolution 2013-05 Requesting Reimbursement of Preacquisition Costs, Land Management Expenses, and Water Supply Planning Operational Expenses for Period July 1, 2012 through December 31, 2012. Dr. Shortelle presented the staff recommendation to the Governing Board to adopt and execute Resolution 2013-05 requesting the Department of Environmental Protection reimburse the District from the Water Management Lands Trust Fund for preacquisition costs in the amount of \$265,774.97, land management expenses in the amount of \$1,282,116.56, and water supply planning operational expenses in the amount of \$131,997.97 expended during the period of July 1, 2012 through December 31, 2012 as provided in the board materials.

MR. JONES MADE A MOTION TO ADOPT RESOLUTION NO. 2013-05 REQUESTING REIMBURSEMENT OF PREACQUISITION COSTS, LAND MANGEMENT EXPENSES, AND WATER SUPPLY PLANNING OPERATIONAL EXPENSES FOR PERIOD JULY 1, 2012 THROUGH DECEMBER 31, 2012. THE MOTION WAS SECONDED BY MR. ALEXANDER. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: ALEXANDER, BROWN, COLE, JOHNS, JONES, SANCHEZ, WILLIAMS AND QUINCEY.)

Agenda Item No. 25 – North Florida Regional Water Supply Partnership Stakeholder Committee Update. Dr. Shortelle presented to the Board the North Florida Regional Water Supply Partnership Stakeholder Committee update as provided in the board materials.

Agenda Item No.26- District's Weekly Activity Reports. The District's Weekly Activity Reports were provided as an informational item in the board materials.

The meeting adjourned at 11:31 a.m.

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Chairman

ATTEST:

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SUWANNEE RIVER WATER MANAGEMENT DISTRICT  
MINUTES OF  
GOVERNING BOARD WORKSHOP

Note: A digital recording system has been used to record these proceedings and is on file in the permanent files of the District. A copy of the Governing Board materials and handouts are a part of the record as if set out in full herein, and are filed in the permanent files of the District.

12:37 p.m., Tuesday  
April 9, 2013

District Headquarters  
Live Oak, Florida

Governing Board:

<b>Seat</b>	<b>Name</b>	<b>Office</b>	<b>Present</b>	<b>Not Present</b>
Aucilla Basin	George M. Cole, Ph.D.		X	
Coastal River Basin	Donald Ray Curtis, III	Secretary/ Treasurer		X
Lower Suwannee River Basin	Don Quincey, Jr.	Chairman	X	
Santa Fe & Waccasassa Basins	Kevin W. Brown		X	
Upper Suwannee River Basin	Alphonas Alexander	Vice Chairman	X	
At Large	Virginia H. Johns		X	
At Large	Virginia Sanchez		X	
At Large	Guy N. Williams			X
At Large	Gary Jones		X	

Governing Board General Counsel

<b>Name</b>	<b>Firm</b>	<b>Present</b>	<b>Not Present</b>
Fred Reeves	Davis, Schnitker, Reeves & Browning, P.A.	X	

Staff:

<b>Position</b>	<b>Name</b>	<b>Present</b>	<b>Not Present</b>
Executive Director	Ann Shortelle	X	
Assistant Executive Director	Jon Dinges	X	
Governmental Affairs and Communications Director	Steve Minnis		X
Administrative Services Bureau Manager	Dave Dickens	X	
Land Resources Division Director	Charlie Houder	X	

Water Supply Division Director	Carlos Herd	X
Water Resources Division Director	Erich Marzolf	X
Resource Management Division Director	Tim Sagul	X
GB & HR Coordinator	Lisa Cheshire	X

Guests:

Vanessa Fultz, SRWMD  
Edwin McCook, SRWMD  
Bob Heeke, SRWMD  
Bill McKinstry, SRWMD  
Scott Gregor, SRWMD  
Rhonda Scott, SRWMD  
Kevin Wright, SRWMD  
Warren Zwanka, SJRWMD  
Barney & Renate Cannon, Chiefland  
Merrilee Malwitz-Jipson, Our Santa Fe River, Inc., Ft. White  
Annette Long, Save Our Suwannee, Inc., Chiefland  
Paul Still, Bradford Soil & Water Conservation District, Starke  
Eric Olsen, Hopping, Green and Sams

Analysis of Land Management Priorities and Level of Services

Bob Heeke, Sr. Land Resources Manager opened the workshop by giving an overview of the Land Management goals and levels of service.

Bill McKinstry, Land Operations Manager, presented analyses and recommendations that focused on four core areas of land management. The efficiencies are expected to reduce management cost while providing an acceptable level of service to the public. Staff provided recommendations to the Governing Board indicating potential land management cost savings between \$203,000 and \$211,000 annually if the recommendations are approved.

CUPcon Status

Tim Sagul, Resource Management Division Director, reported that the ongoing CUPcon statewide rulemaking efforts were nearing conclusion and that the revised rules and handbook would be brought to the May GB meeting to request permission to publish this summer. He announced that workshops were scheduled to be held on May 21, 2013 in Chiefland and the other in Live Oak. Staff expects that after the rules have been published over the summer they will become effective early fall. Changes include revising the water

use handbook, forms, and requirements for public utilities on what is required in their water conservation plans.

Mr. Sagul announced that since the rule will be open due to the above CUPcon changes, staff is proposing a few other changes including fees (which have not changed since 1982) and changing the year-round watering requirements from “choose your day” to being consistent with the neighboring WMDs.

The meeting adjourned at 3:05 p.m.

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Chairman

ATTEST:

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SUWANNEE RIVER WATER MANAGEMENT DISTRICT  
MINUTES OF  
GOVERNING BOARD MEETING (TELECONFERENCE)

Note: A digital recording system has been used to record these proceedings and is on file in the permanent files of the District. A copy of the Governing Board materials and handouts are a part of the record as if set out in full herein, and are filed in the permanent files of the District.

3:00 p.m., Thursday  
April 25, 2013

District Headquarters  
Live Oak, Florida

Governing Board:

<b>Seat</b>	<b>Name</b>	<b>Office</b>	<b>Present by telephone</b>	<b>Not Present</b>
Aucilla Basin	George M. Cole, Ph.D.			X
Coastal River Basin	Donald Ray Curtis, III	Secretary/ Treasurer	X	
Lower Suwannee River Basin	Don Quincey, Jr.	Chairman	X	
Santa Fe & Waccasassa Basins	Kevin W. Brown			X
Upper Suwannee River Basin	Alphonas Alexander	Vice Chairman	X	
At Large	Virginia H. Johns		X	
At Large	Virginia Sanchez		X	
At Large	Guy N. Williams		X	
At Large	Gary Jones		X	

Governing Board General Counsel

<b>Name</b>	<b>Firm</b>	<b>Present</b>	<b>Not Present</b>
George T. Reeves	Davis, Schnitker, Reeves & Browning, P.A.		X

Staff:

<b>Position</b>	<b>Name</b>	<b>Present</b>	<b>Not Present</b>
Executive Director	Ann Shortelle	X	
Assistant Executive Director	Jon Dinges	X	
Water Resources Division Director	Erich Marzolf	X	
GB & HR Coordinator	Lisa Cheshire	X	
Professional Engineer – Ag. Team	Kevin Wright	X	

Guests:  
None

The meeting was called to order at 3:00 p.m.

### **DIVISION OF RESOURCE MANAGEMENT**

Agenda Item No 3 -- Authorization to Execute Contract 12/13-157 with the Florida Department of Agriculture and Consumer Services. Kevin Wright, Professional Engineer, presented the staff recommendation to authorize the Executive Director to execute Contract 12/13-157 with the Florida Department of Agriculture and Consumer Services for the purchase of water use monitoring equipment and for implementation of two nutrient reduction projects, as shown in the Board materials.

Mrs. Sanchez stated a possible conflict of interest and abstained from voting on the Agenda Item. Mrs. Sanchez completed and signed a conflict of interest form and this form is hereby made a part of these minutes and is filed in the permanent Governing Board meeting minutes files of the District.

MR. CURTIS MADE A MOTION TO AUTHORIZE THE EXECUTIVE DIRECTOR TO EXECUTE CONTRACT 12/13-157 WITH THE FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES FOR THE PURCHASE OF WATER USE MONITORING EQUIPMENT AND FOR IMPLEMENTATION OF TWO NUTRIENT REDUCTION PROJECTS. THE MOTION WAS SECONDED BY MR. ALEXANDER. UPON VOTE OF THE GOVERNING BOARD, THE MOTION CARRIED. (MEMBERS VOTING IN FAVOR: ALEXANDER, CURTIS, JONES, JOHNS, QUINCEY, WILLIAMS)

The meeting adjourned at 3:15 p.m.

---

Chairman

ATTEST:

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MEMORANDUM

TO: Governing Board

FROM: Dave Dickens, Administrative Service Bureau Manager

DATE: April 29, 2013

RE: Approval of March 2013 Financial Report

RECOMMENDATION

**Staff recommends the Governing Board approve the March 2013 Financial Report and confirm the expenditures of the District.**

BACKGROUND

Chapter 373.553(1), F.S., authorizes the delegation of authority by the Governing Board to the Executive Director to disburse District funds, providing certification is made to the Board at the next regular meeting that such disbursement is proper, in order, and within budgetary limits. In compliance with the statutory provisions in Chapter 373, the Governing Board of the Suwannee River Water Management District has directed staff to prepare a Financial Report as attached.

If you have any questions about this recommendation or if you would like any further information regarding the District's financial transactions, please contact me.

gal  
enclosure

**Suwannee River Water Management District  
Cash Report  
March 2013**

<b>ACCOUNT</b>	<b>Monthly Interest</b>	<b>Interest Rate %</b>	<b>Closing Balance</b>
Bank of America Permit Fee	-	-	\$37,035.06
First Federal Permit Fee	\$1.54	0.30%	\$6,722.49
First Federal Depository	\$85.94	0.30%	\$755,343.82
SPIA	\$51,607.76	1.35%	\$44,074,485.81
SBA Fund A	\$13.72	0.23%	\$74,727.25
SBA Fund B	-	-	\$668,453.52
<b>TOTAL</b>	<b>\$51,708.96</b>		<b>\$45,616,767.95</b>

**Suwannee River Water Management District  
Statement of Sources and Uses of Funds  
For the Month ending March 31, 2013  
(Unaudited)**

	<b>Current Budget</b>	<b>Actuals Through 3/31/2013</b>	<b>Variance (Under)/Over Budget</b>	<b>Actuals As A % of Budget</b>
<b>Sources</b>				
Ad Valorem Property Taxes	\$ 5,200,000	\$ 4,380,479	\$ (819,521)	84%
Intergovernmental Revenues	5,853,594	713,807	(5,139,787)	12%
Interest on Invested Funds	158,000	414,565	256,565	262%
License and Permit Fees	100,000	85,792	(14,208)	86%
Other	714,583	1,029,248	314,665	144%
Fund Balance	4,075,895	-	-	-
<b>Total Sources</b>	<b>\$ 16,102,072</b>	<b>\$ 6,623,891</b>	<b>\$ (5,402,286)</b>	<b>41%</b>

	<b>Current Budget</b>	<b>Expenditures</b>	<b>Encumbrances <sup>1</sup></b>	<b>Available Budget</b>	<b>%Expended</b>	<b>%Obligated <sup>2</sup></b>
<b>Uses</b>						
Water Resources Planning and Monitoring	\$ 7,755,083	\$ 2,057,469	\$ 3,400	\$ 5,694,214	27%	27%
Acquisition, Restoration and Public Works	2,272,848	411,968	-	1,860,880	18%	18%
Operation and Maintenance of Lands and Works	2,701,117	1,022,462	-	1,678,655	38%	38%
Regulation	1,472,269	547,257	-	925,012	37%	37%
Outreach	75,000	91,068	-	(16,068)	121%	121%
Management and Administration	1,825,755	1,069,854	9,518	746,384	59%	59%
<b>Total Uses</b>	<b>\$ 16,102,072</b>	<b>\$ 5,200,076</b>	<b>\$ 12,918</b>	<b>\$ 10,889,077</b>	<b>32%</b>	<b>32%</b>

<sup>1</sup> Encumbrances represent unexpended balances of open purchase orders and contracts.

<sup>2</sup> Represents the sum of expenditures and encumbrances as a percentage of the available budget.

This unaudited financial statement is prepared as of March 31, 2013, and covers the interim period since the most recent audited financial statements.

MEMORANDUM

TO: Governing Board

FROM: Dave Dickens, Administrative Services Bureau Manager

DATE: April 29, 2013

RE: FY 2012/2013 First Budget Amendment to Recognize Revenues

RECOMMENDATION

**Staff recommends the Governing Board authorize the amendment of the Fiscal Year 2012/2013 budget from \$16,102,072 to \$16,586,822 to recognize \$484,750 in unanticipated and unbudgeted revenues.**

BACKGROUND

The Department of Environmental Protection recently provided the water management districts with a new protocol for budget amendments.

In keeping with this protocol, staff is recommending the FY 2012/2013 budget be amended in the amount of \$484,750 to recognize unanticipated and unbudgeted revenues as follows:

1. \$434,750 from the Department of Environmental Protection for the Santa Fe River Basin Management Action Plan.
2. \$50,000 from the Department of Agriculture and Consumer Services for the purchase of equipment to assist agricultural users with water use monitoring.

Staff submitted the proposed budget amendment to the Governor's Office for review prior to consideration by the Governing Board. The budget amendment forms are attached to this memorandum.

If you have any questions about this recommendation, or if you would like further explanation of the process, please contact me.

/gal  
Enclosure





## MEMORANDUM

TO: Governing Board

FROM: Charlie Houder, Director, Division of Land Resources

DATE: April 29, 2013

RE: Consideration of Resolution No. 2013-09 Payment in Lieu of Taxes for Properties Acquired through 2012

### RECOMMENDATION

**Staff recommends Governing Board approval of Resolution 2013-09 for Payment in Lieu of Taxes in the amount of \$342,908.93 for qualifying counties for lands owned through 2012.**

### BACKGROUND

In order to offset the effect on the tax rolls of the small counties from public acquisition of land, the Legislature enacted the Payment in Lieu of Taxes program (PILT) in 1992. Up to 25% of the Water Management Lands Trust Fund is available for the PILT program. Each year the District works with the county commissions and staff to prepare their applications for properties purchased or sold during the previous calendar year. The payment for a particular parcel is equal to the average of the actual taxes paid for the three years prior to the District's acquisition of the property. The reimbursement amount is only calculated one time, and that payment is now paid for as long as the District owns the property. PILT only applies to all fee simple properties owned by the District. Unless otherwise exempted, landowners continue to pay the taxes for lands on which the District holds conservation easements, and the parcels are still reassessed on a regular basis by the property appraiser's office.

Once the tax information is obtained from the counties, the applications are sent to the Department of Revenue for certification and then to DEP for funding approval. This year eleven counties have applied for a total of \$342,908.93. The reimbursement amounts for each county are shown in attachment "A" of Resolution No. 2013-09.

The amount requested this year from the Water Management Lands Trust Fund has been reduced by \$3,194.59 from last year's payment due to lands sold or otherwise conveyed to third parties in 2012.

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2013-09**

**REQUEST TO THE DEPARTMENT OF ENVIRONMENTAL  
PROTECTION FOR DISBURSEMENT OF FUNDS FOR  
PAYMENT IN LIEU OF TAXES**

**WHEREAS**, the 1992 Legislature enacted amendments to Section 373.59 (Florida Statutes) allowing the Suwannee River Water Management District to make payments in lieu of taxes to qualifying counties for actual ad valorem tax losses incurred as a result of lands being purchased by the District under the Save Our Rivers, Preservation 2000 and/or Florida Forever land acquisition programs; and

**WHEREAS**, the Governing Board of the Suwannee River Water Management District has reserved sufficient funds within its annual operating budget for payments in lieu of taxes; and

**WHEREAS**, the counties of Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Suwannee, and Taylor have submitted applications requesting payments in lieu of taxes for lands acquired by the Suwannee River Water Management District under the Save Our Rivers, Preservation 2000, and/or Florida Forever programs; and

**WHEREAS**, the Suwannee River Water Management District has verified that the actual taxes lost to the County Commission, as indicated in the applications, are appropriate; and

**WHEREAS**, the Suwannee River Water Management District has determined that these eleven counties are qualified to receive payments in lieu of taxes; and

**WHEREAS**, the County Tax Collector for each qualifying county has certified that the payment amount each has applied for is the average amount of actual taxes paid on the property for the three years immediately preceding acquisition by the District; and

**WHEREAS**, the Suwannee River Water Management District has provided payments, grants, or in-kind services to Gilchrist County that would warrant a reduction in the amount of the payment in lieu of taxes to that county; and

**WHEREAS**, the Florida Department of Revenue has certified as correct the current county ad valorem millage rate and, as reasonably appropriate, the actual taxes paid to the taxing authority during the three years immediately preceding acquisition by the District.

**NOW, THEREFORE, BE IT RESOLVED**, the Suwannee River Water Management District does hereby request that the amount shown on the 2012 Schedule of Payments In Lieu of Taxes, Attachment A hereto, be disbursed from the Water Management Lands Trust Fund Management Allocation to the District for purposes of making payments in lieu of taxes to the County Commissions of Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Suwannee, and Taylor counties, as per the applications submitted by those counties.

**PASSED AND ADOPTED THIS 16TH DAY OF MAY, 2013 A.D.**

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT  
BY ITS GOVERNING BOARD**

---

**MEMBERS OF THE BOARD:**

**DON QUINCEY, Jr., CHAIRMAN  
AL ALEXANDER, VICE CHARIMAN  
RAY CURTIS, III, SECRETARY/TREASURER  
KEVIN BROWN  
GEORGE COLE  
VIRGINIA JOHNS  
GARY JONES  
VIRGINIA SANCHEZ  
GUY WILLIAMS**

**ATTEST:**

**ATTACHMENT A**  
**2013 SCHEDULE OF PAYMENT**  
**IN LIEU OF TAXES**

BRADFORD	\$15,093.45
COLUMBIA	\$38,902.02
DIXIE	\$21,647.39
GILCHRIST	\$44,392.72
HAMILTON	\$37,752.42
JEFFERSON	\$ 9,163.41
LAFAYETTE	\$76,959.95
LEVY	\$30,401.84
MADISON	\$20,464.85
SUWANNEE	\$30,429.59
TAYLOR	<u>\$17,701.29</u>
<b>TOTAL</b>	<b>\$342,908.93</b>

Gilchrist County payment reflects a reduction of \$17,944.05 annually;  
for costs of Otter Springs entrance road improvements.

## MEMORANDUM

TO: Governing Board

FROM: Charlie Houder, Director, Division of Land Resources

DATE: April 29, 2013

RE: Authorization to Conduct a Detailed Assessment and Commence Negotiations with Milton C. Hitson on a Fee Simple Purchase in Hamilton County

### RECOMMENDATION

**Staff recommends the Governing Board authorize staff to conduct a detailed assessment and commence negotiations with Milton C. Hitson on the fee simple purchase of his 10 acres in Hamilton County.**

### BACKGROUND

In April 2008, Milton C. Hitson purchased the property for a recorded amount of \$50,000. The property is made up of two undeveloped 5 acre lots. Mr. Hitson has been using the property primarily for a primitive hunt camp since his purchase. Mr. Hitson has a recorded legal access easement through District land. This 10 acre tract is considered a critical in-holding within the east half of the District's 2,536 acre Holton Creek ownership. It is being offered to the District by Mr. Hitson for \$45,000 or \$4,500.00 per acre. All of the property is within the 100 year floodplain and floodway of the Suwannee River.

With Governing Board approval, staff will research the title and procure appraisal of the property. The resulting information will then be provided to Board members prior to making an offer and finalizing an agreement.

RR/pf

## PARCEL ASSESSMENT SUMMARY

TRACT: Holton Creek InHolding

SELLER: Milton C. Hitson

RIVER: Suwannee

COUNTY: Hamilton

S-T-R: Sec. 4, T1S, R13E

ACREAGE: 10 acres +/-

RIVER FRONTAGE: 728 Feet

### WATER RESOURCE VALUES:

Recharge: 0% (0 acres)

Springs Protection: 100% (10 acres)

Surfacewater Protection: 0% (0 acres)

Floodplain: 100% (10 acres)

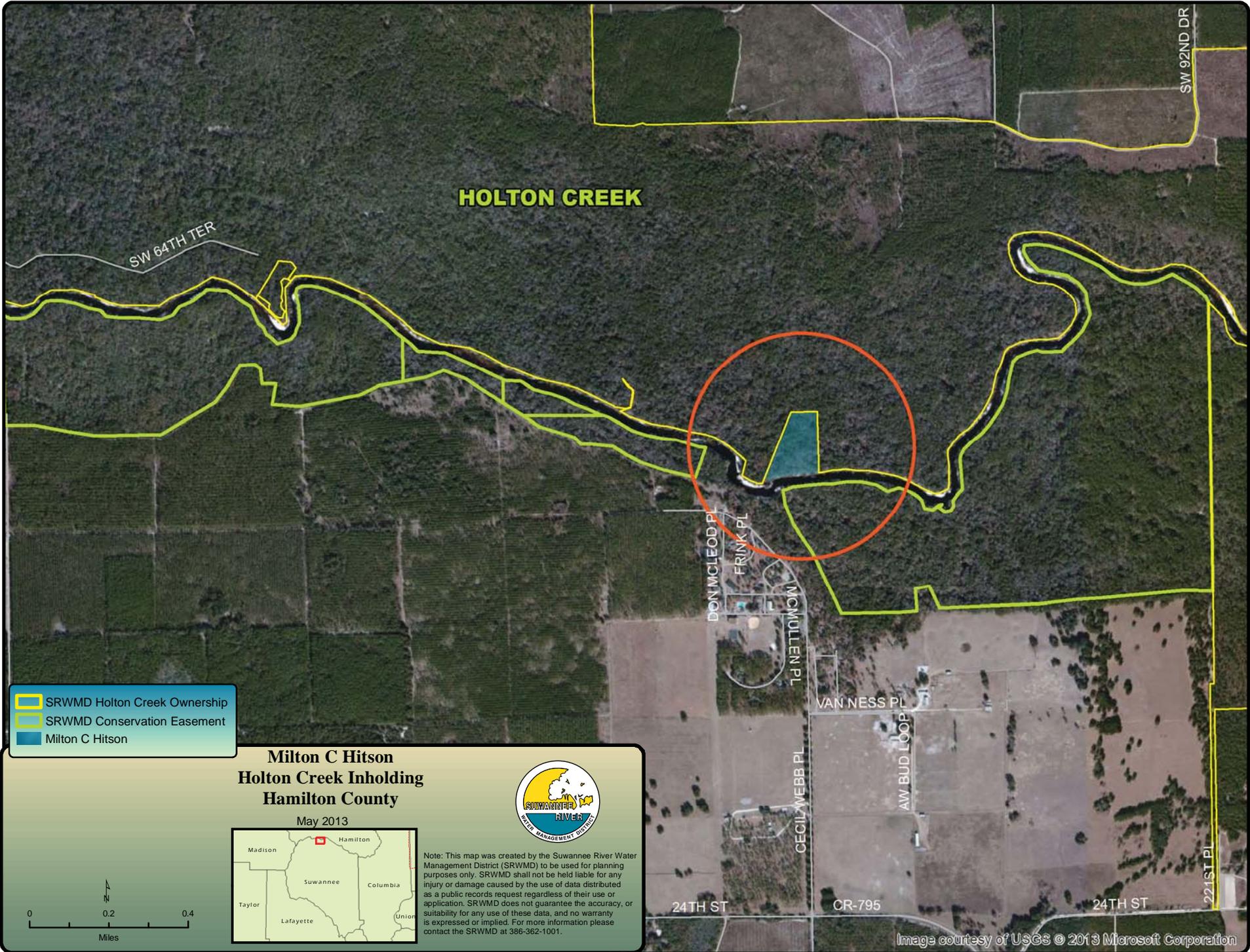
**TRACT DESCRIPTION:** This property is an in-holding within the District's 2,536 acre Holton Creek Tract in Hamilton County. It is two five acre lots. Floodplain and river bluff forest cover the tract. It is directly across the river from the Florida Sheriffs Boys Ranch boat ramp in Suwannee County.

**ACCESS:** These parcels have a non-exclusive easement for ingress, egress and utilities across District land in the Holton Creek Wildlife Management Area.

**OUTSTANDING INTERESTS:** Title review shows no conditions objectionable to clear market title.

**MANAGEMENT ALTERNATIVES:** Under the fee purchase the property would be managed to preserve floodplain function and quality of the forested landscape and recreational opportunities. These parcels would be incorporated with District management activities of the Holton Creek Tract.

**CURRENT ASKING PRICE:** \$45,000 or \$4,500.00 per acre.



-  SRWMD Holton Creek Ownership
-  SRWMD Conservation Easement
-  Milton C Hitson

**Milton C Hitson  
Holton Creek Inholding  
Hamilton County**

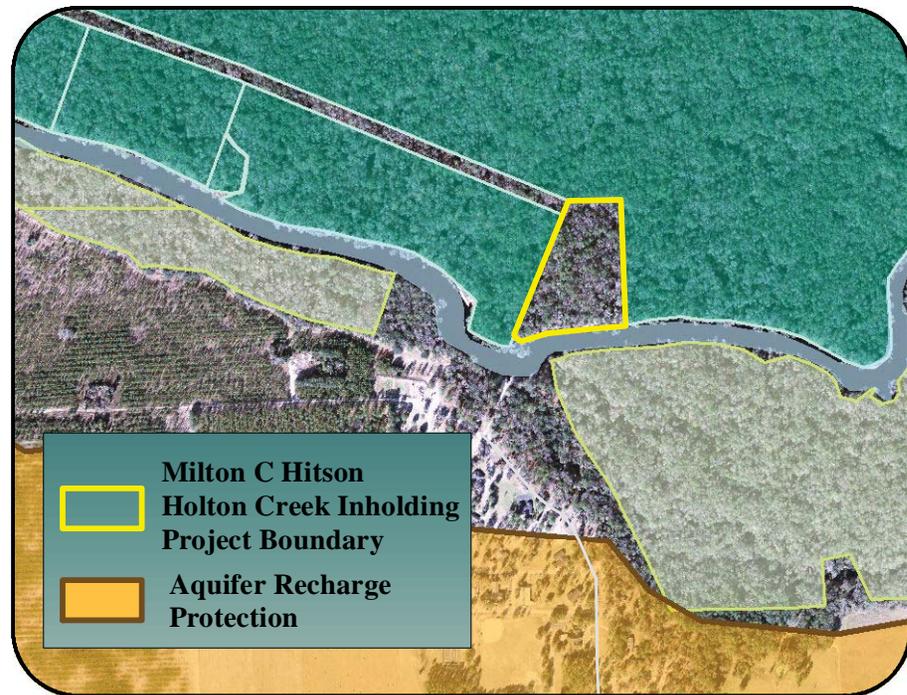
May 2013



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



Image courtesy of USGS © 2013 Microsoft Corporation



## MEMORANDUM

TO: Governing Board  
FROM: Charlie Houder, Director, Division of Land Resources  
DATE: April 29, 2013  
RE: Authorization to Procure Appraisal for Florida Gateway College

### RECOMMENDATION

**Staff recommends Governing Board approval to conduct a fair market value appraisal of 9.08 acres of the Lake City Well field for potential surplus and sale to Florida Gateway College.**

### BACKGROUND

In May of 2001, the District purchased the 1,117 acre Lake City Wellfield for protection of water supply. In April 2004, the Governing Board leased a portion of its Lake City Wellfield property to the City of Lake City. This property is being used for the City's public supply water wells and water treatment plant infrastructure needs.

In December of 2012, Charles W. Hall, President of Florida Gateway College (FGC) in Lake City made a request for a lease of 16.25 acres north and south of the college library and media center. After discussions with the College it was determined that a 50 year lease may not provide for the long term improvement needs for the college. Florida Gateway College is now interested in the possibility of an outright sale of two tracts totaling 9.08 acres. The District owns the land in fee with Plum Creek holding a pine timber reservation.

At this point, staff would order a fair market value subject to the timber reservation and use this valuation for future talks with FGC. Florida Gateway College has provided a survey of the proposed lands.

The Surplus Lands Committee has approved this recommendation for consideration by the Governing Board at its meeting on Wednesday, April 24, 2013.



# SUWANNEE RIVER WATER MANAGEMENT DISTRICT

March 4, 2013

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

VIRGINIA H. JOHNS  
Alachua, Florida

GARY F. JONES  
Old Town, Florida

CARL E. MEECE  
O'Brien, Florida

GUY N. WILLIAMS  
Lake City, Florida

ANN B. SHORTELL, Ph.D.  
Executive Director  
Gainesville, Florida

Charles W. Hall, ED. D  
President  
Florida Gateway College  
149 SE College Place  
Lake City, Fl. 32025

Dear Dr. Hall:

As a follow up to our meeting on February 4, 2013, we wanted to review the concepts that we discussed and provide you with some additional specificity based on our work over the last two weeks. If you concur with this framework, we are ready to work on a revised agreement regarding the use of District lands by Florida Gateway College.

Although the primary purpose for the District-owned property to the east of the College is the protection of the water supply for the City of Lake City, we discussed a number of projects or activities that would be compatible with that purpose. They seemed to fall in three general categories:

- Outdoor education, labs, and recreational activities requiring minimal modification of the property could occur almost anywhere on the property. Unpaved trails would characterize the type of development at this level. District staff would work with the College on siting and managing such improvements and activities.
- Similar activities that involve additional infrastructure such as boardwalks or covered pavilions would fall into the second category. As we discussed, this type of improvement would most likely be placed in one of the three parcels adjacent to the College near the northwest corner of the District property and would require the granting of a lease to the College. The terms of such a lease would be sufficient to satisfy normal grant requirements.
- The parcels to the north and south of the Wilson S. Rivers Library and Media Center could provide locations for the permanent expansion of campus facilities. Through the proposed agreement, the District would extend an option to purchase to the College which could be exercised if the College were to have the need and capacity to use one or both of these areas.

Water for Nature, Water for People

All of the forgoing is subject to the timber reservation held by Plum Creek Timber Company, Inc. and exclusive of buffers around lands lease to the City of Lake City for water production and treatment facilities.

Aside from payments to the District for the outright purchase of the land, consideration from the College shall be media productions, programs, and other in-kind services to be agreed upon on at least an annual basis.

We look forward to continuing the excellent relationship that we have had with the College over the years.

Sincerely,



Charles H. Houder

Division Director of Land Resources

CHH/pf



*From the Office of the President*

April 4, 2013

Mr. Charles H. Houder  
Division Director of Land Resources  
Suwannee River Water Management District  
9225 CR 49  
Live Oak, Fl. 32060

Dear Mr. Houder,

Thank you for your letter of March 4, 2013, in which you laid out options for us to consider as to uses of SRWMD land: basic unobtrusive, lease and purchase.

After considering the options and the long range opportunities for FGC, we are interested in pursuing the possibility of purchasing land from you. We are particularly interested in parcels of land in the North and South areas around the college library and media center that were included in the initial conversations regarding a lease.

As you are determining your asking price, we hope you will factor in the consideration of "in-kind" services FGC can provide for SRWMD in the area of media, video, etc. In your letter, you said not to consider those things in a purchase option, but these services could be a considerable service/cost savings to you and certainly support your mission and endeavors. We hope you will reconsider and factor in what we can do for you in a "non-monetary" exchange of services. Also, we understand that Plum Creek still owns the timber rights to this property so it would limit our use for the immediate future, thereby reducing the value to us.

We are ready to move to the next step in this exploration process. If you want to meet again, we can do that, or you may be in a position to tell us your pricing of these areas of land in which we are interested.

I appreciate your statement in your letter as, we, too, have enjoyed an excellent relationship with the SRWMD and look for that relationship to extend for many years to come.

Sincerely,

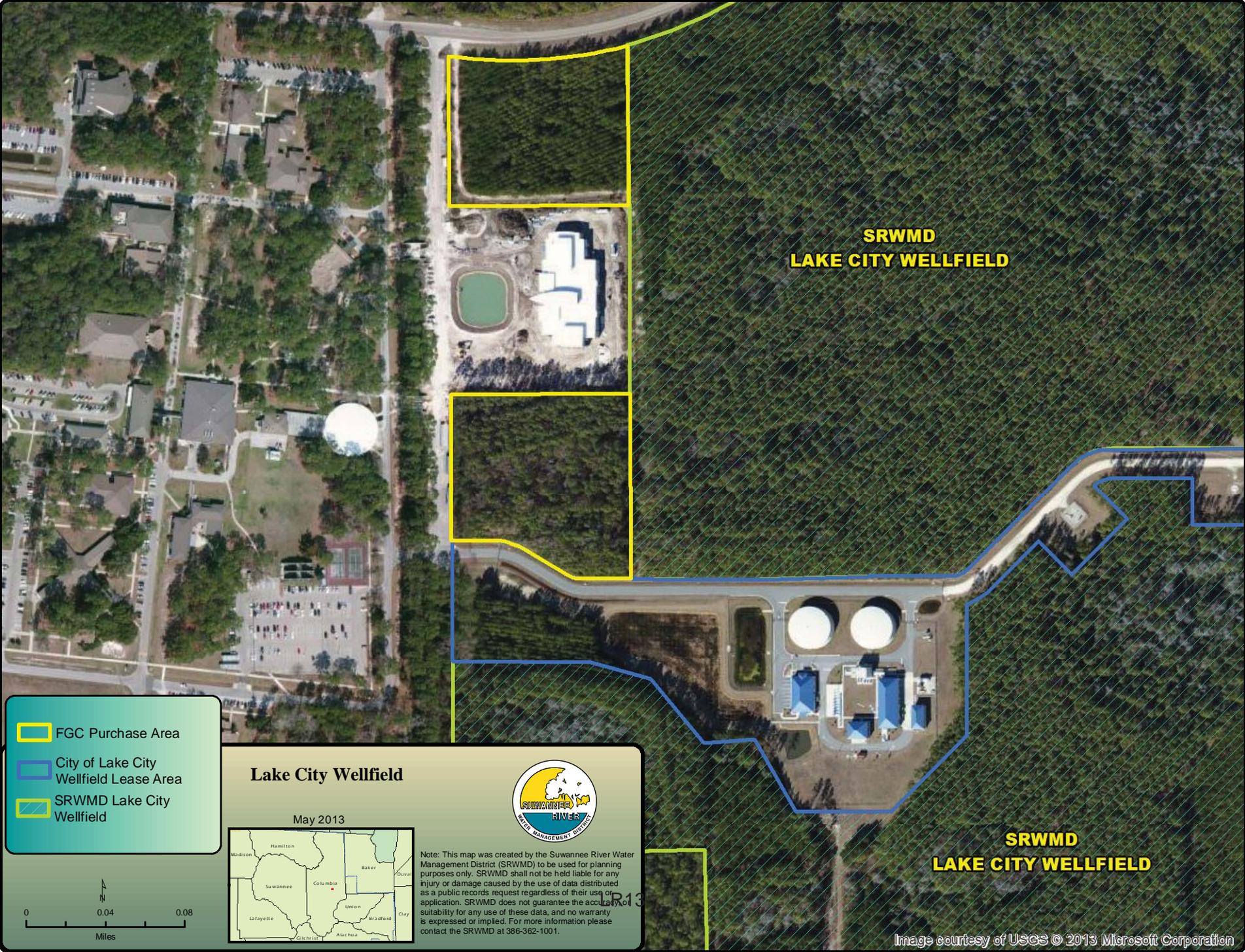
Charles W. Hall, Ed.D.  
President

cc: Marilyn Hamm, Vice President of Business Services

RECEIVED  
SRWMD

APR 08 2013

ORIGINAL TO FILE 008-00545  
COPIES TO \_\_\_\_\_



**SRWMD  
LAKE CITY WELLFIELD**

**SRWMD  
LAKE CITY WELLFIELD**

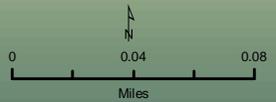
-  FGC Purchase Area
-  City of Lake City Wellfield Lease Area
-  SRWMD Lake City Wellfield

### Lake City Wellfield

May 2013



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



## MEMORANDUM

TO: Governing Board

FROM: Charlie Houder, Director, Division of Land Resources

DATE: April 29, 2013

RE: Authorization to Amend the Conservation Easement with Plum Creek Timberlands, L.P. to Allow Installation of a Non-Commercial Communication Tower in Levy County

### RECOMMENDATION

**Staff recommends Governing Board approval and execution of an amendment to the conservation easement with Plum Creek Timberlands, L.P., to allow a Statewide Law Enforcement Radio System (SLERS) tower site to be located on the Plum Creek Conservation Easement.**

### BACKGROUND

The District was notified on April 1, 2013 that it was necessary to locate a radio tower on the Plum Creek conservation easement as part of the enhancement program for the Statewide Law Enforcement Radio System (SLERS).

The proposed tower site is located on the 12,797 acre conservation easement purchased by the District from Plum Creek Timberlands, L.P. in March 2002. The Florida Department of Management Services (DMS) manages SLERS for all state law enforcement agencies.

The District has a request from Chief John Ford, Bureau of Public Safety for DMS, for a potential site to serve the Florida Highway Patrol, Fish and Wildlife Conservation Commission and the Florida Department of Law Enforcement . The requested site is critical to provide coverage for state law enforcement officers. Staff have been in contact with Datapath Towers, LLC. as to alternate sites outside of the conservation easement. Datapath Towers, LLC. has sent the District justification why this site is optimal for their coverage requirements.

The tower site is located on pineland areas in the conservation easement and will not impact wetlands. The tower site will encompass a main compound site of 80 x 80 feet and three guy point of 10 x 15 feet each. The conservation easement allows modification after mutual agreement of both Plum Creek Timberlands, L.P. and the District. Plum Creek Timberlands, L.P. has agreed to the tower site in this location. The agreement will specify that the tower site must be used for non-commercial purposes.



RICK SCOTT  
Governor

DEPARTMENT OF MANAGEMENT  
**SERVICES**

CRAIG J. NICHOLS  
Secretary

4050 Esplanade Way | Tallahassee, Florida 32399-0950 | Tel: 850.488.2786 | Fax: 850.922.6149

March 27, 2013

Mr. Charles Houser  
Director, Division of Land Resources  
Suwannee River Water Management District  
9225 CR49  
Live Oak, FL 32060

Dear Mr. Houser:

The Department of Management Services, Division of Telecommunications, comprehensively supports the addition of the radio communications tower on property owned by Plum Creek Timber in Levy County, Florida. The existing roads and utilities at the proposed site are sufficient to accommodate the tower without disruption to the habitat. The addition of this tower will improve radio coverage in the area for state law enforcement officers. Portable coverage at this site has been lacking since the inception of the current Statewide Law Enforcement Radio System (SLERS).

We feel this tower is critical to the safety of the state law enforcement officers. We are, therefore, in full concurrence with the tower being built at this location.

If I can be of further assistance, please let me know. I can be reached at 850-921-2334 or by email at [John.Ford@DMS.MyFlorida.com](mailto:John.Ford@DMS.MyFlorida.com).

Sincerely,

A handwritten signature in blue ink, appearing to read "John C. Ford", is written over a circular stamp or watermark.

John C. Ford  
Chief, Bureau of Public Safety

JF:pf

# Datapath Tower, LLC

---

## Public Safety and Municipal Towers



April 1, 2013

Mr. Charlie Houser  
Director, Division of Land Resources  
Suwannee River Water Management District  
9225 CR 49  
Live Oak, FL 32060

Re: **Statewide Law Enforcement Radio System (SLERS) tower site location on Plum Creek property**

Dear Mr. Houser;

Thank you for agreeing to work with us on the enhancement program for the Statewide Law Enforcement Radio System. "SLERS" is the primary radio communication system for all "state level" law enforcement agencies, the largest ones being Florida Highway Patrol (FHP), Fish and Wildlife Conservation Commission (FWCC), and Florida Department of Law Enforcement (FDLE).

The Florida State Department of Management Services (DMS) manages SLERS for all agencies. The Chief, Bureau of Public Safety is Mr. John Ford.

Florida Counties may join the system and to date thirteen counties use SLERS as their primary or supplementary system in their daily law enforcement operations.

**SLERS Enhancement Program:**

With just over 200 tower sites, SLERS provides 98% outdoor mobile radio coverage across the State. But only in smaller, designated areas does it provide portable, hand-held radio coverage.

Once an Officer leaves his vehicle, or boat, he must rely on the lower-powered hand-held radio for communications. Before the current coverage enhancement program hand-held communications were available only in urban areas. The current program is targeted to provide hand-held coverage in rural areas where FWCC and FHP have requested.

**Tower Location Justification:**

The attached maps show the desired location/coverage...FHP requires coverage to the east of this requested tower (intersection of Hyws 337 & 121. FWCC has requested coverage to the southwest across Gulf Hammock.

RF Coverage plots have been made for several potential sites but none serves both FHP and FWCC as well as the requested site, which is on the parcel owned by Plum Creek Timber.

The coordinates for the requested site are:

N 29-12-31.5  
W82-41-50.1

Even moving the site to other alternate locations still yield Plum Creek ownership. Their holdings are vast across this area. Plum Creek has been a pleasure to deal with and very cooperative in approving our request. Of course the final decision lies with your organization.

**No Commercial Use:**

SLERS has other towers in "sensitive" areas and has always agreed to not use the towers for commercial purposes. This tower would fall in with the others, to ONLY be used by Public Service agencies.

The requested location is on upland pineland. The main site compound is 80' X 80' and there are three "guy points" each 10' X 15'. All areas are fenced and well maintained.

**Supporting Documentation:**

1. State Department of Management Services (DMS) letter
2. SLERS network map showing desired coverage
3. County parcel maps (2) showing location

We appreciate the SRWMD Board of Directors consideration to assist with this enhancement program, which will undoubtedly result in a higher degree of safety for every officer who operates in this area.

As other questions arise, or for any clarification or additional information please call me.

Sincerely,



William Tinsley  
President  
727-260-2811

[www.datapathtower.com](http://www.datapathtower.com)

**Datapath Tower LLC, 4515 Plaza Way, Suite 100, St Pete Beach, FL 33706**

RICK SCOTT  
Governor

DEPARTMENT OF MANAGEMENT  
**SERVICES**

CRAIG J. NICHOLS  
Secretary

4050 Esplanade Way | Tallahassee, Florida 32399-0950 | Tel: 850.488.2786 | Fax: 850.922.6149

March 27, 2013

Mr. Charles Houser  
Director, Division of Land Resources  
Suwannee River Water Management District  
9225 CR49  
Live Oak, FL 32060

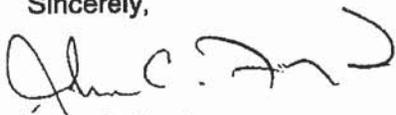
Dear Mr. Houser:

The Department of Management Services, Division of Telecommunications, comprehensively supports the addition of the radio communications tower on property owned by Plum Creek Timber in Levy County, Florida. The existing roads and utilities at the proposed site are sufficient to accommodate the tower without disruption to the habitat. The addition of this tower will improve radio coverage in the area for state law enforcement officers. Portable coverage at this site has been lacking since the inception of the current Statewide Law Enforcement Radio System (SLERS).

We feel this tower is critical to the safety of the state law enforcement officers. We are, therefore, in full concurrence with the tower being built at this location.

If I can be of further assistance, please let me know. I can be reached at 850-921-2334 or by email at [John.Ford@DMS.MyFlorida.com](mailto:John.Ford@DMS.MyFlorida.com).

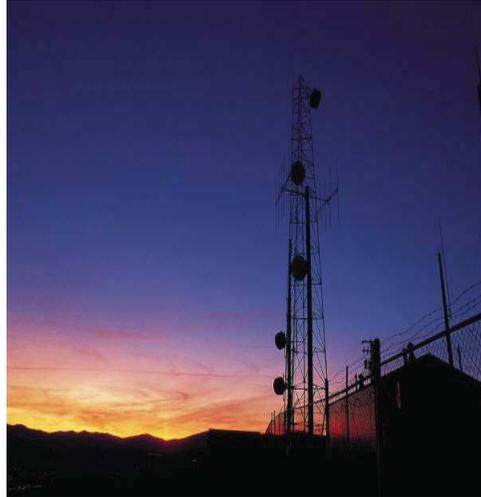
Sincerely,



John C. Ford  
Chief, Bureau of Public Safety

JF:pf

# Datapath Tower, LLC



---

## Public Safety and Municipal Towers

April 13, 2013

Mr. Charlie Houder  
Director, Division of Land Resources  
Suwannee River Management District  
9225 CR 49  
Live Oak, FL 32060

Re: **Justification and clarification of SLERS tower site selection**

Dear Mr. Houder;

This letter will address the tower site selection process and attempt to justify the selection of the final site requested.

I now realize the original site selected by the RF study should not have been on the map...this site is the “very first” location, selected by a computer, or the radio system RF propagation program which calculates the “theoretically optimum” site when measured against the RF propagation of surrounding sites.

It does not represent the “real world” operational needs of the officers using the system. This location is the “starting point” given to Datapath to locate the “optimal site”, which must not only meet the coverage requirements but also be accessible, buildable, and serve the public good.

Any location on the East side of Hwy 98 in that general area in neither accessible nor buildable because...

1. Accessibility:

- a. There is a very wide gas pipeline easement which must be crossed.

- b. The easement dips down off Hwy 98 and then rises up to a “berm” before going on the east.
- c. The property beyond the “berm” is much lower, and wet. This alone makes the east location very problematic, especially during hurricane season.
- d. Considering the purpose of this Public Safety/Service site, and the public money involved, it would be wiser to place the site on the west side of Hwy 98.

2. Buildability:

- a. Utilities: On the west side of Hwy 98.
- b. The construction equipment, cranes, lowboys, etc., would have a difficult, if not practically impossible time, getting to the site. The communication shelter weighs 60,000#'s and is moved by special permit.

3. Public Good/Service:

- a. The conservation area is supported by the public.
- b. The SLERS site is also supported by the public, and serves to protect the conservation lands by providing law enforcement operations for/against poachers, drug dealers, hunters and campers. This system is exclusively used by FWCC, EPA, and FHP.

4. Site selection is a lengthy process with inputs from:

- a. State Department of Management Services, Public Safety Bureau, RF Engineering providing computer designed location.
- b. JTF Technical Committee, representing the law enforcement agencies with “real world” applications of the site.
- c. Datapath Tower executes actual “on-the –ground” investigation of site and recommends site or alternatives.
- d. Harris Corporation provides input as to serviceability.

When considering all the criteria and input sources, the “final” site location selected by all was the site on the west side of Hwy 98.

As far as PCT’s consideration, only the site on the west side of Hwy 98 was requested to them. The tag, “Levy Cnty (PCT) recommended “ was my name for the alternate site after my on-ground survey of the area. Actually I have made 5 separate trips to the area to identify the best location.

Thank you and SRWMD for the opportunity to clarify the process for SLERS site selection.

Sincerely,

[ signed ]

William Tinsley  
President  
727-260-2811  
bill@datapathtower.com

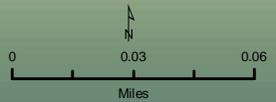


19

-  SLERS Tower Site
-  Plum Creek Conserve Easement

### Plum Creek Conserve Easement Levy County

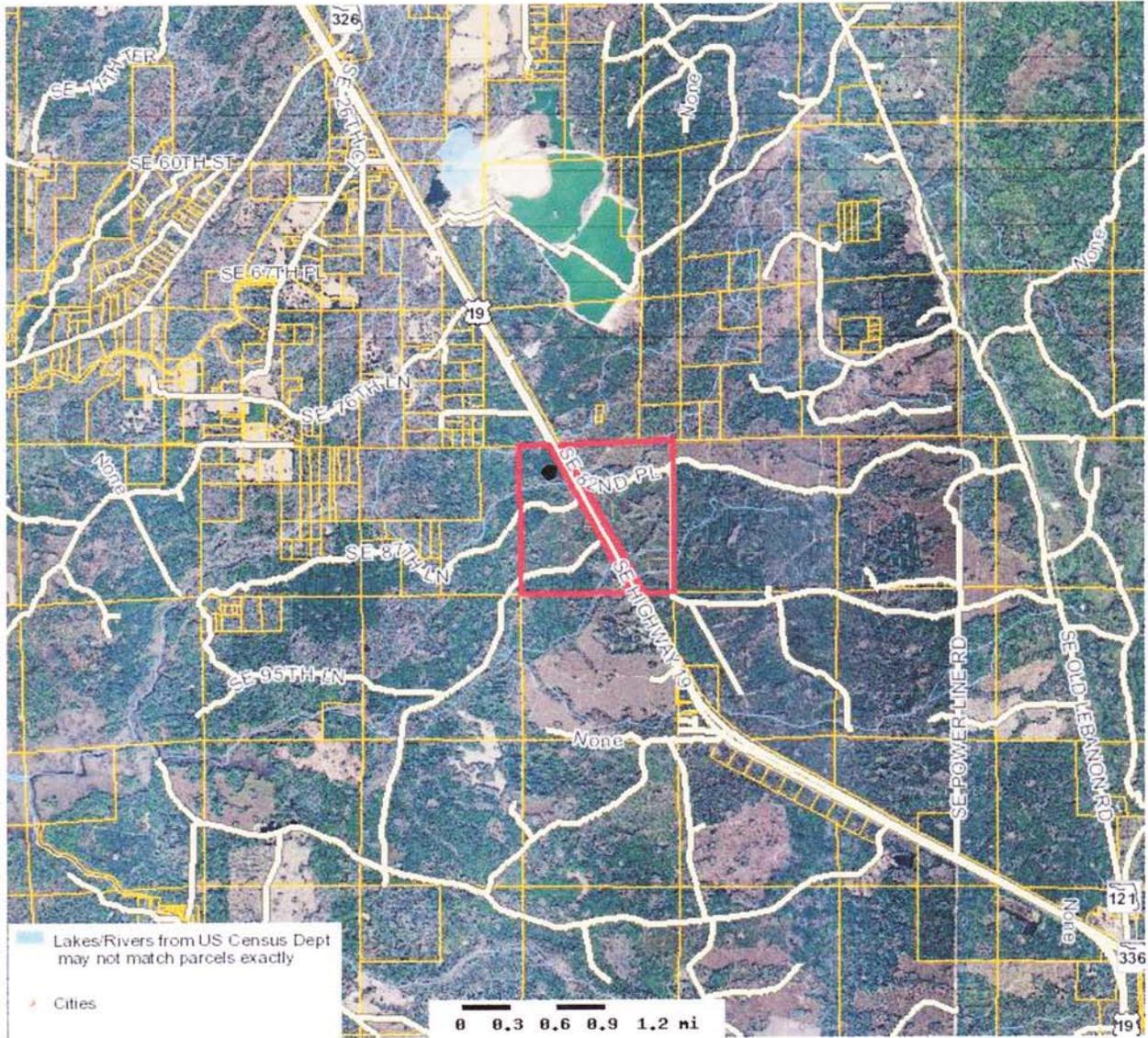
May 2013



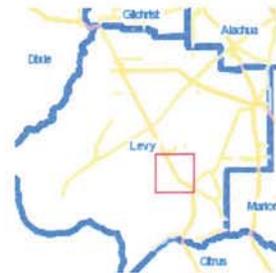
Note: This map was created by the Suwannee River Water Management District (SRWMD) to be used for planning purposes only. SRWMD shall not be held liable for any injury or damage caused by the use of data distributed as a public records request regardless of their use or application. SRWMD does not guarantee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



- FLORIDA STATEWIDE LAW ENFORCEMENT RADIO SYSTEM (SERS) REQUESTED TOWER SITE LOCATION.



Levy County Property Appraiser			
Parcel: 0276200000 Acres: 590			
Name:	PLUM CREEK TIMBERLANDS L P	Building Value	0
Site:		Extra Feature Val	\$ 35,490
Sale:	\$42,157,200 on 1999-04-01 Reason=U Qual=C	Market Land Val.	\$ 870,243
Mail:	ATTN:TAX DEPARTMENT 100 PROFESSIONAL CENTER DR  BRUNSWICK, GA 31525	Ag Land Value	\$ 107,403
		Just Value	\$ 905,733
		Assessed Value	\$ 142,893
		Taxable Value	\$ 142,893



The Levy County Property Appraiser's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER LEVY COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS ---THIS IS NOT A SURVEY---

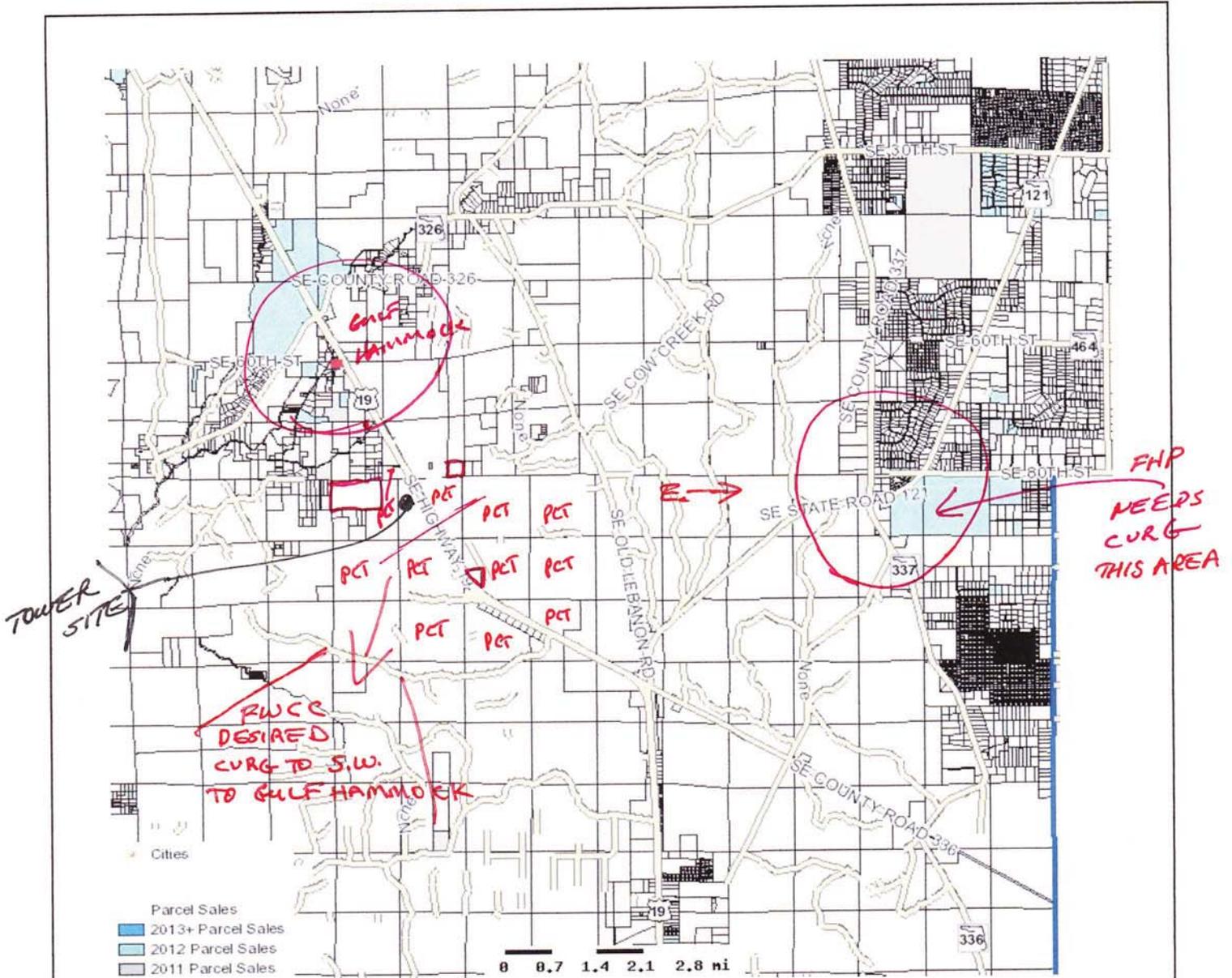
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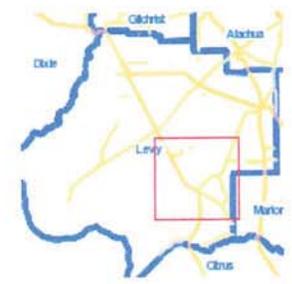
PIPELINE  
WETLANDS  
CORPS; PCT/FPC

REQS: 5 ACRES

PCT OWNS ALL LAND!!



Levy County Property Appraiser			
Parcel: 0269600100 Acres: 5.64			
Name:	MAYNARD WILLIAM KEITH	Building Value	\$ 56,366
Site:	6031 SE 26 TER INGLIS	Extra Feature Val	\$ 2,374
Sale:		Market Land Val.	\$ 21,271
Mail:	PO BOX 217 GULF HAMMOCK, FL 32639	Ag Land Value	\$ 21,271
		Just Value	\$ 80,011
		Assessed Value	\$ 80,011
		Taxable Value	\$ 25,719



The Levy County Property Appraiser's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll. PLEASE NOTE THAT THE PROPERTY APPRAISER MAPS ARE FOR ASSESSMENT PURPOSES ONLY NEITHER LEVY COUNTY NOR ITS EMPLOYEES ASSUME RESPONSIBILITY FOR ERRORS OR OMISSIONS ---THIS IS NOT A SURVEY---

Date printed: 01/29/13 : 11:32:30

## MEMORANDUM

TO: Governing Board  
FROM: Charlie Houder, Director, Division of Land Resources  
DATE: April 29, 2013  
SUBJECT: Land Resources Activity Summary

Staff performed two conservation easement reviews during the past month:

- Donald and Margaret Bailey
- Holt and Betty Ragans

The majority of acreage that was burned during the report period was conducted on tracts that are located in the Upper Suwannee basin. Because of their location in the floodplain, many of these tracts contain high levels of organic (duff) soils that require good soil moisture before burning operations can be conducted. Good levels of soil moisture are important to prevent the ignition of these soils that could lead to potential smoke management issues and pine timber mortality. Several rainfall events that occurred during the report period provided this needed moisture.

The following tracts received road maintenance work this past month:

- Steinhatchee Springs - 3,541 feet of public use roads, and 3,683 feet of secondary roads

The attached report summarizes the status of current surplus activities for the preceding month. Staff will be prepared to address any tracts of particular interest the Board may wish to discuss at the Governing Board meeting.

**REAL ESTATE**

Conservation Easement Review

Owner	Project Name	Acres	County	2012-2013 Monthly Inspection Date											
				O	N	D	J	F	M	A	M	J	J	A	S
Bailey, Donald and Margaret	Bailey/Cuba Bay Exchange	164	Jefferson						X						
Bailey Brothers	Bailey Brothers Steinhatchee	16,522	Dixie												
Champion, Roger and Donna	Mount Gilead	180	Madison												
Chinquapin Farm, L.L.C.	Chinquapin Farm	6,350	Columbia, Suwannee												
City of Newberry	Newberry Wellfield	40	Alachua												
Davidson, Dr. C. Linden	Davidson	225	Jefferson												
Deep Creek Plantations	Upper Suwannee	160	Columbia												
Drummond, Graham	Lower Suwannee	543	Levy												
Feagle, Ronald and Dorothy	Bonnet Lake	433	Columbia				X								
Florida Sheriffs Youth Ranches, Inc.	Youth Ranches (I and II)	550	Suwannee												
Livingston Foundation	Dixie Plantation	8,902	Jefferson					X							
Hale and McDaniel	Carter	1,232	Columbia												
Harrell, Curtis and Matthew	Falmouth Addition	912	Suwannee				X								
Jackson, Kevin and Patrice	Jackson	171	Lafayette												
Layman Law Firm	Layman Aucilla	167	Jefferson				X								
Loncala Inc.	Loncala Alapaha	1,141	Hamilton												
Loncala, Inc.	Loncala Gilchrist	913	Gilchrist	X											
Loncala, Inc.	Monteocha Creek	951	Alachua			X									
Mann, Jack & Loy Ann	Manatee Springs Addition	590	Levy												
McEnany, Michael	Waccasassa	1,104	Levy												
Meeks, David & Sarah	Manatee Springs Addition	370	Levy												
Moore, Madeline	Moore	115	Jefferson												

|

Conservation Easement Review (continued)

Owner	Property Name	Acres	County	2012-2013 Inspection Date												
				O	N	D	J	F	M	A	M	J	J	A	S	
Plantations at Deep Creek, L.L.C.	Deep Creek Exchange	1,038	Columbia													
Platt, Cody and Carol	Aucilla Addition	274	Jefferson													
Plum Creek Timberlands	Gainesville Wellfield	3,084	Alachua													
Plum Creek Timberlands	Waccasassa Gulf Hammock	21,300	Levy													
Plum Creek Timberlands	Manatee Springs Addit. Oak Hammock	4,588	Levy													
Plum Creek Timberlands	Manatee Springs Addit. Suwannee Swamp	12,797	Levy													
Ragans Hoyt and Betty	Aucilla	755	Jefferson Madison						X							
Red Hills Land Company	Foster	163	Jefferson													
Sanders, Thomas and Sylvia	Mill Creek	339	Hamilton													
Sante Fe River Hammock, L.L.C.	Santa Fe River Hammock	167	Bradford						X							
Sheppard, Derwood and Susan	Manatee Springs Addition	120	Levy						X							
Strickland Field, L.P.	Strickland Field	3,822	Dixie													
Suwannee River Development LLC	Ace Ranch	260	Lafayette													
The Campbell Group	California Swamp	32,134	Dixie			X										
Tisdale Robert	Tisdale	83	Levy						X							
Usher Family Trust	Usher	2,023	Levy													
Zellwin Farms, Inc.	Jennings Bluff	362	Hamilton						X							

Shading denotes month inspection is scheduled to take place. An "X" denotes completed inspection. Inspection will be rescheduled if not completed during its designated month.

Acquisition

<b>OWNER</b>	<b>PROJECT NAME</b>	<b>ACRES</b>	<b>COUNTY</b>	<b>COMMENTS</b>
J.T. Bridges Azure Properties	McAlpin Landing Addition	220	Hamilton	Discussion continue concerning timber lease
Nyman, George & Sharon	Suwannee River Oaks CE	312	Gilchrist	Title review completed by legal. Requesting bid for re-appraisal

Status of Exchange

<b>Tract Name</b>	<b>Acres</b>	<b>County</b>	<b>Acquired Date</b>	<b>Funding Source</b>	<b>Proposal</b>	<b>Status</b>
Ellaville Exchange for Damascus Peanut Company	986	Madison	5/1998	WMLTF	Proposed as Exchange	Governing Board approved the exchange agreement with the Trustees of the Internal Improvement Trust Fund.
Lamont/Mt. Gilead for Aucilla Land Partners Conservation Easement	114	Madison and Jefferson	9/1998	WMLTF	Proposed as Conservation Easement Exchange	Governing Board approved exchange on April 9, 2013

Surplus Lands

<b>Tract Name</b>	<b>Acres</b>	<b>County</b>	<b>Acquired Date</b>	<b>Funding Source</b>	<b>Appraisal Date</b>	<b>Listing Date</b>	<b>Listing Price</b>	<b>Comments</b>
Alligator Lake	43	Columbia	8/10/2001	P2000	Approved in July			Discussion continuing with Columbia County
Blue Sink	79	Suwannee	12/1988	WMLTF	6/14/2010	7/12/2010	Fee entire parcel \$281,600 40-acre parcel \$154,000	
Cabbage Grove	30	Taylor	9/2001	WMLTF		10/5/2012	Fee entire tract \$57,750	

Surplus Lands (continued)

Tract Name	Acres	County	Acquired Date	Funding Source	Appraisal Date	Listing Date	Listing Price	Comments
Chitty Bend East	20	Hamilton	12/1988	WMLTF	11/2/11	11/29/11	Fee two 10-acre tracts for \$26,400 each	
Chitty Bend West	121	Madison	12/1988	WMLTF	11/2/11	11/29/11	Fee entire tract \$279,510	
Cuba Bay	22	Jefferson	02/1996	P2000	8/10/2011	11/10/2011	Fee or Conservation Easement (same price) \$42,350	
Falmouth North (8 lots)	6	Suwannee	04/1998	WMLTF	8/27/2010	11/18/2010	Fee entire tract \$52,030	
Hunter Creek	120	Hamilton	09/2002	P2000		11/18/2010	Fee (3 parcels) \$343,200 CE (3 parcels) \$243,100	
Jennings Bluff	70	Hamilton	02/1989	WMLTF	7/30/2010	8/16/2010	Fee entire tract \$215,600	Negotiations continue with Hamilton County
Levings	69	Columbia	02/1998	WMLTF	6/14/2010	5/11/2011	Fee entire tract \$135,860	
Perry Spray Field	248	Taylor	9/2001	WMLTF	6/6/2012		CE \$225,000	
Steinhatchee Rise	42	Dixie	02/1996	P2000	8/27/2010	11/18/2010	Fee entire tract \$126,940 conservation easement \$97,020	
Timber River	1	Madison	03/1998	WMLTF	8/27/2010	11/18/2010	Fee entire tract \$10,780	

WMLTF=Water Management Lands Trust Fund; P2000=Preservation 2000; FF= Florida Forever Trust Fund

**LAND MANAGEMENT**

Prescribed Fire

<b>Summary Table FY 2013</b>	<b>2013 Target Acres</b>	<b>Acres Complete</b>
Suwannee River Water Management District	10,000	6,426
Florida Forest Service burns on Twin Rivers State Forest	2000	1,158
<b>TOTAL</b>	<b>12,000</b>	<b>7,584</b>

Prescribed Burn Activity

<b>TRACT</b>	<b>COUNTY</b>	<b>WFS</b>	<b>FFS TRSF</b>	<b>TOTAL ACRES</b>	<b>TOTAL WILDFIRE ACRES</b>
Woods Ferry	Suwannee	303			
McAlpin Landing	Hamilton	221			
Big Shoals	Hamilton	439			
Turner Bridge	Hamilton	152			
Little Creek	Columbia	283			
Cuba Bay	Madison	272			
Mill Creek South	Madison		308		
<i>Sub-total for Period</i>		1,670	308	1,978	11.22
<i>Previous Acres Burned</i>		4,756	850	5,606	0.00
<b>Total Acres</b>		<b>6,426</b>	<b>1,158</b>	<b>7,584</b>	<b>11.22</b>

**Timber**

Timber Sales

<b>Contract #</b>	<b>Fiscal Year</b>	<b>Timber Sale Name</b>	<b>Oversight</b>	<b>Contract Date</b>	<b>Estimated Start Date</b>	<b>Estimated Pine Tons</b>	<b>Harvest Completion</b>
11/12-054	2012	Steinhatchee Springs #9	SR	3/26/2012	10/26/2012	14,100	75%
12/13-057	2013	Steinhatchee Rise #1	SR	3/5/2013	4/5/2013	13,647	10%

\*Staff inadvertently indicated that Steinhatchee Springs #9 timber sale was completed at the last governing board meeting.

## MEMORANDUM

TO: Governing Board

FROM: Carlos Herd, P.G., Division Director, Water Supply

DATE: April 29, 2013

RE: Lower Santa Fe and Ichetucknee Rivers and Springs Minimum Flows and Levels Peer Review

### RECOMMENDATION

**Staff recommends the Governing Board authorize the Executive Director to enter into an agreement with the University of Florida (UF) Water Institute to conduct peer review of Lower Santa Fe and Ichetucknee Rivers and Springs Minimum Flows and Levels for an amount not to exceed \$45,000.**

### BACKGROUND

The District is conducting a program in the lower Santa Fe River and the Ichetucknee River basins to develop Minimum Flows and Levels (MFLs) pursuant to Chapter 373.042, Florida Statutes. This work involves multiple projects to collect biological data, develop numerical and statistical models, and summarize/evaluate data from the literature. These projects are being used by the District to develop a draft technical document that summarizes the project results and synthesizes them into recommendations for minimum flows and levels.

The District desires to assemble and convene a panel of experts to independently review and comment on the technical basis of the District's proposed minimum flows and levels for the subject water bodies. This will constitute statutory voluntary peer review under Chapter 373.042(4)(a). Such review panels typically consist of some combination of qualified experts in fields such as:

- Stream ecology
- Wetland ecology
- Statistical and hydrologic/hydraulic modeling of river flow and stage, and connected groundwater systems
- Application of statistical techniques for describing water quantity and relationships to biological communities and habitat suitability as it relates to flow or water level.

The UF Water Institute is made up of over 200 members representing over 65 Departments, Centers and Programs at UF with multiple faculty qualified in the above areas. The Water Institute will complete its review within 45 days after contract issuance.

Funds are budgeted in the FY12/13 MFL program budget.

CH/dd

## MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, P.E., Division Director, Resource Management

DATE: April 29, 2013

RE: Approval of Water Use Permit Application Number  
2-01-00038.003, Batson Place, Gilchrist County

### RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-01-00038.003 with eighteen standard conditions and three special limiting conditions to Michael Wilkerson in Gilchrist County.**

### BACKGROUND

This is a modification to an existing permit to irrigate 135 acres with an Average Daily Rate (ADR) of 0.2093 million gallons daily (mgd). The ADR has increased 0.0158 mgd, from 0.1935 to 0.2093 mgd. This increase is less than 16,000 gallons/day and will not violate the minimum flows and levels. This will be accomplished with one irrigation well and four center pivots. There is also one livestock well that will provide water for 30 head of beef cattle. The project area is not located within a Water Resource Caution Area. This producer is participating in the District cost-share program. The applicant is requesting a ten-year permit extension (existing permit expires on April 19, 2021, modified permit will expire on April 19, 2031) due to voluntarily implementing automated water use monitoring.

The permit contains special conditions regarding implementation of automatic monitoring of withdrawals, implementation and maintenance of conservation plans, and irrigation of target areas.

Staff has determined that the application is complete and satisfies the conditions for issuance in Chapter 40B-2, Florida Administrative Code.

/tm

April 29, 2013

Mr. Michael Wilkerson  
PO Box 212  
Trenton, FL 32693

Subject: Approval of Water Use Permit Application Number  
2-01-00038.003, Batson Place, Gilchrist County

Dear Mr. Wilkerson:

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

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 16, 2013, which is open to the public.

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.  
Division Director, Resource Management

TS/tm  
Enclosure  
Certified Mail Receipt Number:7010 1060 0001 1350 3493

## 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.

## NOTICE OF RIGHTS

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:

Mr. Michael Wilkerson  
PO Box 212  
Trenton, FL 32693

At 4:00 p.m. this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Tim Sagul  
Deputy Clerk  
Suwannee River Water Management District  
9225 C.R. 49  
Live Oak, Florida 32060  
386.362.1001 or 800.226.1066 (Florida only)

**STAFF REPORT**  
**WATER USE PERMIT APPLICATION**

**DATE:** April 29, 2013

**PROJECT:** Batson Place

**APPLICANT:**  
Michael Wilkerson  
PO Box 212  
Trenton, FL 32693

**PERMIT APPLICATION NO.:** 2-01-00038.003

**DATE OF APPLICATION:** March 11, 2013

**APPLICATION COMPLETE:** March 11, 2013

**DEFAULT DATE:** June 9, 2013

	<b>Previous Quantities:</b>		<b>Proposed Quantities:</b>	
<b>Average Daily Rate (ADR)</b>	<b>0.1935</b>	<b>mgd</b>	<b>0.2093</b>	<b>mgd</b>

**Recommended Agency Action**

Staff recommends approval of a Water Use Permit for a modification located within Gilchrist County. The permit includes eighteen standard conditions and three special limiting conditions. Staff also recommends a ten-year permit extension based on 40B-2.331(2) due to voluntarily implementing automated water use monitoring. The existing permit will expire on April 19, 2021, the modified permit will expire on April 19, 2031.

**Project Review Staff**

Lindsey Marks, Kevin Wright, P.E., and Tim Sagul, P.E. have reviewed the application.

**Project Location**

The withdrawal facilities are located in Township 10 South, Range 14 East, Section 08 in Gilchrist County. The project is located within the Lower Suwannee River basin according to the USGS National Hydrography Dataset, Hydrologic Unit Code-8 sub basins.

**Project Description**

The project area consists of 153 acres with approximately 135 acres being irrigated using groundwater.

The water use calculations were based upon the irrigated acreages and crop types provided by Michael Wilkerson. Crops include corn, peanuts, and hay, with rye or oats as winter crops. The applicant will use four center pivots for irrigation. The Average Daily Rate (ADR) of withdrawal was calculated as 0.2093 mgd, which equates to 20.8 inches of supplemental irrigation annually. The producer is participating in the District cost-share program.

The project area includes two existing wells. One well is for irrigation, and the other well provides water for the 30 head of beef cattle on the project site. The well inventory can be found in the table on Attachment A.

### **Demonstration of Need**

The applicant has provided information that supports the requested allocation, based upon the crop types. Michael Wilkerson plans to irrigate 135 acres with two crops each year. Crops include corn, peanuts, and hay with rye or oats as winter crops.

### **Water Conservation**

The applicant has completed the Water Conservation Worksheets for Center Pivot Irrigation.

### **Minimum Flows and Levels Compliance**

Due to this modification, the ADR has increased 0.0158 MGD from 0.1935 to 0.2093 MGD. This increase is less than 16,000 gallons/day and will not violate the minimum flows and levels (MFLs) at any downstream MFL points established along the Suwannee River or its tributaries. However, a standard 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.

### **Conditions of Issuance**

#### **Is this a reasonable–beneficial use?**

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

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

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

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

No. This modification results in an increase in ADR of less than 16,000 gallons/day and will not interfere with any presently existing legal use of water.

#### **Will this use be consistent with the public interest?**

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

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

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

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

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

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

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

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

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

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

Yes. The increase in ADR of less than 16,000 gallons/day will help the source be capable of producing the requested amounts and appropriate quality of water.

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

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

No. The decrease in allocation will not degrade the source from which it is drawn.

**Will the use cause or contribute to flooding?**

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

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

**Will the use harm offsite land uses?**

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

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

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

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

No. The increase in ADR of less than 16,000 gallons/day will not cause harm to wetlands or other surface water.

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

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

No. The increase in ADR of less than 16,000 gallons/day will not cause a violation of either minimum flows or levels.

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

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

No. The increase in ADR of less than 16,000 gallons/day will not contribute to a violation of state water quality standards.

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

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

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

**Has the permit applicant proposed an alternative water supply?**  
[ref. 40B-2.301(2)(k)]

Alternative water supply is not feasible at this time.

## **Standard Conditions**

1. This permit shall expire on **4/19/2031**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.041(2), Florida Administrative Code (F.A.C.) and the required fee to the District pursuant to section 40B-2.361, F.A.C., prior to this expiration date in order to continue the use of water.
2. The permittee may apply for a permit modification at any time in accordance with section 40B-2.331, F.A.C.
3. Primary Water Use classification(s): **Irrigation, Livestock**
4. Source classification(s) : **Groundwater**
5. 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.
6. The permitted water withdrawal facilities consist of the items in the Withdrawal Point Information table on page 1.
7. Permittee must mitigate interference with existing legal uses caused in whole or in part by the permittee's withdrawals, consistent with a District-approved mitigation plan. As necessary to offset such interference, mitigation may include, but is not limited to, reducing pumpage, replacing the existing legal user's withdrawal equipment, relocating wells, changing withdrawal source, supplying water to existing legal user, or other means needed to mitigate the impacts.
8. Permittee must mitigate harm to existing off-site land uses caused by the permittee's withdrawals. When harm occurs, or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
9. Permittee must mitigate harm to the natural resources caused by the permittee's withdrawals. When harm occurs or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
10. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.
11. Authorized representatives of the District, upon reasonable notice to the permittee, shall be permitted to enter and inspect the permitted water use to determine compliance with the permit conditions.
12. This permit does not relieve the permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.
13. This permit does not convey to the permittee any property rights or privileges other than those specified herein.
14. Permittee shall notify the District in writing within 90 days of any sale, conveyance, or other transfer of ownership or control of the real property on which the permitted water use activities are located. All water use permit transfers are subject to the requirements of section 40B-2.301, F.A.C.
15. Permittee must notify the District in writing prior to implementing any changes in the water use that may alter the permit allocations. Such changes include, but are not limited to, change in irrigated acreage, crop type, irrigation system, water treatment method, or entry into one or more large water use agreements. In the event a proposed change will alter the allocation, permittee must first obtain a permit modification.

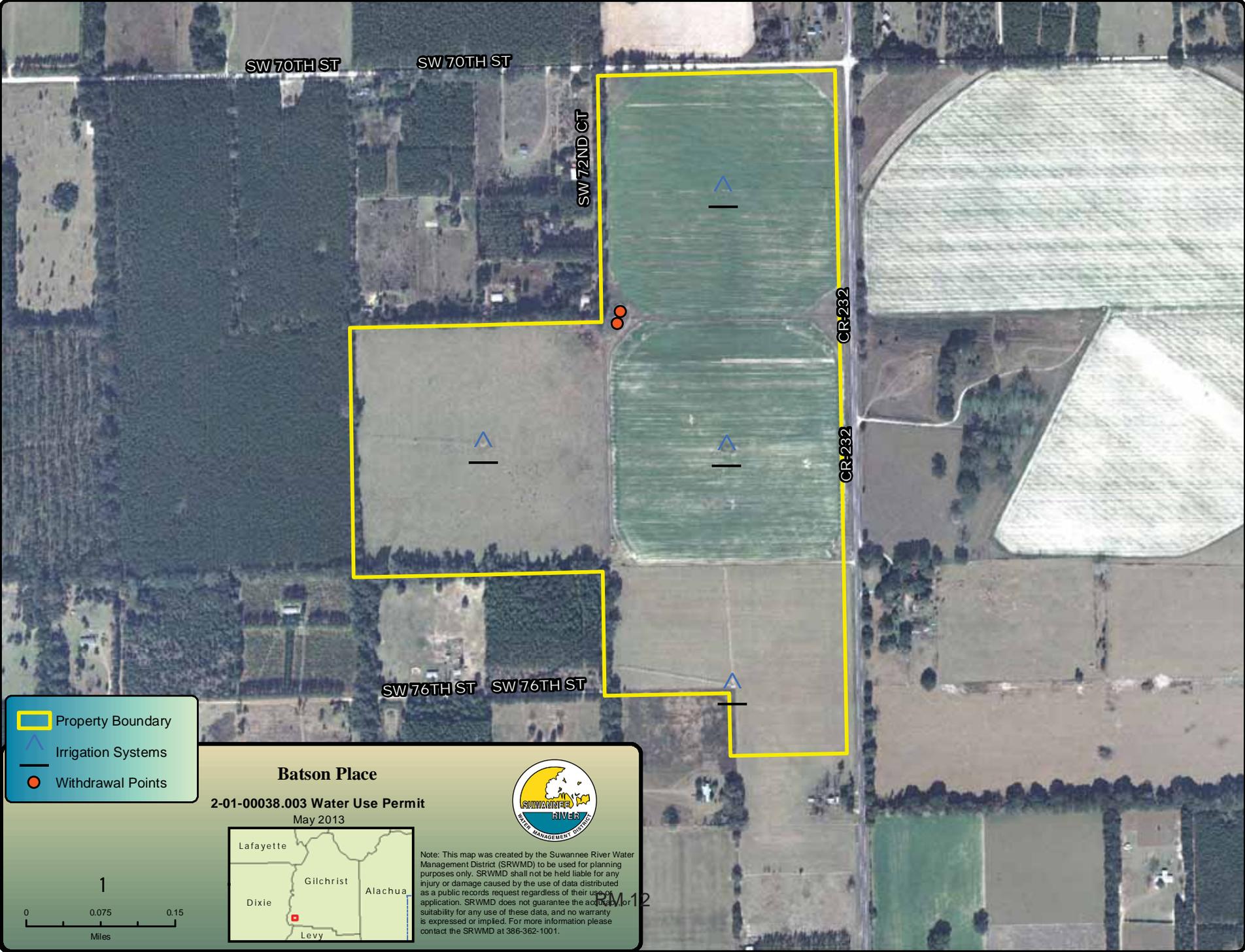
16. All correspondence sent to the District regarding this permit must include the permit number **2-01-00038.003**.
17. When the District provides a permanent identification tag, the tag shall be prominently displayed at the withdrawal site by permanently affixing such tag to the pump, headgate, valve, 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.
18. 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**

19. The Permittee shall implement automated monitoring of groundwater withdrawals, at Permittee's expense, upon commencement of withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each well of inside diameter eight inches or greater at land surface and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may opt for a standardized SRWMD automated monitoring system to fulfill this requirement.
20. The Permittee shall implement and/or maintain the conservation practices selected in the Water Conservation Plan submitted to the District. Any new practices selected shall be implemented within one year from the date of permit issuance. Practices that involve scheduling methods or maintenance shall be documented. Documentation for implementation and/or maintenance shall be maintained on all practices and available upon request.
21. The Permittee shall ensure that the irrigation systems will water target areas only under field operations. Irrigation of non-target areas (roads, woods, structures, etc.) is prohibited.

Attachment A  
2-01-00038.006  
Batson Place

Name	Status	Diameter	Capacity (gpm)	Water Use
Batson Place Well	Existing	10	1000	Irrigation
Livestock Well	Existing	2	10	Livestock



SW 70TH ST

SW 70TH ST

SW 72ND CT

CR-232

CR-232

SW 76TH ST

SW 76TH ST

Property Boundary

Irrigation Systems

Withdrawal Points

### Batson Place

2-01-00038.003 Water Use Permit

May 2013



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

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Miles

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MEMORANDUM

TO: Governing Board  
FROM: Tim Sagul, P.E., Division Director, Resource Management  
DATE: April 29, 2013  
RE: Approval of Water Use Permit Application Number  
2-04-00099.003, Lee Farm, Madison County

RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-04-00099.003 with eighteen standard conditions and four special limiting conditions to David Corbett Farm in Madison County.**

BACKGROUND

This is a modification for an existing permit to irrigate 865 acres with an Average Daily Rate(ADR) of 1.4777 million gallons daily (mgd). The ADR has decreased 0.3093 mgd, from 1.7870 to 1.4777 mgd. This will be accomplished with five irrigation wells, a tank filling well, and seven center pivots. The project area is not located within a Water Resource Caution Area. This producer is participating in the District cost-share program. The applicant is requesting a five-year permit extension ( existing permit expires on January 4, 2025, the modified permit will expire on January 4, 2030 due to voluntarily implementing automated water use monitoring.

The permit contains special conditions regarding a ten-year permit review, implementation of automatic monitoring of withdrawals, implementation and maintenance of conservation plans, and irrigation of target areas.

Staff has determined that the application is complete and satisfies the conditions for issuance in Chapter 40B-2, Florida Administrative Code.

/tm

April 29, 2013

Mr. David Corbett  
David Corbett Properties, LLC  
1071 Hwy 376E  
Lake Park, GA 31636

Subject: Approval of Water Use Permit Application Number  
2-04-00099.003, Lee Farm, Madison County

Dear Mr. Corbett:

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

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 16, 2013, which is open to the public.

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.  
Division Director, Resource Management

TS/tm  
Enclosure  
Certified Mail Receipt Number:7010 1060 0001 1350 3486

## 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.

## NOTICE OF RIGHTS

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:

Mr. David Corbett  
David Corbett Properties, LLC  
1071 Hwy 376E  
Lake Park, GA 31636

At 4:00 p.m. this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Tim Sagul  
Deputy Clerk  
Suwannee River Water Management District  
9225 C.R. 49  
Live Oak, Florida 32060  
386.362.1001 or 800.226.1066 (Florida only)

**STAFF REPORT**  
**WATER USE PERMIT APPLICATION**

**DATE:** April 29, 2013

**PROJECT:** Lee Farm

**APPLICANT:**

David Corbett Properties, LLC

1071 Hwy 376E

Lake Park, GA 31636

**PERMIT APPLICATION NO.:** 2-04-00099.003

**DATE OF APPLICATION:** February 15, 2013

**APPLICATION COMPLETE:** April 3, 2013

**DEFAULT DATE:** July 2, 2013

**Officer Detail: David Corbett Properties, LLC**

David Corbett	President
1071 Hwy 376E	
Lake Park, GA 31636	

	<b>Previous Quantities:</b>		<b>Proposed Quantities:</b>	
<b>Average Daily Rate (ADR)</b>	<b>1.7870</b>	<b>mgd</b>	<b>1.4777</b>	<b>mgd</b>

**Recommended Agency Action**

Staff recommends approval of a Water Use Permit for an existing agricultural operation located within Madison County. The permit includes eighteen standard conditions and four special limiting conditions. Staff recommends a five year permit extension based on 40B-2.331(2) due to voluntarily implementing automated water use monitoring. The permit will expire on January 4, 2030.

**Project Review Staff**

Lindsey Marks, Kevin Wright, P.E., and Tim Sagul, P.E. have reviewed the application.

**Project Location**

The withdrawal facilities are located in Township 01 South, Range 11 East, Sections 18, 19, 29, and 30 in Madison County. The project is located within the Lower Suwannee River basin according to the USGS National Hydrography Dataset, Hydrologic Unit Code-8 sub basins.

**Project Description**

The project area consists of 960 acres with approximately 865 acres being irrigated using groundwater.

The water use calculations were based upon the irrigated acreages and crop types provided by David Corbett. Crops include corn, beans, and peanuts with winter rye or oats. The applicant

will use seven center pivots for irrigation. The Average Daily Rate (ADR) of withdrawal was calculated as 1.4777 mgd, which equates to 23.0 inches of supplemental irrigation annually. This producer is participating in the District cost-share program.

The project area includes six existing wells. Use of five wells will be for irrigation and one for tank filling. The well inventory can be found in the table on Attachment A.

### **Demonstration of Need**

The applicant has provided information that supports the requested allocation, based upon the crop types. Lee Farm plans to irrigate 865 acres with two crops each year. Crops include corn, beans, and peanuts with rye, oats, or wheat as a winter cover crop.

### **Water Conservation**

The applicant has completed the Water Conservation Worksheets for Center Pivot Irrigation.

### **Minimum Flows and Levels Compliance**

The crop rotation has changed in this modification. Due to this change, the ADR has decreased 0.3093 MGD from 1.7870 to 1.4777 MGD. This decrease will not violate the minimum flows and levels (MFLs) at any downstream MFL points established along the Suwannee River or its tributaries. However, a standard 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.

### **Conditions of Issuance**

#### **Is this a reasonable–beneficial use?**

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

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

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

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

No. This modification decreases the amount of water allocated and will not interfere with any presently existing legal use of water.

#### **Will this use be consistent with the public interest?**

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

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

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

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

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

**Is this use for a purpose that is both reasonable and consistent with the public interest?**  
[ref. 40B-2.301(2)(b)]

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

**Will the source of the water be capable of producing the requested amounts and appropriate quality of water?**  
[ref. 40B-2.301(2)(c)]

Yes. The decrease in allocation will help the source be capable of producing the requested amounts and appropriate quality of water.

**Will the use degrade the source from which it is withdrawn?**  
[ref. 40B-2.301(2)(d)]

No. The decrease in allocation will not degrade the source from which it is drawn.

**Will the use cause or contribute to flooding?**  
[ref. 40B-2.301(2)(e)]

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

**Will the use harm offsite land uses?**  
[ref. 40B-2.301(2)(f)]

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

**Will the use cause harm to wetlands or other surface water? Harm to wetland or other surface waters must be mitigated after completion of reduction or elimination of harm in accordance with sections 3.1.8. through 3.1.10. of the Water Use Permitting Guide.**  
[ref. 40B-2.301(2)(g)]

No. The decrease in allocation will not cause harm to wetlands or other surface water.

**Will the use cause or contribute to a violation of either minimum flows or levels?**  
[ref. 40B-2.301(2)(h)]

No. The decrease in allocation will not cause a violation of either minimum flows or levels.

**Will the use cause or contribute to a violation of state water quality standard in waters of the state as set forth on Chapters 62-301, 62-302, 62-520, and 62-550, Florida Administrative Code (F.A.C.)?**  
[ref. 40B-2.301(2)(i)]

No. The decrease in allocation will not contribute to a violation of state water quality standards.

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

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

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

**Has the permit applicant proposed an alternative water supply?**

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

Alternative water supply is not feasible at this time.

## **Standard Conditions**

1. This permit shall expire on **1/4/2030**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.041(2), Florida Administrative Code (F.A.C.) and the required fee to the District pursuant to section 40B-2.361, F.A.C., prior to this expiration date in order to continue the use of water.
2. The permittee may apply for a permit modification at any time in accordance with section 40B-2.331, F.A.C.
3. Primary Water Use classification(s): **Irrigation**
4. Source classification(s) : **Groundwater**
5. 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.
6. The permitted water withdrawal facilities consist of the items in the Withdrawal Point Information table on page 1.
7. Permittee must mitigate interference with existing legal uses caused in whole or in part by the permittee's withdrawals, consistent with a District-approved mitigation plan. As necessary to offset such interference, mitigation may include, but is not limited to, reducing pumpage, replacing the existing legal user's withdrawal equipment, relocating wells, changing withdrawal source, supplying water to existing legal user, or other means needed to mitigate the impacts.
8. Permittee must mitigate harm to existing off-site land uses caused by the permittee's withdrawals. When harm occurs, or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
9. Permittee must mitigate harm to the natural resources caused by the permittee's withdrawals. When harm occurs or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
10. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.
11. Authorized representatives of the District, upon reasonable notice to the permittee, shall be permitted to enter and inspect the permitted water use to determine compliance with the permit conditions.
12. This permit does not relieve the permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.
13. This permit does not convey to the permittee any property rights or privileges other than those specified herein.
14. Permittee shall notify the District in writing within 90 days of any sale, conveyance, or other transfer of ownership or control of the real property on which the permitted water use activities are located. All water use permit transfers are subject to the requirements of section 40B-2.301, F.A.C.
15. Permittee must notify the District in writing prior to implementing any changes in the water use that may alter the permit allocations. Such changes include, but are not limited to, change in irrigated acreage, crop type, irrigation system, water treatment method, or entry into one or more large water use agreements. In the event a proposed change will alter the allocation, permittee must first obtain a permit modification.

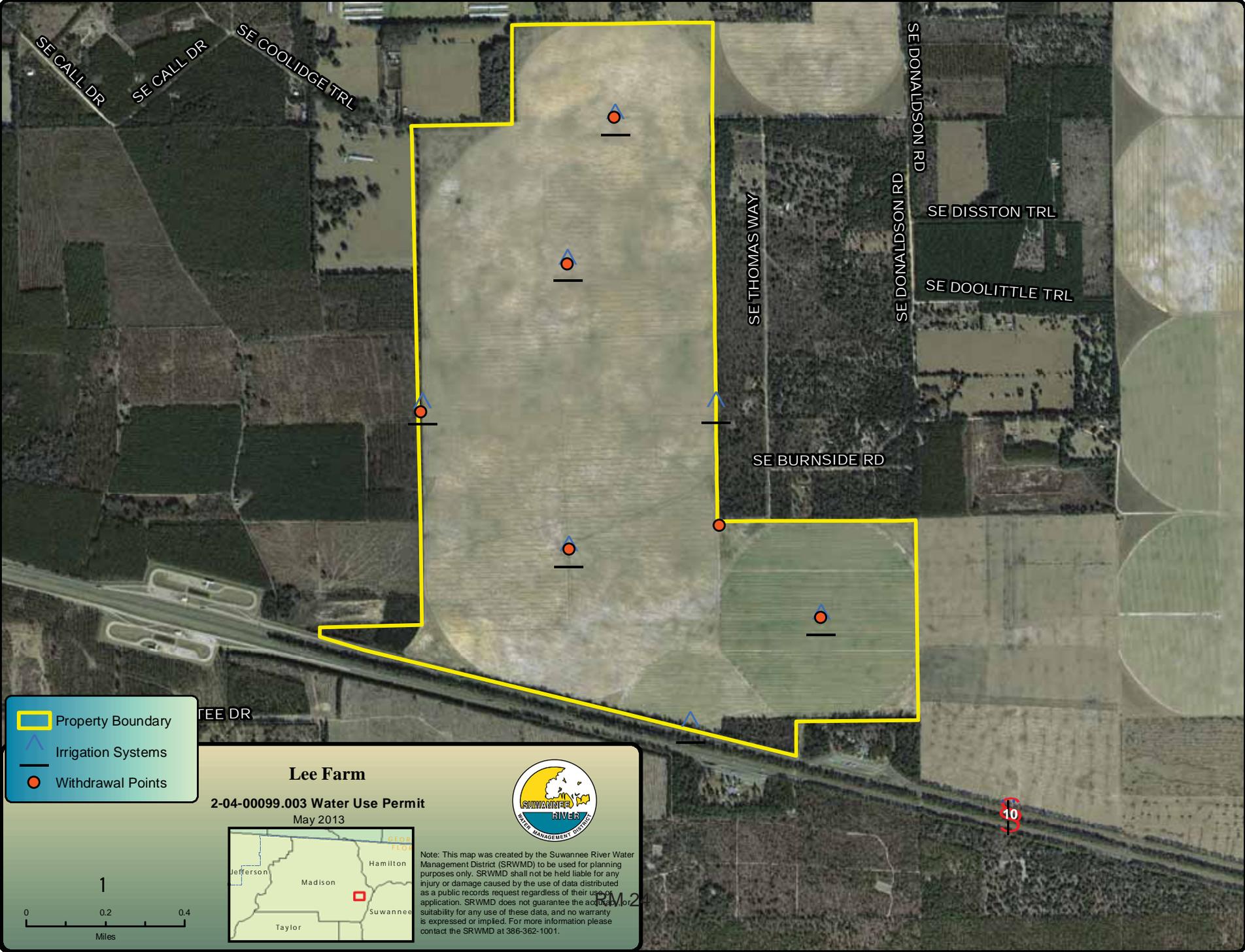
16. All correspondence sent to the District regarding this permit must include the permit number **2-04-00099.003**.
17. When the District provides a permanent identification tag, the tag shall be prominently displayed at the withdrawal site by permanently affixing such tag to the pump, headgate, valve, 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.
18. 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**

19. Ten Year Compliance Review: This permit and the agricultural operation will be reviewed by District staff and the permittee every ten years. During this review, the permittee and/or District staff may make recommendations based upon this review to modify this permit. These recommendations may come from new BMPs, improved irrigation techniques, different crop types, and/or any other significant factor.
20. The Permittee shall implement automated monitoring of groundwater withdrawals, at Permittee's expense, upon commencement of withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each well of inside diameter eight inches or greater at land surface and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may opt for a standardized SRWMD automated monitoring system to fulfill this requirement.
21. The Permittee shall implement and/or maintain the conservation practices selected in the Water Conservation Plan submitted to the District. Any new practices selected shall be implemented within 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.
22. 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.

Attachment A  
2-04-00099.003  
Lee Farm

Name	Status	Diameter	Capacity (gpm)	Water Use
Well #1	Existing	12	1000	Irrigation
Well #2	Existing	12	2000	Irrigation
Well #3	Existing	12	2000	Irrigation
Well #4	Existing	12	1000	Irrigation
Well #5	Existing	12	600	Irrigation
Tank Filling Well	Existing	4	60	Tank Filling



-  Property Boundary
-  Irrigation Systems
-  Withdrawal Points

### Lee Farm

2-04-00099.003 Water Use Permit  
May 2013



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



10

## MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, P.E., Division Director, Resource Management

DATE: April 29, 2013

RE: Approval of Water Use Permit Application Number  
2-08-00063.002, Sam Jones Farm, Hamilton County

### RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-08-00063.002 with eighteen standard conditions and three special limiting conditions to Samantha Jones in Hamilton County.**

### BACKGROUND

This is a modification for an existing permit to irrigate 90 acres with an Average Daily Rate (ADR) of 0.0870 million gallons daily (mgd). The ADR has decreased 0.1287 mgd, from 0.2157 to 0.0870 mgd. This will be accomplished with one irrigation well and three center pivots. The project area is located within the Alapaha River Basin Water Resource Caution Area. This producer is participating in the District cost-share program. The applicant is requesting a five-year permit extension (Existing permit will expire on July 11, 2028, the modification will expire July 11, 2033) due to voluntarily implementing automated monitoring.

The permit contains special conditions regarding implementation of automatic monitoring of withdrawals, implementation and maintenance of conservation plans, and irrigation of target areas.

Staff has determined that the application is complete and satisfies the conditions for issuance in Chapter 40B-2, Florida Administrative Code.

/tm

April 29, 2013

Ms. Samantha Jones  
Sam Jones Farm  
6799 SR 6 W  
Jasper, FL 32052

Subject: Approval of Water Use Permit Application Number  
2-08-00063.002, Sam Jones Farm, Hamilton County

Dear Ms. Jones:

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

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 16, 2013, which is open to the public.

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.  
Division Director, Resource Management

TS/tm  
Enclosure  
Certified Mail Receipt Number:7010 1060 0001 1350 3479

## 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.

## NOTICE OF RIGHTS

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:

Ms. Samantha Jones  
6799 SR 6 W  
Jasper, FL 32052

At 4:00 p.m. this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Tim Sagul  
Deputy Clerk  
Suwannee River Water Management District  
9225 C.R. 49  
Live Oak, Florida 32060  
386.362.1001 or 800.226.1066 (Florida only)

**STAFF REPORT**  
**WATER USE PERMIT APPLICATION**

**DATE:** April 29, 2013

**PROJECT:** Sam Jones Farm

**APPLICANT:**  
Samantha Jones  
6799 SR 6 W  
Jasper, FL 32052

**PERMIT APPLICATION NO.:** 2-08-00063.002

**DATE OF APPLICATION:** March 11, 2013

**APPLICATION COMPLETE:** March 11, 2013

**DEFAULT DATE:** June 9, 2013

	<b>Previous Quantities:</b>		<b>Proposed Quantities:</b>	
<b>Average Daily Rate (ADR)</b>	<b>0.2157</b>	<b>mgd</b>	<b>0.0870</b>	<b>mgd</b>

**Recommended Agency Action**

Staff recommends approval of a Water Use Permit for an existing agricultural operation located within Hamilton County. The permit includes eighteen standard conditions and three special limiting conditions. Staff recommends a five year permit extension based on 40B-2.331(2) due to voluntarily implementing automated monitoring. The permit will expire on July 11, 2033.

**Project Review Staff**

Lindsey Marks, Kevin Wright, P.E., and Tim Sagul, P.E. have reviewed the application.

**Project Location**

The withdrawal facilities are located in Township 01 North, Range 12 East, Section 14 in Hamilton County. The project is located within the Alapaha River basin according to the USGS National Hydrography Dataset, Hydrologic Unit Code-8 sub basins. It is also located within the Alapaha River Basin Water Resource Caution Area.

**Project Description**

The project area consists of 117 acres with approximately 90 acres being irrigated using groundwater.

The water use calculations were based upon the irrigated acreages and crop types provided by Samantha Jones. Crops include corn and peanuts. The applicant will use three center pivots for irrigation. The Average Daily Rate (ADR) of withdrawal was calculated as 0.0870 mgd, which equates to 13.0 inches of supplemental irrigation annually. This producer is participating in the District cost-share program.

The project area includes one existing well. Use of this well will be for irrigation. The well inventory can be found in the table on Attachment A.

### **Demonstration of Need**

The applicant has provided information that supports the requested allocation, based upon the crop types. Sam Jones Farm plans to irrigate 90 acres with one crop each year. Crops include corn and peanuts.

### **Water Conservation**

The applicant has completed the Water Conservation Worksheets for Center Pivot Irrigation.

### **Minimum Flows and Levels Compliance**

Due to this modification, the ADR has decreased 0.1287 MGD from 0.2157 to 0.0870 MGD. This decrease will not violate the minimum flows and levels (MFLs) at any downstream MFL points established along the Suwannee River or its tributaries. However, a standard 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.

### **Conditions of Issuance**

#### **Is this a reasonable–beneficial use?**

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

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

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

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

No. This modification decreases the amount of water allocated and will not additionally interfere with any presently existing legal use of water.

#### **Will this use be consistent with the public interest?**

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

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

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

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

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

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

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

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

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

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

Yes. The decrease in allocation will help the source be capable of producing the requested amounts and appropriate quality of water.

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

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

No. The decrease in allocation will not degrade the source from which it is drawn.

**Will the use cause or contribute to flooding?**

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

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

**Will the use harm offsite land uses?**

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

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

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

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

No. The decrease in allocation will not cause harm to wetlands or other surface water.

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

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

No. The decrease in allocation will not cause a violation of either minimum flows or levels.

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

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

No. The decrease in allocation will not contribute to a violation of state water quality standards.

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

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

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

**Has the permit applicant proposed an alternative water supply?**

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

Alternative water supply is not feasible at this time.

## **Standard Conditions**

1. This permit shall expire on **7/11/2033**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.041(2), Florida Administrative Code (F.A.C.) and the required fee to the District pursuant to section 40B-2.361, F.A.C., prior to this expiration date in order to continue the use of water.
2. The permittee may apply for a permit modification at any time in accordance with section 40B-2.331, F.A.C.
3. Primary Water Use classification(s): **Irrigation**
4. Source classification(s) : **Groundwater**
5. 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.
6. The permitted water withdrawal facilities consist of the items in the Withdrawal Point Information table on page 1.
7. Permittee must mitigate interference with existing legal uses caused in whole or in part by the permittee's withdrawals, consistent with a District-approved mitigation plan. As necessary to offset such interference, mitigation may include, but is not limited to, reducing pumpage, replacing the existing legal user's withdrawal equipment, relocating wells, changing withdrawal source, supplying water to existing legal user, or other means needed to mitigate the impacts.
8. Permittee must mitigate harm to existing off-site land uses caused by the permittee's withdrawals. When harm occurs, or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
9. Permittee must mitigate harm to the natural resources caused by the permittee's withdrawals. When harm occurs or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
10. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.
11. Authorized representatives of the District, upon reasonable notice to the permittee, shall be permitted to enter and inspect the permitted water use to determine compliance with the permit conditions.
12. This permit does not relieve the permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.
13. This permit does not convey to the permittee any property rights or privileges other than those specified herein.
14. Permittee shall notify the District in writing within 90 days of any sale, conveyance, or other transfer of ownership or control of the real property on which the permitted water use activities are located. All water use permit transfers are subject to the requirements of section 40B-2.301, F.A.C.
15. Permittee must notify the District in writing prior to implementing any changes in the water use that may alter the permit allocations. Such changes include, but are not limited to, change in irrigated acreage, crop type, irrigation system, water treatment method, or entry into one or more large water use agreements. In the event a proposed change will alter the allocation, permittee must first obtain a permit modification.

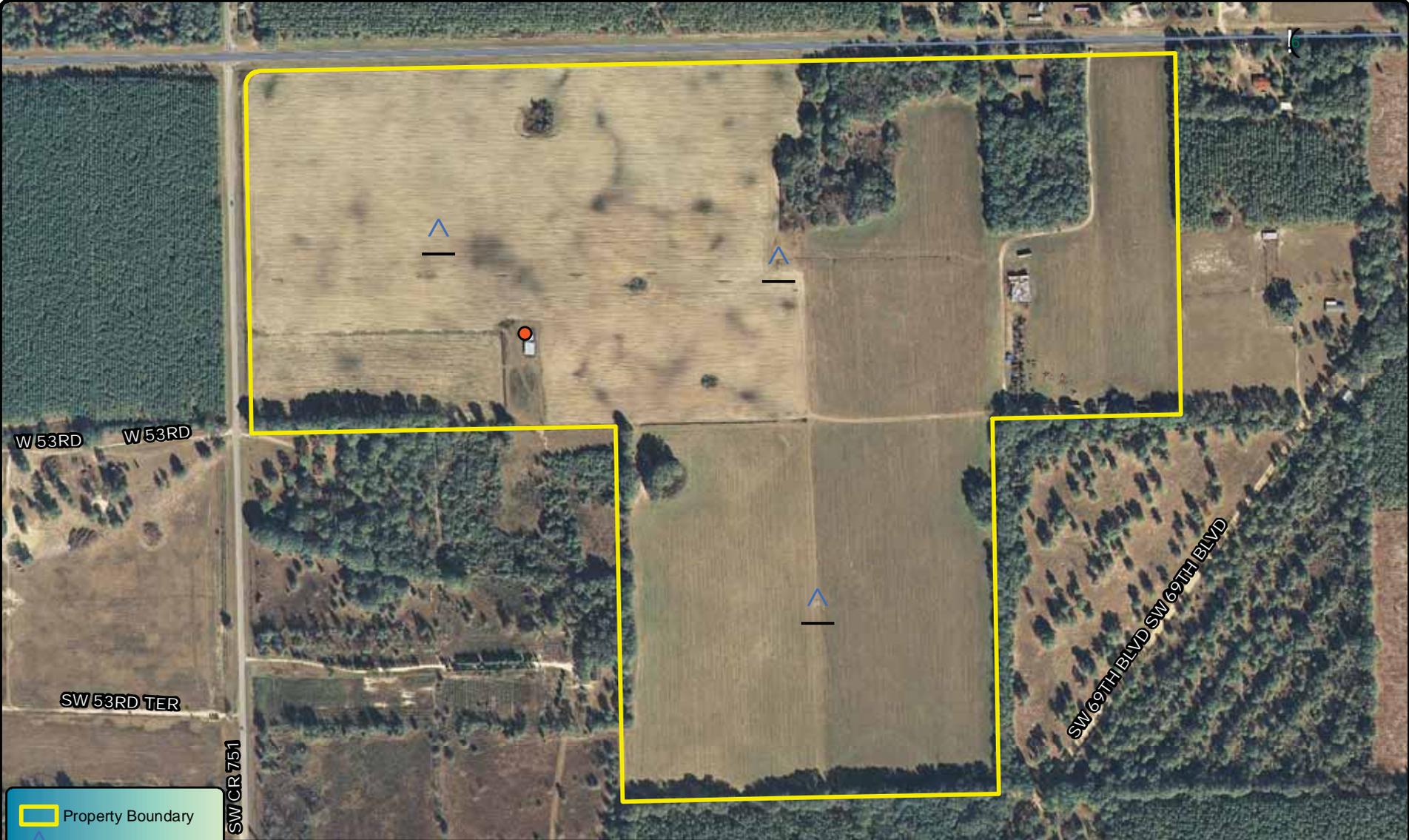
16. All correspondence sent to the District regarding this permit must include the permit number **2-08-00063.002**.
17. When the District provides a permanent identification tag, the tag shall be prominently displayed at the withdrawal site by permanently affixing such tag to the pump, headgate, valve, 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.
18. 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**

19. The Permittee shall implement automated monitoring of groundwater withdrawals, at Permittee's expense, upon commencement of withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each well of inside diameter eight inches or greater at land surface and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may opt for a standardized SRWMD automated monitoring system to fulfill this requirement.
20. The Permittee shall implement and/or maintain the conservation practices selected in the Water Conservation Plan submitted to the District. Any new practices selected shall be implemented within one year from the date of permit issuance. Practices that involve scheduling methods or maintenance shall be documented. Documentation for implementation and/or maintenance shall be maintained on all practices and available upon request.
21. The Permittee shall ensure that the irrigation systems will water target areas only under field operations. Irrigation of non-target areas (roads, woods, structures, etc.) is prohibited.

Attachment A  
2-08-00063.002  
Sam Jones Farm

Name	Status	Diameter	Capacity (gpm)	Water Use
Well #1	Existing	8	650	Irrigation



-  Property Boundary
-  Irrigation Systems
-  Withdrawal Points

### Sam Jones Farm

2-08-00063.002 Water Use Permit  
May 2013



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

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## MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, P.E., Division Director, Resource Management

DATE: April 29, 2013

RE: Approval of Water Use Permit Application Number  
2-84-00492.004, Friar Farm, Suwannee County

### RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-84-00492.004, with eighteen standard conditions and four special limiting conditions to David Corbett Properties, LLC in Suwannee County.**

### BACKGROUND

This is a modification for an existing permit to irrigate 435 acres with an Average Daily Rate (ADR) of 0.7435 million gallons daily (mgd). The ADR has decreased 0.1117 mgd, from 0.8552 to 0.7435 mgd. This will be accomplished with two irrigation wells, a tank filling well, and six center pivots. The project area is not located within a Water Resource Caution Area. The producer is participating in the District cost-share program. The applicant is requesting a five-year permit extension (the existing permit will expire on November 30, 2024, the modification will expire on November 30, 2029) due to voluntarily implementing automated monitoring.

The permit contains special conditions regarding a ten-year permit review, implementation of automatic monitoring of withdrawals, implementation and maintenance of conservation plans, and irrigation of target areas.

Staff has determined that the application is complete and satisfies the conditions for issuance in Chapter 40B-2, Florida Administrative Code.

/tm

April 29, 2013

Mr. David Corbett  
David Corbett Properties, LLC  
1071 Hwy 376E  
Lake Park, GA 31636

Subject: Approval of Water Use Permit Application Number  
2-84-00492.004, Friar Farm, Suwannee County

Dear Mr. Corbett:

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

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 16, 2013, which is open to the public.

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.  
Division Director, Resource Management

TS/tm  
Enclosure  
Certified Mail Receipt Number:7010 1060 0001 1350 3462

## 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.

## NOTICE OF RIGHTS

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:

Mr. David Corbett  
David Corbett Properties, LLC  
1071 Hwy 376E  
Lake Park, GA 31636

At 4:00 p.m. this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Tim Sagul  
Deputy Clerk  
Suwannee River Water Management District  
9225 C.R. 49  
Live Oak, Florida 32060  
386.362.1001 or 800.226.1066 (Florida only)

**STAFF REPORT**  
**WATER USE PERMIT APPLICATION**

**DATE:** April 29, 2013

**PROJECT:** Friar Farm

**APPLICANT:**

David Corbett Properties, LLC

1071 Hwy 376E

Lake Park, GA 31636

**PERMIT APPLICATION NO.:** 2-84-00492.004

**DATE OF APPLICATION:** February 15, 2013

**APPLICATION COMPLETE:** April 3, 2013

**DEFAULT DATE:** July 2, 2013

**Officer Detail: David Corbett Properties, LLC**

David Corbett	President
1071 Hwy 376E	
Lake Park, GA 31636	

	Previous Quantities:		Proposed Quantities:	
<b>Average Daily Rate (ADR)</b>	<b>0.8552</b>	<b>mgd</b>	<b>0.7435</b>	<b>mgd</b>

**Recommended Agency Action**

Staff recommends approval of a Water Use Permit for an existing agricultural operation located within Suwannee County. The permit includes eighteen standard conditions and four special limiting conditions. Staff recommends a five year permit extension based on 40B-2.331(2) due to voluntarily implementing automated monitoring. The permit will expire on November 30, 2029.

**Project Review Staff**

Lindsey Marks, Kevin Wright, P.E., and Tim Sagul, P.E. have reviewed the application.

**Project Location**

The withdrawal facilities are located in Township 02 South, Range 11 East, Section 35 in Suwannee County. The project is located within the Lower Suwannee River basin according to the USGS National Hydrography Dataset, Hydrologic Unit Code-8 sub basins.

**Project Description**

The project area consists of 500 acres with approximately 435 acres being irrigated using groundwater.

The water use calculations were based upon the irrigated acreages and crop types provided by David Corbett. Crops include corn, beans, and peanuts. The applicant will use six center pivots

for irrigation. The Average Daily Rate (ADR) of withdrawal was calculated as 0.7435 mgd, which equates to 23.0 inches of supplemental irrigation annually. This producer is participating in the District cost-share program.

The project area includes three existing wells. Use of two wells will be for irrigation and one for tank filling. The well inventory can be found in the table on Attachment A.

### **Demonstration of Need**

The applicant has provided information that supports the requested allocation, based upon the crop types. Friar Farm plans to irrigate 435 acres with two crops each year. Crops include corn, beans, and peanuts with rye, oats, or wheat as a winter cover crop.

### **Water Conservation**

The applicant has completed the Water Conservation Worksheets for Center Pivot Irrigation.

### **Minimum Flows and Levels Compliance**

Due to this modification, the ADR has decreased 0.1117 MGD from 0.8552 to 0.7435 MGD. This decrease will not violate the minimum flows and levels (MFLs) at any downstream MFL points established along the Suwannee River or its tributaries. However, a standard 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.

### **Conditions of Issuance**

#### **Is this a reasonable–beneficial use?**

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

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

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

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

No. This modification decreases the amount of water allocated and will not interfere with any presently existing legal use of water.

#### **Will this use be consistent with the public interest?**

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

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

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

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

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

**Is this use for a purpose that is both reasonable and consistent with the public interest?**  
[ref. 40B-2.301(2)(b)]

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

**Will the source of the water be capable of producing the requested amounts and appropriate quality of water?**  
[ref. 40B-2.301(2)(c)]

Yes. The decrease in allocation will help the source be capable of producing the requested amounts and appropriate quality of water.

**Will the use degrade the source from which it is withdrawn?**  
[ref. 40B-2.301(2)(d)]

No. The decrease in allocation will not degrade the source from which it is drawn.

**Will the use cause or contribute to flooding?**  
[ref. 40B-2.301(2)(e)]

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

**Will the use harm offsite land uses?**  
[ref. 40B-2.301(2)(f)]

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

**Will the use cause harm to wetlands or other surface water? Harm to wetland or other surface waters must be mitigated after completion of reduction or elimination of harm in accordance with sections 3.1.8. through 3.1.10. of the Water Use Permitting Guide.**  
[ref. 40B-2.301(2)(g)]

No. The decrease in allocation will not cause harm to wetlands or other surface water.

**Will the use cause or contribute to a violation of either minimum flows or levels?**  
[ref. 40B-2.301(2)(h)]

No. The decrease in allocation will not cause a violation of either minimum flows or levels.

**Will the use cause or contribute to a violation of state water quality standard in waters of the state as set forth on Chapters 62-301, 62-302, 62-520, and 62-550, Florida Administrative Code (F.A.C.)?**  
[ref. 40B-2.301(2)(i)]

No. The decrease in allocation will not contribute to a violation of state water quality standards.

**Is this use otherwise a reasonable-beneficial use as defined in Section 373.019(2), Florida Statutes,(F.S.) with consideration given to the factors set forth on subsection 62-40.410(2), F.A.C.?**  
[ref. 40B-2.301(2)(j)]

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

**Has the permit applicant proposed an alternative water supply?**  
[ref. 40B-2.301(2)(k)]

Alternative water supply is not feasible at this time.

## **Standard Conditions**

1. This permit shall expire on **11/30/2029**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.041(2), Florida Administrative Code (F.A.C.) and the required fee to the District pursuant to section 40B-2.361, F.A.C., prior to this expiration date in order to continue the use of water.
2. The permittee may apply for a permit modification at any time in accordance with section 40B-2.331, F.A.C.
3. Primary Water Use classification(s): **Irrigation**
4. Source classification(s) : **Groundwater**
5. 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.
6. The permitted water withdrawal facilities consist of the items in the Withdrawal Point Information table on page 1.
7. Permittee must mitigate interference with existing legal uses caused in whole or in part by the permittee's withdrawals, consistent with a District-approved mitigation plan. As necessary to offset such interference, mitigation may include, but is not limited to, reducing pumpage, replacing the existing legal user's withdrawal equipment, relocating wells, changing withdrawal source, supplying water to existing legal user, or other means needed to mitigate the impacts.
8. Permittee must mitigate harm to existing off-site land uses caused by the permittee's withdrawals. When harm occurs, or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
9. Permittee must mitigate harm to the natural resources caused by the permittee's withdrawals. When harm occurs or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
10. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.
11. Authorized representatives of the District, upon reasonable notice to the permittee, shall be permitted to enter and inspect the permitted water use to determine compliance with the permit conditions.
12. This permit does not relieve the permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.
13. This permit does not convey to the permittee any property rights or privileges other than those specified herein.
14. Permittee shall notify the District in writing within 90 days of any sale, conveyance, or other transfer of ownership or control of the real property on which the permitted water use activities are located. All water use permit transfers are subject to the requirements of section 40B-2.301, F.A.C.
15. Permittee must notify the District in writing prior to implementing any changes in the water use that may alter the permit allocations. Such changes include, but are not limited to, change in irrigated acreage, crop type, irrigation system, water treatment method, or entry into one or more large water use agreements. In the event a proposed change will alter the allocation, permittee must first obtain a permit modification.

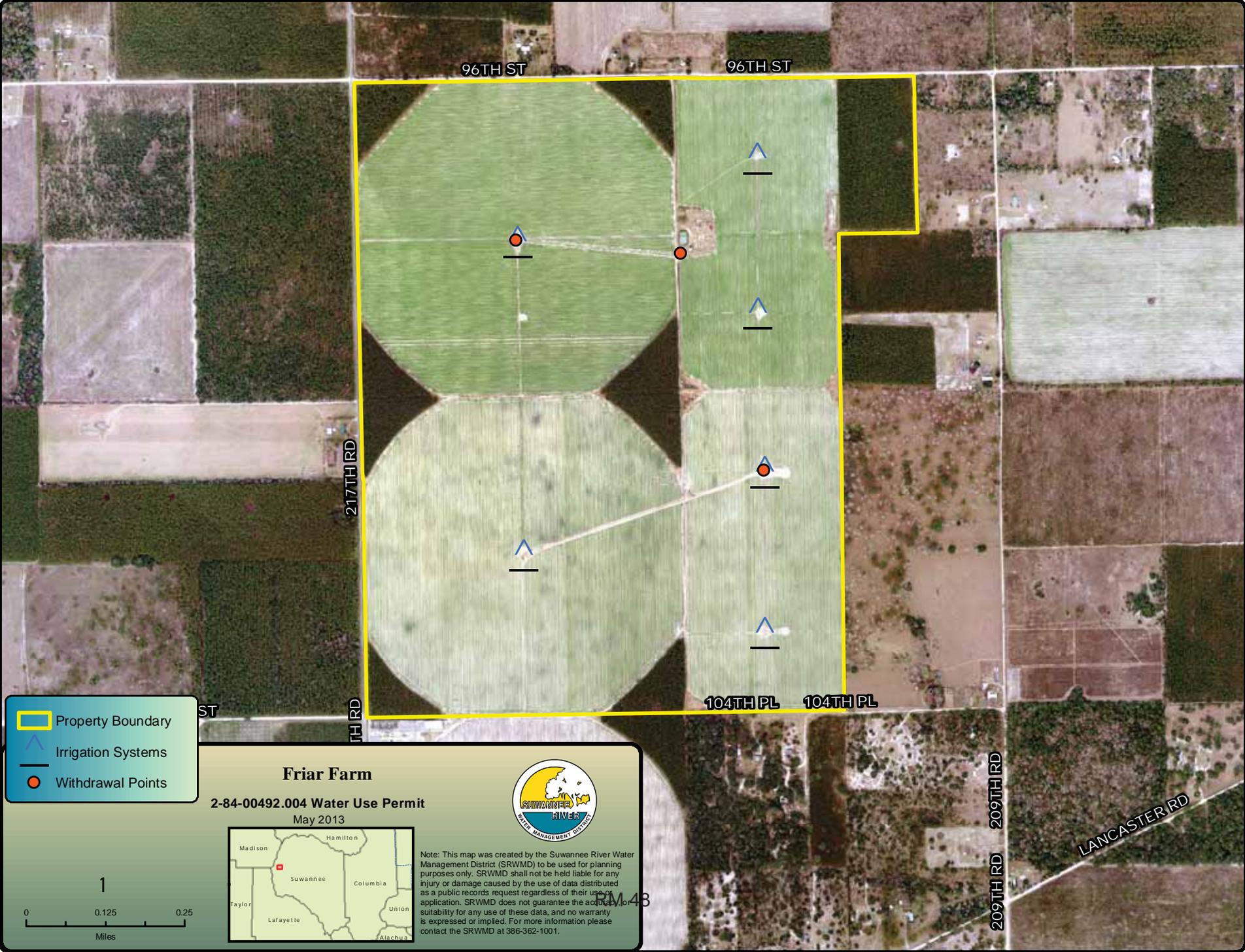
16. All correspondence sent to the District regarding this permit must include the permit number **2-84-00492.004**.
17. When the District provides a permanent identification tag, the tag shall be prominently displayed at the withdrawal site by permanently affixing such tag to the pump, headgate, valve, 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.
18. 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**

19. Ten Year Compliance Review: This permit and the agricultural operation will be reviewed by District staff and the permittee every ten years. During this review, the permittee and/or District staff may make recommendations based upon this review to modify this permit. These recommendations may come from new BMPs, improved irrigation techniques, different crop types, and/or any other significant factor.
20. The Permittee shall implement automated monitoring of groundwater withdrawals, at Permittee's expense, upon commencement of withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each well of inside diameter eight inches or greater at land surface and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may opt for a standardized SRWMD automated monitoring system to fulfill this requirement.
21. The Permittee shall implement and/or maintain the conservation practices selected in the Water Conservation Plan submitted to the District. Any new practices selected shall be implemented within 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.
22. 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.

Attachment A  
2-84-00492.004  
Friar Farm

Name	Status	Diameter	Capacity (gpm)	Water Use
Well #1	Existing	12	1000	Irrigation
Well #2	Existing	12	1000	Irrigation
Well #3	Existing	4	70	Tank Filling



96TH ST

96TH ST

217TH RD

ST

TH RD

104TH PL

104TH PL

209TH RD

209TH RD

LANCASTER RD

-  Property Boundary
-  Irrigation Systems
-  Withdrawal Points

### Friar Farm

2-84-00492.004 Water Use Permit  
May 2013



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



48

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, P.E., Division Director, Resource Management

DATE: April 29, 2013

RE: Approval of Water Use Permit Application Number  
2-05-00102.004, House Pivot, Gilchrist County

RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-05-00102.004 with eighteen standard conditions and three special limiting conditions to Thomas D. Jones in Gilchrist County.**

BACKGROUND

This is a modification for an existing permit to irrigate 122 acres with an Average Daily Rate (ADR) of 0.1212 million gallons daily (mgd). The ADR has decreased 0.3972 mgd from 0.5184 to 0.1212 mgd. This will be accomplished with two existing irrigation wells, two existing 4-inch wells, one stationary pivot, one towable center pivot and one pivot point. The project area is not in a Water Resource Caution Area. This producer is participating in the District cost-share program. The applicant is requesting a five-year permit extension (The existing permit expires on December 20, 2025, this modification will expire on December 2030) due to voluntarily implementing automated monitoring.

The permit contains special conditions regarding implementation of automatic monitoring of withdrawals, implementation and maintenance of conservation plans, and irrigation of target areas.

Staff has determined that the application is complete and satisfies the conditions for issuance in Chapter 40B-2, Florida Administrative Code.

/tm

April 29, 2013

Thomas D. Jones  
4219 Southwest CR-307  
Trenton, Fl. 32619

Subject: Approval of Water Use Permit Application Number  
2-05-00102.004, House Pivot, Gilchrist County

Dear Mr. Jones:

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

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 16, 2013, which is open to the public.

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.  
Division Director, Resource Management

TS/tm  
Enclosure  
Certified Mail Receipt Number:7010 1060 0001 1350 3509

## 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.

## NOTICE OF RIGHTS

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:

Thomas D. Jones  
4219 Southwest CR-307  
Bell, Fl. 32619

At 4:00 p.m. this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Tim Sagul  
Deputy Clerk  
Suwannee River Water Management District  
9225 C.R. 49  
Live Oak, Florida 32060  
386.362.1001 or 800.226.1066 (Florida only)

**STAFF REPORT**  
**WATER USE PERMIT APPLICATION**

**DATE:** April 29, 2013

**PROJECT:** House Pivot

**APPLICANT:**

Thomas D. Jones

4219 Southwest CR-307

Trenton, Fl. 32619

**PERMIT APPLICATION NO.:** 2-05-00102.004

**DATE OF APPLICATION:** February 20, 2013

**APPLICATION COMPLETE:** March 17, 2013

**DEFAULT DATE:** June 15, 2013

	<b>Previous Quantities:</b>		<b>Proposed Quantities:</b>	
<b>Average Daily Rate (ADR)</b>	<b>0.5184</b>	<b>mgd</b>	<b>0.1212</b>	<b>mgd</b>

**Recommended Agency Action**

Staff recommends approval of a Water Use Permit for an existing agricultural operation located within Gilchrist County. The permit includes eighteen standard conditions and three special limiting conditions. Staff recommends a five year permit extension based on 40B-2.331(2) due to voluntarily implementing automated monitoring. The permit will expire on December 20, 2030.

**Project Review Staff**

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

**Project Location**

The withdrawal facilities are located in Township 09 South, Range 14 East, and Sections 24 and 25 in Gilchrist County. The project is located within the Lower Suwannee River basin according to the USGS National Hydrography Dataset, Hydrologic Unit Code-8 sub basins.

**Project Description**

The project area consists of 196 acres with approximately 122 acres being irrigated using groundwater.

The water use calculations are based upon the irrigated acreages and crop types provided by Thomas D. Jones. Crops include corn, peanuts and hay. The applicant will use one stationary center pivot, one towable center pivot and one pivot point. The Average Daily Rate (ADR) of withdrawal is calculated as 0.1212 mgd, which equates to 13.36 inches of supplemental irrigation annually. The producer is participating in the District cost-share program.

The project area includes four existing wells. Two wells will be used for irrigation and two wells for livestock. The well inventory can be found in the table on Attachment A.

### **Demonstration of Need**

The applicant has provided information that supports the requested allocation, based upon the crop types. The applicant plans to irrigate 58 acres of spring corn/peanuts followed with oats/rye every winter. The applicant will also be irrigating 64 acres of hay year round. Included in the permit will be 25 head of beef cows.

### **Water Conservation**

The applicant has completed the Water Conservation Worksheets for Center Pivot Irrigation.

### **Minimum Flows and Levels Compliance**

Due to this modification, the ADR has decreased 0.3972 MGD from 0.5184 to 0.1212 MGD. This decrease will not violate the minimum flows and levels (MFLs) at any downstream MFL points established along the Suwannee River or its tributaries. However, a standard 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.

### **Conditions of Issuance**

#### **Is this a reasonable–beneficial use?**

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

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

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

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

No. This modification decreases the amount of water allocated and will not interfere with any presently existing legal use of water.

#### **Will this use be consistent with the public interest?**

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

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

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

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

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

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

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

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

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

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

Yes. The decrease in allocation will help the source be capable of producing the requested amounts and appropriate quality of water.

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

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

No. The decrease in allocation will not degrade the source from which it is drawn.

**Will the use cause or contribute to flooding?**

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

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

**Will the use harm offsite land uses?**

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

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

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

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

No. The decrease in allocation will not cause harm to wetlands or other surface water.

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

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

No. The decrease in allocation will not cause a violation of either minimum flows or levels.

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

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

No. The decrease in allocation will not contribute to a violation of state water quality standards.

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

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

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

**Has the permit applicant proposed an alternative water supply?**

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

Alternative water supply is not feasible at this time.

## **Standard Conditions**

1. This permit shall expire on **12/20/2030**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.041(2), Florida Administrative Code (F.A.C.) and the required fee to the District pursuant to section 40B-2.361, F.A.C., prior to this expiration date in order to continue the use of water.
2. The permittee may apply for a permit modification at any time in accordance with section 40B-2.331, F.A.C.
3. Primary Water Use classification(s): **Irrigation**
4. Source classification(s) : **Groundwater**
5. 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.
6. The permitted water withdrawal facilities consist of the items in the Withdrawal Point Information table on page 1.
7. Permittee must mitigate interference with existing legal uses caused in whole or in part by the permittee's withdrawals, consistent with a District-approved mitigation plan. As necessary to offset such interference, mitigation may include, but is not limited to, reducing pumpage, replacing the existing legal user's withdrawal equipment, relocating wells, changing withdrawal source, supplying water to existing legal user, or other means needed to mitigate the impacts.
8. Permittee must mitigate harm to existing off-site land uses caused by the permittee's withdrawals. When harm occurs, or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
9. Permittee must mitigate harm to the natural resources caused by the permittee's withdrawals. When harm occurs or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
10. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.
11. Authorized representatives of the District, upon reasonable notice to the permittee, shall be permitted to enter and inspect the permitted water use to determine compliance with the permit conditions.
12. This permit does not relieve the permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.
13. This permit does not convey to the permittee any property rights or privileges other than those specified herein.
14. Permittee shall notify the District in writing within 90 days of any sale, conveyance, or other transfer of ownership or control of the real property on which the permitted water use activities are located. All water use permit transfers are subject to the requirements of section 40B-2.301, F.A.C.
15. Permittee must notify the District in writing prior to implementing any changes in the water use that may alter the permit allocations. Such changes include, but are not limited to, change in irrigated acreage, crop type, irrigation system, water treatment method, or entry into one or more large water use agreements. In the event a proposed change will alter the allocation, permittee must first obtain a permit modification.

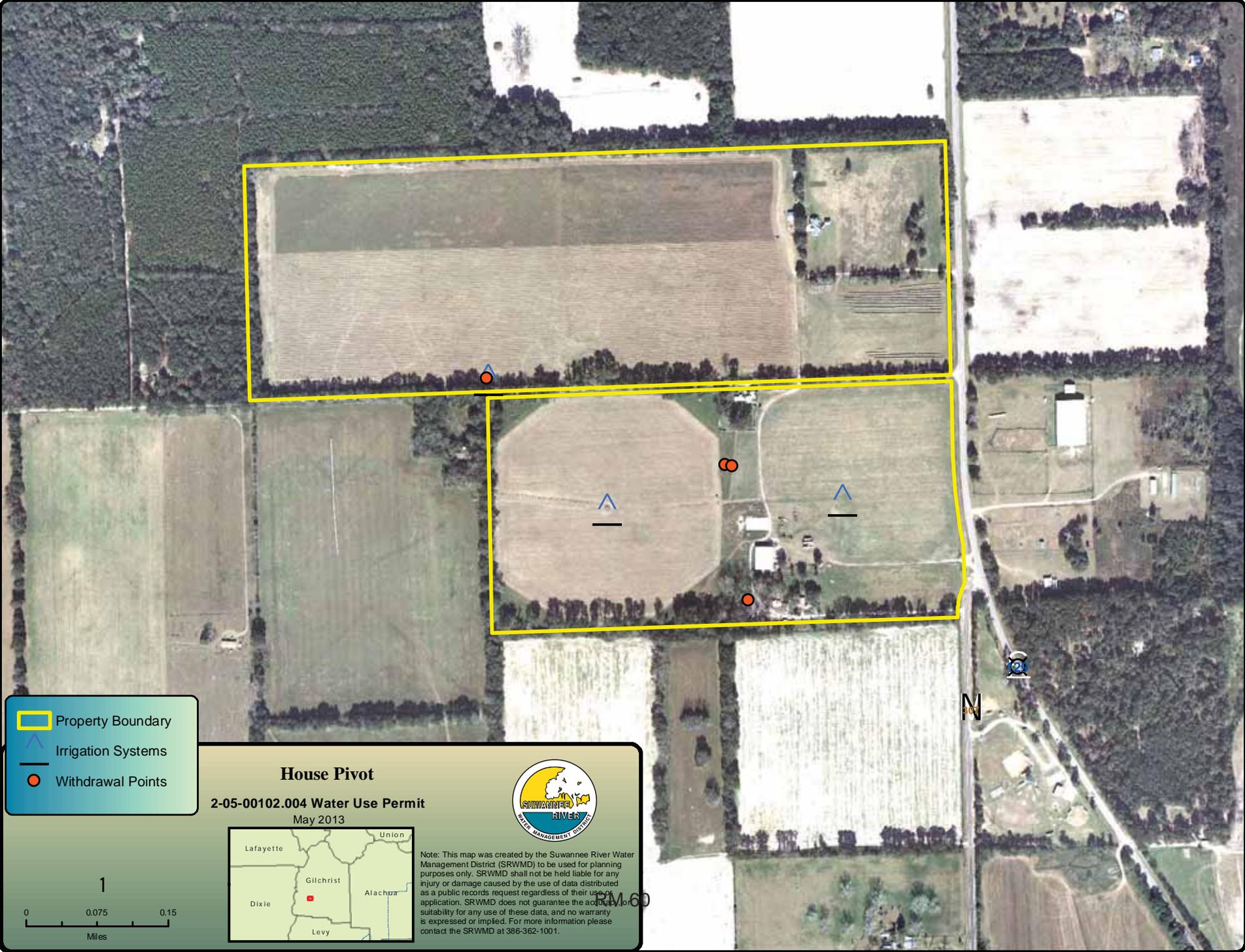
16. All correspondence sent to the District regarding this permit must include the permit number **2-05-00102.004**.
17. When the District provides a permanent identification tag, the tag shall be prominently displayed at the withdrawal site by permanently affixing such tag to the pump, headgate, valve, 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.
18. 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**

19. The Permittee shall implement automated monitoring of groundwater withdrawals, at Permittee's expense, upon commencement of withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each well of inside diameter eight inches or greater at land surface and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may opt for a standardized SRWMD automated monitoring system to fulfill this requirement.
20. The Permittee shall implement and/or maintain the conservation practices selected in the Water Conservation Plan submitted to the District. Any new practices selected shall be implemented within one year from the date of permit issuance. Practices that involve scheduling methods or maintenance shall be documented. Documentation for implementation and/or maintenance shall be maintained on all practices and available upon request.
21. The Permittee shall ensure that the irrigation systems will water target areas only under field operations. Irrigation of non-target areas (roads, woods, structures, etc.) is prohibited.

Attachment A  
2-05-00102.004  
House Pivot

Name	Status	Diameter	Capacity (gpm)	Water Use
Mechelle	Existing	10	750	Irrigation
Back Pivot	Existing	10	750	Irrigation
Dirty	Existing	4	50	Livestock
Clean	Existing	4	60	Livestock



-  Property Boundary
-  Irrigation Systems
-  Withdrawal Points

### House Pivot

2-05-00102.004 Water Use Permit  
May 2013



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

PM 60

## MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, P.E., Division Director, Resource Management

DATE: April 29, 2013

RE: Approval of Water Use Permit Application Number  
2-84-00203.003, Russell's Pivot, Gilchrist County

### RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-84-00203.003 with eighteen standard conditions and three special limiting conditions to Willie Mae Jones in Gilchrist County.**

### BACKGROUND

This is a modification for an existing permit to irrigate 140 acres with an Average Daily Rate (ADR) of 0.1900 million gallons daily (mgd). The ADR has decreased 0.3018 mgd, from 0.4918 to 0.1900 mgd. This will be accomplished with one irrigation well, one livestock well, one center pivot and one hard hose traveler. The project area is within the Lower Santa Fe River Basin Resource Caution Area. The producer is participating in the District cost-share program. The applicant is requesting a five-year permit extension (This permit will expire on October 4, 2024, the modification will expire on October 4, 2029) due to voluntarily implementing automated monitoring.

The permit contains special conditions regarding implementation of automatic monitoring of withdrawals, implementation and maintenance of conservation plans, and irrigation of target areas.

Staff has determined that the application is complete and satisfies the conditions for issuance in Chapter 40B-2, Florida Administrative Code.

/tm

April 29, 2013

Willie Mae Jones  
4600 Southeast CR-232  
Trenton, Fl. 32693

Subject: Approval of Water Use Permit Application Number  
2-84-00203.003, Russell's Pivot, Gilchrist County

Dear Ms. Jones:

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

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 16, 2013, which is open to the public.

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.  
Division Director, Resource Management

TS/tm  
Enclosure  
Certified Mail Receipt Number:7010 1060 0001 1350 3516

## 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.
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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.

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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:

Willie Mae Jones  
4600 Southeast CR-232  
Trenton, Fl. 32693

At 4:00 p.m. this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Tim Sagul  
Deputy Clerk  
Suwannee River Water Management District  
9225 C.R. 49  
Live Oak, Florida 32060  
386.362.1001 or 800.226.1066 (Florida only)

**STAFF REPORT**  
**WATER USE PERMIT APPLICATION**

**DATE:** April 29, 2013

**PROJECT:** Russell's Pivot

**APPLICANT:**

Willie Mae Jones

4600 Southeast CR-232

Trenton, Fl. 32693

**PERMIT APPLICATION NO.:** 2-84-00203.003

**DATE OF APPLICATION:** February 20, 2013

**APPLICATION COMPLETE:** March 15, 2013

**DEFAULT DATE:** June 13, 2013

	<b>Previous Quantities:</b>		<b>Proposed Quantities:</b>	
<b>Average Daily Rate (ADR)</b>	<b>0.4918</b>	<b>mgd</b>	<b>0.1900</b>	<b>mgd</b>

**Recommended Agency Action**

Staff recommends approval of a Water Use Permit for an existing agricultural operation located within Gilchrist County. The permit includes eighteen standard conditions and three special limiting conditions. Staff recommends a five year permit extension based on 40B-2.331(2) due to voluntarily implementing automated monitoring. The permit will expire on October 4, 2029.

**Project Review Staff**

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

**Project Location**

The withdrawal facilities are located in Township 09 South, Range 16 East, Section 05 in Gilchrist County. The project is located within the Santa Fe River basin according to the USGS National Hydrography Dataset, Hydrologic Unit Code-8 sub basins. It is also located within the Lower Santa Fe River Basin Water Resource Caution Area.

**Project Description**

The project area consists of 198 acres with approximately 140 acres being irrigated using groundwater. The water use calculations were based upon the irrigated acreages and crop types provided by the applicant. Crops include corn, peanuts, hay and rye . The applicant will use one center pivot and one hard hose traveler for irrigation. The Average Daily Rate (ADR) of withdrawal was calculated as 0.1900 mgd, which equates to 18.25 inches of supplemental irrigation annually. The producer is participating in the District cost-share program.

The project area includes two existing wells. One well will be for irrigation and one well will be for livestock. The well inventory can be found in the table on Attachment A.

### **Demonstration of Need**

The applicant has provided information that supports the requested allocation, based upon the crop types. The applicant plans to irrigate 100 acres of corn/peanuts in the spring followed with rye every winter and 40 acres of hay each year. Also included are 34 head of beef cows.

### **Water Conservation**

The applicant has completed the Water Conservation Worksheets for Center Pivot Irrigation.

### **Minimum Flows and Levels Compliance**

Due to this modification, the ADR has decreased 0.3018 MGD from 0.4918 to 0.1900 MGD. This decrease will not violate the minimum flows and levels (MFLs) at any downstream MFL points established along the Suwannee River or its tributaries. However, a standard 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.

### **Conditions of Issuance**

#### **Is this a reasonable–beneficial use?**

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

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

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

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

No. This modification decreases the amount of water allocated and will not interfere with any presently existing legal use of water.

#### **Will this use be consistent with the public interest?**

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

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

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

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

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

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

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

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

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

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

Yes. The decrease in allocation will help the source be capable of producing the requested amounts and appropriate quality of water.

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

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

No. The decrease in allocation will not degrade the source from which it is drawn.

**Will the use cause or contribute to flooding?**

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

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

**Will the use harm offsite land uses?**

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

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

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

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

No. The decrease in allocation will not cause harm to wetlands or other surface water.

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

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

No. The decrease in allocation will not cause a violation of either minimum flows or levels.

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

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

No. The decrease in allocation will not contribute to a violation of state water quality standards.

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

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

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

**Has the permit applicant proposed an alternative water supply?**

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

Alternative water supply is not feasible at this time.

## **Standard Conditions**

1. This permit shall expire on **10/4/2029**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.041(2), Florida Administrative Code (F.A.C.) and the required fee to the District pursuant to section 40B-2.361, F.A.C., prior to this expiration date in order to continue the use of water.
2. The permittee may apply for a permit modification at any time in accordance with section 40B-2.331, F.A.C.
3. Primary Water Use classification(s): **Irrigation**
4. Source classification(s) : **Groundwater**
5. 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.
6. The permitted water withdrawal facilities consist of the items in the Withdrawal Point Information table on page 1.
7. Permittee must mitigate interference with existing legal uses caused in whole or in part by the permittee's withdrawals, consistent with a District-approved mitigation plan. As necessary to offset such interference, mitigation may include, but is not limited to, reducing pumpage, replacing the existing legal user's withdrawal equipment, relocating wells, changing withdrawal source, supplying water to existing legal user, or other means needed to mitigate the impacts.
8. Permittee must mitigate harm to existing off-site land uses caused by the permittee's withdrawals. When harm occurs, or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
9. Permittee must mitigate harm to the natural resources caused by the permittee's withdrawals. When harm occurs or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
10. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.
11. Authorized representatives of the District, upon reasonable notice to the permittee, shall be permitted to enter and inspect the permitted water use to determine compliance with the permit conditions.
12. This permit does not relieve the permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.
13. This permit does not convey to the permittee any property rights or privileges other than those specified herein.
14. Permittee shall notify the District in writing within 90 days of any sale, conveyance, or other transfer of ownership or control of the real property on which the permitted water use activities are located. All water use permit transfers are subject to the requirements of section 40B-2.301, F.A.C.
15. Permittee must notify the District in writing prior to implementing any changes in the water use that may alter the permit allocations. Such changes include, but are not limited to, change in irrigated acreage, crop type, irrigation system, water treatment method, or entry into one or more large water use agreements. In the event a proposed change will alter the allocation, permittee must first obtain a permit modification.

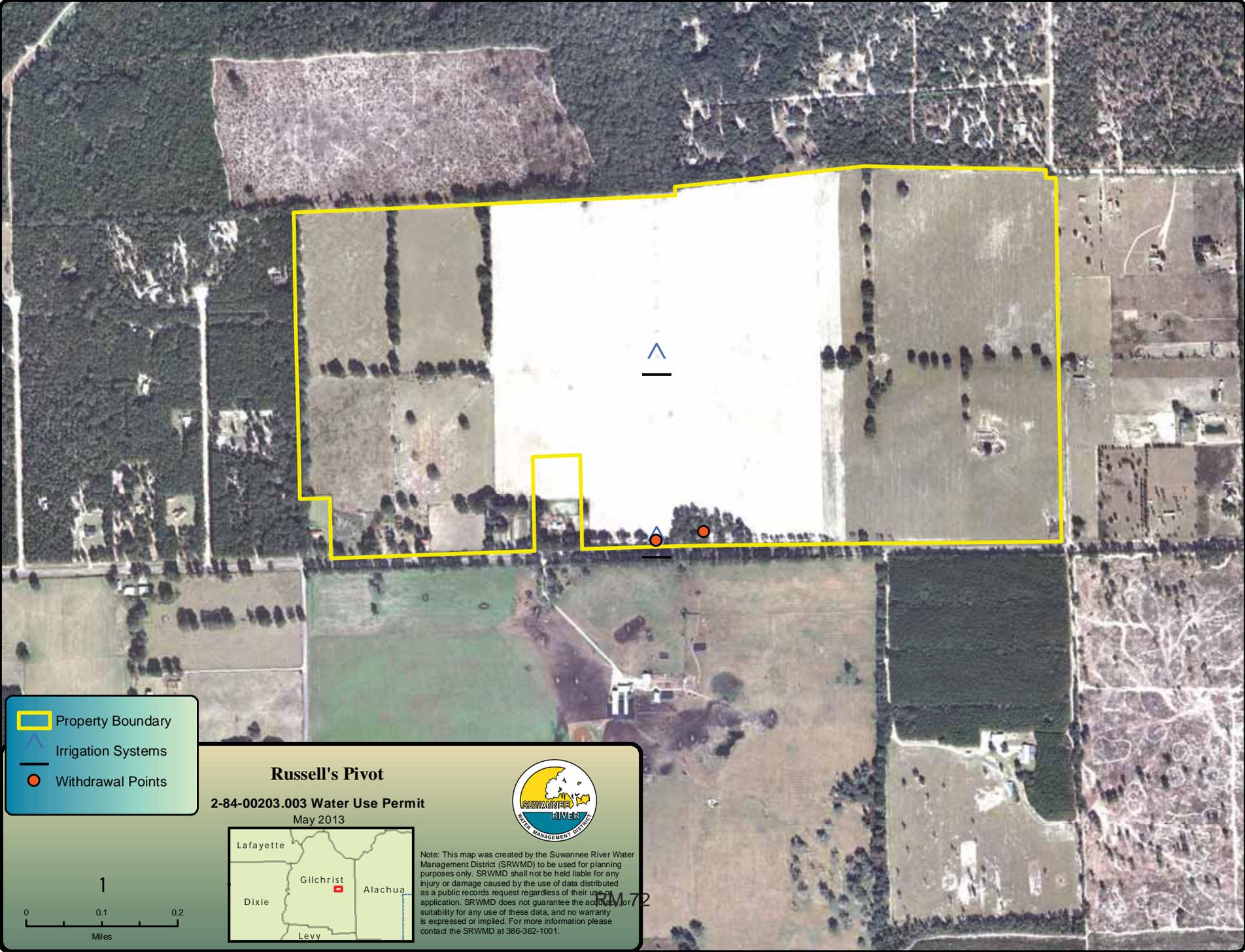
16. All correspondence sent to the District regarding this permit must include the permit number **2-84-00203.003**.
17. When the District provides a permanent identification tag, the tag shall be prominently displayed at the withdrawal site by permanently affixing such tag to the pump, headgate, valve, 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.
18. 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**

19. The Permittee shall implement automated monitoring of groundwater withdrawals, at Permittee's expense, upon commencement of withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each well of inside diameter eight inches or greater at land surface and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may opt for a standardized SRWMD automated monitoring system to fulfill this requirement.
20. The Permittee shall implement and/or maintain the conservation practices selected in the Water Conservation Plan submitted to the District. Any new practices selected shall be implemented within one year from the date of permit issuance. Practices that involve scheduling methods or maintenance shall be documented. Documentation for implementation and/or maintenance shall be maintained on all practices and available upon request.
21. The Permittee shall ensure that the irrigation systems will water target areas only under field operations. Irrigation of non-target areas (roads, woods, structures, etc.) is prohibited.

Attachment A  
2-84-00203.003  
Russell's Pivot

Name	Status	Diameter	Capacity (gpm)	Water Use
Russell's Well	Existing	10	1000	Irrigation
2-inch Livestock	Existing	2	15	Livestock



-  Property Boundary
-  Irrigation Systems
-  Withdrawal Points

### Russell's Pivot

2-84-00203.003 Water Use Permit  
May 2013



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



MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, P.E., Division Director, Resource Management

DATE: April 29, 2013

RE: Approval of Water Use Permit Application Number  
2-00-00081.002, Gaylard Farm, Suwannee County

RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-00-00081.002 with eighteen standard conditions and four special limiting conditions to Archie W. Gaylard in Suwannee County.**

BACKGROUND

This is a modification for an existing permit to irrigate 224 acres with an Average daily Rate (ADR) of 0.4206 million gallons daily (mgd). The ADR has decreased 0.0089 mgd, from 0.4295 to 0.4206 mgd. This will be accomplished with one irrigation well and two towable pivots. Two livestock wells provide water for 175 head of beef cattle. The project area is not located within a Water Resource Caution Area. The applicant is requesting a ten-year permit extension (This permit will expire on July 20, 2020, the modification will expire on 2030) due to voluntarily implementing automated monitoring.

The permit contains special conditions regarding implementation of automatic monitoring of withdrawals, implementation and maintenance of conservation plans, irrigation of target areas, and a ten-year review.

Staff has determined that the application is complete and satisfies the conditions for issuance in Chapter 40B-2, Florida Administrative Code.

/tm

April 29, 2013

Mr. Archie W. Gaylard  
7183 240th Street  
O'Brien, FL 32071

Subject: Approval of Water Use Permit Application Number  
2-00-00081.002, Gaylard Farm, Suwannee County

Dear Mr. Gaylard:

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

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 16, 2013, which is open to the public.

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.  
Division Director, Resource Management

TS/tm  
Enclosure  
Certified Mail Receipt Number:7010 1060 0001 1350 3431

## 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.

## NOTICE OF RIGHTS

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:

Mr. Gaylard  
7183 240<sup>th</sup> Street  
O'Brien, FL 32071

At 4:00 p.m. this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Tim Sagul  
Deputy Clerk  
Suwannee River Water Management District  
9225 C.R. 49  
Live Oak, Florida 32060  
386.362.1001 or 800.226.1066 (Florida only)

**STAFF REPORT**

**WATER USE PERMIT APPLICATION**

**DATE:** April 29, 2013

**PROJECT:** Gaylard Farm

**APPLICANT:**

Archie W. Gaylard  
7183 240<sup>th</sup> Street  
O'Brien, FL 32071

**PERMIT APPLICATION NO.:** 2-00-00081.002

**DATE OF APPLICATION:** March 1, 2013

**APPLICATION COMPLETE:** March 1, 2013

**DEFAULT DATE:** May 30, 2013

	<b>Previous Quantities:</b>		<b>Proposed Quantities:</b>	
<b>Average Daily Rate (ADR)</b>	<b>0.4295</b>	<b>mgd</b>	<b>0.4206</b>	<b>mgd</b>

**Recommended Agency Action**

Staff recommends approval of a Water Use Permit for an existing agricultural operation located within Suwannee County. The permit includes eighteen standard conditions and four special limiting conditions. Staff recommends a ten year permit extension based on 40B-2.331(2) due to voluntarily implementing automated monitoring. The permit will expire on July 20, 2030.

**Project Review Staff**

James Link, Kevin Wright, P.E., and Tim Sagul, P.E. have reviewed the application.

**Project Location**

The withdrawal facilities are located in Township 05 South, Range 14 East, Sections 26, 34, and 35 in Suwannee County. The project is located within the Lower Suwannee River basin according to the USGS National Hydrography Dataset, Hydrologic Unit Code-8 sub basins.

**Project Description**

The project area consists of 357 acres with approximately 224 acres being irrigated using groundwater. There are 175 head of beef cattle on the project site.

The water use calculations were based upon the irrigated acreages, crop types, and amount of livestock provided by Archie W. Gaylard. Crops include hay, corn, soybeans, and sorghum. The applicant will use two towable center pivots for irrigation. The Average Daily Rate (ADR) of withdrawal was calculated as 0.4206 mgd, which equates to 25.2 inches of supplemental irrigation annually.

The project area includes three existing wells. One well is used for irrigation, and two wells are used for livestock. The well inventory can be found in the table on Attachment A.

### **Demonstration of Need**

The applicant has provided information that supports the requested allocation, based upon the crop types. Gaylard Farm plans to irrigate 224 acres. Crops include hay, corn, soybeans, and sorghum.

### **Water Conservation**

The applicant has completed the Water Conservation Worksheets for Center Pivot Irrigation and for Drip Irrigation.

### **Minimum Flows and Levels Compliance**

Due to this modification, the ADR has decreased 0.0089 MGD from 0.4295 to 0.4206 MGD. This decrease will not violate the minimum flows and levels (MFLs) at any downstream MFL points established along the Suwannee River or its tributaries. However, a standard 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.

### **Conditions of Issuance**

#### **Is this a reasonable–beneficial use?**

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

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

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

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

No. This modification decreases the amount of water allocated and will not interfere with any presently existing legal use of water.

#### **Will this use be consistent with the public interest?**

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

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

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

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

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

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

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

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

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

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

Yes. The decrease in allocation will help the source be capable of producing the requested amounts and appropriate quality of water.

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

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

No. The decrease in allocation will not degrade the source from which it is drawn.

**Will the use cause or contribute to flooding?**

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

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

**Will the use harm offsite land uses?**

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

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

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

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

No. The decrease in allocation will not cause harm to wetlands or other surface water.

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

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

No. The decrease in allocation will not cause a violation of either minimum flows or levels.

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

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

No. The decrease in allocation will not contribute to a violation of state water quality standards.

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

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

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

**Has the permit applicant proposed an alternative water supply?**

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

Alternative water supply is not feasible at this time.

## **Standard Conditions**

1. This permit shall expire on **7/20/2030**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.041(2), Florida Administrative Code (F.A.C.) and the required fee to the District pursuant to section 40B-2.361, F.A.C., prior to this expiration date in order to continue the use of water.
2. The permittee may apply for a permit modification at any time in accordance with section 40B-2.331, F.A.C.
3. Primary Water Use classification(s): **Irrigation, Livestock**
4. Source classification(s) : **Groundwater**
5. 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.
6. The permitted water withdrawal facilities consist of the items in the Withdrawal Point Information table on page 1.
7. Permittee must mitigate interference with existing legal uses caused in whole or in part by the permittee's withdrawals, consistent with a District-approved mitigation plan. As necessary to offset such interference, mitigation may include, but is not limited to, reducing pumpage, replacing the existing legal user's withdrawal equipment, relocating wells, changing withdrawal source, supplying water to existing legal user, or other means needed to mitigate the impacts.
8. Permittee must mitigate harm to existing off-site land uses caused by the permittee's withdrawals. When harm occurs, or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
9. Permittee must mitigate harm to the natural resources caused by the permittee's withdrawals. When harm occurs or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
10. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.
11. Authorized representatives of the District, upon reasonable notice to the permittee, shall be permitted to enter and inspect the permitted water use to determine compliance with the permit conditions.
12. This permit does not relieve the permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.
13. This permit does not convey to the permittee any property rights or privileges other than those specified herein.
14. Permittee shall notify the District in writing within 90 days of any sale, conveyance, or other transfer of ownership or control of the real property on which the permitted water use activities are located. All water use permit transfers are subject to the requirements of section 40B-2.301, F.A.C.
15. Permittee must notify the District in writing prior to implementing any changes in the water use that may alter the permit allocations. Such changes include, but are not limited to, change in irrigated acreage, crop type, irrigation system, water treatment method, or entry into one or more large water use agreements. In the event a proposed change will alter the allocation, permittee must first obtain a permit modification.

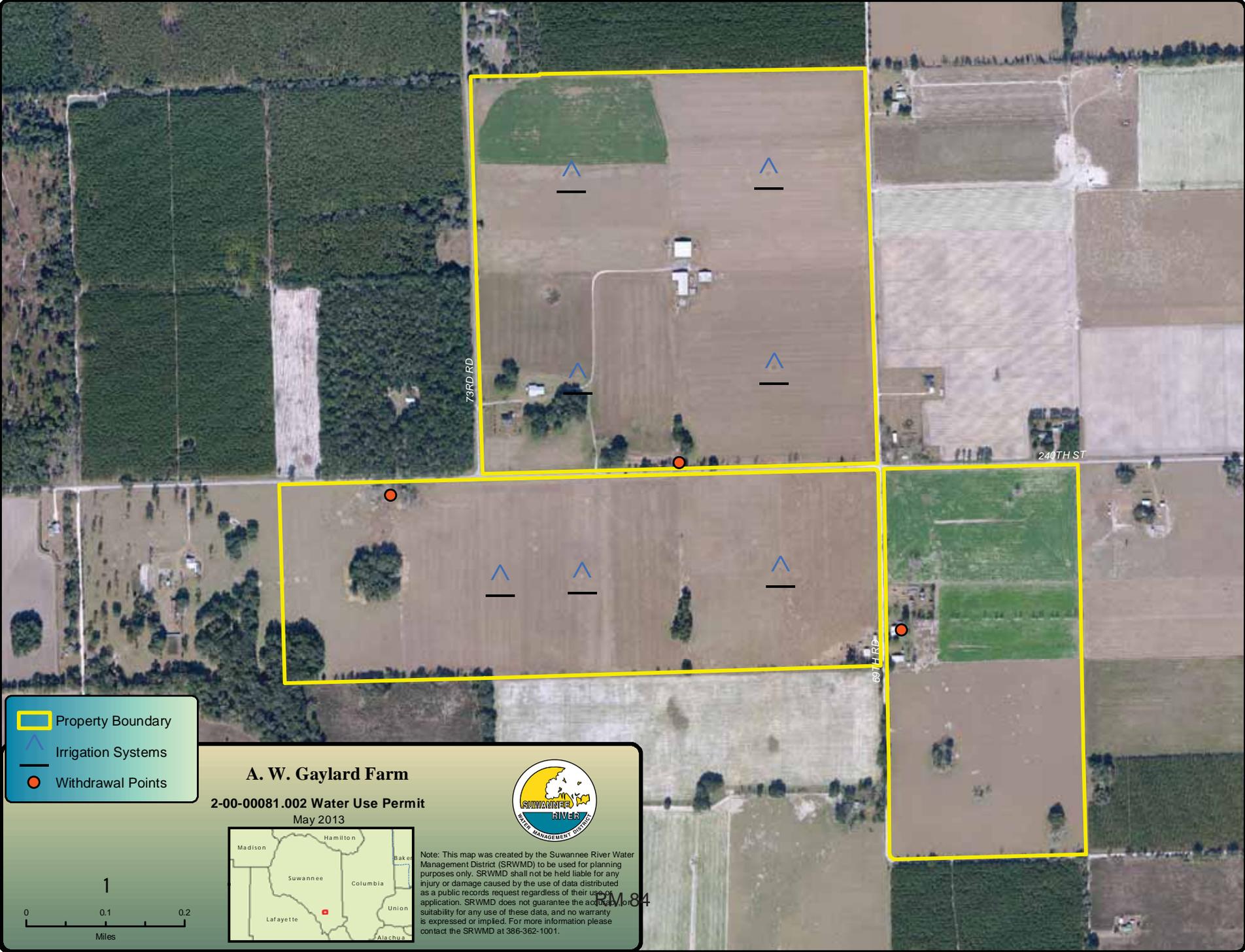
16. All correspondence sent to the District regarding this permit must include the permit number **2-00-00081.002.**
17. When the District provides a permanent identification tag, the tag shall be prominently displayed at the withdrawal site by permanently affixing such tag to the pump, headgate, valve, 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.
18. 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**

19. The Permittee shall implement automated monitoring of groundwater withdrawals, at Permittee's expense, upon commencement of withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each well of inside diameter eight inches or greater at land surface and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may opt for a standardized SRWMD automated monitoring system to fulfill this requirement.
20. The Permittee shall implement and/or maintain the conservation practices selected in the Water Conservation Plan submitted to the District. Any new practices selected shall be implemented within one year from the date of permit issuance. Practices that involve scheduling methods or maintenance shall be documented. Documentation for implementation and/or maintenance shall be maintained on all practices and available upon request.
21. The Permittee shall ensure that the irrigation systems will water target areas only under field operations. Irrigation of non-target areas (roads, woods, structures, etc.) is prohibited.
22. This permit and the operation will be reviewed by District staff and the Permittee during the year, 2023. During this review, the Permittee and/or District staff may make recommendations based upon this review to modify this permit. These recommendations may come from new Best Management Practices, improved irrigation techniques, different crop types, and/or any other significant factor.

Attachment A  
2-00-00081.002  
Gaylard Farm

Name	Status	Diameter	Capacity (gpm)	Water Use
Kirby Place	Existing	4	20	Livestock
Home Place	Existing	4	20	Livestock
Irrigation Well	Existing	8	473	Irrigation



-  Property Boundary
-  Irrigation Systems
-  Withdrawal Points

### A. W. Gaylard Farm

2-00-00081.002 Water Use Permit  
May 2013



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



SM 84

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, P.E., Division Director, Resource Management

DATE: April 29, 2013

RE: Approval of Water Use Permit Application Number  
2-13-00020.001, Sandy Pines, Madison County

RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-13-00020.001 with eighteen standard conditions and four special limiting conditions to Sandy Pines of Madison, Inc. in Madison County.**

BACKGROUND

This is a new application to irrigate 1,212 acres with an Average Daily Rate (ADR) of 2.1100 million gallons daily (mgd). This will be accomplished with five irrigation wells and six center pivots. The project area is not located within a Water Resource Caution Area.

The permit contains special conditions regarding implementation of automatic monitoring of withdrawals, implementation and maintenance of conservation plans, irrigation of target areas, and a ten-year compliance review.

Staff has determined that the application is complete and satisfies the conditions for issuance in Chapter 40B-2, Florida Administrative Code.

/tm

April 29, 2013

Mr. Stafford L. Scaff  
Sandy Pines of Madison, Inc.  
134 SE Colburn Ave.  
Lake City, FL 32025

Subject: Approval of Water Use Permit Application Number  
2-13-00020.001, Sandy Pines, Madison County

Dear Mr. Scaff:

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

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 16, 2013, which is open to the public.

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.  
Division Director, Resource Management

TS/tm  
Enclosure  
Certified Mail Receipt Number:7010 1060 0001 1350 3455

## 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.

## NOTICE OF RIGHTS

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:

Mr. Stafford L. Scaff  
Sandy Pines of Madison, Inc.  
134 SE Colburn Ave.  
Lake City, FL 32025

At 4:00 p.m. this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Tim Sagul  
Deputy Clerk  
Suwannee River Water Management District  
9225 C.R. 49  
Live Oak, Florida 32060  
386.362.1001 or 800.226.1066 (Florida only)

**STAFF REPORT**  
**WATER USE PERMIT APPLICATION**

**DATE:** April 29, 2013

**PROJECT:** Sandy Pines

**APPLICANT:**

Sandy Pines of Madison, Inc.  
134 SE Colburn Ave.  
Lake City, FL 32025

**PERMIT APPLICATION NO.:** 2-13-00020.001

**DATE OF APPLICATION:** March 7, 2013

**APPLICATION COMPLETE:** April 4, 2013

**DEFAULT DATE:** July 3, 2013

**Officer/Director Detail: Sandy Pines of Madison, Inc.**

Stafford L. Scaff 134 SE Colburn Ave. Lake City, FL 32025	<b>P</b>
Anne C. Scaff 134 SE Colburn Ave. Lake City, FL 32025	<b>T</b>

	<b>Previous Quantities:</b>	<b>Proposed Quantities:</b>
<b>Average Daily Rate (ADR)</b>	-	2.1100
	mgd	mgd

**Recommended Agency Action**

Staff recommends approval of a Water Use Permit for a new agricultural use located within Madison County. The permit includes eighteen standard conditions and four special limiting conditions. The permit will expire on May 16, 2033.

**Project Review Staff**

Lindsey Marks, Kevin Wright, P.E., and Tim Sagul, P.E. have reviewed the application.

**Project Location**

The withdrawal facilities are located in Township 02 South, Range 11 East, Sections 05 and 08 in Madison County. The project is located within the Lower Suwannee River basin according to the USGS National Hydrography Dataset, Hydrologic Unit Code-8 sub basins.

**Project Description**

The project area consists of 1,368 acres, and approximately 1,212 acres are proposed to be irrigated using groundwater.

The water use calculations were based upon the irrigated acreages and crop types provided by Stafford Scaff. Crops include carrots, corn, and peanuts. The applicant will use six center pivots for irrigation. The Average Daily Rate (ADR) of withdrawal was calculated as 2.1100 mgd, which equates to 23.4 inches of supplemental irrigation annually.

The project area includes five proposed wells. Use of these five wells will be for irrigation. Sandy Pines of Madison, Inc., has not applied for the Water Well Construction permits. The well inventory can be found in the table on Attachment A.

### **Demonstration of Need**

The applicant has provided information that supports the requested allocation, based upon the crop types. Sandy Pines of Madison, Inc. plans to irrigate 1212 acres with two crops each year. Crops include carrots, corn, and peanuts with rye as a winter crop.

### **Water Conservation**

The applicant has completed the Water Conservation Worksheets for Center Pivot Irrigation.

### **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 standard 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.

### **Conditions of Issuance**

#### **Is this a reasonable–beneficial use?**

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

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

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

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

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

#### **Will this use be consistent with the public interest?**

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

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

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

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

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

**Is this use for a purpose that is both reasonable and consistent with the public interest?**  
[ref. 40B-2.301(2)(b)]

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

**Will the source of the water be capable of producing the requested amounts and appropriate quality of water?**  
[ref. 40B-2.301(2)(c)]

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

**Will the use degrade the source from which it is withdrawn?**  
[ref. 40B-2.301(2)(d)]

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

**Will the use cause or contribute to flooding?**  
[ref. 40B-2.301(2)(e)]

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

**Will the use harm offsite land uses?**  
[ref. 40B-2.301(2)(f)]

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

**Will the use cause harm to wetlands or other surface water? Harm to wetland or other surface waters must be mitigated after completion of reduction or elimination of harm in accordance with sections 3.1.8. through 3.1.10. of the Water Use Permitting Guide.**  
[ref. 40B-2.301(2)(g)]

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

**Will the use cause or contribute to a violation of either minimum flows or levels?**  
[ref. 40B-2.301(2)(h)]

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

**Will the use cause or contribute to a violation of state water quality standard in waters of the state as set forth on Chapters 62-301, 62-302, 62-520, and 62-550, Florida Administrative Code (F.A.C.)?**  
[ref. 40B-2.301(2)(i)]

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

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

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

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

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

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

Alternative water supply is not feasible at this time.

## **Standard Conditions**

1. This permit shall expire on **5/16/2033**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.041(2), Florida Administrative Code (F.A.C.) and the required fee to the District pursuant to section 40B-2.361, F.A.C., prior to this expiration date in order to continue the use of water.
2. The permittee may apply for a permit modification at any time in accordance with section 40B-2.331, F.A.C.
3. Primary Water Use classification(s): **Irrigation**
4. Source classification(s) : **Groundwater**
5. 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.
6. The permitted water withdrawal facilities consist of the items in the Withdrawal Point Information table on page 1.
7. Permittee must mitigate interference with existing legal uses caused in whole or in part by the permittee's withdrawals, consistent with a District-approved mitigation plan. As necessary to offset such interference, mitigation may include, but is not limited to, reducing pumpage, replacing the existing legal user's withdrawal equipment, relocating wells, changing withdrawal source, supplying water to existing legal user, or other means needed to mitigate the impacts.
8. Permittee must mitigate harm to existing off-site land uses caused by the permittee's withdrawals. When harm occurs, or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
9. Permittee must mitigate harm to the natural resources caused by the permittee's withdrawals. When harm occurs or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
10. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.
11. Authorized representatives of the District, upon reasonable notice to the permittee, shall be permitted to enter and inspect the permitted water use to determine compliance with the permit conditions.
12. This permit does not relieve the permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.
13. This permit does not convey to the permittee any property rights or privileges other than those specified herein.
14. Permittee shall notify the District in writing within 90 days of any sale, conveyance, or other transfer of ownership or control of the real property on which the permitted water use activities are located. All water use permit transfers are subject to the requirements of section 40B-2.301, F.A.C.
15. Permittee must notify the District in writing prior to implementing any changes in the water use that may alter the permit allocations. Such changes include, but are not limited to, change in irrigated acreage, crop type, irrigation system, water treatment method, or entry into one or more large water use agreements. In the event a proposed change will alter the allocation, permittee must first obtain a permit modification.

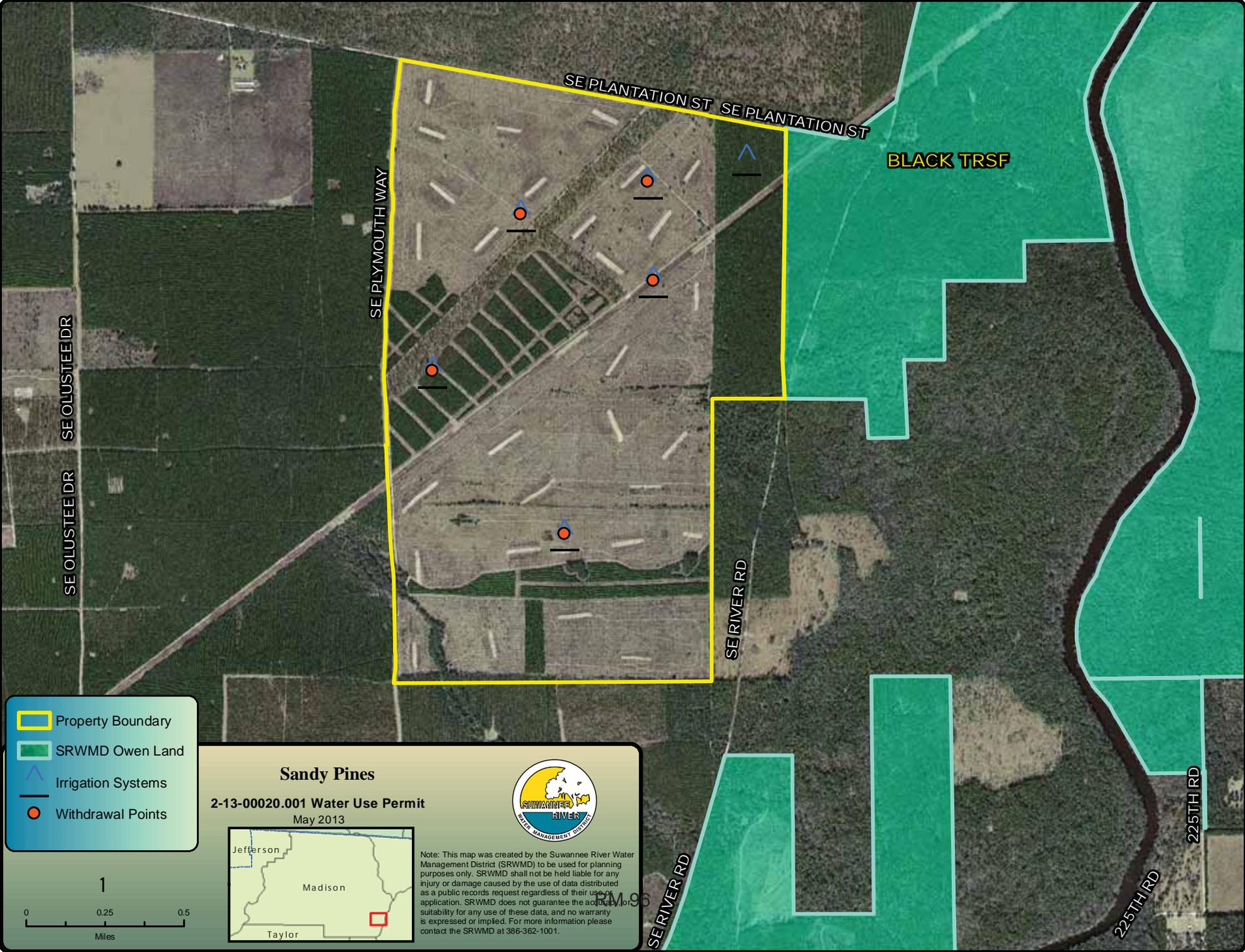
16. All correspondence sent to the District regarding this permit must include the permit number **2-13-00020.001**.
17. When the District provides a permanent identification tag, the tag shall be prominently displayed at the withdrawal site by permanently affixing such tag to the pump, headgate, valve, 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.
18. 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**

19. The Permittee shall implement automated monitoring of groundwater withdrawals, at Permittee's expense, upon commencement of withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each well of inside diameter eight inches or greater at land surface and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may opt for a standardized SRWMD automated monitoring system to fulfill this requirement.
20. The Permittee shall implement and/or maintain the conservation practices selected in the Water Conservation Plan submitted to the District. Any new practices selected shall be implemented within one year from the date of permit issuance. Practices that involve scheduling methods or maintenance shall be documented. Documentation for implementation and/or maintenance shall be maintained on all practices and available upon request.
21. The Permittee shall ensure that the irrigation systems will water target areas only under field operations. Irrigation of non-target areas (roads, woods, structures, etc.) is prohibited.
22. This permit and the operation will be reviewed by District staff and the Permittee during the year 2023. During this review, the Permittee and/or District staff may make recommendations based upon this review to modify this permit.

Attachment A  
2-13-00020.001  
Sandy Pines

Name	Status	Diameter	Capacity (gpm)	Water Use
Well #1	Proposed	14	3000	Irrigation
Well #2	Proposed	12	1600	Irrigation
Well #3	Proposed	10	700	Irrigation
Well #4	Proposed	14	2450	Irrigation
Well #5	Proposed	12	1000	Irrigation



-  Property Boundary
-  SRWMD Owen Land
-  Irrigation Systems
-  Withdrawal Points

**Sandy Pines**  
**2-13-00020.001 Water Use Permit**  
 May 2013

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



## MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, P.E., Division Director, Resource Management

DATE: April 29, 2013

RE: Approval of Water Use Permit Application Number  
2-87-00015.004, Gary Cone Farm, Hamilton County

### RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-87-00015.004 with eighteen standard conditions and three special limiting conditions to Gary Cone in Hamilton County.**

### BACKGROUND

This is a modification for an existing permit to irrigate 505 acres with an Average Daily Rate (ADR) of 1.1600 million gallons daily (mgd). The ADR has increased by 0.1624 mgd, from 0.9976 to 1.1600 mgd. This will be accomplished with four irrigation wells and 12 center pivots. There are also two livestock wells that supply water for 210 head of beef cattle. The project area is located within the Alapaha River Basin Water Resource Caution Area. Due to the fact that the ADR has increased with this modification and that the water use is in a Water Resource Caution Area, the permit extension requested by the applicant has not been granted.

The permit contains special conditions regarding implementation of automatic monitoring of withdrawals, implementation and maintenance of conservation plans, and irrigation of target areas.

Staff has determined that the application is complete and satisfies the conditions for issuance in Chapter 40B-2, Florida Administrative Code.

/tm

April 29, 2013

Mr. Gary Cone  
4939 NW CR-146  
Jennings , FL 32053

Subject: Approval of Water Use Permit Application Number  
2-87-00015.004, Gary Cone Farm, Hamilton County

Dear Mr. Cone:

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

This proposed action is subject to final decision of the Governing Board at their regularly scheduled meeting on May 16, 2013, which is open to the public.

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.  
Division Director, Resource Management

TS/tm  
Enclosure  
Certified Mail Receipt Number:7010 1060 0001 1350 3523

## 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.

## NOTICE OF RIGHTS

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:

Mr. Gary Cone  
4939 NW CR-146  
Jennings , FL 32053

At 4:00 p.m. this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Tim Sagul  
Deputy Clerk  
Suwannee River Water Management District  
9225 C.R. 49  
Live Oak, Florida 32060  
386.362.1001 or 800.226.1066 (Florida only)

**STAFF REPORT**

**WATER USE PERMIT APPLICATION**

**DATE:** April 29, 2013

**PROJECT:** Gary Cone Farm

**APPLICANT:**

Gary Cone  
4939 NW CR-146  
Jennings, FL 32053

**PERMIT APPLICATION NO.:** 2-87-00015.004

**DATE OF APPLICATION:** February 22, 2013

**APPLICATION COMPLETE:** February 22, 2013

**DEFAULT DATE:** May 23, 2013

	<b>Previous Quantities:</b>		<b>Proposed Quantities:</b>	
<b>Average Daily Rate (ADR)</b>	<b>0.9976</b>	<b>mgd</b>	<b>1.1600</b>	<b>mgd</b>

**Recommended Agency Action**

Staff recommends approval of a Water Use Permit for an existing agricultural operation located within Hamilton County. The permit includes eighteen standard conditions and three special limiting conditions. The permit will expire on February 7, 2026. The project area is located in a Water Resource Caution Area and the ADR has increased with this modification, therefore, the permit extension requested by the applicant has not been granted

**Project Review Staff**

Lindsey Marks, Kevin Wright, P.E., and Tim Sagul, P.E. have reviewed the application.

**Project Location**

The withdrawal facilities are located in Township 02 North, Range 12 East, Sections 26, 27, 31, and 34 in Hamilton County. The project is located within the Alapaha River basin and the Upper Suwannee River basin according to the USGS National Hydrography Dataset, Hydrologic Unit Code-8 sub basins. It is also located within the Alapaha River Basin Water Resource Caution Area.

**Project Description**

The project area consists of 830 acres with approximately 505 acres being irrigated using groundwater.

The water use calculations were based on the irrigated acreages, crop types, and number of cattle provided by Gary Cone. Crops include corn, peanuts, carrots, beans, and rye. The applicant will use 12 center pivots for irrigation. The Average Daily Rate (ADR) of withdrawal was calculated as 1.1600 mgd, which equates to 30.9 inches of supplemental irrigation annually. The producer is participating in the District cost-share program.

The project area includes six existing wells - four of these wells are for irrigation and two are for livestock. The well inventory can be found in the table on Attachment A.

### **Demonstration of Need**

The applicant has provided information that supports the requested allocation, based upon the crop types. Gary Cone Farm plans to irrigate 505 acres. Crops include corn, peanuts, carrots, beans, and rye.

### **Water Conservation**

The applicant has completed the Water Conservation Worksheets for Center Pivot Irrigation.

### **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 standard 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.

### **Conditions of Issuance**

#### **Is this a reasonable–beneficial use?**

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

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

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

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

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

#### **Will this use be consistent with the public interest?**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Will the use cause or contribute to flooding?**

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

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

**Will the use harm offsite land uses?**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Has the permit applicant proposed an alternative water supply?**  
[ref. 40B-2.301(2)(k)]

Alternative water supply is not feasible at this time.

## **Standard Conditions**

1. This permit shall expire on **2/7/2026**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.041(2), Florida Administrative Code (F.A.C.) and the required fee to the District pursuant to section 40B-2.361, F.A.C., prior to this expiration date in order to continue the use of water.
2. The permittee may apply for a permit modification at any time in accordance with section 40B-2.331, F.A.C.
3. Primary Water Use classification(s): **Irrigation, Livestock**
4. Source classification(s) : **Groundwater**
5. 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.
6. The permitted water withdrawal facilities consist of the items in the Withdrawal Point Information table on page 1.
7. Permittee must mitigate interference with existing legal uses caused in whole or in part by the permittee's withdrawals, consistent with a District-approved mitigation plan. As necessary to offset such interference, mitigation may include, but is not limited to, reducing pumpage, replacing the existing legal user's withdrawal equipment, relocating wells, changing withdrawal source, supplying water to existing legal user, or other means needed to mitigate the impacts.
8. Permittee must mitigate harm to existing off-site land uses caused by the permittee's withdrawals. When harm occurs, or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
9. Permittee must mitigate harm to the natural resources caused by the permittee's withdrawals. When harm occurs or is imminent, the permittee must modify withdrawal rates or mitigate the harm.
10. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.
11. Authorized representatives of the District, upon reasonable notice to the permittee, shall be permitted to enter and inspect the permitted water use to determine compliance with the permit conditions.
12. This permit does not relieve the permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.
13. This permit does not convey to the permittee any property rights or privileges other than those specified herein.
14. Permittee shall notify the District in writing within 90 days of any sale, conveyance, or other transfer of ownership or control of the real property on which the permitted water use activities are located. All water use permit transfers are subject to the requirements of section 40B-2.301, F.A.C.
15. Permittee must notify the District in writing prior to implementing any changes in the water use that may alter the permit allocations. Such changes include, but are not limited to, change in irrigated acreage, crop type, irrigation system, water treatment method, or entry into one or more large water use agreements. In the event a proposed change will alter the allocation, permittee must first obtain a permit modification.

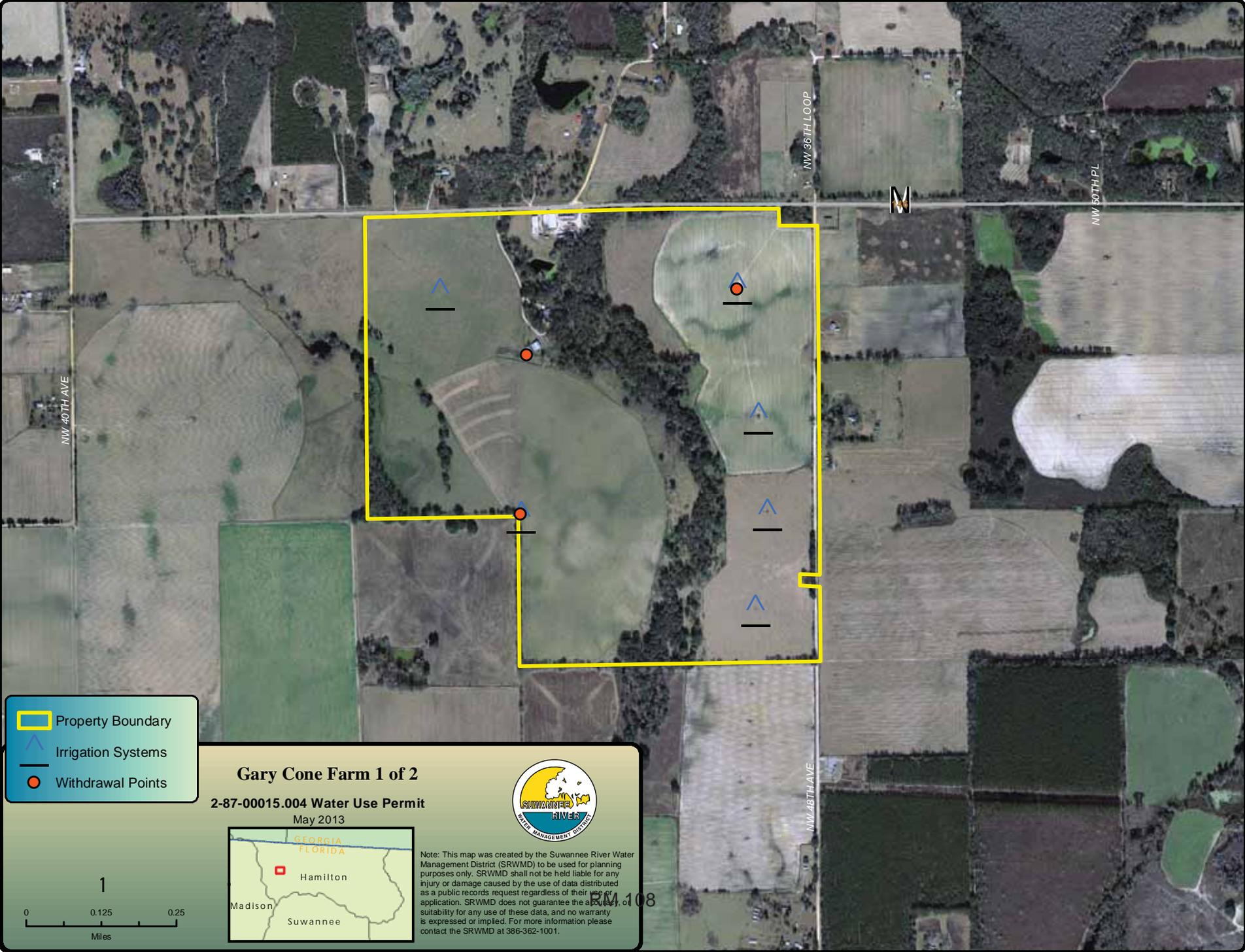
16. All correspondence sent to the District regarding this permit must include the permit number **2-87-00015.004**.
17. When the District provides a permanent identification tag, the tag shall be prominently displayed at the withdrawal site by permanently affixing such tag to the pump, headgate, valve, 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.
18. 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**

19. The Permittee shall implement automated monitoring of groundwater withdrawals, at Permittee's expense, upon commencement of withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each well of inside diameter eight inches or greater at land surface and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may opt for a standardized SRWMD automated monitoring system to fulfill this requirement.
20. The Permittee shall implement and/or maintain the conservation practices selected in the Water Conservation Plan submitted to the District. Any new practices selected shall be implemented within one year from the date of permit issuance. Practices that involve scheduling methods or maintenance shall be documented. Documentation for implementation and/or maintenance shall be maintained on all practices and available upon request.
21. The Permittee shall ensure that the irrigation systems will water target areas only under field operations. Irrigation of non-target areas (roads, woods, structures, etc.) is prohibited.

Attachment A  
2-87-00015.004  
Gary Cone Farm

Name	Status	Diameter	Capacity (gpm)	Water Use
Home #1	Active	10	800	Irrigation
Timberlake #3	Active	10	800	Irrigation
Home #2	Active	8	600	Irrigation
Shop Well	Active	4	20	Livestock
Farm House	Active	4	20	Livestock
Timberlake #2	Active	10	800	Irrigation



-  Property Boundary
-  Irrigation Systems
-  Withdrawal Points

### Gary Cone Farm 1 of 2

2-87-00015.004 Water Use Permit  
May 2013



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

54108



## MEMORANDUM

TO: Governing Board

FROM: Kevin Wright, P.E., Ag Team

DATE: April 29, 2013

RE: Approval to Enter Into Contracts for the 3rd Round FY12/13 District Agricultural Cost-Share Program

### RECOMMENDATION

**Staff recommends the Governing Board authorize the Executive Director to enter into contracts for the 3<sup>rd</sup> Round FY12/13 District Agricultural Cost-Share Program with 13 applicants.**

### BACKGROUND

At the October 9, 2012, Governing Board meeting, the Governing Board authorized \$1,500,000 for agricultural water conservation cost-share activities District wide. The activities include irrigation retrofits, water conservation technologies, and water savings pilot projects.

The applications for the 3<sup>rd</sup> Round were accepted between January 5, 2013 and April 5, 2013. Thirteen applicants were recommended for the 3<sup>rd</sup> Round of District agricultural cost-share program. This includes 23 center pivot retrofits (12 applicants), which should reduce irrigated pumpage by 368 million gallons of water annually or just over 1.0 million gallons per day.

This funding program also includes:

- One soil moisture probe. Soil moisture probes provide producers with information to enhance their ability to determine when to use their irrigation system. By enabling producers to understand the water available to the crop, they can make more efficient decisions with their irrigation system.
- Sixteen upgrades to irrigation controller panels. New controller panels allow for fertigation/chemigation, greater control of irrigation rates, global positioning system (GPS) enabled control for end gun shut off, variable rate irrigation, and remote controlling of equipment. Many of the advanced irrigation management techniques are not compatible with older controller panels.
- One pump upgrade (reduce from high pressure to lower pressure). Many older irrigation pumps were designed to run high pressure traveling guns. This will assist in reducing the pump volume and pressure to enable greater irrigation efficiency.

- Six remote controllers/monitors for irrigation systems. Allows growers to remotely control/monitor their irrigation systems by personal computer or smart phone. With the inclusion of soil moisture sensors or weather stations, a grower can eliminate irrigation events remotely without the need to visit the field.
- One pilot project, converting a nursery from overhead to drip. This project will not only allow the grower to reduce water use by 50%-75%, but will also reduce nutrient leaching into the groundwater system.

The total estimated District cost share funds to be dispersed this quarter is \$262,725. The total grower portion for these items will be \$124,100 or 32% of the equipment cost. The cumulative cost of all rounds for the District funds is \$981,650; the cumulative cost for the grower for all rounds is \$524,550.

Attachment A is a list of the proposed recipients, proposed funding amounts, and best management practices.

Funds for this cost share program are included in a reserve fund in the adopted FY13 budget. Staff will request that the Governing Board amend the operational budget if necessary once the actual expenditures are known.

KW/tm  
Attachment

## Attachment A

Owner Name	Estimated District Cost-Share	District Retrofit	Soil Moisture Probe	New Panel	Pump Upgrades	Remote Control
Murray Tillis	\$ 7,625	1				
Smith Farms	\$ 44,100	4		4		
Gaylard Farm	\$ 15,250	2				
Andy Snider	\$ 16,475	1	1	1	1	1
Billy Jackson	\$ 30,500	4				
Murphy Citrus Nursery, Inc.	\$ 22,500					
Roger Davis	\$ 11,025	1		1		
Sidney F. Roberts	\$ 11,025	1		1		
Sam Jones	\$ 11,025	1		1		
Top Quality Hay	\$ 17,825	1		3		
83 Farms	\$ 26,275	3		1		
Harold Reid	\$ 40,475	3		4		4
John D. Carter	\$ 8,625	1				1
<b>Total Estimates</b>	<b>\$ 262,725</b>	<b>23</b>	<b>1</b>	<b>16</b>	<b>1</b>	<b>6</b>

## MEMORANDUM

TO: Governing Board

FROM: Kevin Wright, P.E., Ag Team

DATE: April 29, 2013

RE: Approval to Enter Into Contracts for the 3<sup>rd</sup> Round of Department of Environmental Protection Santa Fe River Basin Management Action Plan (BMAP) Agricultural Cost-Share Program

### RECOMMENDATION

**Staff recommends the Governing Board authorize the Executive Director to enter into contracts for the 3<sup>rd</sup> Round of Department of Environmental Protection Santa Fe River BMAP Agricultural Cost-Share Program with twelve applicants.**

### BACKGROUND

At the October 9, 2012 Governing Board meeting, the Governing Board authorized the Executive Director to enter into an agreement with the Department of Environmental Protection (DEP) for agricultural cost-share activities, not to exceed \$900,000, in DEP cost share funds. At the March 2013 Governing Board meeting, the Board accepted an additional \$434,750, in order for a total of \$900,000 to be used solely within the Santa Fe basin. The activities include irrigation retrofits and fertigation within the designated areas of the BMAP for the Suwannee River and Santa Fe Rivers. During the first two rounds, the District obligated \$434,750 for the Suwannee River basin and \$421,750 for the Santa Fe basin.

The applications for the 3<sup>rd</sup> round were accepted between January 5, 2013 and April 5, 2013. Twelve applicants were approved for the 3<sup>rd</sup> Round of DEP cost-share program. This includes 26 center pivot retrofits. The groundwater savings by these retrofits will be approximately 416 million gallons annually or just over 1.1 million gallons per day.

This funding program also includes 13 fertigation systems. The fertigation portion includes 10 portable systems and 3 stationary systems. It is estimated that these projects will eliminate application of approximately 362,000 pounds of nitrogen per year.

The total estimated DEP cost share funds to be dispersed this quarter is \$306,250. The total grower portion for these items will be \$48,750 or 16% of the cost of equipment. The cumulative cost for all rounds of DEP cost share funds is \$1,162,750; with Santa Fe basin receiving \$728,000 and the Suwannee basin receiving \$434,750.

Attachment A is a list of the proposed recipients, proposed funding amounts, and types of Best Management Practices (BMPs). All applicants recommended for approval are in the Santa Fe River basin.

KW/tm  
Attachment

## Attachment A

Owner Name	Estimated DEP Cost-Share	Irrigation Retrofit	Estimated Water Savings Million Gallon Annually	Fertigation Systems	Estimated Nutrient Savings lb/year
Charles Davis	\$ 31,875	3	48	1	31,500
Santa Fe River Ranch	\$ 13,625	1	16	1	16,000
Greg Rogers	\$ 40,875	3	48	2	63000
Trevor Bass	\$ 30,500	4	64		
Double D Enterprises of Bradford Co.	\$ 13,625	1	16	1	16000
Trip Norfleet	\$ 24,000	4	64	3	79000
Elaine Green	\$ 7,625	1	16		
Don Green	\$ 22,875	3	48		
Dwight Davis	\$ 24,250	2	32	1	31500
Andy Crane	\$ 16,625	1	16	1	31500
Buckley Shaw	\$ 16,625	1	16	1	31500
Tom Shaw	\$ 33,250	2	32	2	63000
<b>Total Estimated</b>	<b>\$ 306,250</b>	<b>26</b>	<b>416</b>	<b>13</b>	<b>362000</b>

## MEMORANDUM

TO: Governing Board

FROM: Hugh Thomas, Suwannee River Partnership Coordinator

DATE: April 29, 2013

RE: Authorization to Amend Contract Number 03/04-258 with the Florida Department of Agriculture and Consumer Services (FDACS) for Continuation of the Two Positions for the Suwannee River Partnership for the Period July 1, 2013 through June 30, 2014

### RECOMMENDATION

**Staff recommends the Governing Board authorize the Executive Director to amend Contract Number 03/04-258 with FDACS to continue funding a third of the costs associated with providing two Suwannee River Partnership positions at a cost not to exceed \$51,100 for the period covering July 1, 2013 through June 30, 2014.**

### BACKGROUND

On October 13, 1998, the District first contracted with FDACS to provide a position which would have the responsibility of providing staff leadership to the Suwannee River Partnership. A second position (Environmental Specialist III) was added in 2002 to assist in working within the District. The present contract, which was signed by FDACS in October 2004, has a provision to allow this contract to provide for these positions to be renewed for additional years.

These positions are jointly funded by FDACS, the Florida Department of Environmental Protection and the District. They coordinate the local development and implementation of an overall work plan for the Suwannee River Partnership in the Suwannee and Santa Fe River Basins.

This amendment provides for the District's share (33.33 percent of the total salary and benefits associated with these positions) of funding during FDACS Fiscal Year 2013-2014 which runs July 1, 2013 through June 30, 2014.

Funds are budgeted in the District's current fiscal year AG Team Program budget and preliminary fiscal year 2014 budget.

KW/tm

MEMORANDUM

TO: Governing Board

FROM: Hugh Thomas, Suwannee River Partnership Coordinator

DATE: April 29, 2013

SUBJECT : Authorization to Amend Contract Number 10/11-021 for Suwannee River Partnership (SRP) Cooperative Conservation Technician Services with Florida Department of Agriculture and Consumer Services (FDACS)

RECOMMENDATION

**Staff recommends the Governing Board authorize the Executive Director to amend contract number 10/11-021 to co-fund four Conservation Technician positions associated with the SRP program with FDACS for a contract period of twelve months. The District's cost for these positions will not exceed \$130,000.**

BACKGROUND

FDACS and the Suwannee River Water Management District (District) have recognized the need to provide technical support services to farmers operating within the District to implement and maintain Best Management Practices (BMPs). These services have been critical to the overall SRP mission to help protect and save water in the District.

FDACS and the District have been providing funds for this effort for the last five years with FDACS entering into agreements with the Gilchrist County Soil & Water Conservation District, Lafayette County Soil & Water Conservation District, and Suwannee County Conservation District for these four positions. The Conservation Districts employ four conservation technicians who work under the direction of FDACS to supply assistance with BMPs and outreach services to the farmers. A fourth technician was hired this year to assist with increased implementation efforts in the Santa Fe Basin Management Action Plan area with special emphasis in the Restoration Focus Area.

Garrett McCray – Suwannee, Hamilton, Lafayette, Jefferson, Taylor, and Madison Counties  
William Hart – Suwannee, Hamilton, Lafayette, Jefferson, Taylor, and Madison Counties  
John Stubblefield – Gilchrist, Dixie, Levy, and Alachua Counties  
Scott Tucker—Alachua, Columbia, Gilchrist, Union, and Bradford Counties

Among other things, these technicians work one-on-one with farmers to help implement BMPs for fertilizer, irrigation, and waste management.

Funds are budgeted in the District's current fiscal year AG Team Program budget and preliminary fiscal year 2014 budget.

KW/tm

MEMORANDUM

TO: Governing Board

FROM: Kevin Wright, Professional Engineer

DATE: April 29, 2013

RE: Amendment to Contract 12/13-157 for Water Use Monitoring Equipment and Authorization for Implementation of a Nutrient Reduction Project

RECOMMENDATION

**Staff recommends the Governing Board authorize the Executive Director to amend contract 12/13-157 with the Florida Department of Agriculture and Consumer Services (DACS) for \$100,000 for additional water use monitoring equipment and to implement a nutrient reduction project not to exceed \$300,000.**

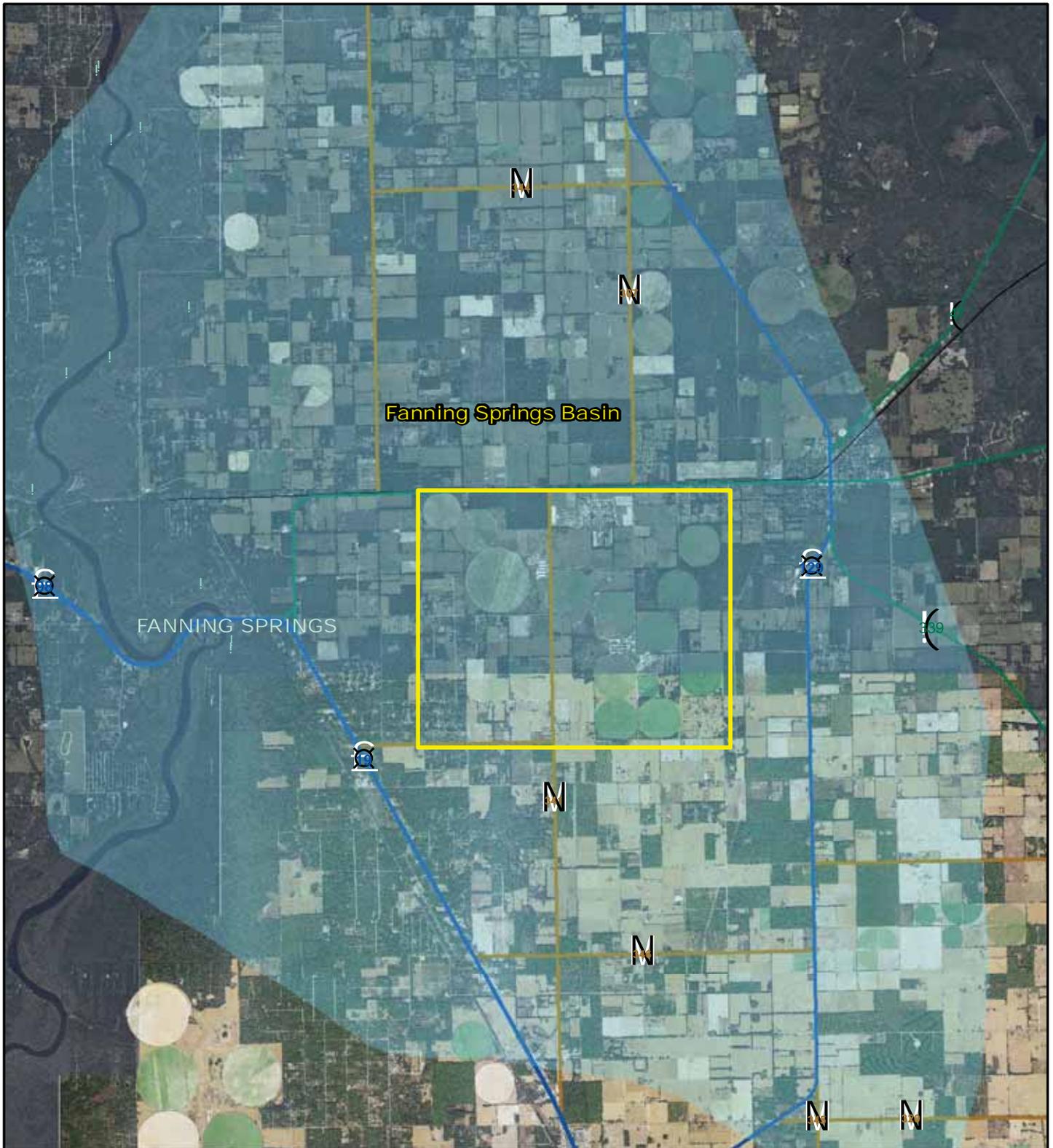
BACKGROUND

DACS has awarded an additional \$100,000 to the District for the purchase of equipment to assist agricultural users with water use monitoring. Staff will use the funds to purchase monitoring equipment for farms that cannot provide data through the “electric meter” option. The District has previously received \$50,000 from DACS for monitoring equipment. Staff estimates that the additional funds will allow for the purchase of a total of 135 monitoring units.

The proposed nutrient reduction project is located at a dairy within the Fanning Springs springshed. The scope is to reduce solids in the wastewater stream by enhanced screening and retrofitting the pivots that spray the wastewater. The project deliverables will include two vibrating screen separators, 11 center pivot retrofits, one base station to control the equipment and engineering design. The change from overhead impact sprinklers to spray nozzles on drops will increase the application uniformity and enhance the nutrient uptake by the cover crops and reduce leaching of nitrates into the groundwater flowing to springs. It is estimated that this project will reduce the nutrient loading to the groundwater system by just under 100,000 pounds of nitrogen annually. The DACS funding for this proposed project is \$300,000, with a total project cost of \$400,000.

The funds are part of the DACS FY12/13 budget and must be spent by June 30, 2013.

KW/tm



-  Fanning Springs Basin
-  Project Area

## Fanning Springshed Water Quality Project



Note: This map was created by the Suwannee River Water Management District (SRWMD) to be used for planning purposes only. SRWMD shall not be held liable for any injury or damage caused by the use of data distributed as a public records request regardless of their use or application. SRWMD does not guarantee the accuracy, or suitability for any use of these data, and no warranty is expressed or implied. For more information please contact the SRWMD at 386-362-1001. Map Created on 4/17/2013

## MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Division Director, Resource Management

DATE: April 29, 2013

RE: First Amendment to Interagency Agreement between the Suwannee River Water Management District and the St. Johns River Water Management District for the Designation of Regulatory Responsibility of Gainesville Regional Utilities for Consumptive Use Permitting

### RECOMMENDATION

**Staff recommends approval of the First Amendment to the Interagency Agreement for the Designation of Regulatory Responsibility of Gainesville Regional Utilities for Consumptive Use Permitting.**

### BACKGROUND

The initial Interagency Agreement between the Suwannee River Water Management District (District) and St. Johns River Water Management District (SJRWMD) became effective on June 20, 2006. On August 13, 2009, SJRWMD issued Gainesville Regional Utilities (GRU) a 5-year consumptive use permit. The permit will expire on August 13, 2014.

GRU will be submitting a request for permit renewal later this year. As part of this process, staff from both districts and GRU are participating in monthly pre-application meetings to address issues associated with the permit renewal process.

Since the initial interagency agreement, the District has established MFLs on the upper Santa Fe River and has pending MFLs on the lower Santa Fe and Ichetucknee Rivers and springs. Additionally, the two districts have initiated joint water supply planning through the North Florida Regional Water Supply Partnership (NFRWSP) as a result of another interagency agreement between the District, SJRWMD and the Florida Department of Environmental Protection.

This proposed first amendment reflects both districts' work in the NFRWSP including water supply planning and MFL establishment and will allow both districts to continue their cooperation through the Gainesville Regional Utilities Consumptive Use Permit renewal process.

TS/tm

**FIRST AMENDMENT TO INTERAGENCY AGREEMENT BETWEEN THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT AND THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT FOR THE DESIGNATION OF REGULATORY RESPONSIBILITY OF GAINESVILLE REGIONAL UTILITIES FOR CONSUMPTIVE USE PERMITTING**

THE INTERAGENCY AGREEMENT executed on June 20, 2006, entered into by and between the SUWANNEE RIVER WATER MANAGEMENT DISTRICT (hereinafter "SRWMD") and the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (hereinafter "SJRWMD") is hereby reaffirmed and ratified but with the following additions:

WITNESSETH:

WHEREAS, withdrawals are located within the jurisdictional boundaries of SRWMD and SJRWMD; and

WHEREAS, an interagency agreement exists between both districts (Attachment A) that includes:

1. Joint regional water supply planning
2. Minimum Flows and Levels (MFL) Establishment
3. Development of MFL prevention and recovery strategies

NOW THEREFORE, the SJRWMD and the SRWMD, under the authority of Subsection 373.406(6), F.S., hereby agree as follows:

1. SJRWMD and SRWMD agree to share all communications including pre-application and post-application meetings, emails, and written correspondence.
2. SJRWMD agrees to incorporate SRWMD comments and information requests in any 120.60, F.S., information request to GRU.
3. SJRWMD agrees to incorporate proposed special conditions requested by SRWMD into proposed permits as proposed agency action and to include all proposed special permit conditions into the permit that become final agency action.
4. SJRWMD and SRWMD agree to work together during the permitting process to resolve potential for harm to water resources, including minimum flows and levels, in both districts.
5. The Districts agree to provide written notification to Gainesville Regional Utilities at the time either District provides written notice of termination of this agreement.
6. This agreement will commence upon execution by all parties and will remain in effect until either party terminates such agreement for its convenience upon ninety (90) days written notice to the other party.
7. Attachment A is incorporated herein.

**FIRST AMENDMENT TO INTERAGENCY AGREEMENT BETWEEN THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT AND THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT FOR THE DESIGNATION OF REGULATORY RESPONSIBILITY OF GAINESVILLE REGIONAL UTILITIES FOR CONSUMPTIVE USE PERMITTING**

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

By: \_\_\_\_\_

Chairman or Designee

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Secretary

(Seal)

**ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**

By: \_\_\_\_\_

Chairman or Designee

Date: \_\_\_\_\_

Attest: \_\_\_\_\_

Secretary

(Seal)

**INTERAGENCY AGREEMENT BETWEEN  
THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT  
AND THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT  
FOR THE DESIGNATION OF REGULATORY  
RESPONSIBILITY OF GAINESVILLE REGIONAL UTILITIES FOR CONSUMPTIVE  
USE PERMITTING**

THIS INTERAGENCY AGREEMENT is made and entered into by and between the SUWANNEE RIVER WATER MANAGEMENT DISTRICT (hereinafter "SRWMD") and the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT ("hereinafter "SJRWMD").

WITNESSETH:

WHEREAS, the geographic area of the Gainesville Regional Utilities' water supply system and service area lie solely within Alachua County but cross the jurisdictional boundaries of SJRWMD and SJRWMD; and

WHEREAS, Gainesville Regional Utilities is permitted by SJRWMD consumptive use permit (CUP) number 11339 to withdraw ground water; and

WHEREAS, two (2) Floridan wells are proposed to be located within the jurisdictional boundaries of SRWMD and fifteen (15) existing Floridan wells are located within the SJRWMD; and

WHEREAS, the majority of the Gainesville Regional Utilities' service area is located within the jurisdictional boundaries of the SJRWMD; and

WHEREAS, Subsection 373.046(6), F.S., authorizes a water management district to designate, via an interagency agreement, regulatory responsibility to another water management district over a project which crosses the jurisdictional boundaries of both districts; and

WHEREAS, the designation of the SJRWMD as the water management district with Part II, Chapter 373, F.S., regulatory responsibility for Gainesville Regional Utilities will allow for more efficient processing of permit applications under that part, and will allow for more assured compliance with the permit due to SJRWMD's prior history and familiarity with the Gainesville Regional Utilities; and

WHEREAS, the SJRWMD and the SRWMD desire to designate the SJRWMD as the water management district with Part II, Chapter 373, F.S., regulatory responsibility for Gainesville Regional Utilities for consumptive use permitting;

NOW THEREFORE, the SJRWMD and the SRWMD, under the authority of Subsection 373.406(6), F.S., hereby agree as follows:

1. The SJRWMD is designated as the water management district which will have all regulatory responsibilities under Part II of Chapter 373, F.S., for the withdrawal

**RECEIVED**  
S.R.W.M.D.

JUN 19 2006

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and use of water for Gainesville Regional Utilities' water supply system and service area in Alachua County. Such regulatory responsibilities shall include receiving, processing, and taking final agency action on all consumptive use permit applications, or modifications thereof, and taking any compliance and enforcement action with regard to those permits.

2. This agreement will commence upon execution by all parties and will remain in effect until either party terminates such agreement for its convenience upon ninety (90) days written notice to the other party.

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

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

By: [Signature]  
Chairman or designee

Attest: [Signature]  
Secretary

Date: June 20, 2006

(Seal)

**ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**

By: [Signature]  
Chairman

Attest: [Signature]  
Secretary

Date: 6/13/06

(Seal)

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

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THIS INTERAGENCY AGREEMENT ("AGREEMENT"), 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 three originals this 13 day of September, 2011.

**NOW THEREFORE, THE PARTIES AGREE TO THE FOLLOWING:**

A) Effective water management in Northeast Florida requires close coordination between the SRWMD and the SJRWMD to ensure resource protection and equitable treatment of water users in the two districts.

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. While SRWMD and SJRWMD agree that there has been a shift in the Groundwater divide over time, SJRWMD believes that additional data and analysis are necessary to determine the cause of this shift and the impact of the shift on the water resources within both districts.

SRWMD and SJRWMD agree to develop a scope of work to define changes and potential impacts in the Floridian aquifer system, including but not limited to, evaluating the effects and causes of migration of the groundwater divide and regional lowering of the potentiometric surface. Furthermore, SRWMD and SJRWMD agree to engage the National Research Council's Water Science and Technology Board to review and provide recommendations to the scope of work. Following review by the Water Science and Technology Board, SRWMD and SJRWMD agree to incorporate the National Research Council's suggestions and jointly execute the scope of work and produce a report for submission to the Water and Science Technology Board for review and recommendations. Following completion of the review and recommendation of the National Research Council study, PARTIES agree to accept the results as the best available information for planning and permitting decisions.

C) Development of a Joint Regional Groundwater Flow Model. In order to develop consistency in planning and permitting decisions, SRWMD and SJRWMD agree to jointly

develop regional groundwater and surface water models. PARTIES agree that one model will enhance efficiency and effectiveness for the process.

D) Data Needs and Analysis Collection. SRWMD and SJRWMD will respect each others' data and continue to share monitoring and technical data, and to communicate regularly concerning water resource issues of concern, including but not limited to: permitting, minimum flows and levels, water resource constraints analyses, regional water supply planning, and district-wide water supply assessments.

SRWMD and SJRWMD will strive to improve their working relationship to include agreement on the most appropriate tools to evaluate water resource concerns based upon the geomorphologic, hydraulic, and geologic / hydrogeologic conditions of an area of concern.

E) Minimum Flows and Levels. When setting minimum flows and levels ("MFLs") in the northeast Florida area, SRWMD and SJRWMD shall:

1. Develop one consistent MFL process,
2. Develop one consistent definition of "harm," and,
3. Agree to the environmental constraints developed by each district in the absence of an MFL.

DEPARTMENT will review and comment regarding proposed MFLs, MFL process, definition of "harm" and environmental constraints.

F) Development of Prevention and Recovery Strategy. SRWMD and SJRWMD will develop and implement one MFL prevention and recovery strategy when withdrawals in one district contribute to water resource impacts in the other district. MFL prevention and recovery strategies will be described within the regional water supply plans of SRWMD and SJRWMD. DEPARTMENT will review and comment regarding the strategies by SRWMD and SJRWMD.

G) Joint Planning and Implementation for Recovery. When it is determined that an MFL is in recovery, SRWMD and SJRWMD shall work together to recover the MFL as expeditiously as possible by reducing demand for groundwater through conservation, alternative water supply ("AWS") projects, or water resource development projects. SRWMD and SJRWMD will prioritize water conservation as the preferred means of reducing demand for potable water, reducing groundwater withdrawals, and the need for more AWS projects.

It is understood that self-supplied agricultural water users are generally limited in their ability to develop AWS projects as described in Fla. Stat. section 373.709(2)(a)2. Therefore, it is understood that groundwater, in most cases, is the most feasible water source for agricultural users.

H) Staffing. In order to promote efficiency and clear communication between SRWMD and SJRWMD under this AGREEMENT, SRWMD has agreed to provide office space, including a computer and communications equipment, for a SJRWMD staff member. The staff member will be closely involved with the technical aspects of the AGREEMENT, including but not limited to: analysis of data, planning issues, permitting, MFLs, and recovery and prevention strategies.

I) Department Arbitrator. In the event that the Executive Directors of SRWMD and SJRWMD cannot reach resolution of any of the above issues in this AGREEMENT, then the DEPARTMENT shall act as an arbitrator to resolve the issues.

J) The Chairmen and the Executive Directors of SRWMD and SJRWMD agree to meet at least quarterly to discuss progress under the AGREEMENT. The first progress report is due December 1, 2011, and subsequent progress reports shall be due quarterly thereafter.

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

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

By: David Still Date: 13 Sept 2011  
David Still  
Executive Director

**ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**

By: Kirby B. Green III Date: 13 Sept '11  
Kirby B. Green III  
Executive Director

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

By: Herschel T. Vinyard Jr. Date: 9/7/11  
Herschel T. Vinyard Jr.  
Secretary

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

THIS FIRST 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 28 day of February, 2012.

**PREMISES**

The PARTIES entered into an Interagency Agreement on September 13, 2011, 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 is inserted as Paragraph G:
  - G. Joint Regional Water Supply Planning. SRWMD and SJRWMD agree to prepare a joint regional water supply plan encompassing, at a minimum, the northern nine counties within the SJRWMD and any Water Resource Caution Areas designated by the SRWMD that are contiguous with the boundary between the Districts. SRWMD, SJRWMD, and the DEPARTMENT will jointly establish and coordinate an open public process, cooperative with all water user groups and other affected and interested parties, consistent with Chapter 62-40.531, Florida Administrative Code, and section 373.709, Florida Statutes.

2. Former Paragraph G is revised to be Paragraph H and the title is changed from Joint Planning and Implementation for Recovery to Implementation for Recovery.

3. Paragraphs H, I, and J of the AGREEMENT are respectively revised to be paragraphs I, J and K.

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

5. 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: David Still Date: 2-27-12  
David Still  
Executive Director

**ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**

By: Hans G. Tanzler III Date: 2-23-12  
Hans G. Tanzler III  
Executive Director

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

By: Herschel T. Vinyard Jr. Date: 2/28/12  
Herschel T. Vinyard Jr.  
Secretary

**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 25<sup>th</sup> day of January, 2012<sup>3</sup>.

**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.

Upon 30 days written notice by the SRWMD or SJRWMD, the SRWMD and the SJRWMD agree to engage the National Research Council's Water Science and Technology Board (WSTB) to review the co-authored report of findings and provide recommendations regarding data collection and modification of scope of work, if necessary. If data collection and modification of scope of work are deemed necessary by the WSTB, and agreed to either by SRWMD or SJRWMD, then upon completion of said recommendation of data collection and scope of work, the SRWMD and the SJRWMD will resubmit an amended report of findings to the WSTB for review as outlined below. The SRWMD and SJRWMD shall share equally in the cost of WSTB activities and additional research efforts that result from WSTB recommendations. If no further modifications to scope of work or data collection are necessary, then WSTB will evaluate the co-authored report of findings and either submit a report certifying the co-authored report of findings

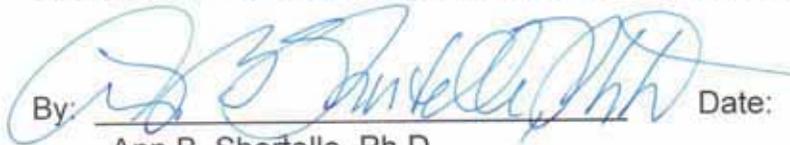
as being the best available information for planning and permitting decisions, or submit a report documenting the WSTB method of review, findings and conclusions of fact that differ from the those of the co-authored report submitted by the SRWMD and the SJRWMD. The PARTIES agree to accept the results as the best available information for planning and permitting decisions.

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.

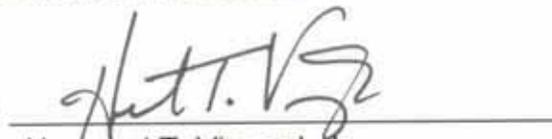
**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

By:  Date: 1/9/13  
Ann B. Shortelle, Ph.D.  
Executive Director

**ST. JOHNS RIVER WATER MANAGEMENT DISTRICT**

By:  Date: 1/9/13  
Hans G. Tanzler, III  
Executive Director

**FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION**

By:  Date: 1/25/13  
Herschel T. Vinyard, Jr.  
Secretary

## MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, Division Director, Resource Management

DATE: May 3, 2013

RE: Adoption of Proposed Rule for 40B-1 and 40B-2, Florida Administrative Code (F.A.C.) for Water Use Permitting Rules to be Consistent with Statewide CUPcon Rulemaking Process

Recommendation

### **Staff recommends the Governing Board authorize:**

- 1. Publication of a Notice of Proposed Rule for Chapters 40B-1 and 40B-2, F.A.C., and**
- 2. File 40B-1 and 40B-2, F.A.C., with the Department of State if no objections or comments are received.**

#### BACKGROUND

The Department of Environmental Protection has been leading a statewide effort to improve consistency in the Consumptive/Water Use Permitting Programs implemented by the Water Management Districts. The individual water management district consumptive use permitting rules, while all developed under the authority of Ch. 373, F.S., are inconsistent among the districts. While some of the differences may be based on differing physical and natural characteristics, others are the result of development of separate rules and procedures developed over time. This results in confusion for the regulated public, particularly along the border areas of the districts, and inequitable treatment of similar applicants in different districts. Additionally, the development of separate procedures and rules is costly and inefficient. The Department's goals were to make programs less confusing for applicants, particularly those who work in more than one District; treat applicants equitably statewide; provide consistent protection of the environment; streamline the process; and incentivize behavior that protects water resources, including conservation.

In November and December 2011, the Department held 10 small group meetings around the state. The Department met with stakeholders from the following groups: public water supply, agricultural water use, industrial use, recreational and small commercial self supply, and environmental interests. The stakeholders identified many issues that should be addressed to improving consistency in consumptive use permitting. The Department and the Water Management Districts formed a core team that has been coordinating with the workgroups to

develop solutions for the issues identified during stakeholder meetings. Changes developed to promote consistency and efficiency will be codified through policy, rulemaking, or legislation as appropriate.

The completion of the CUPcon rulemaking will be done by the Water Management Districts and is expected to be completed by August 1, 2013. No further rulemaking associated with the CUPcon Initiative is expected to occur.

## DISCUSSION

This memo, revised rule language and rearranged Water Use Permitting Guide are a continuation of the April 9, 2013 workshop on CUPcon staff presented to the Governing Board. Additionally, you may recall, the Governing Board authorized staff to initiate rule development at their May 29, 2012 meeting. Notice of Rule Development workshops were held in conjunction with representatives from DEP in Live Oak (August 7, 2012) and in Chiefland (August 8, 2012). There are two additional proposed rule workshops that are scheduled for May, 21, 2013. One will be in Chiefland and the other in Live Oak.

DEP has initiated rulemaking to revise chapter 62-40, F.A.C (fall, 2012). The revisions to this chapter will cover provisions currently addressed in Suwannee River Water Management District (District) rule chapters 40B-1 and 40B-2, F.A.C. As a result, the District must amend rule chapters 40B-1 and 40B-2, F.A.C.

The attached proposed rule and reorganized permitting guide, if approved, will continue the rulemaking process to amend the District's rules to be consistent with the statewide CUPcon mandate. The changes proposed to the District's rules are summarized below.

### **40B-1**

Staff proposes to add new permit thresholds consistent with the other WMDs, delete the signatory authority for a position that no longer exists here at the District, and update the water use permitting fees. The fees have not been raised since 1982 and are proposed to be consistent with the other WMDs. The fees will be discussed at the May 17, 2013 workshop. Lastly, some of the District's forms will be repealed and replaced by statewide forms.

### **40B-2**

Staff proposes to update the rules regarding:

- types of permits and thresholds,
- conditions of issuance,
- water reuse, including substitution credits and impact offsets,
- standard "limiting conditions" for permits,
- year-round landscape irrigation rules ("know your days"),
- permit transfers,
- deletion of maximum daily rate (MDR) definition, and
- 10-year compliance reporting.

### **Water Use Applicant's Handbook**

Staff proposes to change the table of contents of the current Applicant's Handbook to be consistent with the other four WMDs. The material in the current handbook will be moved to the appropriate section. Additionally, sections will be updated to reflect the changes listed in rule 40B-2 above. A new section regarding water conservation for public supply will be added. This section allows for a permit extension if certain criteria are met.

**CHAPTER 40B-1  
GENERAL AND PROCEDURAL RULES**

40B-1.100	Uniform Rules of Procedure and Statement of District Organization and Operation (Repealed)
40B-1.102	Definitions
40B-1.106	Interagency Agreements
40B-1.135	Delegations of Authority
40B-1.510	District Investigations and Probable Cause Determinations (Repealed)
40B-1.702	Permits Required (Repealed)
40B-1.703	Procedures for Consideration of Permit Applications
40B-1.704	Bond
40B-1.705	Complaints (Repealed)
40B-1.706	Fees
40B-1.709	Suspension, Revocation, and Modification of District Permits
40B-1.711	Emergency Action
40B-1.801	General (Repealed)
40B-1.802	Definitions (Repealed)
40B-1.804	Certification and Competitive Selection for Professional Services (Repealed)
40B-1.805	Competitive Negotiation (Repealed)
40B-1.808	Applicability (Repealed)
40B-1.809	Inconsistency with Section 287.055, Florida Statutes
40B-1.810	Procurement of Commodities or Contractual Services (Repealed)
40B-1.811	Prequalified Providers (Repealed)
40B-1.812	Contract Bidding – Reservation of Rights (Repealed)
40B-1.813	Contract Bidding – Resolution of Protests (Repealed)
40B-1.901	General

**40B-1.100 Uniform Rules of Procedure and Statement of District Organization and Operation.**

*Rulemaking Authority 120.54(5) FS. Law Implemented 120.54(5) FS. History–New 1-29-01, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40B-1.102 Definitions.**

When used in Chapter 40B, F.A.C.:

- (1) “Act” means the Florida Water Resources Act of 1972, Chapter 373, Florida Statutes, and amendments to it.
- (2) “Board” means the Governing Board of the District.
- (3) “District” means the Suwannee River Water Management District, or its successor agency.
- (4) “Executive Director” means the Executive Director of the District, who is the person employed by the Board to direct the District’s operations, supervise the staff and administrative procedures, and execute policies adopted by the Board.
- (5) “Presiding Officer” means the Board, or member thereof, who conducts a hearing on behalf of the District, a hearing officer assigned by the Division of Administrative Hearings, or any other person authorized to conduct administrative hearings.
- (6) The terms defined in Chapters 120 and 373, Florida Statutes, shall have the same meanings in Chapter 40B, F.A.C.

*Rulemaking Authority 120.54(10), 373.044, 373.113 FS. Law Implemented 120.53(1)(a), 373 Parts I, II, IV FS. History–New 9-15-81.*

**40B-1.106 Interagency Agreements.**

(1) In order to eliminate duplicative permitting, to provide for consolidation of data collection, and to coordinate water-related programs, the District, as needed, enters into agreements with other agencies exercising powers that affect water resources of the State.

(2) The District has entered into the following agreements or memorandums of understanding which are on file with the District and which are hereby incorporated:

(a) By Agreement Number 82/83-1 dated September 16, 1982, the District and the Florida Department of Environmental Regulation entered into an agreement in regards to public drinking water applications, applications for projects involving the

construction and operation of artificial recharge facilities, and applications for projects utilizing land disposal of treated wastewaters.

(b) By Agreement Number 90/91-94 dated June 27, 1991, Florida Water Management Districts and the Florida Public Service Commission entered into an agreement which establishes the policies and procedures to be followed regarding the separate and distinct responsibilities of each agency.

(c) By Agreement Number 91/92-84 dated June 18, 1992, the District, the Florida Department of Environmental Regulation, and the Florida Department of Health and Rehabilitative Services entered into an agreement regarding the implementation of permitting requirements for Chapter 62-524, F.A.C., New Potable Water Well Permitting in Delineated Areas.

(3) All District agreements are on file and available for inspection at District Headquarters, 9225 County Road 49, Live Oak, Florida 32060.

*Rulemaking Authority 373.044, 373.046, 373.083, 373.113 FS. Law Implemented 373.016, 373.046, 373.083, 373.103 FS. History—New 9-15-81, Amended 3-14-83, 3-17-88, 12-21-88, 6-17-93, 3-13-94, 10-3-95, 12-3-98.*

#### **40B-1.135 Delegations of Authority.**

(1) The District is delegated authority by the Department of Environmental Protection to assume certain responsibilities of Chapter 373, Florida Statutes. This delegation, general to the Water Management Districts, is pursuant to authority contained in Sections 373.016 and 373.103, Florida Statutes, and is described in Rule 62-113.200, Chapters 62-532 and 62-550, F.A.C.

(2) The exercise of delegated authority by the Board, or any person designated by the Board as its agent, includes all the jurisdiction, powers, and authority conferred by law upon the District.

*Rulemaking Authority 373.044 FS. Law Implemented 373.016, 373.103 FS., 62-113.200, 62-532, 62-550, F.A.C. History—New 9-15-81, Repromulgated 3-17-88, Amended 1-29-01.*

#### **40B-1.510 District Investigations and Probable Cause Determinations.**

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.53(1), 120.569(2)(i), 120.57(4), 373.219(2) FS. History—New 9-15-81, Amended 1-29-01, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40B-1.702 Permits Required.**

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.53(1), 120.57, 120.60, 373.085, 373.106, Ch. 373, Parts II, IV FS. History—New 9-15-81, Amended 3-17-88, 10-3-95, 1-29-01, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40B-1.703 Procedures for Consideration of Permit Applications.**

(1) General Permits.

(a) Section 373.118, F.S., authorizes the governing board to adopt rules establishing a general permit system for projects or categories of projects which have, either singly or cumulatively, a minimal adverse impact on water resources of the district. The governing board of the Suwannee River Water Management District has established a general permit system which authorizes the issuance of ~~two~~three categories of general permits – Noticed General Permits, ~~and (all other)~~ General Permits, and General Permits by Rule. A specific reference to the procedures for issuance of these categories of general permits is included in each district rule which authorizes a Noticed General Permit, ~~or (any other)~~ General Permit, and General Permit by Rule along with specific standards or conditions for issuance of such permits. When an activity does not qualify or conform to the conditions for issuance of general permits, an application for an individual permit or conceptual approval permit may be submitted to the district for consideration. No public notice by advertisement in a newspaper of general circulation in the affected area shall be required for general permits; however, public notice will be made by providing to any interested person a copy of any permit on file with the district and by posting at the district headquarters a current journal of all such permits issued.

(b) Noticed General Permits are a category of general permits for activities which have established standards and conditions for issuance of permits in district rules and which are considered by the governing board to have little or no potential for adverse impact to water resources of the district if those standards and conditions for issuance of permits are followed. Specific procedures for processing Noticed General Environmental Resource Permits are included in Rule 40B-400.211, F.A.C., and in each such permit enumerated in Chapter 40B-400, Part II, F.A.C.

(c) General permits are reviewed, and agency action is initiated within 30 days of receipt of a completed and properly executed

application, including any permit fees. Following investigation and review by District staff to insure the proposed activity qualifies for the specific general permit authorized by District rule and conforms to all conditions for issuance of the specific general permit, the general permit is issued by rule. In lieu of issuance of the general permit, the District will issue a notice of proposed agency action to deny the application and follow the procedures in Section 120.57, F.S., and Chapter 28, F.A.C., when investigation and review of the application by District staff reveals that the proposed activity does not qualify or conform to the conditions for issuance of the specific general permit authorized by District rule. If an application is received in an incomplete state, not properly executed or if additional information is required, the applicant shall be notified pursuant to the procedures in Section 120.60, F.S., and Chapter 28, F.A.C.

(d) General Minor-use permits by rule, as defined in Rule 40B-2.0442, F.A.C., are a category of general permits for activities which have established standards and conditions for issuance of permits in district rules. A permit application is not required for any use that meets the requirements of Rule 40B-42.0442, F.A.C., and is thereby considered to be an existing legal user of water.

(2) Individual Permits.

(a) Individual permits are issued under the standard permitting and licensing procedures described in Section 120.60, F.S. Unless a general permit is specifically authorized by District rule or unless an applicant chooses to request a conceptual approval permit for an activity, the individual permit procedures described in this section and Chapter 120 govern all district permitting and licensing activities. Within 30 days of receipt of an application for an individual permit, the District will notify the applicant of any apparent errors or omissions and request any additional information that the District is authorized to request. A request for additional information shall include a reference to the specific rule or law which authorizes the District to make the request. If apparent errors or omissions are not corrected or additional information requested is not supplied within 90 days of the date of the District notice, the District shall issue a notice of proposed agency action to deny the application and follow the procedures in Section 120.57, F.S., and Chapter 28, F.A.C. The applicant may request an extension of time in writing necessary to correct apparent errors or omissions or supply additional information requested by the District.

(b) Upon receipt of an application for an individual permit, the District will cause to be published and distributed the notices of application required by Sections 373.116, 373.413(3), and 373.413(4), F.S. The notice of application shall specify a date not less than 14 days from the date of publication and distribution by which comments or objections to the application may be filed with the District. A notice of proposed agency action on an individual permit application will be prepared whenever possible. The notice of proposed agency action will be sent to the applicant or any other person requesting such notice. If no substantial objection to the application or notice of proposed agency action is received, the Governing Board may, at its discretion, consider the application at its next regularly scheduled meeting, which is at least 14 days after issuance of a notice of proposed agency action. If a substantial objection is received, the Board shall proceed under the procedures in Chapter 28, F.A.C., and, if appropriate, set a time for a hearing in accordance with the provisions of Chapter 120, F.S. When there is not a reasonable opportunity for the District to issue a notice of proposed agency action, the Governing Board may, at its discretion, consider the application and advise the applicant and all other persons requesting notice of the Governing Board's action and providing an opportunity to request an administrative hearing on the action pursuant to Section 120.60(3), F.S., and Chapter 28, F.A.C.

(c) The Governing Board hereby delegates authority to the Executive Director, or Assistant Executive Director ~~or Deputy Executive Director~~ to issue individual environmental resource permits that require no special limiting conditions or that require only the following special limiting conditions pursuant to subsection 40B-4.1140(1), Florida Administrative Code (F.A.C.), under Chapters 40B-4 and 40B-400, F.A.C.:

1. Permits that identify non-profit associations as operation and maintenance entities under subsection 40B-4.2035(3), F.A.C.;
- or
2. Permits that require the following documents to be recorded in legal records:
    - a. Final plats; and
    - b. Deed restrictions; and
    - c. Drainage easements.

Unless objection to the permit application or the notice of proposed agency action is made according to statute and these rules by a substantially affected person, the Executive Director or Assistant Executive Director shall either issue the permit or place the application on the agenda of the next regularly scheduled meeting of the Governing Board.

(3) Conceptual Approval Permits. Any person may request conceptual approval of any activity that requires a permit from the governing board by making application for a conceptual approval permit. The procedure for review and consideration of such

applications shall be the same as for an individual permit. A conceptual approval permit issued by the governing board cannot authorize construction or the beginning of the activity which is the subject of the conceptual approval.

*Rulemaking Authority 373.044, 373.083, 373.113, 373.118, 373.171, 373.4141 FS. Law Implemented 120.57, 120.59, 120.60, 373.084, 373.085, 373.086, 373.106, 373.116, 373.118, 373.229, 373.313, 373.413, 373.416, 373.426 FS. History—New 6-16-88, Amended 12-22-92, 10-3-95, 1-29-01, 12-10-07, 10-25-09, {DATE}.*

#### **40B-1.704 Bond.**

(1) The Board may require the applicant for a permit to furnish a bond or some other alternative form of security made payable to the District and its successors, with a reputable bonding company authorized to do business in this state as surety, conditioned upon full compliance with terms of the permit, including the proper construction, operation, and maintenance of the facility. The amount of the bond shall be determined by the Board.

(2) Applicants for environmental resource permits under Chapters 40B-4 and 40B-400, Florida Administrative Code (F.A.C.), shall furnish a bond or other form of surety for certification of completion of construction as required by paragraphs 40B-4.1140(2)(c) and 40B-400.115(1)(j), F.A.C. The forms of surety acceptable to the District include but are not limited to, cash deposit, letter of credit, and performance bond. Bonds and other forms of surety shall be in the following amounts: project area less than one acre, \$1,000; project area less than 10 acres, \$2,000; project area less than 40 acres, \$3,000; project area less than 100 acres, \$4,000; project area less than 200 acres, \$5,000; project area greater than or equal to 200 acres, \$10,000. The District shall release the bond or other form of surety, without interest, upon final acceptance of certification of completion of construction and transfer of operation and maintenance to an entity approved by the District as required by Rule 40B-4.2035, F.A.C.

(3) The Board may require liability insurance in such amount as the Board shall determine endorsed in favor of the District or a hold harmless agreement satisfactory to the Board.

(4) The Board may require that the bond or liability insurance be maintained as a condition of the continued validity of the permit.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.085, 373.103, 373.219, 373.413, 373.414, 373.416 FS. History—New 9-15-81, Amended 1-10-10.*

#### **40B-1.705 Complaints.**

*Rulemaking Authority 120.53(1), 120.54(10), 373.044, 373.113 FS. Law Implemented 373.219(2), 373.229(2), 373.429 FS. History—New 9-15-81, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40B-1.706 Fees.**

(1) Section 373.109, Florida Statutes, authorizes the governing board to establish a schedule of fees for filing applications for permits required by district rules. The schedule of fees is listed in TABLE 1.A. – B. SCHEDULE OF PERMIT FEES. Fees shall be due at the time of filing an application. Unless otherwise specified by district rule, the date of filing shall be considered to be the date received by the district. Fees are nonrefundable unless an application is filed for an activity that is determined by the district to be exempt from permitting requirements pursuant to Section 120.60(2), Florida Statutes. Failure of any person to pay the fees established herein is grounds for the denial of a permit application or revocation of a permit. Unless a fee is identified herein for a specific activity, no fee shall be required. There shall be no permit fee for projects proposed by governmental entities whose purpose is environmental restoration, enhancement, or public land management.

(2) Upon delegation of the administration of a permitting program from the department to the district, the fees for such permits established by department rule shall be collected by the district pursuant to Section 373.109, Florida Statutes.

(3) Any portion of the fees enumerated in this rule in excess of \$100 shall be waived for any city or county government upon receipt of a certification from such city or county of hardship required in Chapter 94-278, Laws of Florida. Any such certification shall be presumed to be valid for the entire fiscal year of the city or county during which certification is made unless the certification clearly indicates a duration to the contrary.

TABLE 1.A. SCHEDULE OF PERMIT FEES

WATER USE PERMITS

General Water Use Permits Less than 10,000 GPD-ADR per paragraph 40B-2.041(4), F.A.C.	\$100
Modification or Renewal	\$50
General Water Use Permits 10,000 GPD-ADR or more and less than 2,000,000 GPD-ADR as per paragraph 40B-2.041(4), F.A.C.	\$230
Modification or Renewal	\$115
Individual or Conceptual Approval Water Use Permits per subsection 40B-1.703(3) and paragraph 40B-2.041(5), F.A.C.	\$530
Modification or Renewal	\$265

TABLE 1.B. SCHEDULE OF PERMIT FEES

ENVIRONMENTAL RESOURCE AND WORKS OF THE DISTRICT PERMITS

Use of the reviewing agency’s electronic self-certification system	\$0
Verification of exemption under Section 373.406 or 403.813(1), F.S., or under 62-330.050 through .0515, F.A.C. (ERP & WOD)	\$100
Verification of qualification to use a Noticed General Permit (ERP & WOD)	\$250
Variance or Waiver under Section 120.542	\$0
All other Variances or Waivers	\$550
Works of the District General Permits	\$490
Works of the District Individual Permits	Follow (1)
<b>All Individual or Conceptual Approval Permits, excluding Permits for a Mitigation Bank:</b>	
(1) New applications – the processing fee for a new permit application shall be as determined from the categories below:	
(a) Total project area of less than 10 acres, with no works in, on, or over wetlands and other surface waters, and no boat slips	\$490
(b) Total project area of less than 10 acres that does not meet (1)(a), above, but that involves less than 1 acre of works (i.e. dredging, filling, construction, or alteration) in, on or over wetlands and other surface waters, AND less than 10 new boat slips	\$1190
(c) Project exceeds any of the thresholds in (1)(b), above, but involves a total project area of less than 40 acres, less than 3 acres of works in, on or over wetlands and other surface waters, AND less than 30 new boat slips	\$2110
(d) Project exceeds any of the thresholds in (1)(c), above, but involves a total project area of less than 100 acres, less than 10 acres of works in, on or over wetlands and other surface waters, AND less than 50 new boat slips	\$5610
(e) Project exceeds any of the thresholds in (1)(d), above, but involves a total project area of less than 640 acres, AND less than 50 acres of works in, on or over wetlands and other surface waters	\$9120
(f) Project exceeds any of the thresholds in (1)(e), above	\$11220
(g) Projects that are exclusively agricultural or silvicultural, and that involve a total project area of less than 10 acres AND less than 1 acre of works (i.e. dredging, filling, construction, or alteration) in, on or over wetlands and other surface waters	\$250
(h) Projects that are exclusively agricultural or silvicultural, and that exceed any of the thresholds in (1)(g), above, but involves a total project area of less than 40 acres AND less than 3 acres of works in, on or over wetlands and other surface waters	\$1055
(i) Projects that are exclusively agricultural or silvicultural, and that exceed any of the thresholds in (1)(h), above, but involve a total project area of less than 100 acres AND less than 10 acres of works in, on or over wetlands and other surface waters	\$2805
(j) Projects that are exclusively agricultural or silvicultural, and that exceed any of the thresholds in (1)(i), above, but involve a total project area of less than 640 acres AND less than 50 acres of works in, on or over wetlands and other surface waters	\$4590
(k) Projects that are exclusively agricultural or silvicultural, and that exceed any of the	\$5610

thresholds in (1)(j), above	
(l) Individual or Conceptual Permits solely for environmental restoration or enhancement activities, provided such activities are not associated with a mitigation bank and are not being implemented as mitigation for other activities that require a permit under Part IV of Chapter 373, F.S. For the purposes of this provision, the term “environmental restoration or enhancement” means an action or actions designed and implemented solely to convert degraded or altered uplands, wetlands, or other surface waters to intact communities typical of those historically present, or to improve the quality and condition of currently degraded wetlands or other surface waters to a more healthy, functional, and sustaining condition for fish, wildlife, and listed species	\$250
(m) Individual or Conceptual Permit solely to retrofit an existing stormwater management system or systems to add treatment to and reduce stormwater pollutant loadings from the system or systems	\$250
(2) Major Modifications that exceed any of the thresholds in 62-330.315(3), F.A.C.:	
(a) Major Modifications to an Individual Permit that are consistent with an existing Conceptual Approval Permit	50% of (1)
(b) All other Major Modifications	50% of (1)
(3) Minor Modifications that do not exceed any of the thresholds in 62-330.315(3), F.A.C.:	
(a) Transfers or Time Extensions of Permits, where not exempted from fees under Florida Statutes	\$0
(b) Minor Modifications to correct minor errors that do not involve technical review, or to incorporate changes requested by the reviewing agency	\$0
(4) All other Minor Modifications	25% of (1)
Resubmittal of an application that was previously withdrawn or administratively denied, in accordance with 62-330.090(1)(b), F.A.C. The Agency shall apply the processing fee paid when the previous application was submitted to the fee required for the new application. If the resubmitted application would require a greater fee, only the additional portion shall be required.	
New Determinations of the Landward Extent of Wetlands and Other Surface Waters	
(1) Informal Determinations, where:	
(a) Total area to be included in the determination is up to 1 acre	\$100
(b) Additional fee per acre (or portion thereof) beyond the first, total fee not to exceed \$500	\$50
(2) Formal Determinations, where:	
(a) Total area to be included in the determination is less than 10 acres	\$860
(b) Total area to be included in the determination is at least 10, but less than 40 acres	\$1180
(c) Total area to be included in the determination is at least 40, but less than 100 acres	\$2370
(d) Total area to be included in the determination is at least 100 or more	\$2370 + \$200 / 100 acres (or portion thereof)
Reissuance of Formal Determinations, in accordance with 62-330.201(5), F.A.C.	\$350

Applications for any activity, when submitted by the U. S Department of Defense	\$0
Any fee in excess of \$100, as determined by this section, shall be reduced to this amount, which shall not exceed \$100, for public projects when the applicant is a county or municipality (or under contract thereto) that qualifies under Section 218.075, F.S.	\$100

*Rulemaking Authority 373.044, 373.109, 373.113, 373.118, 373.171 FS. Law Implemented 218.075, 373.109 FS. History–New 6-16-88, Amended 11-25-90, 12-22-92, 10-16-94, 11-8-94, 10-3-95, 1-3-96, 6-22-99, 5-6-12.[Date]*

**40B-1.709 Suspension, Revocation, and Modification of District Permits.**

(1) The Executive Director shall initiate proceedings to suspend, revoke, or modify a permit or other authorization by serving a written notice rights upon the permittee by certified mail or by service of process, or by newspaper publication as provided in Section 120.65(5), F.S. The administrative complaint shall include all of the information required by subsection 28-106.2015(4), F.A.C., of the Uniform Rules of Procedure.

(2) The permittee may request an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., by filing a petition with the District within 14 days of receipt of the District’s complaint. Petitions are deemed filed upon receipt by the District Clerk. The petition must contain all of the information required by subsection 28-106.2015(5), F.A.C., of the Uniform Rules of Procedure.

(3) Failure to comply with the provisions of subsection (2), shall constitute a waiver of the right to a Section 120.69 or 120.57, F.S., administrative hearing. In such event, the administrative complaint shall become a final order of the District and all findings of fact and conclusions of law contained therein shall be deemed uncontested and true in any further judicial or administrative proceedings.

(4) The Board shall consider any timely filed petition for a Sections 120.569 and 120.57, F.S., hearing at the next available regulatory meeting following expiration of the 14-day time period in subsection (2).

(5) In the case of an emergency, the District may take any action necessary to protect the public interest in accordance with Section 120.60(6), F.S. The permittee shall take immediate action to achieve compliance with the emergency order, but shall have the right to request an administrative hearing in accordance with the provisions of subsections (2) through (4) above.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.53(1)(b), (c), 120.60(2), 373.119, 373.429 FS. History–New 9-15-81, Repromulgated 3-17-88, Amended 12-21-88, 10-25-09.*

**40B-1.711 Emergency Action.**

(1) An emergency exists when immediate action is necessary to protect public health, safety, or welfare; the health of animals, fish, or aquatic life; the works of the District; a public water supply; or recreational, commercial, industrial, agricultural, or other reasonable uses of land and water resources.

(2) Whenever an emergency exists, the Executive Director shall issue an emergency order, which shall describe the conditions which are causing the emergency, and the type of corrective action necessary to minimize or abate the emergency conditions. The order shall be delivered by service of process or by personal delivery by an agent of the District to the person, or the agent of the person responsible for causing or contributing to the emergency conditions.

(3) The person or his agent shall take whatever action necessary to cause immediate compliance with the terms of the emergency order, but shall have the right to appeal the order in accordance with the provisions of Rule 40B-1.709, F.A.C., subsections (4) through (7).

(4) When an emergency condition exists pursuant to Section 373.439, Florida Statutes, the Executive Director may employ the resources of the District to take whatever remedial action is necessary to alleviate the emergency condition without the issuance of an emergency order, or in the event an emergency order has been issued, after the expiration of the requisite time for compliance with that order.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 120.53(1)(b),(c), 120.60(2), 373.119, 373.439 FS. History–New 9-15-81, Amended 12-21-88*

**40B-1.801 General.**

*Rulemaking Authority 120.53(1) FS. Law Implemented 287.055 FS. History–New 9-15-81, Amended 8-19-92, Repealed by Section 3, Chapter*

2012-31, Laws of Florida, 5-27-12.

**40B-1.802 Definitions.**

*Rulemaking Authority 120.53(1) FS. Law Implemented 287.055 FS. History—New 9-15-81, Amended 8-19-92, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40B-1.804 Certification and Competitive Selection for Professional Services.**

*Rulemaking Authority 120.53(1) FS. Law Implemented 287.055(4) FS. History—New 9-15-81, Repromulgated 3-17-88, Amended 12-21-88, 8-19-92, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40B-1.805 Competitive Negotiation.**

*Rulemaking Authority 120.53(1) FS. Law Implemented 287.055(5) FS. History—New 9-15-81, Amended 8-19-92, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40B-1.808 Applicability.**

*Rulemaking Authority 120.53(1) FS. Law Implemented 287.055 FS. History—New 9-15-81, Amended 8-19-92, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40B-1.809 Inconsistency with Section 287.055, Florida Statutes.**

To the extent that any inconsistency may exist between this chapter and Section 287.055, Florida Statutes, the provisions of Section 287.055, Florida Statutes, shall prevail.

*Rulemaking Authority 120.53(1) FS. Law Implemented 287.055 FS. History—New 9-15-81, Repromulgated 8-19-92.*

**40B-1.810 Procurement of Commodities or Contractual Services.**

*Rulemaking Authority 287.055(3)(b), 120.53(1) FS. Law Implemented 287.055, 120.53(1) FS. History—New 9-15-81, Amended 3-17-88, 8-19-92, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40B-1.811 Prequalified Providers.**

*Rulemaking Authority 120.53(1) FS. Law Implemented 287.055(5) FS. History—New 3-17-88, Amended 8-19-92, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40B-1.812 Contract Bidding – Reservation of Rights.**

*Rulemaking Authority 373.044 FS. Law Implemented 120.53 FS. History—New 3-17-88, Amended 12-21-88, 8-19-92, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40B-1.813 Contract Bidding – Resolution of Protests.**

*Rulemaking Authority 373.044 FS. Law Implemented 120.57(3) FS. History—New 3-17-88, Amended 8-19-92, 1-29-01, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

**40B-1.901 General.**

The District maintains a list of forms which is updated annually and is available upon request. All district forms and instructions may be obtained at the District headquarters or requested by mail or telephone and are hereby incorporated by reference as follows:

- (1) Form number 40B-2.0442A, Water Use Permit Status Form, incorporated by reference in Rule 40B-2.0441, F.A.C.;
- (2) Form number 40B-2.0442B, ~~Application for~~ Water Use Permit Application ~~Agricultural Use~~, incorporated by reference in Rule 40B-2.0442, F.A.C.;
- (3) ~~Form number 40B-2.044C, Application for Water Use Permit Augmentation/Other Use, incorporated by reference in Rule~~

~~40B 2.041, F.A.C.;~~

~~(4) Form number 40B 2.041D, Application for Water Use Permit Commercial Use, incorporated by reference in Rule 40B-2.041, F.A.C.;~~

~~(5) Form number 40B 2.041E, Application for Water Use Permit Potable Water Supply Use, incorporated by reference in Rule 40B 2.041, F.A.C.;~~

(~~6~~3) Form number 40B-2.351A, Water Use Permit Transfer Form, incorporated by reference in Rule 40B-2.351, F.A.C.;

(~~7~~4) Form number 40B-4.3020, Application for a Work of the District Permit for District Floodways, incorporated by reference in Rule 40B-4.3020, F.A.C.;

(~~8~~5) Form number 40B-1.901(A), As-Built Certification by the Permittee, incorporated by refernec in Rule 40B-4.1140, F.A.C.

(~~9~~6) Form number 40B-1.901(B), As-Built Certification by the Operation and Maintenance Entity, incorporated by reference in Rule 40B-4.1140, F.A.C.

(~~10~~7) Form number 40B-1.901(C), As-Built Certification by a Registered Professional, incorporated by reference in Rule 40B-4.1140, F.A.C.

(~~11~~8) Form number 40B-1.901(D), Transfer to Operation and Maintenance Entity.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 9-15-81, Amended 3-17-88, 12-21-88, 10-8-89, 6-17-93, 10-3-95, 1-3-96, 6-22-99, 1-29-01, 5-15-05, 7-7-08, 4-1-10, {DATE}.*

**CHAPTER 40B-2  
PERMITTING OF WATER USE**

40B-2.011	Policy and Purpose
40B-2.021	Definitions
40B-2.025	Processing of Water Use Permit Applications (Repealed)
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40B-2.311	Competing Applications (Repealed)
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40B-2.361	Renewal of Permits
40B-2.381	Limiting Conditions
40B-2.441	Temporary Water Use Permits (Repealed)
40B-2.451	Emergency Authorization for Withdrawal or Diversion (Repealed)
40B-2.501	Classification of Permits
40B-2.751	Investigation, Enforcement, and Penalties (Repealed)
40B-2.781	Enforcement (Repealed)
40B-2.901	Forms and Instructions (Repealed)
<u>40B-2.902</u>	<u>Publications Incorporated by Reference</u>

**40B-2.011 Policy and Purpose.**

(1) The Suwannee River Water Management District (District) regulates all water uses within its boundaries pursuant to the provisions of Chapter 373, F.S., in a manner consistent with Chapter 62-40, F.A.C., and with the overall policies, goals and objectives of the District.

(2) This chapter implements the comprehensive water use permit system contemplated in Part II of Chapter 373, F.S.

*Rulemaking Authority 373.044, 373.113, 373.171, 373.216 FS. Law Implemented 373.016, 373.023, 373.103, 373.216, 373.219 FS. History—New 10-1-82, 1-6-10.*

**40B-2.021 Definitions.**

(1) “Aesthetic Use” means the use of water to augment fountains, waterfalls, and landscape lakes and ponds where such features are entirely ornamental or decorative.

(2) “Agricultural Use” means the use of water for crop production or the growing of farm products including vegetables, pasture, sod, or other cash crops, waste management or water or washing livestock. It includes soil flooding for pest control or soil preservation, and freeze protection and product washing.

(3) “Alternative Water Supplies” means saltwater; brackish surface and ground water; surface water captured primarily during wet-weather flows; sources made available through the addition of new storage capacity for surface or ground water; water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses; the downstream augmentation of water bodies with reclaimed water; storm water and any other water supply sources that are designated as non-traditional for a water supply planning region in the applicable regional water supply plan.

(4) “Aquaculture Use” means the use of water for the spawning, cultivating, harvesting, or marketing of fin-fish, shellfish, crustaceans, alligators, or other aquatic organisms that have economic value.

(5) “Augmentation Use” means the addition of water to artificially maintain the level of natural or artificial water bodies to either protect habitat for fish and wildlife or to provide for recreational uses.

(6) “Average Daily Rate of Withdrawal (ADR)” means the volume of water withdrawn during 365 consecutive days divided by 365, expressed in million gallons per day. The total volume may be calculated using historical data or projected based on the best available information.

(7) “Basin,” as used in the context of interbasin transfer, means those major river basin areas delineated on Map Series Number 72, published by the Florida Department of Natural Resources, Bureau of Geology, 1975, down to the accounting unit level of recognition. The best information available shall be used to precisely define basin boundaries.

(8) “Bottled Water” means all water which is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water, as defined in Section 500.03(1)(d), F.S.

(9) “Change in ownership” means transfer of title to real property from the permittee to another person.

(10) “Dewatering” means the removal of ground or surface water to allow construction, excavation, or backfill to be conducted in a dry condition.

(11) “Domestic Use” means the use of water for the individual personal household purposes of drinking, bathing, cooking, and sanitation. All other uses shall not be considered domestic.

(12) “Essential Use” means the use of water for fire-fighting purposes, health and medical purposes, and to satisfy Federal, State, or local public health, safety and welfare requirements.

(13) “Existing Legal Use” means all uses of water which are exempt under Chapter 373, F.S., or Chapter 40B-2, F.A.C., or which have a valid Chapter 373, Part II, F.S., permit.

(14) “Golf Course Use” means water used to irrigate an establishment designed and used for playing golf.

(15) “Landscape Irrigation Use” means outside watering or sprinkling of flora which are not in a commercial nursery or irrigated agricultural crop environment. This use class includes the watering of lawns, shrubs, private gardens, and trees in such diverse settings as residential landscaping, public or commercial recreation areas, or public and commercial business establishments.

~~(16) “Maximum Daily Rate of Withdrawal (MDR)” means the volume of water which can be withdrawn during a 24 hour period expressed in million gallons per day.~~

~~(167) “Minimum Flows and Levels” means the minimum flow for a watercourse or the minimum water level for ground water in an aquifer or the minimum water level for a surfacewater body that is the limit at which further withdrawals would be significantly harmful to the water resources or ecology of the area. These levels have been established by the District for designated water bodies in Chapter 40B-8, F.A.C.~~

~~(178) “Nursery Use” means the use of water on premises on which nursery stock is grown, propagated, or held for sale, distribution, or sold or reshipped.~~

~~(189) “Other Outside Uses” means the use of water outdoors for the maintenance, cleaning, or washing of structures and mobile equipment including automobiles, and the washing of streets, driveways, sidewalks, and similar areas.~~

~~(2019) “Power Production Use” means the use of water for steam generation, cooling, and replenishment of cooling reservoirs.~~

~~(204) “Public Interest” means those broad-based interests and concerns that are collectively shared by members of a community or residents of the District or the State.~~

~~(212) “Reasonable-beneficial Use” means the use of water in such quantity as is necessary for economic and efficient consumption for a purpose and in a manner which is both reasonable and consistent with the public interest.~~

~~(223) “Self-Supplied Residential Use” means any water use associated with the maintenance of a private residence.~~

~~(234) “Water” or “Waters in the State” means any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.~~

~~(245) “Water-Based Recreation Use” means water used for public and private swimming and wading pools including water slides. This term does not include pools specifically maintained to provide habitat for aquatic life.~~

~~(256) “Water Use” means any use of water which reduces the supply from which it is withdrawn or diverted.~~

~~(267) “Water Utility Use” means water used for withdrawal, treatment, transmission, and distribution by potable water systems. Water utility uses include community and non-community public water systems as defined in Chapter 62-550, F.A.C.~~

~~(278) All definitions in Section 373.019, F.S., shall apply to this chapter.~~

*Rulemaking Authority 120.54(1)(a), 373.044, 373.113 FS. Law Implemented 120.53(1)(a), 373.019, 373.216 FS. History—New 10-1-82, Amended 5-1-83, 1-6-10, DATE.*

#### 40B-2.025 Processing of Water Use Permit Applications.

Rulemaking Authority 120.54(5), 373.044, 373.113, 373.171 FS. Law Implemented 120.60, 373.116, 373.229, 373.239 FS. History—New 1-6-10, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.

#### 40B-2.031 Implementation.

(1) An individual water use permitting program became effective on October 1, 1982, and has been implemented throughout the District.

(2) A general water use permitting program, became effective on October 1, 1982, and has been implemented throughout the District.

(3) A minor use permit by rule permitting program became effective on April 14, 2008, and has been implemented throughout the District.

(4) A general water use permit by rule permitting program became effective on (DATE) and has been implemented throughout the District. Upon implementation of this rule, the general water use and minor water use permit by rule permitting programs are hereby repealed on the effective date.

Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.103, 373.118, 373.216, 373.226 FS. History—New 10-1-82, Amended 4-14-08, {DATE}.

#### 40B-2.041 Permits Required.

(1) ~~A water use permit is required prior to the withdrawal or diversion of water for any water use except those expressly exempted by law or District rule. Unless expressly exempted by law or District rule, a water use permit must be obtained from the District prior to any use, withdrawal, or diversion of water.~~

(2) ~~(2) The District issues three types of water use permits: minor water use permit by rule, general water use permit, and individual water use permit. A water user shall obtain one permit for all withdrawals that are intended to serve contiguous property. Two or more properties represented by their owners to be separate properties shall be aggregated and treated as a single property for permitting purposes when the District determines that the properties are physically proximate and either share the same irrigation infrastructure or are operated as a common enterprise. However, when multiple use types, as defined in Rule 40B-2.501, F.A.C., are served by separate withdrawal facilities, separate individual permits may be issued.~~

~~(a) To obtain a minor water use permit by rule, water users must qualify and comply with the conditions specified in subsection (3) below. Permittees who wish to modify a general or individual water use permit to a minor water use permit by rule as provided in subsection (3) below, or who wish to abandon a water use permit, must complete and submit Form 40B 2.041A: Water Use Permit Status Form, effective January 6, 2010, which is hereby incorporated by reference. This form is available at District headquarters and on the District's website at [www.mysuwanneeriver.com](http://www.mysuwanneeriver.com).~~

~~(b) To obtain a permit for water uses that require a general or individual permit, the applicant must complete and submit one of the following forms, as appropriate, which are hereby incorporated by reference:~~

- ~~1. Form 40B 2.041B Application for Water Use Permit Agricultural Use, effective January 6, 2010;~~
- ~~2. Form 40B 2.041C Application for Water Use Permit Augmentation/Other Use, effective January 6, 2010;~~
- ~~3. Form 40B 2.041D Application for Water Use Permit Commercial Use, effective January 6, 2010; and~~
- ~~4. Form 40B 2.041E Application for Water Use Permit Potable Water Supply Use, effective January 6, 2010.~~

~~These application forms are available at District headquarters and on the District's website at [www.mysuwanneeriver.com](http://www.mysuwanneeriver.com).~~

~~(3) Minor Water Use Permit by rule.~~

~~(a) Except as provided in subsections (4) and (5) below, a minor water use permit by rule is hereby granted for the following classes of water use as referenced in paragraphs 40B 2.501(3)(a) through (e), F.A.C.: agricultural, commercial, potable water supply, augmentation and other uses, provided they meet the criteria specified below:~~

- ~~1. The average daily use is less than 100,000 gallons per day and the maximum daily use is less than 250,000 gallons per day.~~
- ~~2. The water will be either withdrawn from a single well with a uniform casing diameter of four inches or less or from a single withdrawal point with a pipe diameter of four inches or less.~~
- ~~3. The water is not transported across water management district boundaries.~~

~~4. All uses shall employ standard water conservation practices for the use type, such as the Districts water conservation requirements in the Water Use Permitting Guide.~~

~~5. In the event of a water shortage as declared by the Board, the permittee shall adhere to all limitations on withdrawal or use ordered by the District pursuant to Chapter 40B 21, F.A.C.~~

~~6. The permittee shall allow District personnel access at reasonable times and at District expense, or with District equipment, to monitor withdrawal rates and volumes authorized by this permit.~~

~~(b) Except as provided in subsections (4) and (5) below, a minor permit by rule is hereby granted for landscape irrigation uses, provided they meet the criteria specified below:~~

~~1. The average daily use is less than 100,000 gallons per day and the maximum daily use is less than 250,000 gallons per day.~~

~~2. The source of water will be:~~

~~a. Withdrawn from a single groundwater well with a uniform casing diameter of four inches or less; or~~

~~b. Withdrawn from a single surfacewater withdrawal point with a pipe diameter of four inches or less; or~~

~~c. Withdrawn from a water utility.~~

~~3. Irrigation of new landscape is allowed on Sunday through Sunday at any time of day for the initial 30 days following installation and every other day for the following 30 days for a total of one 60-day period, provided that the irrigation is limited to the minimum amount necessary for such landscape establishment.~~

~~4. Irrigation of established landscape during Eastern Standard Time shall not occur more than 1 day per week and not between the hours of 10:00 a.m. and 4:00 p.m., at a rate of no more than 3/4 inch application on such irrigation days. Irrigation of established landscape during Daylight Savings Time shall not occur more than 2 days per week and not between the hours of 10:00 a.m. and 4:00 p.m., at a rate of no more application than 3/4 inch of water on such irrigation days.~~

~~Any landscape irrigation uses that deviate from these criteria shall be required to obtain a permit in accordance with subsections (4) and (5) below.~~

~~(c) Except as provided in paragraphs (d) and (e) below, a minor water use permit by rule is hereby granted for hydrostatic testing, provided:~~

~~1. The permittee provides written notice to the District at least ten (10) business days prior to each hydrostatic test. The written notice shall include a location map showing the pipeline to be tested, volume of water to be pumped, which shall be no greater than two million gallons, test duration and discharge point(s).~~

~~2. The water is not transported across water management district boundaries by the pipeline being tested.~~

~~3. The permittee allows District personnel access at reasonable times and at District expense, or with District equipment, to monitor the test.~~

~~4. In the event of a water shortage as declared by the Board, the permittee adheres to all limitations on withdrawal or use ordered by the District pursuant to Chapter 40B 21, F.A.C.~~

~~5. In the event the use interferes with any existing legal use, the permittee shall obtain a general or individual water use permit.~~

~~(4) General Water Use Permit.~~

~~Except as provided in subsection (3) above or (5) below, a general water use permit is required under the general permit procedures in paragraph 40B 1.703(1)(c), F.A.C., for all withdrawals or diversions which are less than ten million gallons per day maximum daily rate of withdrawal and less than two million gallons per day average daily rate of withdrawal. Either the Executive Director or the Assistant Executive Director, or the Deputy Executive Director shall approve general permit applications under this paragraph without a hearing, except that any application recommended for denial shall be presented to the Governing Board for final agency action.~~

~~(5) Individual Water Use Permit.~~

~~An individual water use permit is required under the individual permit procedures in subsection 40B 1.703(2), F.A.C., for all withdrawals or diversions which exceed the limits established in subsection (4) above, and for all bottled water uses regardless of the quantity of the withdrawal or diversion.~~

~~(6) In the event the proposed water use is associated with a project that requires a water well permit under Chapter 373, Part III, F.S., and District rules, the water well application will be deemed part of the water use application and processed as one application under the WUP procedures.~~

*Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.103, 373.118, 373.219, 373.226, 373.244 FS. History—New 10-1-82, Amended 5-1-83, 6-16-88, 4-14-08, 1-6-10, (DATE).*

**40B-2.042 General Permits by Rule**

(1) The Board hereby grants a General Permit by Rule for all non-exempt consumptive uses of water within the District that satisfy the following criteria:

- (a) Have a cumulative average daily use less than 100,000 gallons per day on an annual basis;
- (b) Are from facilities having a cumulative withdrawal capacity of less than 1,000,000 gallons per day;
- (c) Are from groundwater wells less than eight (8) inches in diameter.
- (d) Are from surface water facilities which have a cumulative intake diameter less than six (6) inches.
- (e) Are consistent with requirements of any applicable mandatory reuse zones;
- (f) Does not exceed any of the specific thresholds identified in paragraph (4) of this rule;
- (g) None of the applicant's consumptive uses are for bottled water use;
- (h) The water is not transported across water management district boundaries;
- (i) All uses shall employ standard water conservation practices for the use type, such as the Districts water conservation requirements in the Water Use Applicant's Handbook;

(j) In the event of a water shortage as declared by the Board, the permittee shall adhere to all limitations on withdrawal or use ordered by the District pursuant to Chapter 40B-21, F.A.C.; and

(k) The permittee shall allow District personnel access at reasonable times and at District expense, or with District equipment, to monitor withdrawal rates and volumes authorized by this permit.

(2) The Board hereby grants a General Permit by Rule for landscape irrigation uses, provided they meet the criteria specified below:

- (a). The average daily use is less than 100,000 gallons per day and the maximum daily use is less than 250,000 gallons per day.
- (b). The source of water will be:
  - 1. Withdrawn from a single groundwater well with a uniform casing diameter of four inches or less; or
  - 2. Withdrawn from a single surfacewater withdrawal point with a pipe diameter of four inches or less; or
  - 3. Withdrawn from a water utility.

(c). For the purpose of this rule, the terms "residential landscape irrigation" and "non-residential landscape irrigation" are defined in this paragraph (c) as follows. "Residential landscape irrigation" means the irrigation of landscape associated with any housing unit having sanitary and kitchen facilities designed to accommodate one or more residents, including multiple housing units and mobile homes. "Non-residential landscape irrigation" means the irrigation of landscape not included within the definition of "residential landscape irrigation," such as that associated with public, commercial and industrial property, including commercial or transient housing units, hotel and motel units, and public medians and rights-of-way. For the purpose of this rule, "address" means the "house number" of the physical location of a specific property. This excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Services to determine a delivery location, the lot number shall be the property's address. An "even numbered address" means an address ending in the numbers 0, 2, 4, 6, 8 or letters A-M. An "odd numbered address" means an address ending in the numbers 1, 3, 5, 7, 9 or the letters N-Z.

1. When Daylight Savings Time is in effect, landscape irrigation shall occur in accordance with the following irrigation schedule:

- a. Residential landscape irrigation at odd numbered addresses or no address may occur only on Wednesday and Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- b. Residential landscape irrigation at even numbered addresses may occur only on Thursday and Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- c. Non-residential landscape irrigation may occur only on Tuesday and Friday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- d. No more than 3/4 inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

2. When Eastern Standard Time is in effect, landscape irrigation shall occur only in accordance with the following irrigation schedule:

- a. Residential landscape irrigation at odd numbered addresses or no address may occur only on Saturday and shall not occur between 10:00 a.m. and 4:00 p.m.; and
- b. Residential landscape irrigation at even numbered addresses may occur only on Sunday and shall not occur between 10:00 a.m. and 4:00 p.m.; and

c. Non-residential landscape irrigation may occur only on Tuesday and shall not occur between 10:00 a.m. and 4:00 p.m.; and  
d. No more than 3/4 inch of water may be applied per irrigation zone on each day that irrigation occurs, and in no event shall irrigation occur for more than 1 hour per irrigation zone on each day that irrigation occurs.

3. Landscape irrigation shall be subject to the following exceptions:

a. Irrigation using a micro-spray, micro-jet, drip, or bubbler irrigation system is allowed anytime.

b. Irrigation of new landscape is allowed at any time of day on any day for the initial 30 days and every other day for the next 30 days for a total of one 60-day period, provided that the irrigation is limited to the minimum amount necessary for such landscape establishment.

c. Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides when required by law, the manufacturer, or best management practices is allowed at any time of day on any day within 24 hours of application. Watering in of chemicals shall not exceed 1/4 inch of water per application except as otherwise required by law, the manufacturer, or best management practices.

d. Irrigation systems may be operated at any time of day on any day for maintenance and repair purposes not to exceed 20 minutes per hour per irrigation zone.

e. Irrigation using a hand-held hose equipped with an automatic shut-off nozzle is allowed at any time of day on any day.

f. Discharge of water from a water-to-air air conditioning unit or other water dependent cooling system is not limited by this permit.

g. The use of water from a reclaimed water system is allowed anytime. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented from another source during peak demand periods.

h. The use of recycled water from wet detention treatment ponds for irrigation is allowed anytime provided the ponds are not augmented from any ground or off-site surface water, or public supply sources.

Any landscape irrigation uses that deviate from these criteria shall be required to obtain a permit in accordance with subsection (4) below.

(3) The General Permit by Rule established in (1) and (2) above shall also be subject to the limiting conditions in Section 5.1 and the applicable limiting conditions for the use type in Section 5.2 of the Applicant's Handbook as incorporated by reference in rule 40B-2.902, F.A.C.

(4) Notwithstanding the criteria enumerated in paragraph (1) and (2), an individual permit is required for all consumptive uses, withdrawals or diversions of water:

(a) when the use of water does not meet the criteria in paragraph (1) or (2); or

(b) evidence indicates the use is likely to cause significant adverse impacts to existing water or land uses or the water resources or the withdrawal is within an area that is experiencing or is projected to experience withdrawal-related adverse water resource or environmental impacts.

(5) Permittees who wish to modify an existing general or individual water use permit to a General Permit by Rule as provided in subsection (1) and (2) above, or who wish to abandon a water use permit, must complete and submit Form 40B-2.042A: Water Use Permit Status Form, effective (DATE), which is hereby incorporated by reference. This form is available at District headquarters and on the District's website at [www.mysuwaneeeriver.com](http://www.mysuwaneeeriver.com).

(6) Any person whose withdrawal otherwise meets the thresholds for a General Permit by Rule as specified in paragraph (1) and (2) may submit an application to obtain an Individual Permit at their sole discretion.

(7) Either the Executive Director or the Assistant Executive Director may approve individual permit applications under this paragraph without a hearing, except:

(a) any application recommended for denial shall be presented to the Governing Board for final agency action;

(b) all bottled water uses regardless of the quantity of the withdrawal or diversion; or

(c) withdrawals or diversions which are greater than or equal to one million gallons per day average daily rate of withdrawal.

(8) To obtain a permit for water uses that require an individual permit, the applicant must complete and submit the following form which is hereby incorporated by reference:

(a) Form 40B-2.042B Water Use Permit Application, effective (DATE). This application form is available at District headquarters and on the District's website at [www.mysuwaneeeriver.com](http://www.mysuwaneeeriver.com).

(9) In the event the proposed water use is associated with a project that requires a water well construction permit under Chapter 373, Part III, F.S., and District rules, the water well construction permit shall not be issued until the water use permit has been issued.

*Rulemaking Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.103, 373.118, 373.219, 373.226, 373.244 FS. History–New (DATE) .*

#### **40B-2.051 Exemptions.**

The following activities are exempt from the requirements of obtaining water use permits specified in Rule 40B-4.041, FAC. No permit is required for:

- (1) Domestic uses as defined in Section 373.019(6), F.S.;
- (2) Water used strictly for fire-fighting purposes;
- (3) Withdrawals made for dewatering activities for a total period not to exceed 180 consecutive days;
- (4) Withdrawals or diversions from artificial retention structures when the withdrawal or diversion is needed to facilitate repair or maintenance of the retention structure; and
- (5) Groundwater remediation authorized by the Florida Department of Environmental Protection pursuant to Chapter 403, F.S., and Title 62, F.A.C.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.219 FS. History–New 10-1-82, Amended 5-1-83, 1-6-10.*

#### **40B-2.101 Content of Application.**

Applications for permits required by this chapter shall be filed with the District and contain the following:

- (1) The information specified in Section 373.229, F.S.;
- (2) The appropriate application form incorporated by reference in Rule 40B-2.042~~1~~, F.A.C., which is available at District headquarters and on the District’s website at [www.mysuwanneeriver.com](http://www.mysuwanneeriver.com).
- (3) Best available technical and other supporting information sufficient to demonstrate that the use meets the conditions for issuance as specified in Section 373.223(1), F.S., and section 40B-2.301, F.A.C. Any supporting information or calculations required to be prepared by a professional regulated under Florida law shall bear the certification of such professional.
- (4) The relevant information required by section ~~21.0~~, Water Use ~~Applicant’s Handbook-Permitting Guide~~.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented .103, 373.116, 373.117, 373.1175, 373.219, 373.223, 373.229 FS. History–New 10-1-82, Amended 1-6-10.*

#### **40B-2.201 Permit Fees.**

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.109 FS. History–New 10-1-82, Amended 5-1-83, 6-16-88, 1-6-10, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40B-2.301 Conditions for Issuance of Permits.**

~~(1) To obtain a water use permit, renewal, or modification pursuant to the provisions of this chapter, 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.~~

~~(2) Reasonable assurances must be provided that the following criteria are 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), F.S., with consideration given to the factors set forth in subsection 62-40.410(2), F.A.C.~~

~~(k) A permit applicant's proposed reasonable beneficial use of an alternative water supply is presumed to be in the public interest.~~

~~(3) The standards and criteria set forth in the Water Use Permitting Guide, effective March 24, 2013, hereby incorporated by reference into this chapter, if met, will provide the reasonable assurances required in this section. This document is available at District headquarters and on the District's website at [www.mysuwanneeriver.com](http://www.mysuwanneeriver.com) or at [http://www.flrules.org/Gateway/reference.asp?No=Ref\\_02359](http://www.flrules.org/Gateway/reference.asp?No=Ref_02359).~~

(1) To obtain a water use permit, renewal, or modification, an applicant must provide reasonable assurance that the proposed consumptive use of water, on an individual and cumulative basis:

(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.

(2) In order to provide reasonable assurances that the consumptive use is reasonable-beneficial, an applicant shall demonstrate that the consumptive use:

(a) Is a quantity that is necessary for economic and efficient use;

(b) Is for a purpose and occurs in a manner that is both reasonable and consistent with the public interest;

(c) Will utilize a water source that is suitable for the consumptive use;

(d) Will utilize a water source that is capable of producing the requested amount;

(e) Except when the use is for human food preparation and direct human consumption, will utilize the lowest quality water source that is suitable for the purpose and is technically, environmentally, and economically feasible;

(f) Will not cause harm to existing offsite land uses resulting from hydrologic alterations;

(g) Will not cause harm to the water resources of the area in any of the following ways:

1. Will not cause harmful water quality impacts to the water source resulting from the withdrawal or diversion;

2. Will not cause harmful saline water intrusion or harmful upconing;

3. Will not cause harmful hydrologic alterations to natural systems, including wetlands or other surface waters; and

4. Will not otherwise cause harmful hydrologic alterations to the water resources of the area;

(h) Is in accordance with any minimum flow or level and implementation strategy established pursuant to Sections 373.042 and 373.0421, F.S.; and

(i) Will not use water reserved pursuant to Subsection 373.223(4), F.S.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421, 373.185, 373.219, 373.223, 373.226, 373.227, 373.228, 373.229, 373.232, 373.236, 373.239, 373.250 FS. History—New 10-1-82, Amended 5-1-83, 1-6-10, 3-24-13 DATE.*

#### **40B-2.311 Competing Applications.**

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.233, 373.236 FS. History—New 10-1-82, Amended 1-6-10, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40B-2.321 Duration of Permits.**

(1) Pursuant to Section 373.236, F.S., the District shall issue permits with 20-year durations when the applicant requests a 20-year duration as part of its permit application and provides reasonable assurance that the District's conditions for permit issuance will be met for 20 years. The Legislature has established four exceptions to the 20-year maximum permit duration:

(a) The District shall issue permits with up to a 50-year duration to a municipality or other governmental body, or to a public works or public service corporation, when required to provide for the retirement of bonds for the construction of waterworks or waste disposal facilities.

(b) The District shall issue permits with at least a 20-year duration when the permit is approved for the development of alternative water supplies. The District shall extend the duration of such permits up to 50 years when the following conditions are met:

1. The permittee has issued bonds for construction of the alternative water supply project;
  2. The permittee submits a written request to extend the duration of the permit to the District prior to the permit expiration date;
- and
3. The Governing Board determines that the water use will continue to meet the conditions for issuance in Rule 40B-2.301, F.A.C., for such additional time as is required for the retirement of the issued bonds.

(c) When a private, rural landowner contributes greater than fifty percent (50%) of the land or funding needed to enable the expeditious implementation of an alternative water supply development project the District shall issue permits with up to a 50-year duration to a municipality, county, special district, regional water supply authority, multi-jurisdictional water supply entity, and public or private utilities. However, this provision does not apply to public or private utilities created for or by a private landowner after April 1, 2008. An applicant that requests a longer duration permit under this paragraph must have an agreement with the landowner to efficiently pursue an alternative public water supply development project identified in the District's regional water supply plan and meeting the water demands of both the applicant and the landowner. In addition, reasonable assurances must be provided that the District's conditions for issuance will be met for the duration of the permit. All such permits will require submittal of a compliance report every ten years to maintain reasonable assurance that the conditions for permit issuance applicable at the time of review of the compliance report are met, following which the Governing Board may modify the permit as necessary to ensure that the use meets the conditions for issuance.

(d) The District shall issue permits with at least a 25-year duration when the permit is approved for a renewable energy generating facility or the cultivation of agricultural products on lands consisting of 1,000 acres or more for use in the production of renewable energy, as defined in Section 366.91(2)(d), FS. The duration shall be based on the facility's anticipated life provided reasonable assurances are provided that the conditions for issuance will be met for that time period. Otherwise, the permit will be issued for a shorter duration that reflects the longest period for which such reasonable assurances are provided.

(2) The Governing Board shall require ten-year compliance reports for permits with 20-year or longer durations issued pursuant to paragraphs (1)(a), (b) or (d) above when necessary to maintain reasonable assurance that the initial conditions for permit issuance will continue to be met for the 20-year or longer duration.

(3) All other permits shall have shorter durations based upon the period of time for which reasonable assurances are provided that the District's conditions for permit issuance are met.

(4) Additional information including the data requirements for the ten-year compliance reports and special duration factors are contained in the District's Water Use Permitting Guide.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.236 FS. History—New 10-1-82, Amended 1-6-10, DATE*

#### **40B-2.331 Modification of Permits.**

A permittee may seek modification of an unexpired permit consistent with Rule 40B-1.703, F.A.C.

(1) A permittee may apply for modification by letter to the District if the proposed modification involves water use less than 100,000 gallons per day. Either the Executive Director or the Assistant Executive Director shall approve proposed modifications by letter without a hearing in the following circumstances, except that any request for modification recommended for denial shall be presented to the Governing Board for final agency action:

- (a) A change in conditions has resulted in the water allowed under the permit becoming inadequate for the permittee's need; or
- (b) The proposed modification would result in a more efficient use of water than is possible under the existing permit.

(2) A permittee may apply to modify an existing permit to voluntarily implement the District's water use monitoring and reporting requirements as set forth in Section ~~3-44.1~~ of the Water Use ~~Permitting Guide~~ Applicant's Handbook. The Governing Board shall determine final agency action on modifications under this paragraph.

(3) All permit modification applications other than under subsection (1) above shall comply with the requirements of Section 373.229, F.S., and shall contain all of the information required by the permit conditions and by Rule 40B-2.101, F.A.C. This shall include all permits that have been previously considered by the Governing Board for issuance.

(4) All requests to modify the terms of an unexpired permit shall be evaluated under the criteria of Rule 40B-2.301, F.A.C., and subject to the limiting conditions in Rule 40B-2.381, F.A.C.

(5) Following the District's review of a ten-year compliance report, the Governing Board may modify the permit to ensure that the use meets the conditions for permit issuance.

(6) The Governing Board shall issue an order to modify an existing use when conditions warrant such action in order to obtain the most beneficial use of the water resources of the state and to protect the public health, safety, and welfare and the interests of the water users affected. Such order must include a finding by the Governing Board that the use proposed to be modified is detrimental to other water users or to the water resources of the state.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 120.60, 373.083, 373.171, 373.219, 373.223, 373.229, 373.239, 373.246 FS. History—New 10-1-82, Amended 5-1-83, 1-6-10, 3-14-13, DATE.*

#### **40B-2.341 Revocation of Permits.**

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 120.60, 373.171, 373.243 FS. History—New 10-1-82, Amended 1-6-10, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40B-2.351 Transfer of Permits.**

(1) Water Use Permit Transfer Form: Form Number 40B-2.351A, effective January 6, 2010, is hereby incorporated by reference. This form is available at District headquarters and on the District's website at [www.mysuwanneeriver.com](http://www.mysuwanneeriver.com).

(2) Persons who wish to continue a permitted water use and who have acquired the ability to operate and maintain the withdrawal and/or diversion facilities, shall apply to the District within ~~90~~30 days of acquiring such ability. Such persons must provide reasonable assurances of the ability to operate and maintain the withdrawal and/or diversion facilities for the duration of the permit in accordance with the permit terms and conditions. Permit transfer requests shall be submitted on the District's Water Use Permit Transfer Form 40B-2.351A. The District shall transfer the permit provided the previously permitted use remains the same.

(3) Persons who apply to transfer a permit under subsection (2) above and propose to change the source, use, or withdrawal quantity or source quality from those specified in the permit, must follow the procedures for modification in Rule 40B-2.331, F.A.C.

(4) All water use under a transferred permit must comply with the terms and conditions of that permit.

(5) A permit not transferred as prescribed herein shall be void without any further action by the District.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.219, 373.239 FS. History—New 10-1-82, Amended 1-6-10, DATE.*

#### **40B-2.361 Renewal of Permits.**

(1) An application for permit renewal may be made at any time within one year of the expiration date, unless the permittee can show good cause for earlier consideration. All permit renewal applications shall be treated in the same manner as the initial application.

(2) All permit renewal applications shall be processed in the same manner as the original application and shall contain reasonable assurances that the proposed water use meets all of the conditions for issuance in Rule 40B-2.301, F.A.C., and the Water Use Applicant's Handbook ~~Permitting Guide~~.

(3) If an application and appropriate fee for renewal are not received either prior to or on the permit expiration date, the permit shall expire without any action by the District.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.219, 373.223, 373.229, 373.239 FS. History—New 10-1-82, Amended 1-6-10, 1-6-10, DATE.*

#### **40B-2.381 Limiting Conditions.**

(1) The Governing Board shall impose such reasonable conditions upon any water use permit as are necessary to assure that the proposed use of water is consistent with the overall objectives, policy, and purpose of the District as set forth in Chapter 373, F.S., and will not be harmful to the water resources of the District.

(2) Standard limiting conditions which will be placed on every water use permit are contained in section ~~3-6-15.1~~, Water Use Permitting Guide Applicant's Handbook.

(3) Special limiting conditions for each water use class designated in Rule 40B-2.501, F.A.C., are contained in section ~~5.23-6.2~~, Water Use Permitting Guide Applicant's Handbook.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.116, 373.216, 373.219, 373.223, 373.227, 373.236, 373.250 FS. History—New 10-1-82, Amended 5-1-83, 1-6-10, DATE.*

#### **40B-2.441 Temporary Water Use Permits.**

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.219, 373.223, 373.229, 373.244 FS. History—New 1-6-10, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40B-2.451 Emergency Authorization for Withdrawal or Diversion.**

*Rulemaking Authority 373.044, 373.113, 373.171, 373.216 FS. Law Implemented 120.60(5), 373.113, 373.219, 373.244 FS. History—New 10-1-82, Repealed 1-6-10.*

#### **40B-2.501 Classification of Permits.**

Each permit for water use shall be assigned one or more classifications according to the source(s) of supply, method(s) of withdrawal, and use(s) of the water. The classifications shall be as follows:

(1) Source of Supply Classes.

(a) Surface Water. Withdrawals from surfacewater bodies shall be classified by the basin or subbasin as specified by the rule or by the specific surfacewater source.

(b) Ground Water. Withdrawals from groundwater aquifers shall be classified as either Confined Floridan Aquifer, Unconfined Floridan Aquifer, Artesian Aquifer, or Surficial Aquifer.

(c) Alternative Water Supplies.

(2) Method of Withdrawal Classes.

(a) Pumped.

(b) Diverted.

(3) Water Use Classes and Subclasses.

(a) Agriculture.

1. Livestock.

2. Aquaculture.

3. Nursery.

4. Crops, Fruits, and Vegetables.

5. Forage, Pasture, and Sod.

(b) Commercial.

1. Industrial.

2. Mining.

3. Power Plant.

4. Hydrostatic Testing.

5. Golf Course.

6. Recreation.

7. Landscape.

8. Bottled Water.

9. Other Commercial.

- (c) Potable Water Supply.
  - 1. Public Supply.
  - 2. Private Utility.
  - 3. Non-Community Water Supply.
- (d) Augmentation.
- (e) Other.

These classifications do not establish either reasonable-beneficial use, or any priority ranking of source, withdrawal method, or water use classes.

*Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.216, 373.246 FS. History–New 10-1-82, Amended 5-1-83, 1-6-10.*

#### **40B-2.751 Investigation, Enforcement, and Penalties.**

*Rulemaking Authority 373.044, 373.129, 373.219(2) FS. Law Implemented 373.043, 373.044 FS. History–New 10-1-82, Repealed 1-6-10.*

#### **40B-2.781 Enforcement.**

*Rulemaking Authority 373.044, 373.083, 373.119, 373.129, 373.136, 373.219(2) FS. Law Implemented 373.044, 373.119, 373.129, 373.136, 373.243 FS. History–New 1-6-10, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40B-2.901 Forms and Instructions.**

*Rulemaking Authority 373.044, 373.113, 373.171, 373.219, 373.229 FS. Law Implemented 373 Part II FS. History–New 10-1-82, Amended 5-1-83, Repealed 9-7-10.*

#### **40B-2.902 Publications Incorporated by Reference**

- (1) The standards and criteria set forth in the Water Use Applicant’s Handbook, effective (effective date), hereby incorporated by reference into this chapter, if met, will provide the reasonable assurances required in section 40B-2.301, F.A.C. This document is available at District headquarters and on the District’s website at [www.mysuwanneeriver.com](http://www.mysuwanneeriver.com) or at <http://www.flrules.org/Gateway/reference.asp?No=Ref-02359>
- (2) The Governing Board hereby adopts by reference the following rules of the Florida Department of Environmental Protection: 62-40.412(7) and 62-40.412(8), effective {insert effective date of 62-40 amendment}, which are hereby incorporated by reference as of (effective date).

*Rulemaking Authority 373.044, 373.113, 373.171, 373.219, 373.229 FS. Law Implemented 373 Part II FS. History–New date*

SUWANNEE RIVER WATER MANAGEMENT  
DISTRICT

# Water Use Applicant's Handbook

Incorporated by Reference in 40B-2.301,  
Florida Administrative Code

August xx, 2013

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## 1.0 General Provisions

The purpose of this Water Use Applicant's Handbook is to assist in the understanding of the water use permitting process. It establishes the framework for the applicant to meet the conditions for issuance in section 40B-2.301, Florida Administrative Code (FAC), thereby providing a consistent review process.

The Water Use Applicant's Handbook is incorporated by reference into chapter 40B-2, FAC. The Water Use Applicant's Handbook must be read in conjunction with section 120.60, FS, and chapters 40B-1 and 40B-2, FAC, as applicable. All criteria in the Water Use Applicant's Handbook apply to processing general and individual permit applications. Copies of these statutes and rules are available online at [www.mysuwanneeriver.com](http://www.mysuwanneeriver.com), or at District headquarters.

### 1.1 Definitions

1. Aesthetic Use - The use of water to augment fountains, waterfalls, and landscape lakes and ponds where such features are entirely ornamental or decorative.

2. Agricultural Use - The use of water for crop production or the growing of farm products including vegetables, pasture, sod, or other cash crops, waste management or watering or washing livestock. It includes soil flooding for pest control or soil preservation, and freeze protection and product washing.

3. Alternative Water Supplies - Saltwater; brackish surface and ground water; surface water captured primarily during wet-weather flows; sources made available through the addition of new storage capacity for surface or ground water; water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses; the downstream augmentation of water bodies with reclaimed water; storm water and any other water supply sources that is designated as non-traditional for a water supply planning region in the applicable regional water supply plan.

4. Aquaculture Use - The use of water for the spawning, cultivating, harvesting, or marketing of fin-fish, shellfish, crustaceans, alligators, or other aquatic organisms that have economic value.

5. Aquifer - A geologic formation, group of formations, or part of a formation that contains sufficient saturated, permeable material to yield water to wells and springs.

6. Aquifer Remediation - A use of water involving the withdrawal of ground water for the authorized removal of contaminants for the purposes of restoring water quality.

7. Aquifer Storage and Recovery - Projects involving approved Class V injection wells for the injection of fresh water into a groundwater reservoir as a means of storing the water with the intent of later withdrawing (recover) the water stored.

8. Area of Influence – For groundwater systems, the area of influence is defined by the cone of depression (defined below), and for surfacewater systems the area of influence is defined as the extent to which the withdrawal results in a measurable change in surfacewater levels or flows.

9. Augmentation Use - The addition of water to artificially maintain the level of natural or artificial water bodies to either protect habitat for fish and wildlife, or to provide for recreational uses.

10. Average Daily Rate of Withdrawal (ADR) - The volume of water withdrawn during 365 consecutive days divided by 365, expressed in million gallons per day. The total volume may be calculated using historical data or projected based on the best available information.

11. Basin - As used in the context of interbasin transfer, those major river basin areas delineated on Map Series Number 72, published by the Florida Department of Natural Resources, Bureau of Geology, 1975, down to the accounting unit level of recognition. The best information available shall be used to precisely define basin boundaries.

12. Best Available Information – Existing facts, data, documents, studies, obtained from investigations that need not be created, studied or collected.

13. Best Available Technology – The most effective and efficient development and operational techniques that are economically and technically viable to reduce water use.

14. Bottled Water - All water which is sealed in bottles, packages, or other containers and offered for sale for human consumption, including bottled mineral water, as defined in paragraph 500.03(1)(d), FS.

15. Change in ownership - Transfer of title to real property from the permittee to another entity.

16. Cone of Depression – The conical shape created by the potentiometric surface which shows the relationship of drawdown with distance as a result of pumping from one or more wells.

17. Confined Aquifer - An aquifer that contains ground water which is confined under pressure and bounded between significantly less permeable materials, such that water will rise in a fully penetrating well above the top of the aquifer surface. In cases where the hydraulic head is greater than the elevation of the overlying land surface, a fully penetrating well will naturally flow at the land surface without using any means of pumping or lifting.

18. Confining Unit - A body of significantly less permeable material than the aquifer, or aquifers, that it stratigraphically separates. The hydraulic conductivity (K) (see definition below) may range from nearly zero to some value significantly lower than that of the adjoining aquifers.

19. Constant Drawdown - Pumping the source unit to a static level. The term is also used in the context of aquifer performance tests associated with flowing wells.

20. Demand Management - Reducing demand for water through activities which result in improved efficiencies in water use.

21. Desalination - A process to remove dissolved solids from water to meet standards for the proposed use.

22. Dewatering - The removal of ground or surface water to allow construction, excavation, or backfill to be conducted in a dry condition.

23. Direct Withdrawal –The withdrawal of water from a source that reduces the source by a ratio of one unit of water withdrawn to one unit of water in the source.

24. Domestic Use - The use of water for the individual personal household purposes of drinking, bathing, cooking, and sanitation. All other uses shall not be considered domestic.

25. Drawdown - The vertical distance between the potentiometric surface and the surface of the cone of depression.

26. Effluent - Water that is not reused after flowing out of a wastewater treatment facility.

27. Elevation - The height in feet above mean sea level according to the National Geodetic Vertical Datum or North American Vertical Datum (NGVD 1929 or NAVD 1988). It may also be expressed in feet above mean sea level (MSL) as the reference datum.

28. Essential Use - The use of water for fire-fighting purposes, health and medical purposes, and to satisfy Federal, State, or local public health, safety and welfare requirements.

29. Evapotranspiration - The loss of water to the atmosphere by evaporation from land and water surfaces and by transpiration from plants.

30. Existing Legal Use - All uses of water which are exempt under chapter 373, FS, or 40B-2, FAC, or which have a valid chapter 373, Part II, FS, permit.

31. Fresh Water - An aqueous solution with a chloride concentration equal to or less than 250 milligrams per liter (mg/L).

32. Florida-friendly landscape – Quality landscapes that conserve water, protect the environment, are adaptable to local conditions, and are drought tolerant. The principles of Florida-friendly landscape include planting in the right place, efficient watering, appropriate fertilization, mulching, attraction of wildlife, responsible management of yard pests, recycling yard waste, reduction of stormwater runoff, and waterfront protection. Additional components of Florida-friendly landscape include planning and design, soil analysis which may include the use of solid waste compost, practical use of turf, and proper maintenance.

33. Golf Course Use - Water used to irrigate an establishment designed and used for playing golf.

34. Hydroperiod - The range and duration of water levels in a surfacewater body, including wetlands.

35. Impoundment - Any lake, reservoir, pond or other containment of surface water occupying a depression or bed in the earth's surface and having a discernible shoreline.

36. Indirect Withdrawal –The withdrawal of water from a source that reduces the source by a ratio of less than one unit of water withdrawn to one unit of water in the source.

37. Irrigation Return Flow - The flow of water under the influence of gravity to a watercourse, which occurs as surfacewater flow or shallow groundwater flow, resulting from the application of water for supplemental irrigation purposes.

38. Landscape Irrigation Use - Outside watering or sprinkling of flora which are not in a commercial nursery or irrigated agricultural crop environment. This use class includes the watering of lawns, shrubs, private gardens, and trees in such diverse settings as residential landscaping, public or commercial recreation areas, or public and commercial business establishments.

39. Linear Move Irrigation System - A type of self-propelled overhead irrigation system that travels laterally and emits water under low pressure at a distance of three to four feet above the crop at a rate ranging from four to sixteen gallons per minute.

40. Maximum Daily Rate of Withdrawal (MDR) - The volume of water which can be withdrawn during a 24-hour period expressed in million gallons per day.

40. Micro-irrigation - The application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitters or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or concepts such as bubbler, drip, trickle, mist or microspray and subsurface irrigation.

41. Minimum Flows and Levels - The minimum flow for a watercourse or the minimum water level for ground water in an aquifer or the minimum water level for a surfacewater body at which further withdrawals would be significantly harmful to the water resources or ecology of the area. These levels have been established by the District for designated water bodies in chapter 40B-8, FAC.

42. New Water Use – A proposed use, a use for which the permit has expired, or an existing use that has never been permitted and is not exempt under part II, chapter 373, FS. or chapter 40B-2, FAC.

43. Nursery Use - The use of water on-premises on or in which nursery stock is grown, propagated, or held for sale, distribution, or sold or reshipped.

44. Other Outside Uses - The use of water outdoors for the maintenance, cleaning, or washing of structures and mobile equipment including automobiles, and the washing of streets, driveways, sidewalks, and similar areas.

45. Portable Guns - Large sprinklers that discharge water through the air and are moved from location to location irrigating in a circular spray pattern and include truck or tractor mounted units.

46. Potable Water - Water that is suitable for drinking, culinary, and other domestic purposes.

47. Potentiometric Surface – A surface which represents the hydraulic head in an aquifer and is defined by the level to which water will rise above a datum plane in wells that penetrate the aquifer.

48. Power Production Use - The use of water for steam generation, cooling, and replenishment of cooling reservoirs.

49. Project Site – The real property on which the withdrawal facilities are located and the proposed water use will occur. For the purpose of water utility use, the project site is the service area and the real property on which the withdrawal facilities are located.

50. Public Interest - Broad-based interests and concerns that are collectively shared by members of a community, or residents of the District or the State.

51. Public Water Supply - Water treated to drinking water standards for potable purposes.

52. Reasonable-beneficial Use - The use of water in such quantity as is necessary for economic and efficient consumption for a purpose and in a manner which is both reasonable and consistent with the public interest.

53. Saline Water/Brackish Water- An aqueous solution with a chloride concentration greater than 250 mg/L and less than that of seawater.

54. Saline Water Interface – The hypothetical surface of chloride concentration between freshwater and saline water where the chloride concentration is 250 mg/L at each point on the surface.

55. Seawater - An aqueous solution with a chloride concentration equal to or greater than 19,000 mg/L.

56. Seepage Irrigation System - A means to artificially supply water for plant growth which relies primarily on gravity to move the water over and through the soil, and does not rely on emitters, sprinklers or any other type of device to deliver water to the vicinity of plant use.

57. Self-Supplied Residential Use - Any water use associated with the maintenance of a private residence.

58. Semi-Confined Aquifer - A completely saturated aquifer that is bounded above by a semi-pervious layer with a low, but measurable, permeability, and bounded below by a layer that is either impervious or semi-pervious.

59. Supplemental Irrigation Requirement (SIR) – The volume of water, usually expressed in acre-inches, representing the difference between the estimated evapotranspiration of a given crop and the rainfall expected for a specific geographic area over a prescribed time period.

60. Traveling Guns - Sprinklers that discharge water through the air above the level of the plant being irrigated which are self-propelled and move slowly across the area being irrigated, such as lateral move or linear irrigation systems.

61. Unconfined Aquifer - A permeable geologic unit or units only partly filled with water and overlying a relatively impervious layer. Its upper boundary is formed by a free water table under atmospheric pressure. It is also referred to as a Water Table aquifer.

62. Water or Waters in the State - Any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.

63. Water-Based Recreation Use - Water used for public and private swimming and wading pools including water slides. This term does not include pools specifically maintained to provide habitat for aquatic life.

64. Water Conservation – The efficient use of water that leads to a reduction of water use.

65. Water Resource Caution Area - A geographic area identified by the District that is projected to have inadequate water resources during the next twenty years.

66. Water Resource Recovery Area – A geographic area identified by the District as having inadequate water resources to meet current demands.

67. Water Table - The surface of an unconfined aquifer at which the pressure is equal to that of the atmosphere. It is defined by the level where water within an unconfined aquifer rises in a well.

68. Water Use - Any use of water which reduces the supply from which it is withdrawn or diverted.

69. Water Utility Use - Water used for withdrawal, treatment, transmission, and distribution by potable water systems. Water utility uses include community and non-community public water systems as defined in chapter 62-550, Florida Administrative Code.

## 1.2 Acronyms and Abbreviations

### RESERVED

## 1.3 Water Use Permit Program Objectives, Organization, and Authorizations

Chapter 373, Florida Statutes (FS), authorizes and directs the District to regulate the use of water within its jurisdictional boundaries. The water use regulatory program ensures that water uses permitted are reasonable-beneficial, will not interfere with any presently existing legal uses of water, and are consistent with the public interest, as required by section 373.223, FS. The District has adopted rules for regulating water uses, which are set forth in chapters 40B-1 and 40B-2, FAC, and in this Water Use Applicant's Handbook.

## 1.4 Permitting Procedures

### 1.4.1 Permits Required, Thresholds and Permits by Rule

The District has established procedures for issuing permits based on the quantity of water requested or the use type. Procedures for processing water use permit applications are set forth in section 40B-1.703, FAC. Specifically, these rules set forth procedures for filing applications, requesting additional information, public noticing of permit applications, and requesting administrative hearings.

#### 1.4.1.1 General Permits by Rule

General permits by rule shall be considered as prescribed in 40B-2.042, FAC.

#### 1.4.1.2 Individual Permits

Individual permits must be obtained for water use activities that are not exempt pursuant to section 40B-2.051, FAC, or that do not qualify for a general permit by rule pursuant to section 40B-2.042, FAC.

#### 1.4.1.3 Exemptions

Exemptions shall be considered as prescribed in 40B-2.051, FAC.

#### 1.4.1.4 Temporary Water Use Permits

Requests for temporary water use permits must be submitted to the District in the form of a letter. A water use permit application for the proposed use must be pending with the District. The 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. 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.

Temporary permits issued by the District will expire on the day following the next regular Governing Board meeting, at which meeting the Governing Board will determine whether the requested water use meets the criteria in subsection 373.223(1), FS, and is necessary prior to final action on the related water use permit application.

At such meeting, the Governing Board may reauthorize the temporary use to expire on the day following the next regular Governing Board meeting.

The Governing Board will terminate a temporary permit if the water use does not meet the criteria in subsection 373.223(1), FS, is causing adverse effects to occur, or is no longer needed.

The issuance of a temporary water use permit under this section and section 373.244, FS, does not obligate the District to issue a water use permit pursuant to section 373.223, FS.

#### 1.4.2 Pre-application Considerations

Pre-application meetings are encouraged. The purpose of a pre-application meeting is to identify issues that need to be addressed in detail. Pre-application meetings assist the applicant to submit a complete application. Information provided during a pre-application meeting is considered preliminary and not part of the formal application process.

##### 1.4.2.1 Third Party Interests

Governmental entities, organizations, and affected citizens may have an interest in a permit action. Third party interests that would be substantially affected by issuance of a permit will have the opportunity to comment on the application and request an administrative hearing pursuant to paragraph 40B-1.703(2)(b), FAC.

Procedures governing the District's proceedings under chapter 120, FS, for variances and waivers, are contained in chapter 28-104, FAC, Uniform Rules of Procedure. Exceptions to the Uniform Rules of Procedure were granted by the Administration Commission and are set forth in chapter 40B-1, FAC.

#### 1.4.3 Competing Applications

Pursuant to section 373.233, FS, complete applications are considered to be competing when staff evaluation indicates that the proposed use of water by two or more applicants will exceed the amount of water that is available for use. All complete permit applications that are pending at the same time and are requesting water from the same source will be considered competing. Competing permit applications will be processed pursuant to section 373.233, F.S.

#### 1.4.4 Phased Projects

Many large-scale or long-term projects are developed in phases. The District encourages planning for long-term water needs in order to compare the projected demands of the project with water resource availability in a region.

Applicants for projects that are developed in phases should consider their water needs for all phases of the proposed project. However, the District evaluates permit applications based on the demonstrated need for water of the project only through the recommended duration of the permit. Therefore, applicants should focus their water use projections for the term of the permit and only for those phases of the project reasonably expected to use water under the permit during or prior to permit expiration.

As additional phases are projected to be constructed, the existing water use permit can be modified to reflect the increasing demand associated with the new phase or phases pursuant to the criteria applicable at the time of the modification. The permittee cannot rely on receiving permit authorization for unpermitted phases of a project due to issuance of a water use permit for a portion of the phased project.

#### 1.4.5 Permitting Concurrency

In the event the proposed water use is associated with a project that requires a water well permit under chapter 373, Part III, F.S., and District rules, the water well construction permit shall not be issued until the water use permit has been issued.

#### 1.4.6 Application Review Process

#### 1.4.6.1 Submittal of Application

All permit application materials, notices, and verifications of exemption must be submitted to the District's headquarters in Live Oak, Florida in paper form. Applications shall be considered received by the District on the date submitted before 5:00 p.m., Monday through Friday, excluding designated District holidays. Electronic copies of application materials may also be submitted on a compact disk, digital video disk or other electronic media in addition to the required paper copies.

#### 1.4.6.2 Processing Timeframes

The completed permit application shall be processed within the prescribed timeframes as set forth in 40B-1.703, FAC.

#### 1.4.6.3 Noticing Requirements: Receipt and Intended Agency Action

Noticing of individual applications shall occur as prescribed in 40B-1.703(2)(b), FAC.

Upon request, the District shall furnish copies of permit application materials to the person making the request. Payment for copying charges may be required.

#### 1.4.6.4 Staff Review and Requests for Additional Information

Proposed water uses for general permit by rule and individual permits must meet the conditions for issuance of permits pursuant to section 40B-2.301, FAC.

All applications shall be processed as proposed water uses, including existing unpermitted uses of water and uses previously authorized by a permit that has expired.

Prior construction of or the physical existence of withdrawal facilities will not be considered in approving or denying an application for a permit.

Pursuant to section 40B-1.703, FAC, the District shall require the applicant to submit additional information if the application is incomplete. The need for additional information will be based, in part, on the amount of the proposed withdrawal, characteristics of the requested water source in the region, potential for environmental harm, potential for interference with existing legal uses, and feasibility of providing data.

#### 1.4.7 Professional Certification of Supporting Documents

Any supporting information or calculations required to be prepared by a professional regulated under Florida law shall bear the certification of such professional.

#### 1.4.8 Contiguous and Non-contiguous Parcels

A water user shall obtain one permit for all withdrawals that are intended to serve contiguous property. Two or more properties represented by their owners to be separate properties shall be aggregated and treated as a single property for permitting purposes.

when the District determines that the properties are physically proximate and either share the same irrigation infrastructure or are operated as a common enterprise. However, when multiple use types, as defined in Rule 40B-2.501, F.A.C., are served by separate withdrawal facilities, separate individual permits may be issued.

Applicants with legal control over multiple non-contiguous parcels within the same county may apply for one permit encompassing all such parcels, provided that it is shown that the water use for each parcel is in the same water use classification.

#### 1.4.9 Fees

Fees for processing water use permit applications are as prescribed in 40B-1.706, FAC.

#### 1.4.10 Permit Modifications

Permits may be modified as provided in section 40B-2.331, FAC. Under paragraph 40B-2.331(1), FAC, qualified applicants may apply for a letter modification.

Modifications to permits that do not qualify for a letter modification will be processed as new water uses in accordance with subsections 40B-2.331(3) and (4), FAC, and section 373.229, FS.

An application for a permit modification for an increased allocation will be processed as a proposed water use for the quantity of the increased allocation requested.

#### 1.4.11 Permit Renewals

Applications for permit renewal shall be made pursuant to section 40B-2.361, FAC. Permits for which renewal applications have been submitted prior to the expiration date shall remain in effect until final agency action occurs.

#### 1.4.12 Governing Board Meetings

Governing Board meetings are held at least once per month and are open to the public. The District's website ([www.mysuwanneeriver.com](http://www.mysuwanneeriver.com)) may be viewed for copies of meeting agendas and minutes.

#### 1.5 Permit Duration

Pursuant to section 373.236, FS, when requested by an applicant, a water use permit shall have a duration of 20 years, provided the applicant demonstrates reasonable assurance that the proposed use meets the conditions for issuance as stated in 40B-2.301, FAC, for the requested duration.

The District may issue permits with up to a 50-year duration to a municipality or other governmental body, or to a public works or public service corporation, when required to

provide for the retirement of bonds for the construction of waterworks or waste disposal facilities.

The District shall issue permits with at least a 20-year duration when the permit is approved for the development of alternative water supplies.

When a private, rural landowner contributes greater than fifty percent (50%) of the land or funding needed to enable the expeditious implementation of an alternative water supply development project identified in the District's regional water supply plan, the District shall issue permits with up to a 50-year duration to a municipality, county, special district, regional water supply authority, multi-jurisdictional water supply entity, and public or private utilities except those created for or by a private landowner after April 1, 2008, which have an agreement with the landowner that meets the water demands of both the applicant and the landowner.

The District shall issue permits with at least a 25-year duration when the permit is approved for a renewable energy generating facility or the cultivation of agricultural products on lands consisting of 1,000 acres or more for use in the production renewable energy, as defined in subsection 366.91(2)(d), FS. The duration shall be based on the facility's anticipated life. Otherwise, the permit will be issued for a shorter duration that reflects the longest period for which such reasonable assurances are provided.

Otherwise, permits may be issued for shorter durations that reflect the time periods for which such reasonable assurances can be provided.

## 2.0 Demonstration of Water Need, Source(s), and Demand

### 2.1. Demonstration of Water Need

#### 2.1.1 Legal Control over Project Site

The Applicant must provide reasonable assurance of its ability to operate and maintain the withdrawal and/or diversion facilities for the duration of the permit in accordance with the permit terms and conditions. If the Applicant is a governmental entity with eminent domain authority, demonstration of its intent to condemn the property where the withdrawal and/or diversion facilities are located shall be sufficient reasonable assurance of its ability to operate and maintain the withdrawal and/or diversion facilities. The District shall condition such permits upon the governmental entity's exercise of its eminent domain authority. The requirements of this section shall not apply to proposed water uses reviewed in accordance with 40B-2.025(2), F.A.C., under the Florida Power Plant Siting Act.

#### 2.1.2 Legal Control over Withdrawal and Diversion Facilities

All applicants proposing to lease the lands on which the proposed water use will occur must maintain legal control to access and maintain the withdrawal and diversion facilities through the conditions of the lease as necessary to ensure permit compliance.

### 2.2 Source Identification

District permits are required for all non-exempt existing and proposed uses of fresh and saline water sources. Sources are classified as surface water, ground water, or alternative water supplies, all of which may be further identified with the name of the water body and/or aquifer. If a source is not reliable throughout the year, the applicant may request withdrawal quantities from secondary and standby sources of water, which may be used when the primary source is limited. The permit will identify the secondary and standby sources and the conditions under or time periods during which they may be needed or used.

The applicant must consider the availability of the lowest quality water which is acceptable for the intended use. If a water source of lower quality is available and is technologically and economically feasible for all or a portion of an applicant's proposed use, this lower quality water must be used. Such lower quality water may be in the form of reclaimed water, recycled irrigation return flow, storm water, saline water, or other source.

#### 2.2.1 Alternative Water Supply Feasibility Determination

The encouragement and promotion of water conservation and use of alternative water supplies are state objectives and considered to be in the public interest, pursuant to section 373.1961, FS. Permit applicants shall evaluate the feasibility of using alternative water supplies to meet all or a portion of their needs, as follows:

(a) Water Resource Recovery Areas. For projects located either wholly or in part within

water resource recovery areas, the District shall presume that the use of alternative water supplies is feasible and must be implemented consistent with 3.2.1. Applicants shall coordinate with the District to identify alternative water supplies.

(b) Water Resource Caution Areas: For projects located either wholly or in part within water resource caution areas, the applicant shall provide a feasibility assessment for alternative water supplies. The following criteria will be used to demonstrate feasibility:

1. Environmental Feasibility: The use of an alternative water supply is considered environmentally feasible if the source is permitted or permissible under chapter 373 or chapter 403, FS.

2. Technical Feasibility: The use of an alternative water supply is considered technically feasible if an uncommitted, adequate supply of alternative water supply is available at the site of the proposed use to meet all or part of the applicant's water needs. Determination of technical feasibility will be based on the following:

a. An uncommitted supply of alternative water supply means the average amount of alternative water produced during the three lowest-flow months minus the amount of alternative water that the provider is contractually obligated to provide to another user.

b. In the event the uncommitted supply of alternative water is not adequate to meet the project's demands, the applicant may request a partial allocation of water from a traditional source. However, such partial allocation will not exceed the amount necessary to compensate for the shortfall in uncommitted water supply, considering total project demands calculated pursuant to this Handbook.

c. Available at the project site means that the supplier has initially provided the distribution facilities to the project boundary. In the event distribution lines are not provided at the project boundary, the applicant must provide an assessment of extending the lines as part of the economic feasibility analysis.

3. Economic Feasibility: If the applicant asserts that the use of an alternative water supply is not economically feasible, the applicant must provide the District with an assessment of the economic feasibility. The applicant's economic feasibility analysis must include all of the following:

a. Capital and operation and maintenance costs.

b. Adjustment in the fees and rates charged by the applicant to account for the increased costs associated with using a alternative water supply; and

c. Design life of the alternative water supply system as compared with the time required to recover the capital cost.

(c) For Projects Not Located in a Water Resource Recovery Area or Water Resource Caution Area

The applicant shall provide a feasibility assessment for alternative water supplies. The following criteria will be used to demonstrate feasibility:

1. Environmental Feasibility: The use of an alternative water supply is considered environmentally feasible if the source is permitted or permissible under chapter 373 or chapter 403, FS.

2. Technical Feasibility: The use of an alternative water supply is considered technically feasible if an uncommitted, adequate supply of alternative water is available at the site of the proposed use to meet all or part of the applicant's water needs. Determination of technical feasibility will be based on the following:

a. An uncommitted supply of alternative water means the average amount of alternative water produced during the three lowest-flow months minus the amount of alternative water that the provider is contractually obligated to provide to another user.

b. In the event the uncommitted supply of alternative water is not adequate to meet the project's demands, the applicant may request a partial allocation of water from a traditional source. However, such partial allocation will not exceed the amount necessary to compensate for the shortfall in uncommitted water supply, considering total project demands calculated pursuant to this Handbook.

c. Available at the project site means that the supplier has initially provided the distribution facilities to the project boundary. In the event distribution lines are not provided at the project boundary, the applicant must provide an assessment of extending the lines as part of the economic feasibility analysis.

3. Economic Feasibility: If the applicant asserts that the use of an alternative water supply is not economically feasible, the applicant must provide the District with an assessment of the economic feasibility. The applicant's economic feasibility analysis must include all of the following:

a. Capital and operation and maintenance costs.

b. Adjustment in the fees and rates charged by the applicant to account for the increased costs associated with using an alternative water supply; and

c. Design life of the alternative water supply system as compared with the time required to recover the capital cost.

### 2.3 Demonstration of Demand

Section 373.223, FS, provides a three-pronged test for evaluating each proposed water use. The use (1) must be reasonable-beneficial, (2) must not interfere with any existing legal use of water, and (3) must be consistent with the public interest. Reasonable assurances that the proposed water use from both an individual and cumulative basis

meets this three-pronged test must be provided by the applicant in order to obtain a water use permit.

This part provides technical guidelines for determining whether a water use meets the conditions for issuance set forth in section 40B-2.301, FAC. If the criteria described in this part are not met, applicants may consider reducing the requested withdrawal quantities, proposing a pumping rotation schedule or mitigation, changing the withdrawal source, or other means to bring the proposed use into compliance with the technical criteria.

The proposed withdrawal of water must be supported by the information specified in section 2.0, demonstrating that the withdrawal quantities are necessary to supply a specified reasonable need or demand. Only that portion of the requested demand that is supported by adequate documentation will be recommended for approval for the permit duration.

### 2.3.1 General Criteria

Under section 373.223, FS, in order to receive an individual permit, an applicant must demonstrate that the proposed water use is a reasonable-beneficial use of water. As part of the demonstration that a water use is reasonable-beneficial, the applicant must show demand for the water in the requested amount. This section describes the factors involved in determining whether there is demand and the appropriate permit allocation for a proposed water use.

Demonstration of need requires the applicant to have legal control over the project site, facilities, and for potable water supply, the proposed service area, as required in sections 2.1.1. and 2.1.2. Demonstration of demand is evaluated based on the specific water use classification conditions set forth in sections 2.3.2. through 2.3.4.8.

#### 2.3.1.1 Withdrawal Quantities Assigned by Wells and Sources

The allocation permitted to serve the applicant's need for water must be based on the demonstrated demand. Sections 2.3.2. through 2.3.4.8. identify the components of demand that must be identified by applicants for general and individual permits for each water use type.

Applicants for general and individual permits must identify the quantities needed for each component of demand in order to justify the quantities requested in the permit application. Applicants must request quantities in gallons per day for each component of demand according to the designations listed below. The District will evaluate the quantities requested and specify the quantity allocated in gallons in each permit. The resulting allocation shall include but not be limited to one or more of the following designations:

1. Annual (million gallons [MG])
2. Average Daily (MG)

If the use of water is from multiple sources, each source must be identified in order of

priority. Each of the sources will receive a separate allocation in the permit.

#### 2.3.1.2 Annual Allocation

The annual allocation is determined by calculating the quantity of water to be withdrawn over a 12-month period under a 10 percent annual chance of drought condition for the designated use class. Applicants, other than for irrigation uses, must determine the annual quantity by adding together the quantities required for each component of demand for the proposed use. The total demand is then considered along with other factors affecting withdrawals such as treatment losses, other sources of water, conservation practices employed, and water purchased, sold, or transferred, to determine the annual withdrawal quantity. For irrigation uses, the annual allocation is determined under section 2.3.3.

#### 2.3.1.3 Conservation Plans

Allocations will reflect reduced water demands resulting from the applicant's implementation of a District-approved water conservation plan.

#### 2.3.1.4 Well Field Operations

Applicants using multiple withdrawal facilities will submit a wellfield operating plan. Multiple withdrawal configurations are acceptable provided each configuration meets the conditions for permit issuance, the total withdrawals of each configuration do not exceed the allocation, and each withdrawal configuration represents normal operation protocol for the use. Emergency operating plans are not required.

Implementation of approved operating plans will be required through permit conditions. Changes to an approved operating plan involving the normal operating protocols approved in the permit must be authorized through the issuance of a modification pursuant to section 40B-2.331, FAC. Temporary disruptions in operations associated with emergencies or wellfield maintenance will not require a modification of the wellfield operating plan.

#### 2.3.2 Public Water Supply

Individual permit applicants must meet the criteria in sections 2.3.2.1. through 2.3.2.3. and identify the demand for each of the uses listed in (a) below. Information required to demonstrate reasonable demand for each component of the proposed water use includes the number, type, and size of service connections; past pumpage records; projected population data for the service area; data on the specific uses; and data specific to the forecasting models used.

Demand quantities must be based on raw water demand or that volume of water necessary to be withdrawn from existing or proposed sources. The quantities requested must be expressed in average gallons per day for each component of demand.

Where metering, billing, or other record-keeping methods do not provide accurate use

estimates, the applicant must provide the best estimates for each use type and documentation of the estimation method used.

(a) All potable water supply applicants for an individual permit must identify the demand for the following components of the proposed water use:

1. Residential uses must be divided into single-family residential use and multi-family residential use.

2. Other metered uses must include all uses other than residential.

3. Unaccounted uses are calculated by the total water system output minus the accounted for uses. Unaccounted water uses include, but are not limited to, unmetered, leaks, distribution line flushing, and fire-fighting. Applicants with unaccounted use greater than 10 percent are required to reduce the losses.

4. Treatment and distribution losses are the result of losses in the system during distribution or because the water must undergo a treatment process before it is potable. Some water treatment technologies, such as desalination or sand filtration, may cause significant portions of the water withdrawn to become non-potable. In such cases, the applicant must specify the withdrawal quantity that has been treated, the percent product (potable) water, the percent reject (non-potable) water, and the manner in which the reject water will be disposed.

5. User agreements - for those applicants who provide water to other entities through user agreements or other similar contracts, the quantity of water delivered to each end user (both average and peak day) and the duration of the water service delivery agreement shall be identified. For those applicants who purchase supplemental water from another utility, the volume of water contracted for purchase based on history and future projections for both an average and maximum daily basis and the duration of the contract shall be provided.

#### 2.3.2.1 Per Capita Daily Water Use

Per capita daily water use is a guideline which the District uses to evaluate the reasonableness of the withdrawal requests of public water supply applicants for a general or individual permit. Per capita water use includes population-related withdrawals associated with metered residential, business, institutional and industrial uses, other miscellaneous metered uses, and unmetered unaccounted-for uses. The average per capita daily use rate is calculated for the last five years or for the period of record, whichever is less, by dividing the average daily water withdrawals for each year of record by the permanent or seasonally adjusted population served by the utility for the same period of time. The per capita use rate that is most representative of the anticipated demands, considering the water conservation plans required under section 2.3.2.3., shall be identified and used for water demand projection purposes. The historical demand patterns may not always be appropriate for projection purposes. This may occur when there are current large users whose growth is not related to population, or when future development may take on characteristics very different than those of present development. In such cases,

alternative per capita estimates, such as a design per capita based on dwelling unit type, population characteristics, seasonality of the population, and comparison with adjacent similar developments, must be submitted accompanied by supporting documentation. If no historical water use data exists or in the case of proposed developments, a design per capita use shall be based on the above alternative criteria. Per capita daily water use greater than 150 gallons per capita per day (gpcd) must be supported with additional information justifying the high rate of use.

### 2.3.2.2 Population Estimates

In service areas without significant seasonal population fluctuations, the use of permanent population estimates is appropriate. In service areas where there are significant seasonal population changes, the general or individual permit applicant must estimate the seasonal population for use in conjunction with the permanent population numbers in the calculation of per capita daily water demand. Permanent and seasonal (if applicable) population growth must be projected on a yearly basis for the requested duration of the permit for the area to be served by the proposed water use.

When population estimates are required for years in between published or referenced estimates, the applicant must interpolate the data. The applicant may assume population increases in equal increments in the years between established estimates.

#### 2.3.2.2.1 Population Data

Population data must be derived from the applicable "Comprehensive Land Use Plan" developed under chapter 9J-5, FAC. If the applicant's population estimate varies from the Comprehensive Plan, other accepted sources of population data to validate the variance including, but not limited to the following: (1) University of Florida Bureau of Economics and Business Research (BEBR), (2) Regional Planning Council (RPC), (3) County Planning Departments, or (4) District planning documents.

### 2.3.2.3 Water Conservation Requirements

In addition to per capita requirements described in Section 2.3.2.1 any required conservation measures pursuant to an applicable adopted minimum flow and level recovery or prevention strategy, all public water supply Applicants shall implement either a standard water conservation plan described in Section 2.3.2.3.(a) or a goal-based water conservation plan described in Section 2.3.2.3.(b). Conservation measures shall be identified as part of the application and implemented in accordance with the approved plan. The proposed water conservation standard plan or goal-based plan shall allow no reduction in and increase where possible, utility specific water conservation effectiveness over current programs.

#### (a). Standard Water Conservation Plan

The elements and implementation schedule for a standard water conservation plan shall be developed by the Applicant and must be reviewed and approved by the District as part of the issuance or renewal of a public water supply permit, or any modification of a public water supply permit involving an increase in the permitted allocation or a change to the previously approved conservation plan.

The plan shall consist of the following five elements. The applicant shall implement each element as necessary to achieve efficient water use to the extent economically, environmentally, and technically feasible. The Applicant will explain in its application how the overall Water Conservation Plan will effectively promote water conservation

1. A water conservation public education program. The Applicant will consider education sub-elements such as those listed below. Implementation of these sub-elements may be achieved through collaboration with other entities, including the District. For each educational sub-element included in the Applicant's program, the Applicant's program shall provide the frequency, duration, and implementation schedule for the sub-element.
  - a. Water conservation public service announcements;
  - b. Water conservation speakers, posters, literature, videos, and/or other information provided to schools and community organizations;
  - c. Public water conservation exhibits;
  - d. Water conservation articles and/or reports provided to local news media;
  - e. A water audit customer assistance program to address indoor and outdoor water use;
  - f. Water conservation information provided to customers regarding year-round landscape irrigation conservation measures;
  - g. Water conservation information posted on the supplier's website;
  - h. The construction, maintenance, and publication of water efficient landscape demonstration projects;
  - i. Water conservation information provided in customer bills or separate mailings;  
or,
  - j. Other means of communication proposed by the Applicant.
  
2. An outdoor water use reduction program. The Applicant shall consider the following sub-elements.
  - a. The adoption of an ordinance, approved by the district, limiting lawn and landscape irrigation.
  - b. The adoption of an ordinance requiring the use of Florida-Friendly landscaping principles.
  - c. The adoption of an ordinance consistent with Section 373.62, F.S. relating to automatic landscape irrigation systems.
  - d. The provision of a landscape irrigation audit program for businesses and residents, including the provision of information to assist customers in implementing the recommendations of the audit. The Applicant shall provide a

- description of the program including implementation details and the content of the audits to be provided.
- e. Any other conservation measures or programs proposed by the Applicant designed to reduce outdoor water use.
  3. The selection of a rate structure designed to promote the efficient use of water by providing economic incentives. A rate structure may include: increasing block rates, seasonal rates, quantity based surcharges, and/or time of day pricing as a means of reducing demands.
  4. A water loss reduction program, if water losses exceed 10%. (each WMD reference their existing procedures for estimating water loss).
  5. An indoor water conservation program. The Applicant will consider indoor conservation sub-elements such as those listed below. Implementation of these sub-elements may be achieved through collaboration with other entities, including the District. For each indoor conservation sub-element included in the Applicant's program, the Applicant's program shall provide the frequency, duration, and implementation schedule for the element.
    - a. Plumbing retrofit rebates;
    - b. Faucet aerator and showerhead giveaways;
    - c. An education element focusing on indoor conservation as part of the water conservation public education program required by paragraph (a).1. of this section; or,
    - d. Other indoor conservation measures proposed by the Applicant.

In reviewing the Applicant's proposed plan for sufficiency, the District will consider whether the elements and sub-elements proposed to be implemented in the Water Conservation Plan, taken as a whole, will effectively promote the efficient use of water within the Applicant's service area. To ensure efficient water use, the standard water conservation plan shall be subject to the reporting requirements specified in the permit.

#### (b). Goal-Based Water Conservation Plan

A public water supply Applicant may, at its discretion, propose a goal-based water conservation plan in lieu of a standard water conservation plan. The elements and implementation schedule for a goal-based water conservation plan shall be developed by the Applicant and must be reviewed and approved by the District as part of the issuance or renewal of a public water supply permit, or modifications of a public water supply permit involving an increase in the permitted allocation or a change to the previously approved conservation plan.

The goal-based conservation plan may include the same elements as the standard conservation plan, or different elements selected by the Applicant based on the

characteristics of the Applicant's service area. The plan shall be tailored to the service area characteristics. Public water suppliers shall propose a water conservation plan that is commensurate with the opportunity and need for water conservation. Permittees that demonstrate successful implementation of the goal-based plan may be eligible to extend the duration of their permit subject to Section 2.3.2.3.(c) below.

(c). Public Supply Permit Extension

A public water supply permittee operating under a standard conservation plan pursuant to this rule, or conservation plan required by a permit issued prior to this rule's effective date, may request to convert its current conservation plan to a goal-based plan through a letter modification in order to become eligible for permit extensions. The amount of water saved for purposes of determining the duration of any permit extension shall be calculated based on the savings documented through implementation of the approved goal based plan.

The public water supply Applicant may use, but is not required to use, publications and materials from Conserve Florida, the Alliance for Water Efficiency, and other similar industry guidance to assist in developing its goal-based plan.

A goal-based water conservation plan shall contain the following:

1. A water conservation public education program consistent with Section 2.3.2.3.(a).1;
2. A water loss reduction program, if water losses exceed 10% (each WMD reference their existing procedures for estimating water loss);
3. A description of the opportunities and potential for water use reductions and increased efficiencies identified through an analysis of the Applicant's service area characteristics;
4. A description of water conservation measures selected for implementation based on the service area analysis, and an implementation schedule for each measure;
5. An explanation of why the alternative elements included in the goal-based plan are better suited to the Applicant's service area if standard plan elements 2, 3, or 5 are not selected for inclusion in the goal-based plan;
6. An overall water use and savings summary; the goal, including interim goals, the Applicant seeks to meet at the end of its permit; and a means of measuring progress toward the stated goals; and
7. The proposed means of demonstrating progress or achievement of goals. Progress and achievement of goals may be demonstrated by a reduction in residential per capita water use. An alternative method of demonstrating progress or achievement may be proposed if residential per capita is not appropriate given the characteristics of the Applicant's service area, or if other methods are available that will accurately demonstrate progress or achievement of goals.

To ensure efficient water use, the conservation measures in the goal-based plan shall be subject to the reporting requirements specified in the permit. If the plan fails to meet the water conservation goal(s), including interim goals, the Permittee shall revise the plan and shall request a permit modification if necessary to address the deficiency or implement a standard water conservation plan pursuant to 2.3.2.3(a).

A public water supply Permittee electing to implement a goal-based conservation plan pursuant to section 2.3.2.3 of this Handbook who achieves demonstrable savings attributable to water conservation, and is in compliance with the conditions of the permit, shall be eligible for a permit extension, issued through a letter modification, provided there is a demonstrated need for the conserved water to meet projected demand for the duration of the extension. The permit extension shall provide only for the modification of the duration of the permit and shall not be used to increase the quantity of the allocation. The permit extension shall be subject to the following conditions:

- (a) For permits with a duration of greater than ten years, a public water supply Permittee may request an extension no sooner than ten years prior to the original permit expiration date.
- (b) For permits with a duration of ten years or less, a public water supply Permittee may request an extension no sooner than two years prior to the original permit expiration date.
- (c) The Permittee must demonstrate, using the methodology selected pursuant to 2.3.2.3.(b).7. and identified in the permit, that water savings were achieved through conservation, and not as a result of demographic or economic changes or significant end user changes unrelated to conservation.
- (d) The specific duration of the extension will be calculated based on the quantity of water saved through conservation and the length of time such quantity can meet the projected demand, as calculated at the time of the extension request. . To receive an extension, the Permittee must demonstrate qualification for at least a one year extension.
- (e) Multiple permit extensions may be requested to reflect additional water saved over the term of the permit. However, in no case shall the cumulative duration of all extensions exceed ten years from the original permit expiration date.

### 2.3.3 Agriculture

Applicants for a general or individual permit must demonstrate that the quantities requested represent actual irrigation water needs. The District will evaluate the irrigation need based on the one-in-ten year drought event. This is demonstrated by providing information on the planted acreage, planting dates, length of growing season, the type of irrigation system used and related efficiency data, soil types, crop type and rotation, frost/freeze protection, and other specific use information.

Demand for agricultural water use depends on the specific agricultural use. Where more than one use is served by the same allocation, e.g., improved pasture and crop irrigation,

the allocation shall represent the sum of the components.

The need for irrigation water use is equal to the supplemental irrigation requirement (see section 2.3.3.1. below) divided by the system efficiency. Factors limiting the actual need for irrigation water include the available water supply or the applicant's ability to withdraw the water. If the total rated capacity of all existing and proposed withdrawal facilities is less than the calculated demand, the recommended allocation will be based on the lesser value.

#### 2.3.3.1 Supplemental Irrigation Requirement

The supplemental irrigation requirement for general and individual permits is the amount of water needed for a particular crop in addition to rainfall. This amount is determined by considering localized system efficiency, soil characteristics, hydrologic conditions, crop type or crop coefficient, the supplemental irrigation requirement may also be determined based on evapotranspiration estimates published by the University of Florida, Institute of Food and Agricultural Sciences (IFAS), or another source such as the Natural Resources Conservation Service.

#### 2.3.3.2 Improved Pasture Demand

Authorization to use water for improved pasture will be given provided the applicant demonstrates that an irrigation system exists or is proposed which is capable of delivering the requested amount, and the conditions for issuance are met. For proposed systems, a schedule for implementation of the irrigation system is required. The applicant will be required to document the amount of improved pasture acreage reasonably expected to be irrigated in any given growing season as the basis for the net irrigated acreage.

Applications to use water for the irrigation of unimproved pasture will not be approved.

#### 2.3.3.3 Frost/Freeze Protection

Frost/freeze protection quantities shall be based on the irrigated acreage, the type of irrigation used, and the pumpage hours required. If the number of hours is unknown, the maximum daily quantity shall be based on the best available data for frost/freeze recurrence and duration. Alternate calculations shall be considered, but they must be documented.

The determination of the type of permit (general or individual) shall not consider quantities for frost/freeze protection.

#### 2.3.3.4 Livestock Demand

The need of water for livestock use is determined by multiplying the estimated total number of animals by gallons needed per day as estimated by IFAS or another District-approved source.

#### 2.3.3.5 Aquaculture Demand

The water need for aquaculture is determined by the number and volume of ponds and tanks and the filling and recirculation requirements of each of these, as well as other factors that may contribute to maintaining necessary water levels or water quality.

#### 2.3.3.6 Other Agricultural Demand

The water need for other agricultural uses is determined based on supporting information provided by the applicant.

The water need for silvicultural operations with field-planted seedlings is determined by supporting information provided by the applicant. Consideration will be given to applicants proposing to establish seedlings that are less than one year old. Quantities shall not be allocated once the seedlings are greater than one year old.

#### 2.3.3.7 Agricultural Water Conservation

Applicants for an individual or general water use permit shall submit a water conservation plan. The District will presume that applicants have demonstrated compliance with chapter 40B-2, FAC, and this Water Use Permitting Guide if the applicant develops a plan that incorporates the applicable best management practices approved by Florida Department of Agriculture and Consumer Services (FDACS). The District shall evaluate water conservation plans containing best management practices from sources other than FDACS.

#### 2.3.4 Commercial Demand

Commercial demand includes commercial, industrial, mining, dewatering not otherwise exempt under 40B-2.051, FAC, power plant, hydrostatic testing, golf course, recreation, landscape, and bottled water uses, as outlined in section 40B-2.501, FAC.

Applicants for a water use permits must demonstrate that the quantities applied for are necessary for economic and efficient use for a purpose and in a manner which is both reasonable and consistent with industry standards.

Applicants for commercial uses must identify the demand for each of the following components of the proposed water use.

##### 2.3.4.1 Commercial, Industrial, Mining and Power Plant

The requested allocation must be supported by a water balance calculation submitted by the applicant. The water balance demonstrates water input and output, including quantities disposed of or reused. The balance may be in the form of a spreadsheet or flow diagram that indicates all water sources and losses.

Water demands for power plants shall be reviewed as specified in the Florida Electrical

Power Plant Siting Act, Part II, chapter 403, FS, concurrent with Florida Department of Environmental Protection.

#### 2.3.4.2 Dewatering

The applicant must demonstrate the volume and rate of water to be withdrawn from the construction site necessary to perform the activity. The applicant must demonstrate the length of time necessary to dewater. In addition, the applicant will describe the disposal method and its location. The applicant must adhere to erosion and sediment control measures.

#### 2.3.4.3 Hydrostatic Testing

The applicant must demonstrate the volume of water necessary for filling the pipe system and other components of the system. The applicant will indicate the length of time necessary to perform the test. In addition, the applicant will describe the disposal method and its location.

#### 2.3.4.4 Golf Course

The requested allocation must be supported by showing the acreage of greens, fairways and other landscape areas to be irrigated. In addition, the sources shall include any storm water, reuse or groundwater pumpage. An allocation will not be permitted for rough areas of the course.

#### 2.3.4.5 Recreation and Landscape

The applicant must demonstrate that the quantities applied for are reasonable personal/sanitary, irrigation, and other specific needs. This is accomplished by providing information on:

- (a) The population to be served;
- (b) The type and amount of turf and plants to be irrigated;
- (c) The timing and the method of irrigation used;
- (d) The scheduled draining, filling and augmentation of ponds, pools, flumes, and aquatic habitats;
- (e) Animal needs; and
- (f) Other specific water uses.

Applicants for recreation and landscape uses must identify the demand for each of the following components:

- (1) Personal/sanitary water use for personal needs or for household purposes such as drinking, bathing, cooking, sanitation, or cleaning spaces occupied by employees and visitors. Calculations should take into consideration the average number of visitors and employees per shift, the number of shifts per work day, and the number of work days per

year. A quantity range from 8 gallons (for office workers and visitors) to 26 gallons (for employees working in shop areas) per person per 8-hour shift may be used;

(2) Landscape irrigation use includes water for the irrigation of lawns and landscapes, intensive recreational areas such as, but not limited to, playgrounds, football, baseball, and soccer fields. This quantity may be determined by multiplying the total acres to be irrigated by the appropriate application rate, based on the vegetation type and irrigation system type. If the applicant is irrigating plants with special irrigation needs not met by the standard coefficients (such as high-value specimens), separate documentation of such needs should be submitted;

(3) Drinking and washing water for animals may also include augmentation and other water requirements of aquatic habitats;

(4) Water-based recreation use includes water used for public or private swimming and wading pools, including water flumes and slides. Calculations should take into consideration filling and draining schedules, water change, showers, and other specific requirements; and

(5) Other use is determined by subtracting the uses accounted for (see Items 1. through 4.) from total withdrawals. This use may include water not accounted for previously, system leaks, and unidentifiable uses. Other use should generally not exceed 15 percent of total withdrawals.

#### 2.3.4.6 Bottled Water Demand

In determining whether a proposed bottled water use is reasonable-beneficial and consistent with the public interest, the Governing Board will consider the following information:

- (a) Whether there is a need for the requested amount of water;
- (b) The location of the withdrawal;
- (c) The location of the water bottling facility;
- (d) Plan to convey water from withdrawal facility to water bottling facility;
- (e) A site plan for the water bottling facility;
- (f) Existing land use and zoning designations;
- (g) A market analysis;
- (h) Schedule for completion of construction of the water bottling facility;
- (i) Contractual obligation to provide water for bottling;
- (j) Other evidence of physical and financial ability to bottle the requested amount; and
- (k) Other documentation necessary to complete the application.

#### 2.3.4.7 Water Conservation Plans for Commercial, Industrial, Dewatering, Mining, Power Plant, and Bottled Water Uses

All permit applicants for a commercial water use permit shall develop a conservation

program incorporating, at a minimum, the following mandatory elements. The applicant's water conservation plan must be submitted at the time of permit application. Implementation of the approved water conservation program will be required by condition of the permit.

(a). An audit of the amount of water used in the applicant's various operational processes. In the case of initial proposed uses, an audit will not be required as a condition of permit issuance; however, an audit must be conducted within two years of permit issuance. An audit must be conducted during each 10-year compliance review for permit durations of 20 years or longer.

The following measures must be implemented within the first year of permit issuance or upon completion of the audit, unless the applicant demonstrates that implementation is not economically, environmentally, or technologically feasible:

1. A leak detection and repair program;

2. A water conservation program providing for technological, procedural or programmatic improvements to the applicant's facilities; and

3. Other best available technologies to decrease water consumption.

(b). An employee awareness and customer education program concerning water conservation.

(c). Procedures and time-frames for implementation.

#### 2.3.4.8 Water Conservation Plans for Golf Course, Recreation and Landscape Uses

All permit applicants for golf course, recreation, and landscape projects shall develop a conservation plan incorporating the following mandatory elements. The applicant's conservation plan must be submitted at the time of permit application. Implementation of the approved water conservation plan will be required by condition of the permit.

(a). Florida-friendly landscaping principles must be used in constructing proposed projects. Unless the applicant demonstrates that it is not economically feasible, these principles must be used when modifications to existing projects are requested.

(b). The installation and use of automatic rain sensor shut-off devices is required.

(c). A program for increasing water use efficiency of the applicant's project, including best management practices, if available.

(d). An employee awareness and customer education program concerning water conservation.

(e). Procedures and time-frames for implementation.

### 3.0 Water Resource Impact Evaluation

This part provides technical guidelines for determining whether a water use meets the conditions for issuance set forth in section 40B-2.301, FAC. If the criteria described in this part are not met, applicants may consider reducing the requested withdrawal quantities, proposing a pumping rotation schedule or mitigation, changing the withdrawal source, or other means to bring the proposed use into compliance with the technical criteria.

#### 3.1 Data Collection, Evaluation, and Modeling

Applicants shall provide reasonable assurance of satisfying conditions for issuance of permits through data collection, evaluation, and modeling except when the District possesses sufficient information to enable it to evaluate the application. Data collection may involve the compilation of existing data and/or collection of new data.

Models are predictive tools used to assess the harm to water resources. Models are one component in the application evaluation process. The scale of the model must be appropriate for the quantity of withdrawal and proximity to water resources. All submitted models must be documented and include calibration results.

The District shall evaluate applications for individual and cumulative impacts to the adopted minimum flows and levels (MFLs), as set forth in chapter 40B-8, FAC, by using its regional model. The District model is available upon request. District staff does not provide detailed guidance or training to applicants on the regional model. Applicants may propose alternative models for MFL evaluations.

The results of data collection, evaluation, and models that are submitted to support the requested allocation must provide reasonable assurance to satisfy the conditions for issuance. Should the applicant disagree with the allocation recommended by District staff, the applicant may conduct an independent evaluation. An evaluation may involve collection and interpretation of field data, analysis of impacts, movement of the saline water interface, migration of pollution plumes, and additional modeling.

#### 3.2 Source Specific Criteria

##### 3.2.1 Applications within a Water Resource Recovery Area

If the District requires implementation of a recovery strategy, it will be adopted within chapter 40B-80, FAC. The District shall apply the criteria below if there is no adopted recovery strategy. If a recovery strategy has been adopted, the District shall consider the criteria below in conjunction with the adopted recovery strategy.

(a) Permit Renewals - A request for renewal of an existing permitted use that directly or indirectly withdraws or diverts water from a MFL water body is deemed to meet the requirements of this section provided: (1) the impact of the withdrawal of water will be mitigated through the applicant's participation in the District's implementation of a recovery

strategy; and (2) the impacts from the proposed use will not be greater than the impacts under the existing permit.

(b) New or Modified Permits – Direct Withdrawals. A request for a new use or increased allocation that directly withdraws or diverts water from a MFL water body is deemed to meet the requirements of this section provided:

1. Sufficient additional water has been made available for the new or increased allocation through the implementation of the recovery strategy. Water made available for new or increased uses as a result of a recovery strategy will be allocated based on the conditions for issuance in chapter 40B-2, FAC, and this Guide; or

2. The request incorporates a District-approved alternative measure or source which will prevent additional impacts to the MFL water body from occurring as a result of the new or increased portion of the requested allocation. The permit conditions shall require the District-approved alternative measure or source to be operating or otherwise available concurrently with the new or increased use.

(c) New or Modified Permits – Indirect Withdrawals. A request for a new use or increased allocation that indirectly withdraws or diverts water from a MFL water body is deemed to meet the requirements of this section provided the new or increased use is consistent with any applicable recovery strategy adopted by the District as part of a regional water supply plan.

### 3.3 Evaluation of Impacts to Water Resources

This section establishes the standards and thresholds for protection of wetlands and other surface waters from harm pursuant to the condition for permit issuance in paragraph 40B-2.301(2), FAC. The standards and thresholds shall apply to all water uses regulated by the District.

This section requires assessment of whether the projected impacts of a proposed water use constitute harm. If the assessment shows that a water use is likely to cause or contribute to harm, then the applicant must comply with the elimination or reduction of harm provisions in section 3.3.5 and, if necessary, the mitigation requirements of section 3.3.6.

Impacts to wetlands and surfacewater bodies whether or not associated with wetland enhancement, restoration, creation, preservation or other mitigation permitted pursuant to Part IV of chapter 373, FS, or other wetland regulatory program implemented by a local, regional, or federal governmental entity, shall be considered under this section.

The hydrologic characteristics resulting from construction or alterations undertaken in violation of chapter 373, FS, or District rule, order or permit, shall be evaluated based on historic, pre-violation conditions, as if the unauthorized hydrologic alteration had not occurred.

In the evaluation of the impacts from proposed withdrawals on adopted minimum flows and levels for surface and ground waters within chapter 40B-8, FAC, the best available information including the technical documents developed or adopted by the District in support of the minimum flows and levels, will be used.

### 3.3.1 Wetlands and Other Surface Waters

(a) Delineation. Wetlands and other surface waters within the area of influence of a water use, delineated pursuant to sections 62-340.100 through 62-340.600, FAC, as ratified by section 373.4211, FS, are subject to this section, except as provided in section (b) below. In accordance with subsection 62-340.300(1), FAC, reasonable scientific judgment shall be used to evaluate the existence and extent of a wetland or other surface water, including all reliable information, such as visual site inspection and aerial photo interpretation, in combination with ground-truthing. In addition, relevant information submitted pursuant to chapter 62-340, FAC, in support of an Environmental Resource Permit/Surface Water Management Permit shall be considered. Field delineations of wetlands and other surfacewater boundaries shall be required if such boundaries are in dispute.

In determining the location of wetlands and surface waters, the applicant may use staff reports of previously issued Environmental Resource and Surface Water Management permits for the site and adjacent sites, National Wetland Inventory (NWI) Maps, Land Use/Land Cover maps, Natural Resource Conservation Service soils maps, formal wetland determinations conducted by the District, and wetland maps produced by local governments. District staff may inspect the site to confirm the location and delineation of wetlands and surface waters, and other site-specific information. In the event that access to offsite wetlands or surface waters is denied by the property owner, the District and the applicant shall agree on a method of establishing the locations and delineations of the offsite wetlands or surface waters.

(b) Exclusions. Harm to the following wetlands and surface waters shall not require elimination or reduction of harm or, if necessary, mitigation, under this section:

1. Wetlands or surface waters which have been authorized to be impacted under an Environmental Resource Permit or designated in chapter 403, FS.
2. Artificial water bodies including borrow pits, mining pits, canals, ditches, lakes, ponds, and water management systems, not part of a permitted wetland creation, preservation, restoration or enhancement program. However, impacts to the design functions of water management systems shall be considered under section 3.6., Existing Offsite Land Uses.
3. Wetlands or surface waters to the extent impacts have been specifically authorized or mitigated pursuant to section 3.3.6., in a water use permit, unless the applicant is proposing additional impacts.

### 3.3.2 Permit Application Submittals

The applicant shall submit the following information, if requested by the District:

(a) For purposes of determining whether the wetland or surface water is excluded under section 3.3.1(b) above, the applicant shall provide documentation supporting the reason for exclusion including a scaled map and recent aerial photograph marked with the wetland or surface water location. If it is demonstrated that the wetland or surface water is excluded under section 3.3.1., no additional information will be required under this section.

(b) For wetlands or surface waters that are not excluded under section 3.3.1.above, the applicant shall provide

1. scaled maps and recent aerial photographs that identify:

a. The area of influence of the water use;

b. In accordance with section 3.3.1.(a), the locations of all wetlands and surface waters that occur within the area of influence of the water use, including wetlands and surface waters located outside the applicant's property boundaries; and

c. The locations of existing and proposed withdrawal facilities.

2. Information about the hydrology and the current condition of the wetlands and surface waters.

3. Information regarding the potential impact of the water use on the wetland or surface water in its current condition.

4. Information regarding site-specific considerations required to be submitted pursuant to section 3.3.4 below.

5. Where there is potential for harm, information necessary to determine the extent of elimination or reduction of harm pursuant to section 3.3.5 and mitigation required under section 3.3.6, including an assessment of the use of the wetlands and surface waters by listed species.

6. A monitoring plan to assess the effects of the water use, if requested. A monitoring plan shall be required to provide continued verification that no harm is occurring as a result of the water use.

(c) If the applicant asserts that the exclusions in section 3.3.1(b) apply to wetlands or surface waters within the area of influence of the proposed water use, the applicant must provide sufficient information supporting this assertion.

### 3.3.3 No-Harm Standards and Thresholds

To demonstrate that no harm will occur to wetlands and surface waters, reasonable assurances must be provided by the applicant that the standards below are satisfied.

#### 3.3.3.1 Performance Standards for Wetlands

(a) Withdrawals must not cause or contribute to a change in wet season water levels from their normal range.

(b) Withdrawals must not cause or contribute to a change in wetland hydroperiods from their normal range and duration to the extent that wetland plant species composition and community zonation are adversely impacted.

(c) Wetland habitat functions, such as providing cover, breeding, and feeding areas for obligate and facultative wetland animals must be temporally and spatially maintained and not adversely impacted as a result of withdrawals.

(d) Withdrawals must not cause or contribute to habitat alteration for threatened or endangered species to the extent that use by these species is impaired.

### 3.3.3.2 Performance Standards for Estuaries, Rivers, Streams, and their Tributaries

(a) Withdrawals must not cause or contribute to a change in flow rates from the normal rate and range of fluctuation to the extent that water quality, vegetation, and animal populations and their habitat are adversely impacted.

(b) Withdrawals must not cause or contribute to a change in temporal and spatial distribution of flows to downstream waterbodies to the extent that the water resources are adversely impacted.

(c) Withdrawals must not cause or contribute to a reduction in flow rates from the existing level of flow to the extent that salinity distributions in tidal streams and estuaries are altered resulting in adverse impacts to water quality, vegetation, and animal populations and their habitat.

(d) Withdrawals must not cause or contribute to a change in flow rates from the normal rate and range of fluctuation to the extent that recreational use or aesthetic qualities of the water resource are adversely impacted.

### 3.3.3.3 Performance Standards for Lakes

Withdrawals must not cause or contribute to a change in water levels from the normal rate and range of fluctuation, to the extent that:

(a) Water quality, vegetation, or animal populations and their habitat are adversely impacted;

(b) Flows to downgradient watercourses are adversely impacted;

(c) Recreational use or aesthetic qualities of the water resource are adversely impacted.

### 3.3.3.4 Performance Standards for Springs

Withdrawals must not cause or contribute to a change in water levels or flows from the normal rate and range of fluctuation, to the extent that:

(a) Water quality, vegetation, or animal populations and their habitat are adversely impacted;

(b) Flows to downgradient watercourses are adversely impacted;

(c) Recreational use or aesthetic qualities of the water resource are adversely impacted;

(d) Frequency and/or duration of surfacewater flow back into the spring exceeds historical conditions.

The analysis for determining harm shall include an assessment of the projected hydrologic alterations caused by the water use and cumulatively with other existing legal uses, and the resulting impacts on wetlands and other surface waters. In circumstances of cumulative contributions to harm, an applicant shall only be required to address its relative contribution of harm to the wetlands and other surface waters.

In evaluating the applicant's water use, the District shall consider the extent of hydrologic alterations to wetlands and other surface waters caused by the applicant's water use based upon analytical or numerical modeling, or monitoring data, as required by this section.

The determination of harm shall consider the temporary nature of water use drawdowns and the seasonal application of certain water uses in assessing whether the hydrologic alteration is constant or recovers seasonally.

#### 3.3.4. Site-Specific Considerations

Site-specific information shall be submitted by the applicant for determining whether the performance standards are met. The applicant shall provide site-specific information on the local hydrology, geology, actual water use, or unique seasonality of water use, including, but not limited to:

(a) Evaluation of site-specific hydrologic or geologic features that affect the projected drawdown, including the existence of clay layers that impede the vertical movement of water under the wetland, preferential flow paths, seepage face wetlands that receive high rates of inflow, or the effects of soil depth and type on moisture retention, to the degree that actual field data support how these factors affect the potential for impacts of the water use on the wetland or other surface water.

(b) Information required to assess the potential for harm to wetlands and surface waters, such as the condition, size, depth, uniqueness, location, and fish and wildlife use, including listed species, of the wetland or surface water.

If the applicant asserts that actual water use has not caused harm to wetlands or surface waters, site-specific information on the condition of the wetlands or surface waters must be provided in conjunction with pumpage records or other relevant evidence of actual water use to substantiate the assertion. Applicable monitoring data as described in section 4.0 shall also be submitted, if available.

#### 3.3.5 Elimination or Reduction of Harm

The applicant shall modify the project design or proposed water use, to the extent practicable, to eliminate or reduce harm to protected wetlands and surface waters if the District determines that harm will occur.

Modifications to the project or water use include, but are not limited to, developing alternative water supply sources, modification of pumping, relocation of withdrawal facilities, implementation of water conservation measures, and creation of hydrologic barriers.

A proposed modification that is not technically capable of being implemented, not economically feasible, or adversely affects public safety through the endangerment of lives or property, is not considered practicable. In determining whether a proposed modification is practicable, consideration shall be given to:

(a) Whether the wetlands and other surface waters have been impacted by authorized activities other than the water use (such as development, adjacent land use, drainage activities, or an Environmental Resource or Surface Water Management Permit), and will continue to be impacted by such activities;

(b) The cost of the modification for elimination or reduction of harm compared to the environmental benefit such modification would achieve, including consideration of existing infrastructure; and

(c) If a permit renewal, the considerations in section 2.2.1.

### 3.3.6 Mitigation of Harm

When the District determines that elimination or reduction of harm is not practicable, the District shall consider proposals for mitigation. Mitigation is required to offset the harm to the functions of wetlands and surface waters caused by the water use.

In certain cases, mitigation cannot offset impacts sufficiently to yield a permissible project. Such cases often include activities that harm Outstanding Florida Waters, established minimum flows and levels waterbodies, habitat for listed species, or wetlands or surface waters not likely to be successfully recreated.

Mitigation shall not be required for impacts to wetlands and surface waters previously mitigated through federal, state or local permit authorizations, such as other water use permits or Environmental Resource or Surface Water Management Permits.

The District shall assess the condition of the wetland or surface water as it exists at the time of the application submittal when determining mitigation requirements. This assessment shall be conducted in accordance with chapter 62-345, FAC.

If a permit renewal, mitigation requirements shall also be based on the provisions in section 3.3.7.

#### 3.3.6.1 Mitigation Requirements

(a) Mitigation to offset the proposed harm shall be provided within the same watershed or recharge area as the proposed harm, unless the applicant demonstrates that mitigation proposed outside of the watershed or recharge area can fully offset the harm. Watershed and recharge area boundaries shall be based on best available.

(b) In determining whether mitigation proposed outside of the watershed or recharge area fully offsets the harm, consideration shall be given to the effect on the values of the remaining wetland and surfacewater functions within the watershed or recharge area.

### 3.3.7 Consideration of Elimination or Reduction and Mitigation of Harm for Water Use Permit Renewals

In addition to the considerations in section 3.3.5., the determination of whether elimination or reduction and mitigation will be required for impacts to wetlands or surface waters not identified or expressly authorized to be impacted by the previous water use permit, shall be made considering the following:

(a) The existing wetland and surfacewater functions;

(b) The degree to which the wetland or surfacewater functions are reasonably expected to recover if the withdrawal is reduced or eliminated;

(c) The projected impacts on the existing functions of the wetlands or surface waters from continuing the water use;

(d) Whether the wetland or surface water is connected by standing or flowing surface water to, or is part of an Outstanding Florida Water, established minimum flows and levels waterbodies, Aquatic Preserve, state park, or other publicly owned conservation land with significant ecological value; and

(e) Whether the wetland or surface water is used for resting, nesting, breeding, feeding or denning by listed species as part of the fish and wildlife use considerations in (a), (b), and (c) above, will be given consideration.

(f) Whether the impacts are caused or contributed to as a result of modifications to an applicant's use required by another governmental body.

(g) Applicants proposing an impact offset or substitution credit must demonstrate that the conditions for permit issuance are met

### 3.3.8 Net Benefit

In lieu of using alternative supplies within a water resource recovery area, an applicant may propose to implement a net benefit strategy. The applicant shall provide reasonable assurance that water conservation requirements of this Handbook and Chapter 40B-2, FAC, have been satisfied prior to implementation of a net benefit strategy.

The applicant shall provide reasonable assurance that implementation of a net benefit strategy will mitigate the predicted impacts by one or more of the options listed below. In order to provide a net benefit, the strategies proposed by the applicant must offset the predicted impact of the proposed withdrawal and also provide an additional positive effect on the water body equal to or exceeding ten percent (10%) of the predicted impact.

Three forms of net benefit may be considered: 1) mitigation plus recovery, 2) use of quantities created by District water resource development projects, and 3) Ground Water Replacement Credits, as described below.

(a) Mitigation Plus Recovery-Mitigation plus recovery involves one or more of the following:

1. Permanently retiring permitted allocations within the recovery area that impact the same Minimum Flow and Level water body. Permitted allocations are those permitted quantities of water that have a valid unexpired permit from the District; or
2. Recharging the aquifer and withdrawing water such that there remains a net positive impact on the MFL within the recovery area at least ten percent (10%) greater than the impact of the proposed withdrawal; or
3. Undertaking other strategies to offset the proposed impact of the withdrawal plus ten percent (10%).

Implementation of one or more mitigation plus recovery strategies must either precede or coincide with initiation of any new or renewed permitted withdrawals.

(b) Use of Quantities Created by District Water Resource Development Projects as a Net Benefit.

The District anticipates that its water resource development projects may result in the development of new quantities above and beyond the quantities needed to achieve recovery. All or a portion of these new quantities that are not reserved or otherwise designated for recovery will be made available to permit applicants to be used as a net benefit to offset proposed withdrawals.

When applying for quantities made available through a District water resource development project as a net benefit, the applicant must demonstrate:

a. The proposed withdrawal affects the same recovery water source associated with the water resource development project;

b. The quantity developed in excess of the quantity reserved or otherwise designated for recovery has been determined; and

c. The proposed net benefit quantities will not interfere with quantities reserved or otherwise designated by the District for water resource development.

(c) Water Source Replacement Credit

To reduce groundwater or surfacewater withdrawals, a Water Source Replacement Credit is an incentive for water users to provide other water users with alternative supplies. The owner of a Water Source Replacement Credit can use the Credits to provide a net benefit in order to withdraw new quantities.

The process to obtain a Water Source Replacement Credit is set forth below:

1. A Water Source Replacement Credit is created when an entity (Supplier) provides an alternative supply, not previously delivered, to another user to offset groundwater or surfacewater withdrawals of an existing permit allocation (Receiver) that impacts a Minimum Flow or Level water body. A Water Source Replacement Credit will be available to either the Supplier or the Receiver, or both.
2. A Water Source Replacement Credit will be issued for no more than ninety percent (90%) of the amount that is offset.
3. The Supplier and Receiver shall apply to the District for the credit and indicate to the District which entity will receive the credit, or whether the credit quantity will be divided between them or assigned to a third party.
4. The District will set aside the source quantities that are discontinued as a result of the offset by alternative supplies in a standby permit that will be issued to the Receiver to allow withdrawal of all or a portion of such quantities in the event that the alternative supply is temporarily interrupted, becomes unsuitable or is decreased, unless and until a permit modification is obtained.
5. The Water Source Replacement Credit will exist for only so long as the Receiver maintains its use of the alternative supplies. The Credit will remain available if the Receiver transfers the standby permit to a new owner at the same site who continues the same water use with the alternative supplies.
6. Only withdrawals that meet the permitting criteria of Chapter 40B-2, FAC, and this Guide, including Minimum Flows and Levels criteria, may be made pursuant to a Water Source Replacement Credit.
7. Reclaimed water suppliers shall not be eligible for a Water Source Replacement Credit when they redirect reclaimed water from existing reclaimed water users to other reclaimed water users and such redirection causes an existing reclaimed water user to reinstate permitted standby groundwater withdrawals, unless the reclaimed water provider can demonstrate that the cumulative effect of such redirection will be a greater reduction in groundwater withdrawals and will contribute more to the recovery of MFL water bodies than would otherwise occur absent of the redirection.

### 3.4 Saline Water Intrusion

RESERVED

### 3.5 Pollution of the Water Resources

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.

The District shall not consider water quality impacts from wastewater discharges permitted by the Florida Department of Environmental Protection.

### 3.6 Existing Offsite Land Uses

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. This section does not establish a property right in water, but prohibits harm from withdrawals to land uses that are dependent on water being on or under the land surface, based on the considerations set forth below. If unanticipated adverse impacts occur, the District shall revoke the permit in whole or in part to curtail or abate the adverse impacts, unless the impacts can be mitigated by the permittee.

Adverse impacts include, but are not limited to:

(a) Reduction in water levels or water quality in an adjacent surfacewater body such as lakes, impoundments, springs, streams, wetlands, or other water bodies that impairs the water body;

(b) Land collapse or subsidence caused by a reduction in water levels;

(c) Damage to crops and other types of vegetation, including wetlands and other surface waters; and

(d) Damage to the habitat of endangered or threatened species.

An applicant for a new water use permit must provide reasonable assurances that the proposed withdrawal of water will not cause an unmitigated adverse impact on an adjacent land use existing at the time of the permit application.

An applicant for renewal of a water use permit must provide reasonable assurances that the continued withdrawal of water will not cause an unmitigated adverse impact on an adjacent land use existing at the time of the permit application. In determining whether the continued withdrawal will cause an unmitigated adverse impact on an adjacent land use, the District shall consider the impact evaluation made during the most recent previous permit cycle.

An applicant proposing to modify a water use must provide reasonable assurances that the proposed withdrawal of water will not cause an unmitigated adverse impact on an adjacent land use existing at the time of the permit application. In determining whether the modified withdrawal will cause an unmitigated adverse impact on an adjacent land use, the District shall consider only the proposed modification.

### 3.7 Interference with Existing Legal Uses

Presently existing legal uses at the time of application are protected from interference by proposed uses of water. Existing legal uses are all uses of water which are exempt under chapter 373, FS, or 40B-2, FAC, or which have a valid chapter 373, Part II, FS, permit.

Pursuant to paragraph 373.223(1)(b), FS, the applicant must provide reasonable assurance that it will not interfere with any presently existing legal use of water. Interference is considered to occur when the requested use would impair the withdrawal capability of an existing legal use to a degree that the existing use would require modification or replacement of the withdrawal facilities.

An applicant for a new water use must provide reasonable assurances that the proposed withdrawal of water, together with other exempt or permitted withdrawals within the cone of influence of the proposed withdrawal, will not result in interference with existing legal uses.

An applicant for renewal of a water use must provide reasonable assurances that the continued withdrawal of water, together with other exempt or permitted withdrawals within the cone of influence of the continued withdrawal, will not result in interference with existing legal uses. In determining whether the continued withdrawal will interfere with existing legal uses, the District shall consider the interference evaluation made during the most recent previous permit cycle.

An applicant proposing to modify a water use must provide reasonable assurances that the proposed withdrawal of water, together with other exempt or permitted withdrawals within the cone of influence of the modified withdrawal, will not result in interference with existing legal uses. In determining whether the modified withdrawal will interfere with existing legal uses, the District shall consider only the proposed modification.

If the permit applicant cannot provide reasonable assurance that a proposed withdrawal will not interfere with existing legal uses, the applicant must submit a mitigation plan for District approval. The plan shall identify actions to mitigate for interference and may require a permit modification under section 40B-2.331, FAC. Mitigation may include, but shall not be limited to, pumpage reduction, replacement of the impacted user's equipment, relocation of wells, change in withdrawal source, or other means.

The permittee must mitigate interference with existing legal uses caused in whole or in part by the permittee's withdrawals, consistent with the approved mitigation plan. The mitigation plan will either require a permittee to mitigate immediately or at the time of the actual interference. The determination of when mitigation is required is based upon the likelihood that the interference is projected to occur.

### 3.8 Otherwise Harmful

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

### 3.9 Minimum Flows and Levels

Applications for water uses that propose to directly or indirectly withdraw or divert water from water bodies for which minimum flows and levels (MFLs) have been adopted in chapter 40B-8, FAC, must meet the criteria in this section in addition to all other conditions for permit issuance. Applications that meet the criteria contained in this section will be deemed to comply with the requirement for issuance in paragraph 40B-2.301(2)(h), FAC. Where the District has adopted a prevention or recovery strategy for the proposed source of water as part of a regional water supply plan, water use permit applications must be consistent with the District's prevention or recovery strategy as specified in this section.

#### 3.9.1 Evaluation of Permit Applications to Withdraw or Divert Water from MFL Water Bodies

(a) Permit Renewals - The District shall evaluate permit applications using the District's regional model, as referenced in section 3.2.1. Applications shall be deemed to be in compliance with this section upon determination by the District that the water resource impacts from the proposed use will not be greater than the impacts under the existing permit.

(b) New or Modified Permits - The District shall evaluate permit applications using either the District's regional model or the applicant's model, as referenced in section 3.2.1. Applications shall be deemed to be in compliance with this section upon determination by the District that there will be no significant harm caused by the proposed water use.

#### 3.9.2 Evaluation of Permit Applications to Withdraw or Divert Water from MFL Water Bodies Subject to a Prevention Strategy

(a) Permit Renewals - A request for renewal of an existing permitted use that directly or indirectly withdraws or diverts water from a MFL water body is deemed to meet the requirements of this section if the water resource impacts from the proposed use will not be greater than the impacts under the existing permit.

(b) New or Modified Permits – A request for a new use or increased allocation that directly or indirectly withdraws or diverts water from a MFL water body is deemed to meet the requirements of this section if the request is consistent with any applicable prevention strategy adopted by the District as part of a regional water supply plan.

### 3.10 Aquifer Storage and Recovery Systems

RESERVED

### 3.11 Water Reservations

RESERVED

#### 4.0 Monitoring Requirements

To ensure continuing compliance with the conditions for permit issuance, monitoring and reporting activities may be required as special limiting conditions of the permit. The details of any required monitoring plan must be submitted by the applicant for District review and approval as part of the water use permit application. The permit shall require implementation of the approved monitoring program.

#### 4.1 Withdrawal Quantity

##### 4.1.1 Automated Monitoring of Groundwater Withdrawals

For new water uses, renewed permits, and modifications of permits proposing new withdrawals, the Permittee shall implement automated monitoring of groundwater withdrawals, at Permittee's expense, upon commencement of such withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each well of inside diameter eight inches or greater at land surface and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may choose a standardized Suwannee River Water Management District automated monitoring system to fulfill this requirement.

##### 4.1.2 Automated Monitoring of Surfacewater Withdrawals

For new water uses, renewed permits, and modifications of permits proposing new withdrawals, the Permittee shall implement automated monitoring of surfacewater withdrawals, at Permittee's expense, upon commencement of such withdrawals. The monitoring and reporting shall include reporting daily volume pumped by each station that has an outside diameter of six inches or greater and shall be delivered by 12:00 pm local time the following day via approved telemetry consistent with District data formats. The permittee may choose a standardized Suwannee River Water Management District automated monitoring system to fulfill this requirement.

##### 4.1.3 Incentives for Voluntary Water Use Monitoring and Reporting

Existing permittees who seek to voluntarily implement water use monitoring and reporting more than one year prior to the permit expiration date may seek a permit modification pursuant to 40B-2.331(2), FAC. Upon such application and request from the applicant, the District will evaluate whether to modify the existing permit duration, provided the applicant demonstrated reasonable assurances that the use will continue to meet the initial conditions for issuance for the requested duration. No permit duration will be modified pursuant to this provision for a period of less than five years or longer than ten years.

#### 4.2 Water Quality

RESERVED

4.3 Hydrologic and Ecologic Monitoring

RESERVED

4.4 Other Compliance Reports

RESERVED

## 5.0 Permit Limiting Conditions

### 5.1 Standard Conditions

Water use permits shall be conditioned, as necessary, to ensure that the permitted consumptive use continues to meet the conditions for issuance in rule 40B-2.301, FAC. There are two categories of permit conditions that will be applied to water use permits. Standard conditions contain general information and operational constraints that generally apply to all water uses unless waived or modified by the District upon a determination that the conditions are inapplicable to the use authorized by the permit. Special conditions vary among use classes, source classes, and geographic locations, and may be project-specific.

The following standard conditions shall apply to all water use permits:

(a) All consumptive uses authorized by this permit shall be implemented as conditioned by this permit, including any documents incorporated by reference in a permit condition. The District may revoke this permit, in whole or in part, or take enforcement action, pursuant to sections 373.136 or 373.243, FS, unless a permit modification has been obtained. The Permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.

(b) This permit does not convey to the Permittee any property rights or privileges other than those specified herein, nor relieve the permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.

(c) Permittee shall notify the District in writing within 30 days of any sale, transfer, or conveyance of ownership or any other loss of permitted legal control of the Project and / or related facilities from which the permitted consumptive use is made. Where Permittee's control of the land subject to the permit was demonstrated through a lease, the Permittee must either submit documentation showing that it continues to have legal control or transfer control of the permitted system / project to the new landowner or new lessee. All transfers of ownership are subject to the requirements of Rule 40B-2.351, FAC. Alternatively, the Permittee may surrender the consumptive use permit to the District, thereby relinquishing the right to conduct any activities under the permit.

(d) Nothing in this permit should be construed to limit the authority of the District to declare a water shortage and issue orders pursuant to Chapter 373, FS. In the event of a declared water shortage, the Permittee must adhere to the water shortage restrictions, as specified by the District. The Permittee is advised that during a water shortage, reports shall be submitted as required by District rule or order.

(e) With advance notice to the Permittee, District staff with proper identification shall have permission to enter, inspect, collect samples, take measurements, observe permitted and related facilities and collect any information deemed necessary to protect the water resources of the area and to determine compliance with the approved plans, specifications and conditions of this permit. The permittee shall either accompany District staff onto the property or make provision for access onto the property.

(f) A Permittee may seek modification of any term of an unexpired permit. The Permittee is advised that section 373.239, FS, and Rule 40B-2.331, FAC, are applicable to

permit modifications.

## 5.2 Special Conditions

Special conditions vary among use classes, source classes, and geographic locations, and may be project-specific. However, the following special conditions shall apply to all water use permits:

(a). This permit shall expire on (expiration date). The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.402(8)(a), FAC and the required fee to the District pursuant to section 40B-2.361, FAC, prior to this expiration date in order to continue the use of water.

(b). Use classification is (primary water use type and secondary water use types).

(c). Source classification is (source classification).

(d). The permitted water withdrawal facilities consist of the items in the Withdrawal Point Information table on page 1.

(f). 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.

(g). 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.

(h). 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.

(i). If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, FS.

(j). 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.

(k). All correspondence sent to the District regarding this permit must include the permit number (2-XX-XXXXX.XXX).

(l). 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.

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

### 5.2.1 Potable Water Supply Uses

(a). Permittee must modify the permit for any change in service area boundaries.

(b). Permittee must implement the District-approved wellfield operating plan submitted on (date).

(c). Permittee must maintain an accurate flow meter at the intake of the water treatment plant to measure daily and monthly inflow of water. The total monthly inflow to the treatment plant must be reported to the District quarterly.

(d). Permittee must implement the District-approved water conservation plan submitted on (date) and all District-approved updates. Updates and progress reports must be submitted with the 10-year compliance review.

(e). Permittee shall submit a water use compliance report every ten years from the date of permit issuance for review and approval by District staff.

### 5.2.2 Golf Course, Landscape and Recreation Irrigation Uses

(a). Permittee must implement the District-approved water conservation plan submitted on (date) and all District-approved updates. Updates and progress reports must be submitted with the 10-year compliance review.

(b). Irrigation is prohibited between the hours of 10:00 A.M. and 4:00 P.M., except as follows:

(1) Uses whose average annual allocation is comprised of 100 percent reclaimed water may irrigate at any time.

(2) Irrigation of, or in preparation for, planting new golf course, landscape or recreational areas is allowed at any time for one 30-day period provided irrigation is limited to the amount necessary for sod or plant establishment. Irrigation of newly seeded or sprigged golf course areas is allowed at any time for one 60-day period.

(3) Watering in of chemicals, including insecticides, pesticides, fertilizers, fungicides and herbicides, when required by law, recommended by the manufacturer, or constitutes best management practices, is allowed anytime within 24 hours of application of the chemicals.

(4) Irrigation systems may be operated anytime for maintenance and repair purposes.

### 5.2.3 Agricultural Uses

(a). Permittee must implement the District-approved water conservation plan submitted on (date) and all District-approved updates. Updates and progress reports must be submitted with the 10-year compliance review.

(b). Permittee shall submit a water use compliance report every ten years from the date of permit issuance for review and approval by District staff.

(c). Watering of impervious surfaces is prohibited.

(d). Irrigation systems shall water only those areas authorized by the permit.

(e). The use of irrigation systems for frost/freeze protection shall not be included in the total Average Daily Rate (ADR) or the total Annual Allocation permitted.

(f). The permittee shall report to the District the date(s) and run time(s) that the irrigation system ran for frost/freeze protection at the next regular reporting interval.

### 5.2.4 Commercial, Industrial, Mining, Power Plant, and Bottled Water Uses

(a). Permittee must implement the District-approved water conservation plan submitted on (date) and all District-approved updates. Updates and progress reports must be submitted with the 10-year compliance review.

(b). The permitted average/maximum daily rate is dependent on (waterbody) flow rate during low flow events as stated below: (5, 20, 50 and 100-year flow recurrences).

(c). In the event the permittee does not use water for bottling within two years of the effective date of this permit, District staff shall request Governing Board authorization to initiate revocation proceedings for non-use under section 373.243, FS.

### 5.2.5 Alternative Water Supply

(a). Upon written notification from the District of alternative water supply availability, permittee must investigate the feasibility of using such an alternative source.

(b). Permittee must apply for a permit modification to reflect that portion of the allocation which will be supplied using an alternative source.

(c). Permittee must continue to investigate the feasibility of using an alternative source throughout the duration of the permit. Permittee must provide the District with an alternative supply feasibility report ten years from date of permit issuance. This report must evaluate the feasibility of using an alternative supply and specifically consider: (1) whether a suitable alternative supply source is available; (2) whether alternative supply lines are accessible at the property boundary in sufficient capacity; (3) whether the permittee is capable of using the alternative supply source through distribution lines on the property; (4) whether use of alternative supply is technically, environmentally, and economically feasible; and (5) if applicable, whether use of an alternative supply would adversely affect the permittee's stormwater management system.

#### 5.2.6 Water Level, Saline Water Intrusion, Contamination, and Wetland Hydro-biologic Monitoring and Data Collection

Permittee must implement the (water level, saline water intrusion, contamination, or wetland hydro-biologic) monitoring program submitted to the District on (date).

#### 5.2.7 Well Construction

(a). If a proposed well location changes from a location specified in the water use permit application, permittee must submit to the District prior to construction of such well, an evaluation of the impacts from pumping at the new location on existing legal uses, pollution sources, environmental features, the saline water interface, and surface water bodies.

(b). Within 90 days of completion of any new wells, permittee must submit to the District an updated Well Description Table identifying the actual total and cased depths, pump manufacturer and model numbers, pump types, intake depths, and type of meters.

(c). Within six months of permit issuance, permittee must submit to the District an updated Well Description Table identifying the wells that have been properly plugged and abandoned in accordance with section 40B-3.531, FAC, and the wells to be maintained as water level monitoring wells.

(d). Within six months of permit issuance, permittee must plug and abandon the following wells in accordance with chapter 40B-3, FAC:

(e). Within six months of permit issuance, permittee must submit to the District a well survey which includes the following information: well cased depth, well total depth, and chloride ion concentration in wells not described in the Well Description Table. This survey must be submitted for the following wells: (list individual wells identified based on project specifications).

(f). Within 30 days of completing construction of a new well, permittee must perform a step drawdown test on that well. Prior to conducting the test, permittee must submit a testing plan to the District for staff review and approval. Within 30 days of completing the step drawdown test, permittee must submit the results for the following wells to the District: (list

individual wells identified based on project specifications). Information on performing step drawdown tests is available from the District.

(g). Permittee must perform an aquifer performance test on the proposed wells. Prior to conducting the test, permittee must submit a testing plan to the District for staff review and approval. Within 30 days of completion of the testing, the test data for the following wells must be submitted to the District: (list wells). The test data submitted must include the pumping rate, duration of test, and the resulting drawdowns at the end of the test. Information on performing aquifer performance tests is available from the District.

#### 5.2.8 Water Use Accounting

(a). The permittee must provide the results of the calibration test for the specified water accounting method(s) and equip all existing and proposed withdrawal facilities with District-approved water use accounting method(s) pursuant to section 4.0. of the Water Use Applicant's Handbook.

(b). Every five years from the date of permit issuance, permittee must submit re-calibration data for each withdrawal facility to the District.

(c). Monthly withdrawals for each withdrawal facility must be reported to the District quarterly. The water accounting method and means of calibration must be described in each report.

(d). Permittee must include the monthly volumes of water obtained from all other sources, such as reclaimed or wholesale water suppliers, in the quarterly water use report to the District. The water accounting method and means of calibration for these sources shall be described in each report.

(e). Permittee must maintain a record of the calibrated daily withdrawals from each withdrawal facility. These records must be made available for inspection by District staff upon reasonable notice to permittee.

(f). Daily withdrawals for each withdrawal facility must be reported to the District on the following schedule: The water accounting method and means of calibration must be described in each report.

#### 5.2.9 Surfacewater Management

An environmental resource or surfacewater management permit will be required prior to any modification of the topography/land surface.

#### 5.2.10 10-year Compliance Reports

(a). Where necessary to maintain reasonable assurance that the conditions for issuance of a permit can continue to be met over the duration of a 20-year or greater permit, the District

shall require the applicant to submit a compliance report pursuant to subsection 373.236(3), FS, no more than once every ten years. The report shall demonstrate that compliance with the initial conditions for issuance will continue to be met for the remaining duration.

The compliance report shall contain sufficient information to maintain reasonable assurance that the permittee's use of water will continue to meet the applicable criteria of chapter 40B-2, FAC, for the remaining duration of the permit. The compliance report shall, at a minimum, include all of the information specifically required by the permit's limiting conditions.

(b). Following the District's review of this report, the Governing Board may modify the permit to ensure that the use meets the conditions for issuance.

(c). Notwithstanding the above, the District may condition permits to require reports at any time to ensure compliance with the terms of the permit or provisions of chapter 40B-2, FAC.

MEMORANDUM

TO: Governing Board

FROM: Tim Sagul, P.E., Division Director, Resource Management

DATE: April 29, 2013

RE: Permitting Summary Report

**Environmental Resource Permitting (ERP) Activities**

**Permit Review**

The following table summarizes the environmental resource permitting activities during the month of March

<b>March 2013</b>	<b>Received</b>					
ERP	Noticed General	General	Individual	Conceptual	Exemption Requests	Extension Requests
	6	8	1	0	2	0
	<b>Issued</b>					
	Noticed General	General	Individual	Conceptual	Exemptions Granted	Extensions Granted
	5	11	1	0	3	0

The following Individual Environmental Resource Permits were issued by staff, pursuant to 373.079(4)(a), Florida Statutes.

<b>File Number</b>	<b>Project Name</b>	<b>County</b>	<b>Issue Date</b>
ERP12-0140M	Amtec Less Lethal Systems Modification	Taylor	3/22/2013
ERP11-0065M3	North Central Florida Catalyst Site Intermodal Park	Columbia	4/17/2013

**Inspections and as-built certification**

The following chart shows staff activity on projects that have been permitted from January 1, 2010 to March 31, 2013.

	<b>Issued</b>	<b>Under Construction</b>	<b>Operation &amp; Maintenance*</b>	<b>Construction Inspections</b>	<b>As-built Inspections</b>
Permit Type				<b>Mar. 2013</b>	<b>Mar. 2013</b>
Exempt	181	148	33	3	0
Noticed General	408	297	111	5	2
General	362	218	144	5	3
10-2 Self Certifications	21	20	1	0	0
Individual	54	33	21	0	0
Conceptual	3	3	0	0	0
<b>TOTAL</b>	<b>1029</b>	<b>719</b>	<b>310</b>	<b>13</b>	<b>5</b>
<b>PERCENT</b>		<b>70%</b>	<b>30%</b>		

\*O& M includes permits that have expired and were not constructed.

**Water Use Permitting and Water Well Construction**

The following table summarizes water use and water well permitting activities during the month of March

<b>March 2013</b>	<b>Received</b>		<b>Issued</b>
Water Use Permits	29		37
<b>Water well permits issued: 139</b>			
Abandoned/destroyed	23	Livestock	2
Agricultural Irrigation	16	Monitor	8
Aquaculture	0	Nursery	1
Climate Control	0	Other	0
Fire Protection	0	Public Supply	1
Garden (Non Commercial)	0	Self-supplied Residential	82
Landscape Irrigation	5	Drainage or injection	0
Commercial or Industrial	0	Test	1

**Rulemaking Schedule  
April 2013**

**40B-2.301**

Reuse

GB Rule Dev. Auth.	2/14/12
Notice of Rule Dev.	3/2/12
GB Proposed Rule Auth.	9/11/12
Notice of Proposed Rule	9/21/12
Public Workshop	10/11/12
Send to JAPC	11/12/12
Sent to OFARR	1/14/13
GB Notice of Change	3/20/13
Mail to DOS	
Effective Date (tentative)	

**40B-1, 40B-2, 40B-8, 40B-21**

**CUPcon**

GB Rule Dev. Auth.	5/29/12
Notice of Rule Dev.	7/20/12
GB Proposed Rule Auth.	5/16/13
Notice of Proposed Rule	
Send to JAPC	
Mail to DOS (tentative)	
Effective Date (tentative)	

**40B-1, 40B-4, 40B-400**

**Statewide Environmental Resource  
Permitting (SWERP)**

GB Rule Dev. Auth.	9/11/12
Notice of Rule Dev.	9/28/12
GB Proposed Rule Auth.	11/15/12
Notice of Proposed Rule	3/22/2013
Send to JAPC	4/5/2013
Mail to DOS (tentative)	
Effective Date (tentative)	

**MEMORANDUM**

TO: Governing Board  
FROM: Tim Sagul, P.E., Division Director, Resource Management  
DATE: April 29, 2013  
RE: Enforcement Status Report

**Matters Staff is attempting to gain compliance without enforcement action**

<b>Respondent</b>	<b>Justin M. Fitzhugh</b>
<b>Enforcement Number / County</b>	<b>CE05-0046 / Columbia</b>
<b>Violation</b>	<b>Non-Functioning Stormwater Management System &amp; Failure to Submit As-Builts</b>
<b>Legal Counsel</b>	<b>Brannon, Brown, Haley &amp; Bullock</b>
<b>Date Sent to Legal</b>	<b>July 1, 2010</b>
<b>Target Date</b>	<b>Ongoing</b>
<b>Legal Fees to date</b>	<b>\$2,111 (approximate)</b>

This violation is for a non-functioning surface water management system and failure to submit as-built certification forms.

Staff inspected site on March 7, 2013. Vegetation cleared, the retention pond is still not in compliance. Staff contacted new owner, Joe Peurrung. Mr. Peurrung expects to submit a modification by June 30, 2013.

**June 2013 Board for update and possible action.**

<b>Respondent</b>	<b>Derrick Freeman</b>
<b>Enforcement Number / County</b>	<b>CE08-0043 / Suwannee</b>
<b>Violation</b>	<b>Unpermitted Structure in Floodway</b>
<b>Legal Counsel</b>	<b>Brannon, Brown, Haley &amp; Bullock</b>
<b>Date sent to Legal</b>	<b>August 9, 2010</b>
<b>Target Date</b>	<b>Ongoing</b>
<b>Legal Fees to date</b>	<b>\$667 (approximate)</b>

This violation is for construction of a structure in the floodway.

Mortgage Company is aware of the outstanding violations existing on the property. Freeman has filed a Suggestion of Bankruptcy and the finalization of the foreclosure matter is on hold until either the bankruptcy is resolved or the mortgage company is given authorization to proceed with the foreclosure.

Counsel is awaiting status report from mortgage company attorney. The bank is proceeding with an in rem foreclosure action. Counsel will work with the bank's attorneys in an effort to have the bank cure the outstanding violations on the property.

**June 2013 Board for update and possible action.**

<b>Respondent</b>	<b>Richard Oldham</b>
<b>Enforcement Number / County</b>	<b>CE10-0024 / Bradford</b>
<b>Violation</b>	<b>Unpermitted Pond &amp; Deposition of Spoil Material</b>
<b>Legal Counsel</b>	<b>Brannon, Brown, Haley &amp; Bullock, P.A.</b>
<b>Date sent to legal</b>	<b>October 13, 2011</b>
<b>Target Date</b>	<b>Ongoing</b>
<b>Legal Budget / Legal Fees to date</b>	<b>\$5,000 / \$2,473</b>

This violation is for construction of a pond without a permit and deposition of spoil material in a flood area.

Richard Oldham and Diana Nicklas were served with an Administrative Complaint and Order and the time for filing a petition for hearing lapsed.

Counsel has filed a Petition for Enforcement in the Circuit Court for Bradford County and will have Oldham and Nicklas personally served upon receipt of the summons from the Clerk. Awaiting service on Respondents.

**June 2013 Board for update and possible action.**

<b>Respondent</b>	<b>Larry R. Sigers</b>
<b>Enforcement Number / County</b>	<b>CE08-0072 / Columbia</b>
<b>Violation</b>	<b>Unpermitted Dredge &amp; Fill</b>
<b>Legal Counsel</b>	<b>Robinson, Kennon &amp; Kendron, P.A.</b>
<b>Date sent to legal</b>	<b>October 5, 2011</b>
<b>Target Date</b>	<b>March 12, 2012</b>
<b>Legal Budget / Legal Fees to date</b>	<b>\$7,500 / \$7,517.00</b>

A Consent Agreement was entered into with Mr. Sigers as a result of violations of District Rules. The replanting has failed and staff has contacted Mr. Sigers. To date there has been no response from Mr. Sigers.

**June 2013 Board for update and possible action.**

<b>Respondent</b>	<b>Rodney O. Tompkins</b>
<b>Enforcement Number / County</b>	<b>CE11-0001 / Gilchrist</b>
<b>Violation</b>	<b>Unpermitted Water Use</b>
<b>Legal Counsel</b>	<b>Springfield Law, P.A.</b>
<b>Date sent to legal</b>	<b>October 3, 2011</b>
<b>Target Date</b>	<b>September 11, 2012</b>
<b>Legal Budget / Legal Fees to date</b>	<b>\$4,800/\$4,627</b>

The respondent has at least one irrigation well on property and has no water use. For over two years staff has worked with property owner to submit applications for such well(s).

The Governing Board authorized the Executive Director to file an Administrative Complaint at its September 2012 Board meeting. Mr. Tompkins was served by the Gilchrist County Sheriff's Office. Mr. Tompkins's attorney requested mediation re: Chapter 70, FS. Enforcement actions have been stayed as the respondent has agreed to submit an application for permit. Respondent has submitted information for a Water Use Permit and staff is working with Respondent with an April 30, 2013 deadline.

**June 2013 Board for update and possible action.**

<b>Respondent</b>	<b>Cannon Creek Airpark</b>
<b>Enforcement Number / County</b>	<b>CE05-0031/ Columbia</b>
<b>Violation</b>	<b>Unpermitted Construction</b>
<b>Legal Counsel</b>	<b>Springfield Law, P.A.</b>
<b>Date sent to legal</b>	<b>February 2006</b>
<b>Target Date</b>	<b>In Permit Process</b>
<b>Legal Fees to date</b>	<b>\$7,048.50</b>

This enforcement action has been on-going for a number of years. This involves work that was done within the subdivision to alleviate flooding. The work was done without a permit. Columbia County officials are working on a stormwater project that may alleviate the practical need to obtain compliance with the existing District permit, but instead would require that the permit be modified to reflect the system as constructed.

District staff is currently reviewing an ERP application to implement one phase of the County's master stormwater plan that includes the Cannon Creek area, which should address the remaining drainage problems for this project. The District is waiting for Columbia County to respond to the mitigation offer before taking further action on the permit application.

Columbia County responded to the request for additional information. Staff is reviewing the submittal in regards to the proposed wetland mitigation offer.

District staff met with Columbia County on February 28, 2012, to discuss outstanding RAI items and expect to soon receive additional information from the County. Columbia County proposes to "bundle" the wetland mitigation required for this project with mitigation being provided for a Home Depot project. Staff plans to discuss this approach with the District's Governing Board.

A permit for this project was issued on August 6, 2012. Staff is still working with Columbia County on the associated Interlocal Agreement. **No change since last report.**

**June 2013 Board for update and possible action.**

**Matters the Governing Board has directed staff to take enforcement**

<b>Respondent</b>	<b>Charlie Hicks, Jr.</b>
<b>Enforcement Number / County</b>	<b>CE07-0087 / Madison County</b>
<b>Violation</b>	<b>Unpermitted Construction in Floodway</b>
<b>Legal Counsel</b>	<b>Brannon, Brown, Haley &amp; Bullock, P.A</b>
<b>Date sent to legal</b>	<b>October 30, 2008</b>
<b>Target Date</b>	<b>Ongoing</b>
<b>Legal Fees to date</b>	<b>\$21,536.50</b>

The violation consists of construction of a structure in the floodway, without obtaining a Works of the District permit. The case has been before this court several times.

The nonjury trial on damages was conducted on April 3, 2012. The Court entered its Final Judgment awarding the District a total amount of \$31,794.07, which consisted of a \$10,000 penalty, an award of attorneys' fees of \$19,454.50, and legal and investigative costs totaling \$2,339.57. Counsel is proceeding in executing on the judgment. **No change since last report.**

<b>Respondent</b>	<b>Steven Midyette</b>
<b>Enforcement Number / County</b>	<b>CE07-0065 / Gilchrist County</b>
<b>Violation</b>	<b>Unpermitted Clearing &amp; Filling of Wetlands &amp; Unpermitted Construction</b>
<b>Legal Counsel</b>	<b>Brannon, Brown, Haley &amp; Bullock, P.A</b>
<b>Date sent to legal</b>	<b>September 9, 2008</b>
<b>Target Date</b>	<b>Ongoing</b>
<b>Legal Fees to date</b>	<b>\$9,190</b>

The is an ongoing enforcement case which involved clearing of wetland vegetation within a riverine wetland slough without a permit, filling in wetlands and constructing a boat ramp within a riverine wetland slough without a permit.

A Complaint was filed with the Circuit Court of Gilchrist County and it was served on Mr. Midyette on March 30, 2011. There have been several status conferences with the latest being October 30, 2012.

The majority of remedial work has been accomplished. The parties are currently negotiating the attorneys' fees and costs and penalty amount to be paid by Midyette and the procedure for payment of the agreed upon amount. **No change since last report.**

#### **June 2013 Board for update and possible action.**

<b>Respondent</b>	<b>El Rancho No Tengo, Inc.</b>
<b>Enforcement Number / County</b>	<b>CE05-0017 / Columbia</b>
<b>Violation</b>	<b>Unpermitted Construction</b>
<b>Legal Counsel</b>	<b>Springfield Law, P.A.</b>
<b>Date sent to legal</b>	<b>January 2006</b>
<b>Target Date</b>	<b>April 30, 2012</b>
<b>Legal Fees to date</b>	<b>\$251,932</b>

This enforcement matter has been ongoing since 2006. After multiple court hearings, and in accordance with Court rulings, a Notice of Sheriff's Sale was sent to the parties by certified mail.

The Sheriff's Sale of Defendant's real property pursuant to two writs of execution occurred on May 3, 2011. The Executive Director and Counsel were present at the sale. After an opening bid by Jeffrey Hill of ten dollars, Mr. Still bid \$390,000, which was also the highest bid. Twenty-two minutes prior to the sale, Jeffrey Lance Hill, Sr., filed a chapter 12 case with the U.S. Bankruptcy Court in Jacksonville, Florida. Counsel has since consulted with Lance Cohen, a bankruptcy attorney in Jacksonville, whom the District retained in 2008 when El Rancho No Tengo, Inc., filed a bankruptcy case. Mr. Cohen is of the opinion that because Mr. Hill filed for bankruptcy prior to the Sheriff's Sale, the District's interest in quieting title would best be served in bankruptcy court. Therefore, Staff has directed Counsel to work with Mr. Cohen again to efficiently and expeditiously secure title to the land in the District.

On March 22, 2012, the Bankruptcy Court granted the District's motion to dismiss the Chapter 12 bankruptcy case filed by Jeffrey Hill. On March 28, 2012, District staff recorded the Sheriff's deed with the Columbia County Clerk's Office.

On May 16, 2012, Mr. Hill filed a Notice of Appeal of the Bankruptcy Court's May 3<sup>rd</sup> Order. The District's bankruptcy counsel, Lance Cohen, is responding to the appeal. Staff was directed to meet with the newer Board members individually to bring them up to date and after this was done to schedule a meeting with Mr. Hill, Mr. Williams and Mr. Reeves to discuss possible settlement. The parties have met, but a settlement was not reached.

The District's bankruptcy counsel, Lance Cohen, filed an Answer Brief on September 10, 2012, in Jeffrey Hill's appeal of the Bankruptcy Court's dismissal of his Chapter 12 case. The case is now fully briefed and, therefore, either oral argument or a written decision should occur or be issued before the end of the year. **No change since last report.**

<b>Plaintiff</b>	<b>Jeffrey L. Hill, Sr. and Linda P. Hill</b>
<b>Enforcement Number / County</b>	<b>CE11-0045 / Columbia</b>
<b>Violation</b>	<b>NA</b>
<b>Legal Counsel</b>	<b>SRWMD Insurance Legal Counsel</b>
<b>Date sent to legal</b>	<b>August 2011</b>
<b>Target Date</b>	<b>Ongoing</b>
<b>Legal Fees to date</b>	<b>\$9,550</b>

This is not a District enforcement matter, but appears to have been prompted by one. This matter concerns a circuit court complaint recently filed against the District by Jeffrey and Linda Hill arising out of the District's enforcement litigation against El Rancho No Tengo, Inc. In summary, the Complaint alleges that the District has violated Plaintiffs' personal and property rights, acted with recklessness and malice, taken Plaintiffs' personal and property, forced Mr. Hill into bankruptcy, and caused Plaintiffs psychological and emotional harm. The request for relief includes returning all real and personal property taken, permanently enjoining the District from taking Plaintiffs' property, damages in the amount of \$1,000,000.00, renewal and reinstatement of a writ dated August 4, 1991, and costs and attorney's fees. District Counsel has responded by filing a motion to dismiss, strike and for more definite statement. Counsel is currently researching whether a judgment on the merits may also be available at this stage of the proceeding. In any event, Counsel will soon request a hearing on the District's motion(s).

On October 20, 2011, Plaintiffs served an Amended Complaint to which Counsel responded by serving an Amended Motion to Dismiss and Strike. Counsel also provided a draft Motion to Award [§57.105, F.S.] Attorney's Fees to Plaintiffs on November 17, 2011. Counsel attended a hearing on the District's amended motion to dismiss and strike the amended complaint on December 9, 2011. The Court dismissed three counts of Hills' amended complaint and struck three more, but also gave the Hills 30 days from the date the order is signed to file a second amended complaint.

Counsel drafted and delivered an order to the Hills for review and comment on December 19, 2011. Comments on the draft order are due from the Hills to Counsel on December 22, 2011, at which time Counsel will send a proposed order to Judge Parker. Once a second amended complaint is filed by the Hills, Counsel will prepare an answer with affirmative defenses.

Rather than commenting to Staff Counsel on the District's draft proposed order, Plaintiff's filed their "Objection to Proposed Order," but not before Staff Counsel submitted the District's proposed order to Judge Parker on December 26, 2011. Thereafter, the District's proposed order was entered and Plaintiffs filed a timely motion for rehearing. On January 25, 2012, this case was transferred from Staff Counsel Jennifer Springfield to Staff Counsel Lindsey Lander. In February, this case was transferred to the District's Insurance Claim Services.

A hearing was set for October 5, 2012, regarding the Plaintiffs Motion for Rehearing on the Court's order dismissing and striking the amended complaint and allowing Plaintiffs 30 days leave to file a second amended complaint. **No change since last report.**

<b>Respondent</b>	<b>Linda Fennell</b>
<b>Enforcement Number / County</b>	<b>CE06-0107 / Lafayette</b>
<b>Violation</b>	<b>Unpermitted Construction in Floodway</b>
<b>Legal Counsel</b>	<b>Brannon, Brown, Haley &amp; Bullock, P.A</b>
<b>Date sent to legal</b>	<b>July 2009</b>
<b>Target Date</b>	<b>Ongoing</b>
<b>Legal Fees to date</b>	<b>\$13,610</b>

This violation is for construction of structures within the regulatory floodway without a works of the district permit. This matter is ongoing in the Lafayette County Circuit Court.

Staff Counsel is negotiating a settlement proposal with Fennell's attorney, which would require removal of the dock, payment of the District's costs and attorneys' fees, and application of a deed restriction or similar instrument allowing the home to stay within the 75-foot setback for the duration of Fennell's ownership. The settlement proposal, if accepted by Fennell, will be brought to the Governing Board for approval. **No change since last report.**

<b>Respondent</b>	<b>Jeffrey Hill / Haight Ashbury Subdivision</b>
<b>Enforcement Number / County</b>	<b>CE04-0003 / Columbia</b>
<b>Violation</b>	<b>Not Built in Accordance with Permitted Plans</b>
<b>Legal Counsel</b>	<b>Springfield Law, P.A.</b>
<b>Date sent to legal</b>	<b>May 2006</b>
<b>Target Date</b>	<b>Ongoing</b>
<b>Legal Fees to date</b>	<b>\$13,176</b>

This enforcement activity has been ongoing for several years. At the hearing on January 31, 2011, the Court granted the District's motion for summary judgment in this case. The judge's order requires Mr. Hill to comply with the corrective actions specified in the District's final order, imposes a civil penalty, and awards the District its costs and attorney's fees.

Since the Bankruptcy Court's automatic stay is no longer in effect due to the dismissal of Jeffrey Hill's Chapter 12 case (see above discussion under Suwannee River Water Management District v. El Rancho No Tengo, Inc.), Counsel intends to ask the Court to schedule another case management conference, as well as a hearing to determine the civil penalty amount and the amount of the District's costs and attorney's fees, all of which have already been awarded.

During the pendency of the bankruptcy proceeding, Staff Counsel drafted an agreement between the District and the County setting forth the County's offer to obtain the necessary legal access and perform the correction action required on the stormwater management system. Thereafter, the District would transfer the permit to the County as the perpetual operation and maintenance entity. In exchange for the County's assistance, and other actions agreed to by the County to help the District resolve two other long-standing ERP violations, the District contemplates donating an approximate 42-acre parcel of land on Alligator Lake that adjoins County-owned property.

Columbia County Attorney, Marlin Feagle, has reviewed the draft interlocal agreement and County Manager is still interested in pursuing this approach. **Staff to follow up with County.**

<b>Respondent</b>	<b>Jeffrey Hill / Smithfield Estates-Phase 1</b>
<b>Enforcement Number / County</b>	<b>CE04-0025 / Columbia</b>
<b>Violation</b>	<b>Not Built in Accordance with Permitted Plans</b>
<b>Legal Counsel</b>	<b>Springfield Law, P.A.</b>
<b>Date sent to legal</b>	<b>May 2006</b>
<b>Target Date</b>	<b>June 30, 2012</b>
<b>Legal Fees to date</b>	<b>\$13,176</b>

This enforcement activity has been ongoing for several years. At the hearing on January 31, 2011, the Court granted the District's motion for summary judgment in this case. The judge's order requires Mr. Hill to comply with the corrective actions specified in the District's final order, imposes a civil penalty, and awards the District its costs and attorney's fees.

Since the Bankruptcy Court's automatic stay is no longer in effect due to the dismissal of Jeffrey Hill's Chapter 12 case (see above discussion under Suwannee River Water Management District v. El Rancho No Tengo, Inc.), Counsel intends to ask the Court to schedule another case management conference, as well as a hearing to determine the civil penalty amount and the amount of the District's costs and attorney's fees, all of which have already been awarded.

During the pendency of the bankruptcy proceeding, Staff Counsel drafted an agreement between the District and the County setting forth the County's offer to obtain the necessary legal access and perform the correction action required on the stormwater management system. Thereafter, the District would transfer the permit to the County as the perpetual operation and maintenance entity. In exchange for the County's assistance, and other actions agreed to by the County to help the District resolve two other long-standing ERP violations, the District contemplates donating an approximate 42-acre parcel of land on Alligator Lake that adjoins County-owned property.

Columbia County Attorney, Marlin Feagle, has reviewed the draft interlocal agreement and County Manager is still interested in pursuing this approach. **Staff to follow up with County.**

## MEMORANDUM

TO: Governing Board  
FROM: Tom Reeves, Board Counsel  
DATE: April 29, 2013  
RE: Legal Matters Relating to El Rancho No Tengo, Inc.

### RECOMMENDATION

## **Board Counsel recommends the Governing Board take action to resolve the ongoing El Rancho No Tengo, Inc. matters**

### BACKGROUND

#### I. BACKGROUND OF EVENTS LEADING TO ENTRY OF MONEY JUDGMENTS AGAINST EL RANCHO NO TENGO

The matter involves a parcel of real property (hereinafter the "PROPERTY") located in Columbia County, Florida and the Suwannee River Water Management District (hereinafter the "DISTRICT"). A map (hereinafter the "MAP") showing the PROPERTY is attached hereto as Exhibit "A".

This PROPERTY was formerly owned by El Rancho No Tengo, Inc., a Florida corporation (hereinafter the "RANCH"). The RANCH is presently administratively dissolved, but prior to such dissolution Mr. Jeffrey Hill (hereinafter "HILL") was the president and registered agent of the RANCH. See print out from the Florida Division of Corporations attached hereto as Exhibit "B".

On the PROPERTY, there presently exists an earthen structure (hereinafter the "DAM") which holds water and creates a water impoundment or lake. The DAM is some 20-25 feet high at its base. The DAM was constructed prior to the enactment of Ch. 373, Florida Statutes and thus when it was constructed no permits were required from the DISTRICT.

Between December 2005 and June 2006, the RANCH (through HILL) excavated out a 23 foot wide and 20-25 foot high section of the DAM down to its base, replaced a pipe which had been serving as the control structure for the DAM, and then replaced the earth in the DAM on top of the new pipe. No permits were applied for or obtained from any governmental entity for such earthwork. All such work was done by HILL and his family, none of whom are licensed professionals in relevant fields.

In 2006, the DISTRICT filed a legal action (hereinafter the "LAWSUIT") in state court against the RANCH. The LAWSUIT was styled *Suwannee River Water Management District v. El Rancho No Tengo, Inc.*, Case No. 06-203 CA, in the Circuit Court of the Third Judicial Circuit in and for Columbia County, Florida .

In the LAWSUIT, the DISTRICT asserted that:

- A. Under Ch. 373, Florida Statutes and DISTRICT rules, HILL was required to obtain an Environmental Resource Permit (hereinafter an “ERP”) from the DISTRICT prior to engaging in the earthmoving activities as described above.
- B. Since HILL obtained no such permit, all such earthmoving activities were unlawful.
- C. Even if such activities were not unlawful, that the DAM was now in an unsafe condition due to the fact that the earth replaced by HILL in the DAM was not properly compacted.

The RANCH responded by:

- A. Denying that any permit was needed from the DISTRICT because all such excavation and earthmoving activities were exempt from the requirement of a permit.
- B. Denying that the DAM was in an unsafe condition.

The court heard the arguments of the parties and ruled as follows:

- A. On August 6, 2007, the court entered its FINAL ORDER GRANTING PERMANENT INJUNCTIVE RELIEF, DENYING DEFENDANT’S MOTION FOR DISMISSAL, DISMISSING COUNT III OF THE AMENDED COMPLAINT AND RETAINING JURISDICTION OVER COUNT IV OF THE AMENDED COMPLAINT. A copy of which is attached as Exhibit “C”. In this order the court found that (1) the earth replaced by the RANCH and HILL in the DAM was not properly compacted (Page 6), (2) the RANCH’s expert would not certify the safety of the DAM (page 6-7), (3) there was a “significant likelihood” that the DAM “may fail, though it is not known when this may happen.” (Page 7), (4) that the RANCH was not exempt from the DISTRICT’s regulations with regard to its activities concerning the DAM (page 8-9), and ordered the RANCH to drain the impoundment and not to impound water behind the DAM until the DAM is certified by the DISTRICT (Page 25-26)
- B. On April 25, 2008, the court entered its FINAL ORDER IMPOSING CIVIL PENALTIES AND RETAINING JURISDICTION. A copy of which is attached as Exhibit “D”. In this order the court, assessed a \$100,000 civil penalty and entered a money judgment against the RANCH for failing to do the things ordered by the court.
- C. On May 3, 2010, the court entered its FINAL ORDER AWARDING AND DETERMINING ATTORNEYS FEES AND COSTS. A copy of which is attached hereto as Exhibit “E”. In this order the court awarded attorneys fees and costs and entered a money judgment against the RANCH for \$280,376.20.

The RANCH did not agree with any of these rulings and filed the following appeals:

- A. *El Rancho No Tengo, Inc., v. Suwannee River Water Management District*, Case No. 1D07-4185, In the District Court of Appeals of the State of Florida, First District.

B. *El Rancho No Tengo, Inc., v. Suwannee River Water Management District*, Case No. 1D08-2568, In the District Court of Appeals of the State of Florida, First District.

C. *El Rancho No Tengo, Inc., v. Suwannee River Water Management District*, Case No. SC09-867, In the Supreme Court of Florida.

In all of the above appeals, the appellate court either affirmed the trial court or dismissed the appeal as unauthorized.

Therefore at the conclusion of the LAWSUIT, the trial court had ruled against the RANCH on all matters, the RANCH unsuccessfully exhausted all of its appeals and there were money judgments entered against the RANCH for over \$380,000. The last appeal was dismissed May 27, 2009. Such money judgments are now beyond review.

## II. HOW THE DISTRICT ENDED UP OWNING THE PROPERTY

Under Florida law, the holder of an unsatisfied money judgment is allowed to levy on, or take, the judgment debtor's non-exempt real and personal property to satisfy the judgment. In this case the DISTRICT held the above unsatisfied money judgments against the RANCH and the RANCH owned the PROPERTY. The DISTRICT made the decision to levy on the PROPERTY to satisfy its money judgments against the RANCH.

On May 3, 2011, the Columbia County Sheriff conducted a Sheriff's sale of the PROPERTY to satisfy the money judgments. The DISTRICT bid the value of its money judgments and was the successful high bidder at the Sheriff's sale. The Columbia County Sheriff issued its Sheriff's deed to the DISTRICT for the PROPERTY. A copy of such Sheriff's Deed is attached hereto as Exhibit "F".

Unbeknownst to the DISTRICT or the Sheriff:

A. On December 6, 2010, the RANCH (through HILL) had recorded a deed from the RANCH to HILL. A copy of this deed is attached hereto as Exhibit "G".

B. Less than an hour prior to the Sheriff's Sale, HILL had filed for bankruptcy protection. HILL's bankruptcy case was styled *In Re: Jeffrey Lance Hill, Sr.*, Case No. 11-bk-3247-PMG, In the United States Bankruptcy Court for the Middle District of Florida, Jacksonville Division.

HILL was present for the Sheriff's Sale and, in fact, submitted a bid for the PROPERTY. However, HILL chose not to reveal that he had already deeded the PROPERTY to himself, nor that he had filed for bankruptcy protection.

When a person files a bankruptcy case, the law provides that such filing automatically stays any actions to collect debts against such person. By transferring the property to himself and then filing for bankruptcy protection, HILL was able to take advantage of the automatic stay to keep the Sheriff's Deed from transferring title to the PROPERTY, at that time.

Immediately upon learning of the bankruptcy filing, the DISTRICT retained Mr. Lance Cohen, a bankruptcy attorney in Jacksonville, to represent the DISTRICT and he sought the dismissal of HILL's bankruptcy case. On March 22, 2012, the Bankruptcy Court granted the DISTRICT's motion to dismiss HILL's bankruptcy case and this had the effect of lifting the bankruptcy stay. On March 28, 2012, the DISTRICT recorded the Sheriff's Deed with the Columbia County Clerk's Office.

HILL has since filed an appeal of the dismissal of his bankruptcy action. This appeal is styled, *Hill v. Suwannee River Water Management District*, Case No. 3:12-cv-00860-TJC, In the United States District Court for the Middle District of Florida, Jacksonville Division. This appeal has been fully briefed but the court has yet to rule.

Also on August 1, 2012, HILL and his wife filed a civil suit against the DISTRICT alleging that they suffered damages for all of the above. This civil action is styled *Hill v. Suwannee River Water Management District*, Case No. 2011-340 CA, In the Circuit Court of the Third Judicial Circuit in and for Columbia County, Florida. The DISTRICT's insurer is representing the DISTRICT in this lawsuit.

The DISTRICT attempted to enforce its money judgments by levying on and taking the PROPERTY through the Sheriff's sale process. HILL attempted to keep this from happening by having the RANCH deed the PROPERTY to HILL and then HILL declaring bankruptcy. The bankruptcy judge dismissed HILL's bankruptcy case allowing the DISTRICT to record the Sheriff's Deed to the DISTRICT for the PROPERTY.

There are presently pending two actions:

- A. HILL's appeal of the dismissal of his bankruptcy case. In my opinion, HILL has a low likelihood of success on this appeal. As was found by the bankruptcy judge, the liens of the DISTRICT's judgments are not avoidable in bankruptcy. (Page 16 of the transcript of Judge Glenn's ruling) HILL was simply engaging in gamesmanship in an attempt to forestall his creditors.
- B. HILL's civil suit against the DISTRICT. In my opinion, HILL has a low likelihood of success on this action. HILL is attempting to sue for what was authorized by a court in the LAWSUIT. If this were possible, lawsuits would never cease. The losing party would always just file another suit. Anyway, the DISTRICT is being represented by its insurer in this action.

### III. PRESENT STATUS OF THE PROPERTY

Safety. On August 6, 2007, the court found that there was a "significant likelihood" that the DAM "may fail, though it is not known when this may happen." (Page 7 of the order attached as Exhibit "C") On December 12, 2012, the DISTRICT received another written report from an outside expert concerning the condition of the DAM. A copy of such written report is attached hereto as Exhibit "H". The expert found that there was no imminent danger of breach, but that, "All the evidence presented by staff at the SRWMD indicates there is a higher than normal chance or probability that the facility would be unsafe at higher water levels and since there is no serviceable drawdown system, an emergency condition on or with the impoundment and dam system, would be difficult to remediate in a timely manner." (Page 3) In the opinion of counsel, the DISTRICT cannot leave the DAM in its present state of holding water and not being certified by any expert that it is safe.

Title. Due to the actions of HILL in deeding the property from the RANCH to himself and filing bankruptcy, the state of the title to the PROPERTY is not good and will need to be cleared before any reasonable buyer will make an offer for the PROPERTY.

### *HILL's Offer to Settle*

On April 10, 2013, the DISTRICT's Governing Board Member Guy Williams, the Executive Director, the General Counsel and Mr. Tim Sagul met with HILL in an attempt to reach a settlement of some or all of the issues between the parties. HILL has offered to settle all matters between the parties on the terms in attached Exhibit "A". This settlement offer is being presented to the governing board for consideration.

### *DISTRICT Staff's Last Offer to HILL*

At the above referenced April 10, 2013 meeting, HILL asserted that he believed that the DAM was safe. In response, DISTRICT staff offered to recommend to the Governing Board that the parties enter into an agreement providing as follows:

A. The DISTRICT would pay for an expert to undertake a study including a) a pipe camera video of the spillway barrel, b) six soil borings with standard penetration tests in 1 foot intervals to a 30 foot depth with classifications, properties, density, and permeability/hydraulic conductivity tests, c) seepage and/or flow net analysis, d) slope stability analysis for the embankment and e) a hydrologic and hydraulic analysis for critical events up to and including 100-year routing along with the standard project flood analysis and a breach routing to determine if the DAM is safe. Anticipated cost: \$2,500 for item a), \$30,000 for b), c) and d) and \$14,000 for item e), a total cost of \$46,500.

B. At the conclusion of such study:

(i) If the expert determined the DAM was safe, the DISTRICT would take no action against the DAM and the DAM would remain; or,

(ii) If the expert determined the DAM was NOT safe, the DISTRICT would breach the DAM. Anticipated cost: \$61,000.

C. The DISTRICT would then convey the PROPERTY back to the RANCH and all persons (parties, spouses, agents, corporations, etc.) would execute general releases and all lawsuits would be dismissed. (This release would not apply to the matters the DISTRICT is currently dealing with in the Haight Ashbury Subdivision and the Smithfield Estates Subdivision in Columbia County involving HILL)

So in either case, the safety of the DAM is resolved and HILL gets back the PROPERTY. HILL was not interested in this proposal.

### *Counsel's Recommendation Concerning the PROPERTY.*

Barring some agreement between the DISTRICT and HILL, to deal with the DAM and the PROPERTY and get the PROPERTY off of the DISTRICT's books, Counsel would propose the following:

A. File a quiet title/foreclosure action in Circuit Court and request that the court either (1) declare that the DISTRICT has clear title to the PROPERTY, or (2) schedule and hold a foreclosure sale so that the title to the PROPERTY can be resolved in this manner. Anticipated Cost: \$5,000 to \$25,000. The range is so great, because I do not know what will be raised by the other side.

B. Once title has been resolved by the court, the DISTRICT should have the DAM breached. This should resolve all liability issues for the DISTRICT.  
Anticipated cost: \$61,000.

C. Sell the PROPERTY with the DAM breached and water free flowing.  
Anticipated revenue: \$ unknown (The Columbia County Property Appraiser has the PROPERTY assessed at \$209,342.00) Of course if any future owner wishes to replace the DAM, they could apply for and be granted a permit for such construction.

The above is necessary to resolve all matters, if there is no agreement between the DISTRICT and HILL on any matters.

*DECISION TO BE MADE BY THE GOVERNING BOARD*

Counsel is recommending that the DISTRICT take action. If the parties can find common ground, that action would be to settle these matters on terms mutually agreeable to the parties. If the parties cannot find any common ground, that action would be to proceed to clear title to the PROPERTY, breach the DAM and sell the PROPERTY. Please direct staff and counsel accordingly.

LAW OFFICES  
**DAVIS, SCHNITKER, REEVES & BROWNING, P.A.**

W. T. DAVIS (1901-1988)  
CLAY A. SCHNITKER  
GEORGE T. REEVES\*#+

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APPELLATE LAWYER  
#BOARD CERTIFIED  
CITY, COUNTY AND  
LOCAL GOVERNMENT  
LAWYER  
+ALSO ADMITTED IN  
GEORGIA

RECEIVED  
SRWMD

APR 15 2013

April 12, 2013

Mr. Jeffrey L. Hill  
908 SE County Club Road  
Lake City, Florida 32025

ORIGINAL TO FILE  
CE05-0017

Re: Documents to go to the Governing Board at May meeting concerning property formerly owned by El Rancho No Tengo.

Dear Mr. Hill:

Enclosed is a copy of the following:

1. A document titled "(To be rewritten in a memorandum to the Governing Board)". This document is the information which will be rewritten by staff and included, in memo form, in the Governing Board's materials. This document includes blanks for amounts that we estimate certain items will cost. These figures will most likely not be available prior to the time the Board materials go out.
2. A document titled BACKGROUND OF THE PRESENT DISPUTE CONCERNING THE PROPERTY WHICH FORMERLY BELONGED TO EL RANCHO NO TENGO with its exhibits. This document will also be included in the Governing Board's materials for the May meeting to give the history of the property.

Please review these documents for our presently scheduled telephone conference on Wednesday, April 17, 2013 at 1:30 p.m. For this call I will call you at (386) 623-9000. If this is incorrect, please call me at the letterhead address and let me know.

At the above telephone conference it is my understanding that:

1. We will discuss any questions or comments you may have on the enclosed documents. (I am not agreeing to change any such documents, but to discuss them. Of course, if you wish, you may provide us with whatever documents you would like for the Board to consider prior to the May meeting.)
2. You will give me the names of all of the persons who you are requesting the District have available at the May meeting when this item is discussed.
3. You will inform me if you would like us to present your previously written offer to the Board or if you would like to submit something different.

I look forward to speaking with you on Wednesday.

Sincerely,  
Davis, Schnitker, Reeves & Browning, P.A.



George T. Reeves  
For the Firm

(To be rewritten in a memorandum to the Governing Board)

*HILL's Offer to Settle*

On April 10, 2013, the DISTRICT's Governing Board Member Guy Williams, the Executive Director, the General Counsel and Mr. Tim Sagul met with HILL in an attempt to reach a settlement of some or all of the issues between the parties. HILL has offered to settle all matters between the parties on the terms in attached Exhibit "A". This settlement offer is being presented to the governing board for consideration.

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- B. At the conclusion of such study:
  - (i) If the expert determined the DAM was safe, the DISTRICT would take no action against the DAM and the DAM would remain; or,
  - (ii) If the expert determined the DAM was NOT safe, the DISTRICT would breach the DAM. Anticipated cost: \$ \_\_\_\_\_.
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- B. Once title has been resolved by the court, the DISTRICT should have the DAM breached. This should resolve all liability issues for the DISTRICT. Anticipated cost: \$ \_\_\_\_\_
- C. Sell the PROPERTY with the DAM breached and water free flowing. Anticipated revenue: \$ unknown (The Columbia County Property Appraiser has the PROPERTY assessed at \$209,342.00) Of course if any future owner wishes to replace the DAM, they could apply for and be granted a permit for such construction.

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*DECISION TO BE MADE BY THE GOVERNING BOARD*

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**BACKGROUND OF THE PRESENT DISPUTE CONCERNING THE  
PROPERTY WHICH FORMERLY BELONGED TO EL RANCHO NO TENGO**

I. **BACKGROUND OF EVENTS LEADING TO ENTRY OF MONEY JUDGMENTS  
AGAINST EL RANCHO NO TENGO**

The matter involves a parcel of real property (hereinafter the "PROPERTY") located in Columbia County, Florida and the Suwannee River Water Management District (hereinafter the "DISTRICT"). A map (hereinafter the "MAP") showing the PROPERTY is attached hereto as Exhibit "A".

This PROPERTY was formerly owned by El Rancho No Tengo, Inc., a Florida corporation (hereinafter the "RANCH"). The RANCH is presently administratively dissolved, but prior to such dissolution Mr. Jeffrey Hill (hereinafter "HILL") was the president and registered agent of the RANCH. See, print out from the Florida Division of Corporations attached hereto as Exhibit "B".

On the PROPERTY, there presently exists an earthen structure (hereinafter the "DAM") which holds water and creates a water impoundment or lake. The DAM is some 20-25 feet high at its base. The DAM was constructed prior to the enactment of Ch. 373, Florida Statutes and thus when it was constructed no permits were required from the DISTRICT.

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In 2006, the DISTRICT filed a legal action (hereinafter the "LAWSUIT") in state court against the RANCH. The LAWSUIT was styled *Suwannee River Water Management District v. El Rancho No Tengo, Inc.*, Case No. 06-203 CA, in the Circuit Court of the Third Judicial Circuit in and for Columbia County, Florida .

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- A. Under Ch. 373, Florida Statutes and DISTRICT rules, HILL was required to obtain an Environmental Resource Permit (hereinafter an "ERP") from the DISTRICT prior to engaging in the earthmoving activities as described above.
- B. Since HILL obtained no such permit, all such earthmoving activities were unlawful.

- C. Even if such activities were not unlawful, that the DAM was now in an unsafe condition due to the fact that the earth replaced by HILL in the DAM was not properly compacted.

The RANCH responded by:

- A. Denying that any permit was needed from the DISTRICT because all such excavation and earthmoving activities were exempt from the requirement of a permit.
- B. Denying that the DAM was in an unsafe condition.

The court heard the arguments of the parties and ruled as follows:

- A. On August 6, 2007, the court entered its FINAL ORDER GRANTING PERMANENT INJUNCTIVE RELIEF, DENYING DEFENDANT'S MOTION FOR DISMISSAL, DISMISSING COUNT III OF THE AMENDED COMPLAINT AND RETAINING JURISDICTION OVER COUNT IV OF THE AMENDED COMPLAINT. A copy of which is attached as Exhibit "C". In this order the court found that (1) the earth replaced by the RANCH and HILL in the DAM was not properly compacted (Page 6), (2) the RANCH's expert would not certify the safety of the DAM (page 6-7), (3) there was a "significant likelihood" that the DAM "may fail, though it is not known when this may happen." (Page 7), (4) that the RANCH was not exempt from the DISTRICT's regulations with regard to its activities concerning the DAM (page 8-9), and ordered the RANCH to drain the impoundment and not to impound water behind the DAM until the DAM is certified by the DISTRICT (Page 25-26)
- B. On April 25, 2008, the court entered its FINAL ORDER IMPOSING CIVIL PENALTIES AND RETAINING JURISDICTION. A copy of which is attached as Exhibit "D". In this order the court, assessed a \$100,000 civil penalty and entered a money judgment against the RANCH for failing to do the things ordered by the court.
- C. On May 3, 2010, the court entered its FINAL ORDER AWARDING AND DETERMINING ATTORNEYS FEES AND COSTS. A copy of which is attached hereto as Exhibit "E". In this order the court awarded attorneys fees and costs and entered a money judgment against the RANCH for \$280,376.20.

The RANCH did not agree with any of these rulings and filed the following appeals:

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### *Recap*

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Unbeknownst to the DISTRICT or the Sheriff:

- A. On December 6, 2010, the RANCH (through HILL) had recorded a deed from the RANCH to HILL. A copy of this deed is attached hereto as Exhibit "G".
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District of Florida, Jacksonville Division.

HILL was present for the Sheriff's Sale and, in fact, submitted a bid for the PROPERTY. However, HILL chose not to reveal that he had already deeded the PROPERTY to himself, nor that he had filed for bankruptcy protection.

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gamesmanship in an attempt to forestall his creditors.

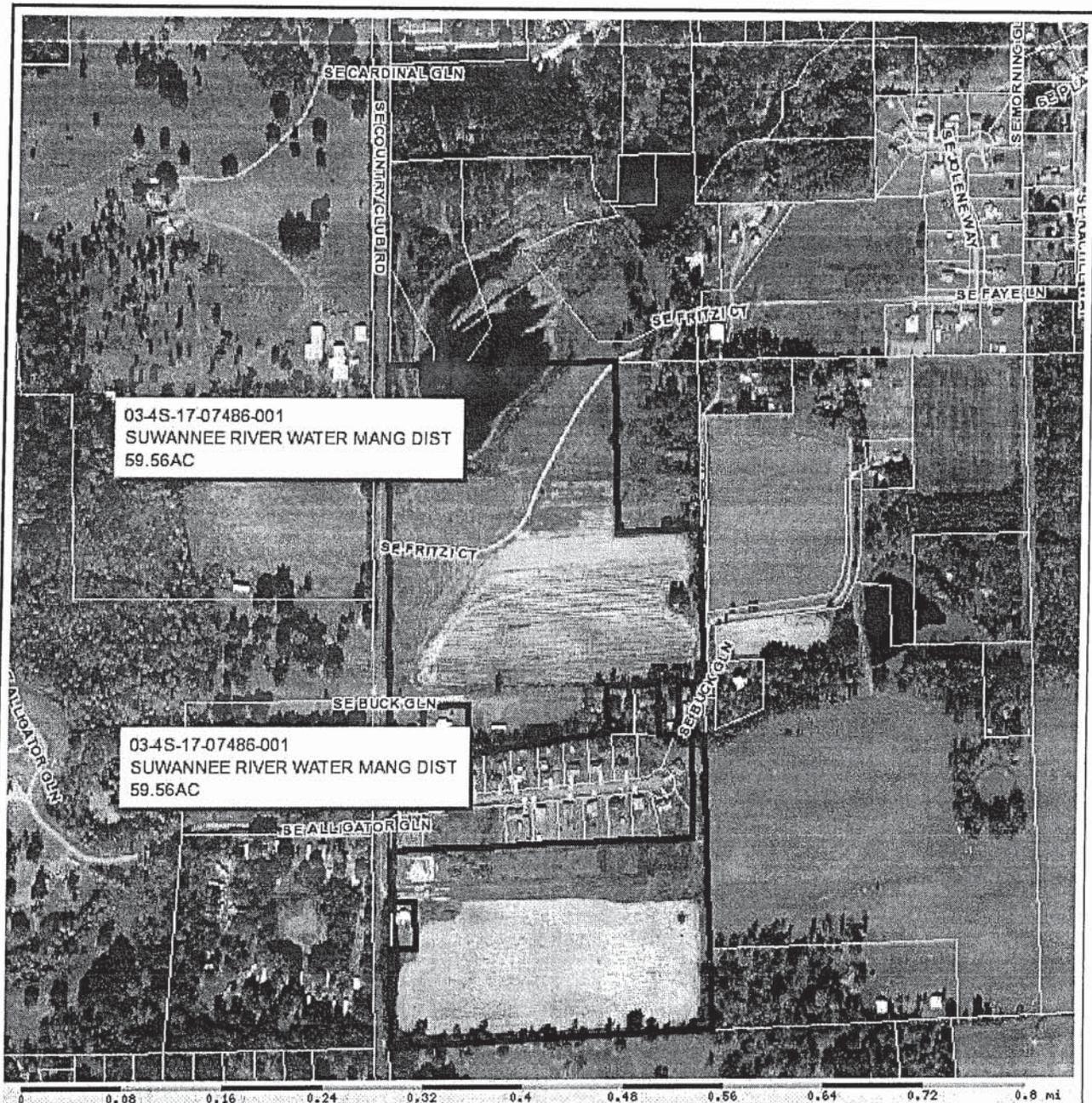
- B. HILL's civil suit against the DISTRICT. In my opinion, HILL has a low likelihood of success on this action. HILL is attempting to sue for what was authorized by a court in the LAWSUIT. If this were possible, lawsuits would never cease. The losing party would always just file another suit. Anyway, the DISTRICT is being represented by its insurer in this action.

### III. PRESENT STATUS OF THE PROPERTY

Safety. On August 6, 2007, the court found that there was a "significant likelihood" that the DAM "may fail, though it is not known when this may happen." (Page 7 of the order attached as Exhibit "C") On December 12, 2012, the DISTRICT received another written report from an outside expert concerning the condition of the DAM. A copy of such written report is attached hereto as Exhibit "H". The expert found that there was no imminent danger of breach, but that, "All the evidence presented by staff at the SRWMD indicates there is a higher than normal chance or probability that the facility would be unsafe at higher water levels and since there is no serviceable drawdown system, an emergency condition on or with the impoundment and dam system, would be difficult to remediate in a timely manner." (Page 3) In the opinion of counsel, the DISTRICT cannot leave the DAM in its present state of holding water and not being certified by any expert that it is safe.

Title. Due to the actions of HILL in deeding the property from the RANCH to himself and filing bankruptcy, the state of the title to the PROPERTY is not good and will need to be cleared before any reasonable buyer will make an offer for the PROPERTY.

# EXHIBIT “A”



**Columbia County Property Appraiser**

J. Doyle Crews - Lake City, Florida 32055 | 386-758-1083

**PARCEL: 03-4S-17-07486-001 - STATE (008700)**  
 W1/2 OF SW1/4, EX E1/2 OF NE1/4 OF NW1/4 OF SW1/4 & EX 1 AC DESC ORB 590-376 & EX 0.51 AC DESC ORB 889-1171 & EX 0.50 AC DESC ORB 892-1036 & EX A PARC

Name: SUWANNEE RIVER WATER MANG DIST  
 Site: CR 49  
 9225 CR 49  
 Mail: 9225 CR 49  
 LIVE OAK, FL 32060

Sales	5/3/2011	\$100.00	V/U
Info	5/3/2011	\$100.00	V/U

**2012 Certified Values**

Land	\$192,097.00
Bldg	\$0.00
Assd	\$192,247.00
Exmpt	\$192,247.00
Cnty:	\$0
Other: \$0   Scht:	\$0

**NOTES:**



This information, GIS updated: 2/1/2013, was derived from data which was compiled by the Columbia County Property Appraiser Office solely for the governmental purpose of property assessment. This information should not be relied upon by anyone as a determination of the ownership of property or market value. No warranties, expressed or implied, are provided for the accuracy of the data herein, its use, or its interpretation. Although it is periodically updated, this information may not reflect the data currently on file in the Property Appraiser's office. The assessed values are NOT certified values and therefore are subject to change before being finalized for ad valorem assessment purposes.

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# EXHIBIT “B”



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## Detail by Entity Name

### Florida Profit Corporation

EL RANCHO NO TENGO, INC.

### Filing Information

Document Number	384336
FEI/EIN Number	591351704
Date Filed	06/21/1971
State or Country	FL
Status	INACTIVE
Last Event	ADMIN DISSOLUTION FOR ANNUAL REPORT
Event Date Filed	09/24/2010
Event Effective Date	NONE

### Principal Address

908 S.E. COUNTRY CLUB ROAD  
LAKE CITY, FL 32025

Changed: 04/13/2004

### Mailing Address

908 S.E. COUNTRY CLUB ROAD  
LAKE CITY, FL 32025

Changed: 04/13/2004

### Registered Agent Name & Address

HILL, JEFFREY L.  
908 S.E. COUNTRY CLUB ROAD  
LAKE CITY, FL 32025

Name Changed: 05/25/1990

Address Changed: 04/13/2004

### Officer/Director Detail

#### **Name & Address**

Title P/D

HILL, JEFFREY LSR.  
908 S.E. COUNTRY CLUB RD.  
LAKE CITY, FL 32025

Title VST

HILL, LINDA P  
908 S.E. COUNTRY CLUB RD.  
LAKE CITY, FL 32025

Title D

HARTLEY, TIMOTHY  
649 PENNSYLVANIA AVE  
LAKE CITY, FL 32025

**Annual Reports**

Report Year	Filed Date
2007	04/09/2007
2008	04/28/2008
2009	04/29/2009

**Document Images**

<a href="#">04/29/2009 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/28/2008 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/09/2007 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/21/2006 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">05/04/2005 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
<a href="#">04/13/2004 -- ANNUAL REPORT</a>	<a href="#">View image in PDF format</a>
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State of Florida, Department of State

# EXHIBIT “C”

Case 3:11-bk-03247-PMG Doc 35-1 Filed 06/21/11 Page 12 of 30  
AUG 8 2007

RECEIVED

ROBERT MOELLER, P.A.

IN THE CIRCUIT COURT OF THE  
THIRD JUDICIAL CIRCUIT, IN AND  
FOR COLUMBIA COUNTY, FLORIDA

SUWANNEE RIVER WATER  
MANAGEMENT DISTRICT,

Plaintiff,

vs.

EL RANCHO NO TENGO, INC.,

Defendant.

CASE NO: 06-203CA

COPY

**FINAL ORDER GRANTING PERMANENT INJUNCTIVE RELIEF,  
DENYING DEFENDANT'S MOTION FOR DISMISSAL,  
DISMISSING COUNT III OF AMENDED COMPLAINT,  
AND RETAINING JURISDICTION OVER COUNT IV OF AMENDED COMPLAINT**

THIS CAUSE came on for consideration in open court on November 7, 2006 and February 7 and 8, 2007, in the Columbia County Courthouse in Lake City, Florida upon the request for temporary injunctive relief contained within the Amended Complaint filed by the Plaintiff, the SUWANNEE RIVER WATER MANAGEMENT DISTRICT (hereinafter referred to as "District"). Present before the Court were JOHN M. DINGES, corporate representative of the Plaintiff, and the Plaintiff's attorneys, JENNIFER B. SPRINGFIELD, THOMAS W. BROWN, and MATTHEW MITCHELL. Also present before the Court on behalf of the Defendant, EL RANCHO NO TENGO, INC., (hereinafter referred to as "Defendant"), was Jeffrey Hill, the President of the Defendant corporation and the Defendant's attorneys, ROBERT MOELLER and PAUL SMITH.

Subsequent to counsel submitting to the Court proposed orders and rebuttal arguments to the proposed orders, this Court entered on July 11, 2007, an "Order Denying Defendant's Motion for Dismissal and Granting in Part Plaintiff's Request for Temporary Injunction". Thereafter, Defendant filed its "Motion for Conversion of Temporary Order to Partial Final Judgment and Motion for Stay," with District filing its "Response to Defendant's Motion for Conversion of Temporary Order to Partial Final Judgment and Motion for Stay." At the hearing held on July 26, 2007 on Defendant's motion and the District's response, the Defendant, while

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Columbia County Case No. 06-203CA  
Page 1 of 16

Debtor's Composite Exhibit 'E'

not stipulating to the correctness of the Court's order of July 11, 2007, requested that the Court's order be converted to a final order for purposes of appeal. The Plaintiff agreed to the order being converted to a permanent injunction.

Both parties agreed that they had presented on November 7, 2006 and February 7-8, 2007 all evidence which they intended to present upon all issues bearing upon the issuance of an order granting or denying temporary or permanent injunctive relief and that there was not any remaining evidence to be presented by either party on the issue of granting permanent injunctive relief. Both parties also stipulated that the court would retain jurisdiction over the issue of the assessment of statutory penalties, attorney's fees, and costs as prayed for in Count IV of Plaintiff's Amended Complaint. The parties disagreed concerning whether Count III of the Amended Complaint should or should not remain pending against the Defendant and requested the Court issue a ruling as to Count III.

The Court, having considered the testimony of each party's witnesses, including expert testimony and reports, the exhibits admitted into evidence, each party's memorandum of law, the argument of counsel, the proposed orders submitted by counsel subsequent to the evidentiary hearing, and the motion, response and argument presented subsequent to the order entered on July 11, 2007, hereby makes the following findings of fact and reaches these conclusions of law:

FINDINGS OF FACT

1. District is a special taxing district created and governed by chapter 373, Florida Statutes.
2. In 1986 District adopted and implemented an environmental resource-permitting program in chapter 40B-4, Florida Administrative Code.
3. Under part IV, Florida Statutes, Chapter 373, District is charged with implementing the operation and regulation of the management and storage of the surface waters within territories delegated to District by the legislature.
4. Columbia County is within the geographical boundaries of District as set forth in Florida Statutes § 373.069 (b).
5. Defendant is a Florida corporation that owns property in Columbia County on which the dam which is subject to this action is located. The president of the corporation is Jeffrey Hill.

6. The dam which is the subject matter of this controversy was constructed by L.P. Hill, Sr. (who is Jeffrey Hill's father) and members of his family in 1966. It was constructed in accordance with design specifications supplied by the United States Soil Conservation Service and an engineer privately retained by L.P. Hill, Sr. Construction supervision was provided by the United States Soil Conservation Service.
7. Jeffrey Hill participated in the original construction of the dam at a time when he was 10-11 years of age, and has participated in the routine maintenance of the impoundment through the present time.
8. In 1978, the Department of the Army, United States Corp of Engineers, commissioned a private engineering firm to perform an analysis of the water shed supplying the water to the impoundment and an analysis of the safety of the impoundment. This document is entitled "Phase I - Inspection Report National Dam Safety Program" and was admitted into evidence as Plaintiff's Exhibit 23. The report contains a copy of the original design diagram for the impoundment. These diagrams were accepted into evidence as Defendant's Exhibits 3 and 4. The report classified the impoundment as a dam and, although it considered the dam to be in the significant hazard category, it determined that at that time "there were no apparent indications of an immediate hazard to safety."
9. The dam is 910 feet in length and 20 feet in height at the downstream maximum section, which is at the center of the valley in the middle of the structure. The top of the dam is about 12 feet wide and the side slopes average about a 3:1 ratio.
10. Defendant's dam has a principal discharge spillway and an emergency discharge spillway through which waters are discharged off-site. As originally designed, the principal spillway consisted of a vertical 24" corrugated metal pipe which extended downward where it joined an 18" horizontal corrugated metal pipe by way of a metal junction box.
11. The horizontal 18" pipe extended in an East-West direction and flowed underneath the dam. The East end of the horizontal pipe was located in the impounded water and was equipped with a gate valve. The gate valve could be opened partially to allow constant flow of water from the dam. It can also be opened completely to drain the dam or to allow the discharge of waters during times of heavy rainfall. The westerly end of the horizontal pipe emptied water

- into a stream bed which flows through a box culvert underneath CR 133 (Old County Club Road). Ultimately, the water flowed into Alligator Lake.
12. For design purposes, it was necessary that the principal spillway be constructed of some sort of pipe which separates the flowing water from contact of the earthen embankment. Actual contact of water with the earth comprising the dam would cause erosion and ultimate failure of the impoundment.
  13. The secondary spillway component of the original structure consisted of an emergency spillway. The emergency spillway is essentially a "notch" cut into the earthen dam at the Southeast end of the dam. During periods of severe rainfall, the flow of water may be of such a magnitude that it can not all be handled by the principal spillway. In such event, water flows through the "notch" of the emergency spillway and around the dam. This design feature was created in order to avoid the prospect of the embankment being "over topped". Over topping can cause failure of the dam.
  14. The dam has been continuously utilized by the Defendant and members of the Hill family for agricultural purposes since it was originally constructed in 1966.
  15. In March of 2003, Columbia County experienced significant and prolonged rainfall. As a result, many roads, bridges and culverts were completely destroyed. Financial assistance from the Federal Emergency Management Administration (FEMA) was provided to Columbia County to assist in repairing the damage. The rainfall was of such magnitude that the principal spillway of the subject dam could not discharge all of the water which was flowing into the impoundment area. Consequently, water began to flow through the emergency spillway. The water flowed into an adjacent field owned by the Defendant and then proceeded to flow toward CR 133 (Old County Club Road) where it passed through the box culvert and ultimately flowed into Alligator Lake. A small section at the southeastern tip of the dam where it joined the emergency spillway was eroded. There was also serious erosion of the adjacent field. The soil was washed from the adjacent field, resulting in a large amount of soil being deposited on the northeast corner of the Alligator Lake Recreational Area, which is located southwest of the dam. The recreational area is owned by Columbia County and used by the public for recreational purposes. There was no injury to any person who was at or near the dam during the flooding event.

16. Between March of 2003 and March of 2006, there was correspondence and face-to-face meetings between representatives of the Plaintiff and the Defendant. During these contacts, the Plaintiff contended that an environmental resource permit was required under F.A.C. 40B-4.1040 prior to the performing of any repairs upon the dam. The Defendant, in turn, claimed that any work performed upon the dam was exempt from the permitting requirements of F.A.C. 40B-4.1040 under the terms of Florida Statute 403.813(2)(g).
17. In approximately February of 2006, the Defendant's president, Jeffrey Hill, discovered that the metal junction box at the junction of the vertical and horizontal principal spillway pipe was rusted out. Also, the horizontal pipe of the principal spillway had rusted out in many sections. Mr. Hill testified that the junction box had rusted out before and had been repaired by him on at least two occasions in the past. Mr. Hill testified that the rust damage in 2006 was more significant now than it had been in the past. The rusted out sections allowed water flowing through the principal spillway to come into actual contact with the soil comprising the embankment. Continued contact of the water with the soil of the dam could cause erosion and potential failure of the dam. As a result, Mr. Hill decided to replace all components. At trial, both parties and their experts agreed that the repair to the principal spillway was necessary to keep the dam safe.
18. Between December 2005 and June 2006, Defendant, without first obtaining an environmental resource permit, drained the dam and excavated a 23 foot wide by 20-25 foot high section through the heart of the existing dam on its property, removed the then existing principal spillway pipes, installed new pipes of a different composition, and rebuilt the 23 foot wide by 20-25 foot high section of the dam that had been removed. Defendant also excavated a ditch near the toe of the dam on its property. See Plaintiff's Exhibit 3. This work was performed by Mr. Hill and his children, none of whom has received formal training in the construction and repairs of dams.

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19. There are areas within the newly repaired area of the dam that were not properly compacted and show up as loose material.<sup>1</sup>
20. Proper compaction of the soils is very important because water traveling horizontally through the dam will erode the dam and cause it to breach or fail.
21. The seven-foot hand-boring sample obtained by Defendant's expert witness from the repaired area of the dam is not adequate to determine the degree of soil compactness and is only useful in showing the type of soil.
22. Clayey sand is predominantly sand with less than 50% clay. Sandy clay is predominantly clay with less than 50% sand. Sandy clay would be more suitable in the construction of a dam than would clayey sand.
23. Defendant's exhibit 9, which was the soil sample removed from the repaired location that allegedly contained a clay core, was identified as clayey sand by Plaintiff's expert witness.
24. When water reaches the top of Defendant's dam, approximately 78 million gallons of water are stored behind the dam. At the top of the emergency spillway crest, there would be approximately 67 million gallons of water stored. At the normal pool elevation of the dam, there is approximately 49 million gallons of water stored behind the dam, which equals roughly 480 million pounds of water.
25. There is no assurance that Defendant rebuilt the dam to meet normally accepted standards for dams. The soil materials that were removed from the 23-foot wide section and later put back in place may not have been properly compacted when replaced.
26. Defendant's expert witness performed a seepage analysis and a slope stability analysis, which assumed the existence of a properly constructed clay core or barrier. Despite some disagreement with Plaintiff's experts' findings, Defendant's

<sup>1</sup> According to the testimony of John Dorman, explaining the reports of Cal-Tech Testing, two continuous standard penetration tests to depths of 25 foot were performed on Defendant's dam, one in the repaired area (B-1 boring location) and one in an area that was not disturbed by the excavation of the dam (B-2 boring location). The tests began at a depth of one foot and continued down 25 foot in two-foot intervals. During the test performed at the B-1 boring location, N values in the third layer of soil are one or less blows per foot and for approximately two foot of this layer the sampling spoon bent under the weight of the drill rod. The bending of the spoon under the weight of the drill rod was caused by encountering an absence of soil materials in the soil profile being sampled or very loose soils and the spoon advanced under its own weight. The soil compaction of Defendant's dam at the B-1 boring location was inadequate and showed a very loose to loose condition of the soils encountered, which did not appear to comprise a core 1/4-in or a fence. Upon completion of the standard penetration test, the two boring holes were filled with grout. The boring hole in the undisturbed area filled up easily whereas the B-1 boring location continued to take grout and took several hours to fill up. Twelve bags of cement were brought to the site, of which, 7-8 were used to fill the B-1 boring location. The variation in time and effort required to fill the B-1 boring location compared to the boring hole in the undisturbed area was most likely caused by the presence of very loose and poorly compacted soil in the repaired area of the dam.

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- own expert was not willing to certify the safety of the dam without additional analyses being performed.
27. Watershed modeling shows that changes in the watershed upstream of the dam since 1966 when the dam was constructed have resulted in an increased rate and volume of runoff to Defendant's dam. This means that if the impoundment elevation were at or above the normal pool elevation of approximately 119 feet NGVD, the dam could not handle the one percent chance storm occurring. The dam would overtop because the spillways of the structure are not adequate to pass the discharge from the one percent chance storm. The one percent chance storm would be roughly about 10 inches of rainfall in a 24 hour period.
  28. Defendant's excavation activities threaten to cause environmental damage, to wit: sedimentation in waters of the state.
  29. There is a significant likelihood that the Defendant's dam in its current condition may fail, though it is not known when this may happen.
  30. The specific activities performed by Defendant on its dam between December 2005 and June 2006 that would make the work subject to an environmental resource permit include excavating a 23 foot wide by 20-25 foot high section through the middle of the dam, rebuilding the spillway, and returning the earth back to the excavated section.
  31. Defendant was notified on numerous occasions that it was required to obtain an environmental resource permit prior to performing such maintenance, repair, or alteration on a dam that affects the surface waters within territory of District. Defendant was notified orally at several meetings with District staff, by certified mail, and by personal service by way of a process server. Defendant refused to obtain an environmental resource permit prior to, during or after the construction activities on the dam based upon the belief that it was exempt from such requirement under the provisions of F.S. 403.813(2)(g) and based upon a prior decision of this Court in the case of Suwannee River Water Management District (SRWMD) vs. El Rancho No Tengo, Inc; L. P. Hill, Sr., and Jeffrey Hill, Columbia County Circuit Court Case No. 89-22-CA.
  32. In May 2006, when Plaintiff first sought a temporary injunction against Defendant, the dam impounded a minimal amount of water, if any. District's temporary injunction sought to maintain the status quo at that point in time when the dam

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was empty and did not present a significant safety hazard. Subsequently, the dam has been filled with water again and is operational.

33. Routine custodial maintenance includes such activities as mowing the grass around the dam, removing any woody vegetation, correcting any areas of minor erosion, and maintaining the spillways in a clean condition. Major repair or alteration of an existing structure is not routine custodial maintenance.
34. The parties, subject matter, and issues in this proceeding are not identical to the parties, subject matter, and issues in *SRWMD v. Hill*, Columbia County Circuit Court Case No. 89-22-CA. Defendant's counsel conceded in closing argument that the *res judicata* defense is not sustainable, as the instant action involves a different structure.

#### CONCLUSIONS OF LAW

1. District is authorized to bring this action under sections, 373.129, 373.136, 373.433, and 120.69, Florida Statutes, as well as Rule 1.610, Fla. R. Civ. Pro., and Alachua County v. Lewis Oil Company, 516 So. 2d 1033 (Fla. 1<sup>st</sup> DCA 1987).
2. The principle of *res judicata* does not apply to this case, as the action in *SRWMD v. Hill*, Columbia County Circuit Court Case No. 89-22-CA, involved a different structure. See, Lake Region Hotel Co. v. Gollick, 149 So. 205, 207, (Fla. 1933) (in order to make a matter *res judicata* there must be concurrence of the following conditions: (1) identity in the thing sued for; (2) identity of the cause of action; (3) identity of persons and parties to the action and (4) identity of the quality in the persons for or against whom the claim is made.) Suniland Assocs., Ltd. V. Wilbenka, Inc., 656 So. 2d 1356, 1358 (Fla. 3<sup>rd</sup> DCA 1995) (for *res judicata* to apply there must also exist in the prior litigation a "clear-cut former adjudication" on the merits.) Additionally, the issue is moot, as Defendant did not pursue at the hearing its previously asserted defense of *res judicata*.
3. Statutory exemptions are to be strictly construed against those claiming the exemption. Pal-Mar Water Management District v. Martin County and South Florida Water Management District, 384 So. 2d 232 (Fla. 4<sup>th</sup> DCA 1980); Deseret, supra. "Those who seek shelter under an exemption law must present a clear case, free from all doubt, as such laws, being in derogation of the general rule,

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must be strictly construed against the person claiming the exemption and in favor of the public." Robinson v. Fix, 151 So. 512, 522 (Fla. 1933). Defendant has failed to present a clear case to support its claim of exemption.

4. The exemption in paragraph 403.813(2)(g), Florida Statutes, for "the maintenance of existing insect control structures, dikes, and irrigation and drainage ditches, provided that spoil material is deposited on a self-contained, upland spoil site which will prevent the escape of spoil material into waters of the state," is not applicable to the Defendant's actions in this case. The exemption is limited to insect control structures, dikes, and irrigation and drainage ditches, the construction of which typically generates "spoil material." In constructing dams, no "spoil material" is typically generated. Further, the statute contemplates that "dredging" activity will be necessary in order to perform the exempt maintenance. Typically, there is no dredging required for the construction of a dam. No case in which a court has found that this exemption applies has involved a dam. Save the St. Johns River v. St. Johns River Water Management District, 623 So. 2d 1193 (Fla. 1<sup>st</sup> DCA 1993) (exemption applied to dike). Suwannee River Water Management District v. Hill, Columbia County Circuit Court Case No. 89-22-CA (exemption applied to dike).
5. Not one of the three exemptions claimed by the Defendant applies to the Defendant's activities described in Finding of Fact paragraph 19 above: (1) The surface water management system that exists on the Defendant's property was recently altered. Consequently, the exemption in paragraph 40B-4.1070(1)(e), does not apply. (2) The exemption from part IV, chapter 373 permitting in subsection 373.406(1), Florida Statutes, is not applicable to Defendant's activities as it is intended to apply solely to the consumptive uses of water permitting program versus any surface water management activities designed to facilitate the "capture, discharge, and use of water." (3) The surface water management system on Defendant's property is not an "agricultural closed system" under subparagraph 40B-4.1070(1)(a)2, Florida Administrative Code, since it discharges water off-site. See, Corporation of the President of the Church of Jesus Christ of Latter Day Saints v. St. Johns River Water Management District, 489 So. 2d 59 (Fla. 5<sup>th</sup> DCA 1986).

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6. The interpretation of a statute by an agency that has responsibility for its implementation is entitled to great weight and should not be overruled unless it is clearly erroneous. Save the St. Johns River v. St. Johns River Water Management District and David A. Smith, 623 So.2d 1193, 1202 (Fla. 1<sup>st</sup> DCA 1993); Dept. of Military Affairs v. Griffin, 530 So.2d 1029, 1031 (Fla. 1<sup>st</sup> DCA 1988).
7. The impoundment in question is not a "dike" as used in Fla. Stat. 403.813(2)(g) and therefore is not exempt from the permitting requirements of Fla. Admin. Code 40B-4.1040 and Florida Statutes §373.113 and 373.413. The language of Fla. Stat. §403.813(2)(g) very clearly exempts "dikes" and other structure from the permitting requirements of Fla. Admin. Code 40B-4.1040. The term "dike" is not officially defined anywhere in the Florida statutes or Administrative Code. Looking at the language of the statute, in its plain and ordinary meaning, it is quite clear that the impoundment in question is not a dike and thus not exempted from permitting.
8. The parties would have this Court make a determination of whether the current impoundment is a "dike" under the exemption by addressing other statutes and their legislative histories or by looking to case law which only addressed secondary and collateral issues. Rather than head down either path, this court will follow the first and foremost rule of statutory interpretation - look at the plain language of the statute. Joshua v. City of Gainesville, 768 So.2d 432, 435 (Fla. 2000). As stated numerous times by the Florida Supreme Court:

When the statute is clear and unambiguous, courts will not look behind the statute's plain language for legislative intent or resort to rules of statutory construction to ascertain intent. In such instance, the statute's plain and ordinary meaning must control, unless this leads to an unreasonable result or a result clearly contrary to legislative intent. "When the words of a statute are plain and unambiguous and convey a definite meaning, courts have no occasion to resort to rules of construction - they must read the statute as written, for to do otherwise would constitute an abrogation of legislative power." Nicoll v. Baker, 668 So.2d 989, 990-991 (Fla. 1996). (Internal citations omitted).
9. When a word is left undefined by the Legislature it does not mean that the statute is ambiguous, rather the courts may determine its plain and ordinary meaning by simply consulting a dictionary. L.B. v. State, 700 So.2d 370 (Fla. 1997) (a court

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may refer to a dictionary to ascertain the plain and ordinary meaning which the legislature intended to ascribe to the term); Green v. State, 604 So.2d 471 (Fla. 1992) ("If necessary, the plain and ordinary meaning of the word can be ascertained by reference to a dictionary."). Various dictionaries define "dike" as

- Encarta Online Dictionary: (1) an embankment built along the shore of a sea or lake or beside a river to hold back the water and prevent flooding. "dike." *Encarta World English Dictionary*, 2006, Bloomsbury Publishing Plc, 26 Feb 2007 < [http://encarta.msn.com/dictionary/\\_dike.html](http://encarta.msn.com/dictionary/_dike.html)>
- American Heritage Dictionary: (1a) an embankment of earth and rock built to prevent floods. "dike." *The American Heritage Dictionary of the English Language, Fourth Edition*. Houghton Mifflin Company, 2004. 26 Feb. 2007. <Dictionary.com <http://dictionary.reference.com/browse/dike>>.
- Dictionary.com: (1) an embankment for controlling or holding back the waters of the sea or a river. "dike." *Dictionary.com Unabridged (v 1.1)*. Random House, Inc., 26 Feb. 2007. <Dictionary.com <http://dictionary.reference.com/browse/dike>>.
- Merriam-Webster: (2a) a bank usually of earth constructed to control or confine water. "dike." *Merriam-Webster Online Dictionary*. 2007. 26 Feb 2007 <http://www.m-w.com/dictionary/dike>

10. Based on these definitions it seems clear that the plain and ordinary meaning of the term "dike", as it is commonly used, is an embankment which main purpose is to prevent flood water from approaching upon land. This definition is consistent with those decisions which addressed the applicability of the exemption, but did not seek to define the term dike. See Save the St. Johns River, v. St. Johns River Water Management District, 623 So.2d 1193, 1195 (Fla. 1st DCA 1993) ("Currently, a dike system exists along the southern boundary of the proposed development property and **separates the internal grazing lands from the lower marsh and flood areas external to the dike,**" and further stating, "the 1973 dike remained intact throughout the entire length and **continued to impede water movement from the marsh into the agricultural areas.**") (emphasis added); Corporation of the President of the Church of Jesus Christ of Latter-Day Saints v. St. Johns River Water Management District, 489

So.2d 59, 60 (Fla. 5th DCA 1986) (Noting "[o]ther ranch employees testified that no maintenance had been performed on this system for over twenty-five years and *the dike had failed to keep water off the ranch* during that period.") (emphasis added).

11. Applying the plain meaning of "dike" to the instant impoundment, it is abundantly clear that it is not a dike as used in the statute. Mr. Hill testified that the impoundment in question was built to capture water to be used for various agricultural purposes. No evidence was presented that it has been, is, or will be used as a means of flood control, and therefore, is not a dike, as used in its plain and ordinary meaning. As such, the impoundment is a dam as contemplated in Fla. Admin. Code 40B-4.1040 and Florida Statute 373.403 and is subject to the permitting requirements thereof.
12. Defendant's activities described in Findings of Fact paragraph 18 above constitute construction, alteration, maintenance, and operation of a dam, impoundment, reservoir, appurtenant work or works, and surface water management system within the meaning of section 40B-4.1040, Florida Administrative Code. See, subsections 373.403(1) through (5) and (7) through (10), Florida Statutes.
13. Defendant's activities described in Findings of Fact paragraph 18 above require an environmental resource permit from the District pursuant to Rule 40B-4.1040, Florida Administrative Code. Sections 373.113 and 373.413, Florida Statutes
14. Defendant's activities described in Findings of Fact paragraph 18 above do not constitute "routine custodial maintenance" as that term is construed in interpreting paragraph 403.813(2)(g), Florida Statutes, and is used in subsection 373.403(8), Florida Statutes see, Corporation of the President of the Church of Jesus Christ of Latter Day Saints v. St. Johns River Water Management District, 489 So. 2d 59 (Fla. 5<sup>th</sup> DCA 1986) (commonly referred to as the "Deseret" decision) (the legislature intended to exclude only routine custodial maintenance having a minimal adverse environmental impact from permit requirements.)
15. To obtain an injunction in a case where a statutory violation is being asserted, the complainant must show that (1) irreparable harm will occur from a continued violation; (2) it lacks an adequate remedy at law; (3) it has a clear legal right to the relief requested; and (4) the injunction is in the public interest. Florida

Department of Environmental Regulation v. Kaszyk, 590 So. 2d 1010 (Fla. 3<sup>rd</sup> DCA 1991). "When the express purpose of a statute is to protect public health, safety, and welfare, and when the legislature has specifically empowered an agency to seek an injunction against one who violates that statute, irreparable harm is presumed", *Id* at 1011-12.

16. Section 373.016 (3)(j), Florida Statutes, states "It is further declared to be the policy of the Legislature ...to promote the health, safety, and general welfare of the people of this state". Sections 373.129(2) and 373.136(1), Florida Statutes, provide specific authority to the District to seek an injunction. Therefore, the first requisite for obtaining an injunction has been met.
17. Regarding the second requirement, compliance by Defendant with the District's regulations and the safety of the public cannot be achieved through a remedy at law in this case.
18. Thirdly, the District has a clear legal right to the relief requested under Sections 373.129(2) and 373.136(1), Florida Statutes.
19. Finally, if the statute is aimed at protecting the public health, safety, and welfare, and it is being violated, then issuing the injunction is in the public interest.
20. Count III of the Amended Complaint seeks the Court declare the dam a public nuisance based upon Section 373.433, Florida Statutes, which provides as follows:

"Any stormwater management system, dam, impoundment, reservoir, appurtenant work, or works which violates the laws of the state or which violates the standards of the governing board or the department shall be declared a public nuisance. The operation of such stormwater management system, dam, impoundment, reservoir, appurtenant work, or works may be enjoined by suit by the state or any of its agencies, or by a private citizen. The governing board or the department shall be a necessary party to any such suit. Nothing herein shall be construed to conflict with the provisions of s. 373.429."
21. This Court's order granting Plaintiff's request for permanent injunctive relief is predicated upon the Defendant failing to obtain a permit as required by the applicable statutes and regulations cited herein.

'E'

22. The permitting requirement of said statutes and regulations apply to a person or entity (not a "thing" such as a dam), and in the instant case, the permitting requirements apply to a corporation, to-wit: Defendant, El Rancho No Tengo, Inc.
23. While the Defendant corporation violated the law (as detailed in this order) by failing to obtain a permit, that act alone is not sufficient to transfer the violation to the dam, such as to declare the dam a public nuisance under Section 373.433, Florida Statutes.
24. Therefore, Plaintiff did not prove its case as alleged in Count III of the Amended Complaint and said count is dismissed.

WHEREFORE, based upon the foregoing findings of fact and conclusions of law, the Court finds that while Defendant in good faith relied upon a prior decision by this Court in opposing the District's efforts to regulate its activities, said reliance was erroneous. The Defendant's Motion to Dismiss is denied. The Court further finds that Plaintiff lacks an adequate remedy at law and a permanent injunction is in the public interest. However, Plaintiff having suggested and offered a procedure to address the public interest without requiring Defendant's strict compliance with the permitting requirements, therefore, in lieu of requiring the Defendant to complete the entire permitting process under chapters 40B-4 and 40B-400, Florida Administrative Code,

**IT IS ORDERED AND ADJUDGED** that permanent injunctive relief is granted in favor of the Plaintiff and against the Defendant as follows:

The Defendant shall forthwith drain the dam to the lowest level feasible and, within 60 days of entry of this order, provide to Plaintiff engineering certification of the dam and its appurtenant works and an operation and maintenance plan. The certification and operation and maintenance plan shall be made by an engineer licensed in the state of Florida under Chapter 471, Florida Statutes who is recognized by his peers as competent in the design and construction of earthen dams.

Within 30 days of its receipt of Defendant's certification and operation and maintenance plan, Plaintiff shall review and issue written notification to Defendant of Plaintiff's approval or of any deficiencies in the information/certification provided. During the pendency of this injunction, Plaintiff is authorized to enter and inspect the property during normal business hours upon reasonable notice given to Defendant, which shall be no less than 24 hours, unless an

emergency affecting public safety exists. In the event that Plaintiff notifies Defendant of deficiencies within the certification and/or operation and maintenance plan, Defendant shall have 30 days to cure these deficiencies, unless otherwise stipulated by the parties, and re-submit the certification and/or operation and maintenance plan.

The Defendant shall not impound water to its full capacity behind the dam until Plaintiff provides written approval to Defendant of the certification and operation and maintenance plan. Plaintiff shall diligently and expeditiously process the evaluation and issue its findings promptly.

The engineering certification of the dam and its appurtenant works shall include the following elements:

1. A detailed report on the pipe materials used for the principal spillway piping system;
2. New soil borings and soil properties testing to determine the presence, location, elevation, permeability, and other properties of the dam's clay core;
3. A seepage analysis based on properties of the soils tested;
4. A slope stability analysis based on properties of the soils tested;
5. An analysis of principal spillway and emergency spillway capacities to certify they will safely discharge flows from the following storm events:
  - a. The one-percent chance (100-year recurrence interval) critical duration storm event for the dam's contributing watershed, and;
  - b. The standard project flood as defined in Plaintiff's exhibit number 23, the 1978 Phase 1 Inspection Report of the L.P. Hill Dam.

The Defendant shall file a report with Plaintiff no later than July 1 of each third year following entry of this order. The report shall detail all operation and maintenance activities during the three-year period prior to the filing of the report.

The Court retains jurisdiction for the purpose of ruling on Plaintiff's claim for civil penalties, costs, and fees and entering such further orders as may be appropriate.

DONE AND ORDERED in chambers at Lake City, Columbia County, Florida, this 6th day of August, 2007.

  
 LEANDRA G. JOHNSON, Circuit Judge

**COPY**

# EXHIBIT “D”

IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT,  
IN AND FOR COLUMBIA COUNTY, FLORIDA

SUWANNEE RIVER WATER  
MANAGEMENT DISTRICT,

Plaintiff,

-vs-

EL RANCHO NO TENGO, INC.,

Defendant;

Inst: 200812010972 Date: 6/10/2008 Time: 8:45 AM  
P. DeWitt Cason, Columbia County Page 1 of 3 B.1152 P:115

CASE NO: 06-203CA

STATE OF FLORIDA, COUNTY OF COLUMBIA  
I HEREBY CERTIFY that the above and foregoing  
is a true copy of the original filed in this office.  
P. DeWITT CASON, CLERK OF COURTS

By: *[Signature]* Deputy Clerk  
Date: *6/10/08*



**FINAL ORDER IMPOSING CIVIL PENALTIES AND RETAINING JURISDICTION**

This matter came before the Court on Wednesday, April 16, 2008, during an evidentiary hearing to consider Plaintiff Suwannee River Water Management District's ("District") claim against Defendant El Rancho No Tengo, Inc., for civil penalties. The District was represented at the hearing by attorneys Jennifer B. Springfield and Thomas W. Brown and the Defendant was represented by attorneys Robert Moeller and Paul V. Smith. The Court heard testimony from Jon M. Dinges who is also the District's corporate representative. The Court also heard arguments from counsel for both parties. Upon the Court's ruling in Plaintiff's favor, counsel for Defendant made an *ore tenus* motion requesting that a stay of execution also be entered.

**FINDINGS OF FACT**

1. The findings of fact made by the Court in its "Final Order Granting Permanent Injunctive Relief, Denying Defendant's Motion for Dismissal, Dismissing Count III of Amended Complaint, and Retaining Jurisdiction over Count IV of Amended Complaint" are incorporated herein by reference.

2. The Court finds that the actions and conduct of Defendant's principals, as described in the findings referenced in paragraph no. 1 above, are *flagrant, willful, and without excuse*. These actions by Defendant considered by the Court in this Order cover the period of time from December 7, 2005 through September 5, 2007, a period of 637 days.
3. Based upon lack of notice and violation of due process rights, Defendant objected at the hearing to all evidence offered by the District of any actions taken by Defendant after the date on which the District's motion for penalties was filed (September 5, 2007). These objections were sustained by the Court. Consequently, no period of time other than December 7, 2005 through September 5, 2007, has been considered in this Order.
4. The imposition of a civil penalty in this case is necessary and appropriate in order to deter the Defendant and its principals from further violations of chapter 373, Florida Statutes.

#### CONCLUSIONS OF LAW

1. The Court's conclusions of law in its "Final Order Granting Permanent Injunctive Relief, Denying Defendant's Motion for Dismissal, Dismissing Count III of Amended Complaint, and Retaining Jurisdiction over Count IV of Amended Complaint" are incorporated herein by reference.
2. Pursuant to subsection 373.129(5), Florida Statutes, the District is authorized to seek civil penalties in excess of \$5,000,000 in this case, for which Defendant may be liable pursuant to subsection 373.430(2), Florida Statutes.
3. The Legislature has declared its intent in subsection 373.430(6), Florida Statutes, that "civil penalties imposed by the court be of such amount as to ensure immediate and continued compliance with this section."

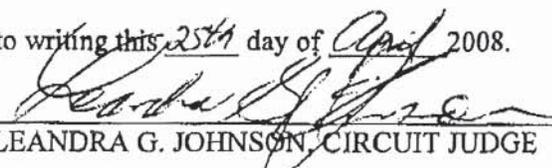
4. Given the findings of fact above and in the "Final Order Granting Permanent Injunctive Relief, Denying Defendant's Motion for Dismissal, Dismissing Count III of Amended Complaint, and Retaining Jurisdiction over Count IV of Amended Complaint," payment by Defendant of a civil penalty in the amount of \$100,000 is fair and reasonable.

ACCORDINGLY, it is

ORDERED and ADJUDGED as follows:

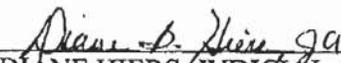
- a. The Plaintiff, Suwannee River Water Management District, shall have and recover from Defendant, El Rancho No Tengo, Inc., the sum of One-Hundred Thousand Dollars and Zero Cents (\$100,000.00), for which let execution issue.
- b. This Court retains jurisdiction in order to determine attorney's fees and costs (the remaining issues of Count IV of the Amended Complaint) and such other matters as may be necessary and proper.

DONE and ORDERED in Chambers at the Columbia County Courthouse, Lake City, Florida on April 16, 2008, and reduced to writing this 25<sup>th</sup> day of April 2008.

  
LEANDRA G. JOHNSON, CIRCUIT JUDGE

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order Imposing Civil Penalties and Retaining Jurisdiction was furnished to **ROBERT MOELLER, ESQ.**, P.O. Box 1419, Cross City, FL 32628; **JENNIFER B. SPRINGFIELD, ESQ.**, 605 N.E. 1<sup>st</sup> Street, Suite G, Gainesville, FL 32601; **THOMAS BROWN, ESQ.**, P.O. Box 1029, Lake City, FL 32056, and **PAUL V. SMITH, ESQ.**, P.O. Box 1792, Lake City, FL 32056 by U.S. Mail this 25<sup>th</sup> day of April, 2008.

  
DIANE HIERS, JUDICIAL ASSISTANT

# EXHIBIT “E”

IN THE CIRCUIT COURT OF THE THIRD JUDICIAL CIRCUIT,  
IN AND FOR COLUMBIA COUNTY, FLORIDA  
CIVIL ACTION

SUWANNEE RIVER WATER  
MANAGEMENT DISTRICT,

Plaintiff,

-vs-

EL RANCHO NO TENGO, INC.,

Defendant.

Inst: 201012007225 Date: 5/8/2010 Time: 9:26 AM  
DC, P DeWitt Cason, Columbia County Page 1 of 12 B:1193 P:2510

CASE NO: 06-203CA

Inst: 201012009978 Date: 6/24/2010 Time: 9:35 AM  
DC, P DeWitt Cason, Columbia County Page 1 of 12 B:1196 P:1742

MAY -5 PM 3:09  
CLERK OF CIRCUIT COURT  
COLUMBIA COUNTY, FLORIDA

**FINAL ORDER AWARDING AND DETERMINING ATTORNEY'S FEES AND COSTS**

This matter came before the Court on Friday, March 26, 2010, on Plaintiff's, Suwannee River Water Management District ("District"), *Motion For Default* judgment against Defendant on the portion of Count IV of the Amended Complaint which seeks an award of costs and attorney's fees in this case and for a final evidentiary hearing on the amount of costs and attorney's fees, which claim is also the subject of *Plaintiff's Amended Motion for Costs and Attorneys' Fees*. The Court also heard *Plaintiff's Motion for the Assessment of Appellate Attorney's Fees*. Defendant was properly served with these motions and a *Fourth Amended Notice of Hearing* and had the right and opportunity to appear at the hearing to contest any unliquidated damages. The District was represented at the hearing by Jennifer B. Springfield, Thomas W. Brown and Matthew C. Mitchell. Defendant, who is no longer represented by counsel, did not appear at the hearing. In entering this judgment, the Court took into consideration testimony from Plaintiff's attorneys, Lance Cohen, Thomas W. Brown, Matthew Mitchell, and Jennifer B. Springfield. The Court also heard testimony from Marcia Parker Tjoflat, who was accepted as an expert attorney witness with expertise in Florida water law, and from Jon M. Dinges concerning the District's costs. The Court also received into evidence District exhibit numbers 1 through 6, 8 through 11, and 14 and 15. The Court also considered the orders of the First District Court of Appeal granting District's requests for attorney's fees in



STATE OF FLORIDA, COUNTY OF COLUMBIA

I HEREBY CERTIFY, that the above and foregoing  
is a true copy of the original filed in this office.

P. DAWITT CASON, CLERK OF COURTS

By [Signature]

Date 6/10/10

Case No.: 06-203-CA  
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Case Nos. 1D07-4185 and 1D08-2568. Finally, the Court took into consideration findings previously made by the Court and argument of counsel.

#### FINDINGS OF FACT

1. On December 28, 2009, this Court entered an order granting Defendant's Counsel's motion to withdraw and requiring Defendant to obtain new counsel to be evidenced by the filing of a notice of appearance no later than January 25, 2010. To date, a notice of appearance of counsel for Defendant has not been filed.
2. A copy of *Plaintiff's Amended Motion for Attorneys' Fees and Costs* and *Plaintiff's Motion for Assessment of Appellate Attorney's Fees* were served on Defendant on August 28, 2009. A *Second Amended Notice of Hearing* for these motions was served on Defendant on September 28, 2009.
3. A copy of District's *Motion for Default* and a *Fourth Amended Notice of Hearing* for the motion for default and the above-mentioned motions for costs and attorney's fees were served on Defendant's registered agent/president, Jeffrey Hill, on February 16, 2010, and March 15, 2010, respectively.
4. Defendant is a Florida corporation with a corporate address of 908 SE Country Club Road, Lake City, Florida 32025.
5. For three years prior to the complaint being filed, District staff, General Counsel, and Governing Board tried to gain the cooperation of Defendant in the exercise of its regulatory responsibility.<sup>1</sup> The District's responsibility in this instance is to protect the public's health, safety and welfare by ensuring that Defendant's dam is safe and the means fulfill this duty is the environmental resource permitting ("ERP") program. Defendant was informed of the requirement to obtain an ERP multiple times prior to initiation of this action, but refused to comply. Defendant's illegal activities have caused the District to expend taxpayer dollars to enforce the law to the extent necessary to prevent a catastrophe from occurring. Defendant has unnecessarily prolonged this emergency matter, which has been ongoing for four years, by failing to abide by the Court's orders even after losing its appeals and being orally admonished and in writing on several occasions by this Court regarding the need to comply with the permanent injunction.

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<sup>1</sup> See, Findings of Fact nos. 16 and 31 of the final order granting permanent injunctive relief dated August 6, 2007.

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6. All of the counts of the complaint are intertwined. Counts I, II and III of District's Amended Complaint are based on a common set of facts and related legal theories. The District's claims for temporary and permanent injunctive relief and for civil penalties (Count IV) are all based upon Defendant's actions taken to drain, excavate and completely rebuild the heart of the dam – its principal spillway structure, without first obtaining an environmental resource permit from the District in violation of Part IV, chapter 373, Florida Statutes, and District regulations in chapters 40B-4, Florida Administrative Code. The District's public nuisance claim (Count III) is based on the same core facts but on an alternative legal theory.

7. Based upon the record in this case, the Court finds that during the past four years District attorneys have been required to devote substantial time and labor in order to protect the public interest by prosecuting the amended complaint, answering Defendant's appeals, and enforcing the Court's judgments. The Court further finds that the legal and technical issues presented by this case are somewhat unusual and rather complex.

8. District attorney Springfield expended a total of 802.9 hours prosecuting the amended complaint, answering Defendant's appeals, and enforcing the Court's judgments. Springfield acted as lead counsel throughout the proceedings in this matter. Based upon Springfield's testimony, District Exhibit nos. 1, 2 and 14, and the testimony of District's expert witness regarding the attorney's fees, the Court finds that the total number of hours spent by Springfield is a reasonable number of hours in this case.

9. Springfield's legal assistants, which included a paralegal and law clerks working under her direct supervision, expended a total of 123.65 hours providing non-clerical, meaningful legal support to this matter. Based upon Springfield's testimony and District Exhibit nos. 2 and 14, the Court finds that the total number of hours spent by Springfield's paralegal and law clerks is a reasonable number of hours in this case.

10. District attorney Brown and his associate, attorney Mitchell, expended a total of 539.9 hours prosecuting the amended complaint, answering Defendant's appeals, and enforcing the Court's judgments. Brown provided guidance, oversight and support for Springfield throughout the proceedings in this matter. Mitchell provided legal support to Brown and Springfield. Based upon Brown's and Mitchell's testimony, District Exhibit nos. 3 and 15, and the testimony of District's expert witness regarding the attorney's fees, the Court finds that the total number of hours spent by Brown and Mitchell is a reasonable number of hours in this case.

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11. Brown's legal assistants, which included paralegals and a law clerk working under his direct supervision, expended a total of 58.5 hours providing non-clerical, meaningful legal support to this matter. Based upon Brown's testimony and District Exhibit nos. 3 and 15, the Court finds that the total number of hours spent by Brown's paralegals and law clerk is a reasonable number of hours in this case.

12. District attorney Cohen expended a total of 17 hours representing District's interest in the federal bankruptcy proceeding initiated by Defendant in late 2008. Based upon Cohen's testimony and Brown's testimony establishing a need for Cohen's services, and District Exhibit no. 4, the Court finds that the total number of hours spent by Cohen is a reasonable number of hours in this case.

13. Attorney Brown has had a professional relationship with District serving as General Counsel for approximately 30 years. While Ms. Springfield's relationship with District began in January 2006, prior to that time she had approximately 17 years of experience representing two other water management districts in Florida.

14. Acceptance of this case by Springfield and Brown precluded them from being able to represent other persons in matters pertaining to District.

15. District required the services of legal practitioners skilled in handling complex technical matters and possessing extensive knowledge of Florida water law.

16. The Court infers that the circumstances of this case where the public health and safety were at risk and a mandatory temporary and permanent injunction was sought to protect the public interest imposed time limitations on the District's attorneys:

17. Based upon the Court's observations and other information, including the testimony of Ms. Tjoflat and District Exhibit No. 1, the Court finds that the experience, reputation and ability of District attorneys in this matter to be outstanding.

18. Springfield was compensated by District at an hourly rate of \$160.00 from inception of the case until January 2007, at which time her hourly rate was adjusted to \$170.00 for the remainder of the proceedings. Brown was compensated by District at an hourly rate of \$160.00 from inception of the case until October 2006, at which time his hourly rate was adjusted to \$170.00 for the remainder of the proceedings. Mitchell was compensated by the District at an hourly rate of \$130.00 from inception of the case until October 2007, at which time his hourly rate was adjusted to \$140.00 until June 2009, at which time it was further adjusted to \$150.00 for

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the remainder of the proceedings. Cohen was compensated by District at an hourly rate of \$225.00.

19. Based upon the testimony of District attorneys Springfield, Brown, Mitchell, and Cohen, and expert witness testimony from Ms. Tjoflat, the Court finds that the hourly rates paid by the District for its legal services are well below rates customarily charged in North Florida for similar services and are reasonable hourly rates.

20. Multiplying the number of reasonable hours expended by District attorneys and their paralegals and law clerks by the reasonable hourly rates charged and paid by District, results in a total of \$219,225.25.

21. Based upon the testimony of Ms. Springfield and Mr. Dinges and District Exhibit Nos. 6, 8 and 9, the Court finds that District costs total \$54,240.03, which includes non-District staff expert witness fees totaling \$27,247.95.

22. An additional 18.4 hours were reasonably spent by District attorneys and paralegals preparing for this hearing, which are not accounted for above. Multiplying those hours by the same reasonable hourly rates referenced above results in an additional amount of \$3138.00 charged and paid by the District for legal services. An additional cost of \$100.00 was paid for the attendance of a court reporter at this hearing. A copy of the invoices for these charges is attached as *Composite Exhibit A*.

#### CONCLUSIONS OF LAW

23. The Court retained jurisdiction over this claim pursuant to the "Final Order Imposing Civil Penalties and Retaining Jurisdiction" entered on April 16, 2008. *Jackson v. Jackson*, 390 So.2d 787, 790 (Fla. 1<sup>st</sup> DCA 1980).

24. Rule 1.500(b), Fla. R. Civ. Pro., titled Defaults and Final Judgments Thereon, governs this proceeding and provides:

*By the Court:* -When a party against whom affirmative relief is sought has failed to plead or otherwise defend as provided by these rules or any applicable statute or any order of the court, the court may enter a default against such party; provided that if such party has filed or served any paper in the action, that party shall be served with notice of the application for default.

Emphasis added.

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25. District has complied with the noticing requirements of Rule 1.500(b), Fla. R. Civ. Pro., by serving its motion for default and notice of hearing on Defendant.

26. In *Kaplan v. Morse*, 870 So. 2d 934 (Fla. 5<sup>th</sup> DCA 2004), which also involved a corporate defendant, the Fifth District Court of Appeal states:

At the outset of our analysis, we note that MEHC was defaulted as a consequence of not obtaining proper representation. See, e.g., *Lakeview Auto Sales v. Lott*, 753 So. 2d 723 (Fla. 2d DCA 2000); *Richter v. Higdon Homes, Inc.*, 544 So. 2d 300 (Fla. 1<sup>st</sup> DCA 1989). In both *Lakeview Auto Sales* and *Richter*, defaults were entered against corporate defendants for failure to obtain counsel. A default generally terminates a party's right to further defend, except to contest unliquidated damages.

27. Under Florida common law, corporations must be represented in court by legal counsel. See, *Richter*, 544 So. 2d 300 (it was error for trial court to allow Mr. Higdon to represent appellee at trial on the basis that Mr. Higdon was the sole stockholder of the corporation.)

28. In *Lakeview Auto Sales*, 753 So. 2d 723, the Second District Court of Appeal affirmed the trial court's entry of a final default judgment against appellant corporation, Lakeview Auto Sales, because it was not represented by counsel and, therefore, failed to appear in the trial court.

29. Defendant is barred from further defending against District's claims due to its lack of legal representation with the exception of contesting unliquidated damages. However, Defendant chose not to appear to contest the amount of costs and attorney's fees despite being properly served with a notice of the hearing.

30. Under the provisions of 373.129(5) and (6) and subsection 373.136(2), Florida Statutes, the District is authorized to seek recovery of its attorney's fees and the Court is authorized to award attorney's fees to the prevailing party. Such an award in the instant case is just in view of the fact that Defendant's failure to comply with the law made it necessary for the District to bring this action and substantially lengthened the time needed to resolve it.

31. All of the counts of the complaint are intertwined and therefore District is entitled to attorney's fees for all counts. According to the appellate court in *Anglia Jacs & Co. v. Dublin*, 830 So. 2d 169, 171-172 (Fla. 4<sup>th</sup> DCA 2002), when the issues in the case are based on a common core of facts and related legal theories, the court must find the issues to be intertwined and award attorney's fees for the entire case. In *Anglia Jacs & Co. v. Dublin*, 830 So. 2d 169, 171 (Fla. 4<sup>th</sup> DCA 2002), the Fourth District in upholding the trial court's award of attorney's

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fees for breach of contract where there were three counts and a counterclaim with three counts, stated as follows:

*The claims on which the award of attorney's fees and costs was based are not separate and distinct so as to support an independent cause of action for each, but are instead alternative theories of liability for the same wrong. As there can be only one prevailing party when the claims are based on the same wrong, the trial court properly awarded attorney's fees to Dubin because it prevailed on the significant issues tried before the trial court. The court did not abuse its discretion in finding that it could not distinguish between the claims.*

Similarly in the instant case, District's claims are all based on the same wrong by Defendant, to wit: illegal construction activity without a permit, and therefore, it is impractical to apportion the attorney's fees amongst the four counts of the Amended Complaint.

32. Plaintiff's attorneys have shown by competent, substantial evidence that the number of hours spent preparing to prosecute and litigating this cause of action for injunctive relief and civil penalties, and subsequently enforcing and executing the final judgments, on behalf of the District, is a reasonable number of hours. Plaintiff's attorneys have also shown that a reasonable hourly rate for their services was charged to District. *Young v. Taubman*, 855 So.2d 184 (Fla. 4<sup>th</sup> DCA 2003); *Fraser v. Security & Inv. Corp.*, 615 So.2d 841 (Fla. 4<sup>th</sup> DCA 1993); *Markham v. Markham*, 485 So.2d 1299 (Fla. 5<sup>th</sup> DCA 1986).

33. In calculating attorney's fees in a public interest case, the federal appellate court in *Johnson v. Georgia Express Highway*, 488 F.2d 714, 717 (5<sup>th</sup> Cir. 1974), held that a trial court should multiply the reasonable number of hours by the reasonable hourly rate and then adjust the result by applying the twelve factors listed in *Johnson*. See also *Standard Guar. Ins. Co. v. Quanstrom*, 555 So.2d 828, 834 (Fla. 1990). The Court has considered and explained the factors in *Johnson* in determining the amount of the fee award. See paragraph nos. 5, 11 through 15, and 17 above.

34. Pursuant to section 57.104, Florida Statutes, in computing the amount of attorney's fees, *the court shall consider, among other things, time and labor of any legal assistants who contributed nonclerical, meaningful legal support to the matter involved and who are working under the supervision of an attorney.* Therefore, the Court has included the amounts charged to District for counsels' paralegal and law clerk time and labor.

35. Since entry of the permanent injunction and civil penalty final judgments, the District has been required to expend additional financial resources to enforce and execute these judgments.

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Pursuant to section 57.115, Florida Statutes, these attorney's fees and costs are also included in the amount awarded to District. These costs and fees include the District's necessary participation in a bankruptcy proceeding brought by Defendant in federal bankruptcy court, which was dismissed by the U.S. Bankruptcy Court at an early stage in the process.

36. Plaintiff is entitled to recover its costs. The appellate court in *St. Johns River Water Management District v. Lake Pickett Limited*, 543 So.2d 883, 884 (Fla. 5<sup>th</sup> DCA 1989), held that *a party who recovers a judgment in a trial in a legal proceeding is entitled as a matter of right to recover lawful court costs and that a trial judge has no discretion under that statute [§57.041 Florida Statutes] to deny court costs to the party recovering judgment.* Therefore, District, as the party who has obtained judgment in its favor, is entitled to court costs pursuant to section 57.041, Florida Statutes, which provides that *the party recovering judgment shall recover all his legal costs and charges which shall be included in the judgment.* Under section 57.071, Florida Statutes, relevant costs include *[t]he expense of the court reporter for per diem, transcribing proceedings and depositions, including opening statements and arguments by counsel, and expert witness fees provided the party retaining the expert witness furnishes each opposing party with a written report signed by the expert witnesses which summarizes the expert witness' opinions and the factual basis of the opinions . . . See also, section 90.231, Florida Statutes.*

ACCORDINGLY, it is

**ORDERED AND ADJUDGED** that Defendant, El Rancho No Tengo, Inc., is in default and Suwannee River Water Management District's requests for costs and attorney's fees are granted for prosecution of this matter in circuit court and for enforcement of this Court's final judgments, including the proceedings in federal bankruptcy court.

It is **FURTHER ORDERED** that Defendant shall pay costs to Plaintiff in the amount of \$54,347.95 and shall pay attorney's fees to Plaintiff in the amount of \$222,363.25, which includes fees for the proceedings at the First District Court of Appeal, for a total award amount of \$280,376.20. Interest shall accrue at the statutorily authorized rate upon entry of this Order, for which let execution issue.

Case No.: 06-203-CA

Page 9

This Court retains jurisdiction in order to determine other matters as may be necessary.

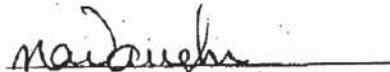
DONE AND ORDERED in Chambers at the Columbia County Courthouse on March 26, 2010, and reduced to writing this 3<sup>rd</sup> day of May 2010.



GREG S. PARKER  
Circuit Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Jennifer B. Springfield, Esq., 806 N.W. 16<sup>th</sup> Avenue, Ste. B., Gainesville, FL 32601; Thomas W. Brown, Esq., 116 NW Columbia Avenue; Lake City, FL 32056 and El Rancho No Tengo, Inc. c/o Jeffrey Hill, President and Registered Agent, 908 SE Country Club Road, Lake City, FL 32025, this 3<sup>rd</sup> day of May, 2010.

  
Judicial Assistant

**SPRINGFIELD LAW, P.A.**  
 806 N.W. 16<sup>th</sup> Avenue, Suite B  
 Gainesville, FL 32601  
 Tel: (352) 371-9909 Fax: (352) 377-4077

**INVOICE**

INVOICE #[100]  
 DATE: APRIL 23, 2010

**TO:**  
 Suwannee River Water District  
 9225 County Road 49  
 Live Oak, FL 32060

**FOR:**  
 SRWMD v. El Rancho No Tengo  
 Case No.: 06-203-CA

DESCRIPTION	HOURS	RATE	AMOUNT
3/26/10: Attended trial on attorney's fees and costs (Lake City)	5.5	170.00	935.00
4/14/10: Teleconference with Tom Brown regarding Governing Board interaction with Jeffrey Hill; drafted proposed default order on claim for costs and attorney's fees.	2.0	170.00	340.00
4/15/10: Drafted proposed final order regarding costs and fees	3.5	170.00	595.00
4/16/10: Teleconference with Matthew Mitchell regarding proposed orders; teleconference with Jan Dinges	.2	170.00	34.00
Costs: Attendance of court reporter at 3/26/10 hearing			100.00
<b>TOTAL</b>			<b>\$2004.00</b>



Make all checks payable to Springfield Law, P.A.  
 Total due in 15 days. Overdue accounts subject to a service charge of 1% per month.

**BRANNON, BROWN, HALEY & BULLOCK, P.A.**

P.O. BOX 1029  
 LAKE CITY, FLORIDA 32056-1029  
 (386) 752-3213 FAX 755-4524  
 FEDERAL ID # 59-1792266

April 25, 2010

SUNANNE RIVER WATER MANAGEMENT  
 DISTRICT  
 9225 CR49  
 LIVE OAK, FL 32060

Invoice No. 58427 TMB  
 Billed through 04/15/2010  
 Our File No. 29317 00099

SRWMD V. EL RANCHO NO TENGO, INC. (TRIAL FILE)

FOR PROFESSIONAL SERVICES RENDERED

03/26/10	TMB	In office by 7:30; received another revision of numbers; reviewed testimony; then other witness arrived; set up her husband in office; then to Court; I was 2nd witness and back to office by 10:15.	2.70 hrs	459.00
03/26/10	MCM	Hearing preparation; attended hearing on attorney's fees and costs; conference with Jennifer Springfield and Jon Dinges regarding hearing results; message to Tom Brown regarding hearing results and proposed Order.	4.50 hrs	675.00
Total fees for this matter				\$1,134.00

BILLING SUMMARY

BROWN, THOMAS W.	2.70 hrs	170 /hr	\$459.00
MITCHELL, MATTHEW C.	4.50 hrs	150 /hr	\$675.00

TOTAL FEES \$1,134.00

TOTAL CHARGES FOR THIS BILL \$1,134.00

**JOHNS, STEPHENSON & BIERY**  
**ADVANTAGE COURT REPORTERS**  
305 NE 1st Street  
Gainesville, FL 32601  
(352) 373-7778 Fax: (352) 373-8301

Springfield, Jennifer Esquire  
605 NE 1st Street  
Suite G  
Gainesville, FL 32601

**INVOICE NO. :** 962153  
**INVOICE DATE:** 3/29/2010  
**REPORTER:**  
Jackie Monson

**ID#** [REDACTED]

Case No: 08-203-CA  
Suwannee River Water v El Rancho No Teng  
Hearing before Judge Parker

3/26/2010	Attendance of Reporter Transcript not req'd at this time	100.00
	<b>Sub Total</b>	<u>100.00</u>
	<b>Paid</b>	<u>0.00</u>
	<b>Balance Due</b>	100.00

Thank you for your business! Please return a copy of the invoice  
Now accepting Visa/Mastercard  
There will be a 3.95% fee applied for credit card transactions.

# EXHIBIT “F”

RECEIVED  
SRWMD

JUN 9 2011

SHERIFF'S DEED

ORIGINAL TO FILE \_\_\_\_\_  
COPIES TO \_\_\_\_\_

THIS INDUMENTURE, made this 3<sup>rd</sup> day of May A.D., 2011, between Mark Hunter, As Sheriff of Columbia County, Florida, whose address is 4917 US 90 East, in the County of Columbia, the State of Florida, and Suwannee River Water Management District, A Florida Statute 373 Water Management District 9225, whose address is 9225 CR 49, Live Oak, Florida 32060.

WHEREAS, by virtue of certain Writ of Execution issued out of and under the seal of the Circuit Court, in and for Columbia County, Florida, dated the 16<sup>th</sup> day of September A.D., 2010 in the matter of Suwannee River Water Management District, A Florida Statute 373 Water Management District as Plaintiff, -vs- El Rancho No Tengo, Inc., as Defendant, being Case No. 06-203-CA, directed and delivered to the said Sheriff commanding him, that the goods, chattels, lands, and tenements of the said defendant, the cause to be made certain monies in said execution specified, the said Sheriff did levy on and seize all the estate, right, title and interest which the said defendant had of, in and to the property hereinafter described and on the 3<sup>rd</sup> day of May, A.D., 2011 sold the said property at public auction at the Columbia County Courthouse 173 N.E. Hernando Avenue in the City of Lake City, of Columbia County, having first given public notice of the time and place of such sale, by advertising said property for sale in a manner and form as required by the statute in such case made and provided, in the Lake City Reporter, An official newspaper published in said City of Lake City, in said County of Columbia, State of Florida, once a week for four (4) consecutive weeks, next proceeding said day of sale; and that at such sale the said property was struck off to the said party of the second part, for the sum of Three Hundred Ninety Thousand Dollars and no/100 cents, (\$390,000.00). The plaintiff bid credit, therefore **no cash exchanged hand**.

NOW THIS INDENTURE WITNESSETH: That said party of the first part, As Sheriff as aforesaid, by virtue of the said execution, and in pursuance of the statute in such cases made and provided, the said party of the first part, as Sheriff as aforesaid, that granted, bargained, sold and conveyed any by these present doth grant, bargain, sell and convey unto the said Suwannee River Water Management District, A Florida Statute 373 Water Management District, said party of the second part, the estate, right, title and interest, hereditaments, appurtenances and privileges in any way pertaining thereto, which the said defendant had on the 3<sup>rd</sup> day of May, A.D., 2011, the date and sale of the real property situated in the County of Columbia, known and described as follows, as the property of the defendant El Rancho No Tengo, Inc., to-wit:

**TOWNSHIP 4 SOUTH, RANGE 17 EAST**  
**SECTION 3:**

W 1/2 of NW 1/4;

LESS AND EXCEPT right of way per Official Records Book 170, page 110; ALSO LESS all of Oak Hill Estates Replat (Plat Book 3, page 52) and Oak Hill Estates Replat Addition No. 1(Plat Book 3, page 92); ALSO LESS lands described in Official Records Book 203, page 292; Official Records Book 403, page 257 (corrected in Official Records Book 436, page 767); Official Records Book 760, page 429; Official Records Book 575, page 162 (ratified in Official Records Book 770, page 2259); Official Records Book 751, page 2108 (ratified in Official Records Book 770, page 2133 and Official Records Book 770, page 2255); Official Records Book 270, page 393; Official Records Book 918, page 2050; Official Records Book 940, page 805; Official Records Book 998, page 2032; and Official Records Book 1000, page

I certify that this is a true and correct copy of the original document existing and maintained in the records of the Suwannee River Water Management District.  
Date: 3-28-12  
Name/Title: Jon Dinges District Clerk  
Signature: [Signature]  
Total Pages: 2

Inst:201212004813 Date:3/28/2012 Time:1:53 PM  
Stamp-Deed:0.70  
DC,P.DeWitt Cason,Columbia County Page 1 of 2 B:1232 P:584

1325 of the Public Records of Columbia County, Florida. (Parcel I.D. No. 03-4S-17-07487-000)  
TOGETHER WITH an Easement for Ingress and Egress, as reserved in Official Records Book 998, page 2032, Public Records of Columbia County, Florida.

**AND ALSO:  
SECTION 3:**

W $\frac{1}{2}$  of SW $\frac{1}{4}$ ,  
LESS AND EXCEPT the E $\frac{1}{2}$  of NE $\frac{1}{4}$  of NW $\frac{1}{4}$  of SW $\frac{1}{4}$   
LESS AND EXCEPT Right of Way per Official Records Book 170, page 110; ALSO LESS lands in Official Records Book 590, page 376; Official Records Book 889, page 1171; Official Records Book 892, page 1036; Official Records Book 1100, page 1466; ALSO LESS AND EXCEPT Lots 1 through 22 of Haight Ashbury (Plat Book 7, page 185); ALSO LESS AND EXCEPT lands in Official Records Book 1148, page 2502; Official Records Book 1171, page 341; and LESS lands deeded to Jock Phelps in Official Records Book 1151, page 1197 (No Legal Attached) of the Public Records of Columbia County, Florida. (Parcel I.D. No. 03-4S-17-07486-001)  
TOGETHER WITH an Easement for Ingress and Egress reserved over the North 60 feet of lands described in Official Records Book 889, page 1171; Official Records Book 892, page 1036; and Official Records Book 1100, page 1466 of the Public Records of Columbia County, Florida.

Location Address: 908 S.E. Country Club Road, Lake City, Florida 32025

TO HAVE AND TO HOLD said described real property unto said party of the second part, its successors and assign forever, as fully and absolutely as the party of the first part, as Sheriff as aforesaid, can or should convey by virtue of said execution and the laws relating thereto.

IN WITNESS WHEREOF, the said party of the first part, As Sheriff as aforesaid, has hereunto set his hand and affixed his seal, the 3rd day of May A.D., 2011.

MARK HUNTER, As Sheriff of  
COLUMBIA COUNTY, FLORIDA

IN THE PRESENCE OF WITNESS

BY: SGT. ROBERT HOLLOWAY,

Deputy Sheriff

STATE OF FLORIDA  
COLUMBIA COUNTY

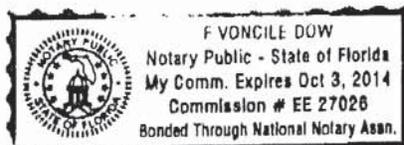
Personally appeared before me the undersigned authority, Sgt. Robert Holloway, Deputy Sheriff of Columbia County, Florida, who is personally known to me and who did take oath.

*[Signature]*

Dated this 26<sup>th</sup> day of May A.D. 2011

NOTARY PUBLIC

My commission expires:



RECEIVED  
SRWMD

JUN 9 2011

LC 55

ORIGINAL TO FILE \_\_\_\_\_  
COPIES TO \_\_\_\_\_

I certify that this is a true and correct copy of the original document existing and maintained in the records of the Suwannee River Water Management District.

Date: 3-29-12  
Name/Title: Joe Dwyer, District Clerk  
Signature: *[Signature]*  
Total Pages: 2

# EXHIBIT “G”

WARRANTY DEED  
CORP. TO INDIVID.

RAMCO FORM 01

Return to: (enclose self-addressed stamped envelope)

Name: Jeffrey L. Hill, Sr.  
Address: 908 S.E. Country Club Rd., Lake City, FL 32025

This Instrument Prepared by:

Name: Jeff Hill  
Address: 908 S.E. Country Club Rd., Lake City, FL 32025

Property Appraiser's Parcel Identification: R0 7486-001 + 7487-000

Folio Number(s):

Circle(s) 5.5, # (1)

Inst: [redacted] Date: 12/6/2010 Time: 12:17 PM  
Doc Stamp-Deed 0.70  
DC, P DeWitt Cason, Columbia County Page 1 of 1 B:1205 P 2564

SPACE ABOVE THIS LINE FOR PROCESSING DATA

SPACE ABOVE THIS LINE FOR RECORDING DATA

This Warranty Deed, Made the 23<sup>rd</sup> day of September, 2010, by El Rancho No Tengo, Inc., a Florida Corporation, of 908 S.E. Country Club Rd, Lake City, FL 32025, hereinafter called the Grantor, to Jeffrey L. Hill, Sr., whose post office address is 908 S.E. Country Club Rd, Lake City, FL 32025, hereinafter called the Grantee.

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, wherever the context so admits or requires.)

Witnesseth, That the Grantor, for and in consideration of the sum of \$ 1.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, allens, remises, releases, conveys and confirms unto the Grantee all that certain land, situate in Columbia County, State of Florida, viz: part of Section 3 Township 4 South Range 17 East: the West half of the NW quarter; the West half of the SW quarter; less and except the East half of the Northeast quarter of the Northwest quarter of the Southwest quarter; ALSO, EXCEPTING therefrom any parcels heretofore conveyed properly.  
SUBJECT TO covenants, easements and restrictions of record.

Together, with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining. To Have and to Hold, the same in fee simple forever.

And the Grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land, and hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to December 31,

His Witness Whereof, the said Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Timothy B. Hartley, Director  
Witness Signature (as to first Grantor)

Timothy B. Hartley, 409 Pennsylvania St  
Printed Name  
Lake City, FL 32025

[Signature]  
Witness Signature (as to first Grantor)

Anna Overstreet  
Printed Name

Witness Signature (as to Co-Grantor, if any)

Printed Name

Witness Signature (as to Co-Grantor, if any)

Printed Name

STATE OF Florida)

COUNTY OF Columbia)

Jeffrey Hill

known to me to be the person Y described in and who executed the foregoing instrument, who acknowledged before me that

executed the same, and an oath was not taken. (Check one:  Said person(s) is/are personally known to me.  Said person(s) provided the

following type of identification:



[Signature], President  
Grantor Signature

El Rancho No Tengo, Inc.  
Printed Name  
908 S.E. Country Club Rd, Lake City FL  
Post Office Address



Co-Grantor Signature, (

Printed Name

Post Office Address

I hereby Certify that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared

Witness my hand and official seal in the County and State last aforesaid this 6 day of December, A.D. 2010

[Signature]  
Notary Signature  
Lisa Hutchinson  
Printed Name  
LC 57

07  
23  
99  
Office Design, Stensaker Paper & Printing Co., Inc., 1994

# EXHIBIT “H”

NORTHWEST FLORIDA WATER MANAGEMENT DISTRICT

MEMORANDUM

TO: Leroy Marshall, P.E.  
FROM: Lance Laird, P.E.  
DATE: December 12, 2012  
SUBJECT: NFWFMD Inspection of Hill Dam, Columbia County

---

At the request of Leroy Marshall, P.E. of Suwannee River Water Management District (SRWMD), staff from the Northwest Florida Water Management District (District), Lance Laird, P.E., and Ken Greenwood inspected an earthen embankment dam southeast of Lake City on November 29, 2012. The dam and impoundment system is the subject of an on-going enforcement case by SRWMD. Reportedly, the property owner, Mr. Lance Hill, has repaired a dam without obtaining the required permits, and may not have re-constructed the dam to proper engineering standards. District staff was asked to conduct a visual inspection of the dam to form a third party, unbiased opinion as to the relative safety of the facility and whether additional preventative actions are necessary at this time to prevent catastrophic failure of the dam. The dam is immediately adjacent to the east side of County Road 133, and is approximately 900 feet long and 20 feet high. According to the owner, the dam was originally constructed in the late 1960's.

While accompanied by Mr. Marshall and the SRWMD attorney, staff inspected the downstream toe of the dam, the crest and the upstream and downstream face of the dam, as well as the principal spillway and the emergency or secondary spillway. The inspection procedures consisted of visual observation only. Geotechnical testing or hydraulic evaluations were beyond the scope of the request and inspection.

**Inspection procedures**

Staff began the inspection by walking north along the right-of-way of CR 133 in the vicinity of the outfall for the impoundment, then entering the wood line adjacent to the road and visually inspecting the toe and back slope to the northern end of the dam, then proceeding along the crest of the dam, visually inspecting the crest, front and back slopes. The crest can be used as a road, and the owner of the property drove onto the crest to meet District staff during the inspection. The water in the pond was approximately 3 feet below normal pool. The water surface of the impoundment was partially covered with a floating aquatic plant thought to be water hyacinth. While on the crest, staff was able to make a visual inspection of the exterior of the corrugated polyethylene riser and the trash rack. The inspectors continued south and east along the crest of the dam to the emergency spillway. From the crest road, staff was able visually to inspect the dam crest, front and back slopes. The control section and approximately 200 feet of the emergency spillway discharge section was inspected, and then the remainder of the dam (southern and eastern portion) of the toe and backslope of the dam was inspected, eventually ending the inspection back at the outfall of the discharge pipe.

## Inspection Findings

CR 133 has a small roadside ditch on both sides of the road. Between the eastern ditch and the toe of the dam, there is a slender forested wetland area. Some standing water was found in the forested wetland area to the north of the outfall and the roadside ditch had saturated soils. Aerial photos show that this wetland area has been in existence at least since 1994.

The toe and back slope of the northern section of the dam had trees and woody vegetation and some eroded areas that had become covered with briars, vines and other nuisance vegetation. The back slope of the dam north of the principal spillway outlet did not have a smooth uniform slope, but had varying slopes. The lower portions of the slope appeared to be approximately 2.5:1 (H:V), then it transitioned to steep; some places were as steep as a 1:1 (H:V) (usually an indication of fill being placed on dam crest sometime after construction). The steeper sections were not covered in a stable grass cover but were overgrown with nuisance vines, woody shrubs, and showed signs of damage from burrowing animals. The crest of the dam was relatively flat and stable (approx. 10 to 12 feet wide), but there appeared to be some undulations toward the north end, possibly due to differential settlement or fill placement after construction. The front slope had areas of woody vegetation and the appearance of some significantly eroded areas. The riser and trash rack appeared to be in good shape and functioning. The water level was 2.5 to three feet below the crest of the riser. Hydrologic modeling would be needed to determine if the pipe sizes are adequate.

District staff was told that the drain gate had been removed to lower the water level of the impoundment, but the drain pipe has now been plugged by unknown means. While standing near the riser, the sound of flowing water could be heard which would be consistent with a drain pipe partially plugged by debris (possibly by beavers, however no beaver signs were found). When the outfall was inspected, the amount of water exiting the barrel appeared to be consistent with the amount of water to be expected from the sounds heard at the riser.

At the point where the dam begins to curve to the east, the toe of the dam was rutted by a set of tire tracks, and minor amounts of surface water was found in these ruts. This water was slightly ochre-stained which can be indicative of seepage having moved through the dam. These ruts did not follow the toe of the dam, but climbed the back slope slightly. Stagnant surface water was present in these ruts above the toe of the dam. This might be indicative of higher than normal phreatic line within the downstream portion of dam, (the phreatic line is the upper limit of the zone of saturation within the dam), but since there was no water movement it would not be considered problematic or an immediate concern, at the existing water level. However the tendency of the dam to rut due to wet soils will complicate maintenance of the dam. Water movement, or flow at this location would have been considered as seepage. There was no seepage water flowing anywhere on the dam at the time of this inspection (again, at this water level of the lake.)

Just south of the outfall an excavated area was found (approx. 6 feet wide by 10 feet long and unknown depth). It is presumed that this excavation was used as a source of the borrow that had been placed over the last portion of the barrel at the point the barrel exits the dam. Since it is just below the toe of the dam, this area could possibly provide a location for significant seepage to occur. I recommend that this area be backfilled.

### **Evidence from a previous inspection**

It was reported that a staff member from SRWMD inspected the area approximately 2.5 months previous to our inspection. He inspected the impoundment shortly after a rainfall event and documented (by video and photographs), what appears to be seepage at the toe of the dam. During that inspection there appeared to be what can be described as a “boil” (concentrated vertical flow of water), on the toe of the dam where it meets the roadside right of way ditch (see figure 1.). After inspection of the video of this boil it is apparent that this area did show significant clear water flow and the ochre or rust colored stain associated with seepage. It is estimated that the water level in the lake was 2 ft. higher at the time of the SRWMD inspection than at the time of NFWMDs inspection. The area that had previously experienced the boils was inspected by the District later and was found to have standing water, but no flow and significantly less rust colored staining.

### **Conclusion**

In general, at the time and water level of the Districts inspection, the dam appeared to be in relatively poor condition, and was in need of maintenance. Both the front and back slopes have areas with trees and other woody vegetation that should be removed and the disturbed areas stabilized with grass. Areas of the dam (the front slope and back slope on the north end) need to be re-graded to a consistent, stable slope.(I recommend 3:1 or flatter) The entire dam should be established in an erosion resistant grass groundcover, and mowed regularly to prevent woody vegetation from becoming re-established and to allow for easy inspection.

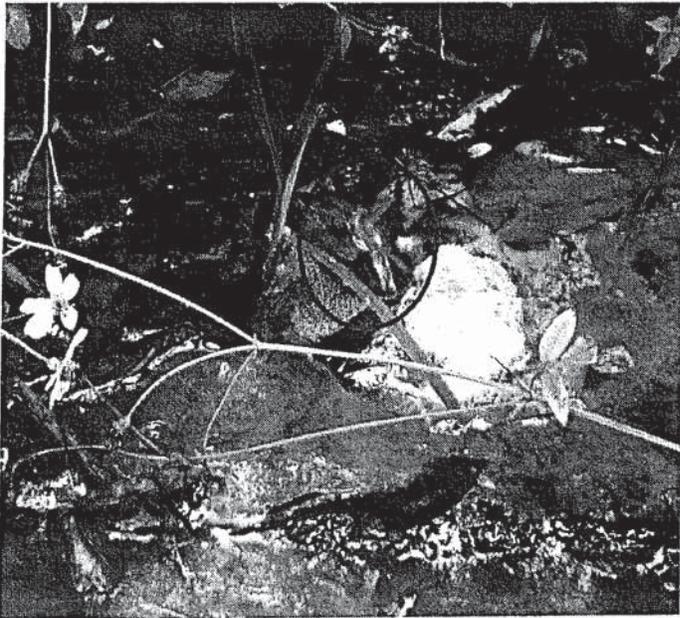
With the pond at the water surface elevation of the Districts inspection, this embankment dam and impoundment did not appear to pose an imminent threat of catastrophic failure even though it did seem to have a “wet toe” (wetness at the base of the dam), which could hamper proper operation and maintenance. Due to the lack of a permit for the reconstruction, and the assumed lack of construction supervision during the installation of the primary spillway and subsequent lack of engineer certification for completed project, I cannot speculate on the dam’s performance at higher water levels. All the evidence presented by staff at the SRWMD indicates there is a higher than normal chance or probability that the facility would be unsafe at higher water levels and since there is no serviceable drawdown system, an emergency condition on or with the impoundment and dam system, would be difficult to remediate in a timely manner. In its present state the facility could very likely continue to fill, probably even higher than when SRWMD inspected, eventually reaching normal pool. Due to the presence of the county road immediately downstream of the dam, and a park downstream from that, I strongly recommend preventing the impoundment from being allowed to fill to that level.

Before I could consider it safe to allow the impoundment to fill to normal pool, further analysis is needed to determine:

- The origin and significance of the boil(s).
- The cause of the “wet toe”.
- The condition of the barrel.
- The compaction and quality of materials used in the barrel installation.

Without the benefit of this additional and more detailed investigation, I would not consider it safe or prudent to allow the impoundment water level to rise to above the level it was at during our inspection. It would be relatively easy to prevent the water level from rising above the present, seemingly stable elevation. The owner/operator could shorten, notch or perforate the corrugated poly riser to maintain a safer (lower) normal pool water level. In addition, the trash rack would need to be altered (or lowered) to protect the notch or alteration from clogging due to the abundance of floating aquatic vegetation.

**Figure 1. Still picture from Suwannee's video**  
Boil and rust colored staining (circled in red) that was present at SRWMD inspection.



APR 16 2013

Original to File \_\_\_\_\_  
Copies to \_\_\_\_\_

Date: April 16, 2013  
To: Suwannee River Water Management District,  
its Chairman of Board of Directors, its executive  
Director, its attorney and whomever calls a  
special meeting of its board of directors  
if the chair is not available.  
From: Jeffrey L. Hill, Sr.

Request for Special Meeting of Directors

For the following reasons written, Jeffrey  
L. Hill, Sr. hereby requests a special meeting  
of the Suwannee River Water Management District  
Board of Directors be held within seventeen  
days of the above date to move on, discuss  
and vote on a settlement proposal to settle  
litigation between the District and Hill.

- 1) length of time of the controversy
- 2) judicial economy (save public funds)
- 3) Directors undivided attention is deserved  
in this matter
- 4) It is in the best interests of both  
parties to settle all controversy

Thank you for your attention:

*Jeffrey L. Hill*

Jeffrey L. Hill Sr.  
908 SE Country Club Rd.  
Lake City, FL 32025  
Phone: 386-752-7730  
cell: 386-7623-9000

hand delivered  
to Ann Shortelle  
on April 16, 2013

Date: April 16, 2013

To: Tom Reeves, Attorney for SRWMD  
& Ann Shortelle, Executive Director of  
Suwannee River Water Management District

From: Jeffrey L. Hill, sr.

List of PARTY(ES) who are requested to attend  
meeting of District's Board of Directors  
special meeting to address SRWMD v. Hill;

1) All Board Members

2) Any person who can factually speak  
on the controversy now before the U.S.  
District Court in Hill v. SRWMD.

Received  
SRWMD

APR 16 2013

Original to File \_\_\_\_\_  
Copies to \_\_\_\_\_

Thank You:

*Jeffrey L. Hill, sr.*

Jeffrey L. Hill, sr.  
908 SE Country Club Rd.  
Lake City, FL 32025  
Phone: 386-952-7730

hand delivered to Ann Shortelle  
on April 16, 2013

LAW OFFICES  
**DAVIS, SCHNITKER, REEVES & BROWNING, P.A.**

W. T. DAVIS (1901-1988)  
CLAY A. SCHNITKER  
GEORGE T. REEVES\*#+

POST OFFICE DRAWER 652  
MADISON, FLORIDA 32341

TELEPHONE  
(850) 973-4186  
TELECOPIER  
(850) 973-8564

Of Counsel  
EDWIN B. BROWNING, JR.  
FREDERICK T. REEVES

PHYSICAL ADDRESS  
519 WEST BASE STREET  
MADISON, FLORIDA 32340

\*BOARD CERTIFIED  
APPELLATE LAWYER  
#BOARD CERTIFIED  
CITY, COUNTY AND  
LOCAL GOVERNMENT  
LAWYER  
+ALSO ADMITTED IN  
GEORGIA

Florida Registered Paralegals  
ANNETTE M. SOWELL, CP  
JOYCE A. BROWN

April 18, 2013

Mr. Jeffrey L. Hill  
908 SE County Club Road  
Lake City, Florida 32025

Re: Matters concerning property formerly owned by El Rancho No Tengo.

Dear Mr. Hill:

This letter is to confirm what we discussed in our April 17, 2013 telephone conversation. In this conversation we discussed the following:

1. Documents provided with my April 12, 2013 letter. You stated that you had received the letter and enclosed documents and had no questions for me except as set out herein.
2. Request for a special meeting. In your April 16, 2013 letter to the District, you have requested that the governing board hold a special meeting as soon as possible to consider your case and the matters we discussed. I informed you that your request had been forwarded to the chair and we will inform you of his decision as soon as possible.
3. List of persons you wish at the meeting. In the April 10, 2013, meeting between you, your son, myself, Mr. Williams, Ms. Shortelle and Mr. Sagul you had stated that you would like everyone who had any knowledge of the controversy between you and the District to be present when these matters are discussed before the Board. We agreed with this concept but stated that we would require a list of the names of such persons you wished to be present. In your April 16, 2013 letter to the District and in our April 17, 2013 phone conversation you declined to give such a list and rather simply stated that you wished to be present, "All Board Members" and "Any person who can factually speak on the controversy now before the U.S. District Court in Hill v. SRWMD."

Concerning the request for Board Members to be present, each Board Member governs his or her own attendance and we cannot direct whether any particular member will be present at any particular meeting. We will include your request in the Board Members packet.

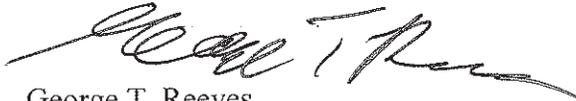
Concerning your other request, we will have present those persons we feel will be helpful to such discussion and do not guarantee that any particular person will be present. Of course, if you wish any particular person or persons to be present, you may send a list of the names of such persons to the District and we will make every effort to have them there.

4. Additional documents you wish to have considered by the Board. During our telephone conversation I informed you that it would be to your advantage to go ahead and provide whatever other documents you wish the Board to consider so we can include them in the Board materials and the Board members will have time to review them prior to the meeting. Please forward any such additional or replacement materials as soon as possible so they may be included in the Board materials. If the chair calls a special meeting we will have to send out the

documents we then have. If the chair declines to call a special meeting and the matter is considered at the May 17, 2013 meeting, we will need all such documents by no later than April 30, 2013.

Thank you for your time.

Sincerely,  
Davis, Schnitker, Reeves & Browning, P.A.

A handwritten signature in black ink, appearing to read "George T. Reeves". The signature is fluid and cursive, with a long horizontal stroke at the end.

George T. Reeves  
For the Firm

MEMORANDUM

TO: Governing Board  
FROM: Ann B. Shortelle, Ph.D., Executive Director  
DATE: April 29, 2013  
RE: Water Reuse Week Proclamation

RECOMMENDATION

**Staff recommends the Governing Board declare  
May 19-25, 2013, as Water Reuse Week.**

BACKGROUND

The State of Florida traditionally designates the third week in May as Water Reuse Week. Many local governments, water and wastewater utilities, water management districts, state agencies, engineering firms and other entities have demonstrated their support by adopting resolutions or proclamations designating Water Reuse Week in their communities.

This designation provides an opportunity to increase public awareness about the importance of water reuse—the utilization of highly treated wastewater effluent for beneficial purposes—to the sustainability of Florida’s water supply and ecosystem.

Therefore, staff recommends the Governing Board adopt a proclamation designating May 19-25, 2013, as Water Reuse Week.

ABS/vf

# Proclamation

## Suwannee River Water Management District Live Oak, Florida

**WHEREAS**, safe, clean, and sustainable water resources are essential to Florida's environment, economy, citizens, and visitors, and

**WHEREAS**, water reuse provides a means for conserving and augmenting Florida's precious water resources and will continue to serve as an important alternative water supply, and

**WHEREAS**, the District has established the encouragement and promotion of water reuse as objectives consistent with Chapters 373 and 403, Florida Statutes, and

**WHEREAS**, the cities of Alachua, Cedar Key, Lake City, Live Oak, and Monticello have established reuse systems that saves about 9.6 million gallons of groundwater per day, and

**WHEREAS**, the State of Florida traditionally designates the third week in May as Water Reuse Week, to highlight the importance of water reuse—the utilization of highly treated wastewater effluent for beneficial purposes—to the sustainability of Florida's water supply and ecosystem.

**WHEREAS**, Florida's permitted reuse capacity exceeds 1.5 billion gallons per day (over 62 percent of Florida's total permitted capacity for all domestic wastewater treatment facilities); and

**WHEREAS**, the District has joined with the State of Florida and the Florida Department of Environmental Protection in encouraging and promoting water reuse and conservation, and

**NOW THEREFORE**, the Governing Board of the Suwannee River Water Management District hereby proclaims May 19-25 as Water Reuse Week.

**PASSED AND ADOPTED THIS 16TH DAY OF May, 2013 A.D.**

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

**BY ITS GOVERNING BOARD**

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**MEMBERS OF THE BOARD:**  
**DON QUINCEY, JR., CHAIRMAN**  
**ALPHONAS ALEXANDER, VICE-CHAIRMAN**  
**DONALD R. CURTIS, III, TREASURER**  
**KEVIN BROWN**  
**GEORGE COLE**  
**GARY F. JONES**  
**VIRGINIA JOHNS**  
**VIRGINIA SANCHEZ**  
**GUY WILLIAMS, Jr.**

**ATTEST:**

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MEMORANDUM

TO: Governing Board  
FROM: Ann B. Shortelle, Ph.D., Executive Director  
DATE: April 29, 2013  
RE: Consideration of Resolution 2013-10 Requesting Reimbursement of Preacquisition Costs, Land Management Expenses, and Water Supply Planning Expenses for January 1, 2013 through March 31, 2013

RECOMMENDATION

**Staff recommends approval and execution of Resolution 2013-10, requesting the Department of Environmental Protection reimburse the District from the Water Management Lands Trust Fund (WMLTF) for preacquisition costs in the amount of \$14,159.63, land management expenses in the amount of \$198,892.60, and water supply planning expenses in the amount of \$197,754.04 for January 1, 2013 through March 31, 2013.**

BACKGROUND

Section 373.59, F.S., allows the payment of preacquisition, land management, and water supply planning expenditures from the Water Management Land Trust Fund.

Preacquisition costs cover most expenditures involving program administration and parcel-specific costs incurred prior to execution of a purchase agreement. Direct acquisition costs, including land costs, surveys, appraisals, and legal fees are either requested at the time of contract execution or are reconciled with preacquisition funding after the closing of each particular transaction. Preacquisition costs from January 1, 2013 through March 31, 2013 totaled \$14,159.63.

Land management costs for the same period totaled \$198,892.60. Land management expenditures include prescribed burning, reforestation, and maintenance of recreational sites and roads.

Water supply planning costs for the same period totaled \$197,754.04.

The total reimbursement request is \$410,806.27.

ABS/rl

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

**RESOLUTION NUMBER 2013-10**

**RESOLUTION REQUESTING RELEASE OF FUNDS  
FROM THE WATER MANAGEMENT LANDS TRUST FUND  
FOR REIMBURSEMENT OF PREACQUISITION COSTS,  
FOR MANAGEMENT, MAINTENANCE, AND CAPITAL  
IMPROVEMENTS EXPENSES AND WATER SUPPLY PLANNING EXPENSES**

**WHEREAS**, the Suwannee River Water Management District has expended funds for certain costs in the acquisition of fee or other legal interest in lands necessary to carry out the five-year plan of acquisition filed with the Legislature and the Florida Department of Environmental Protection and consistent with Section 373.199, Florida Statutes (F.S.); and

**WHEREAS**, prior to acquisition, said lands will be appraised by at least one independent real estate appraiser, and were approved for acquisition after duly noticed public hearing thereon; and

**WHEREAS**, said lands shall not be acquired as right-of-way for canals or pipelines; and

**WHEREAS**, the acquisition of said lands has required the evaluations, negotiations, or closings for lands; and

**WHEREAS**, upon acquisition, said lands are made available for general recreational uses not inconsistent with the water management purposes for which they are being acquired; and

**WHEREAS**, upon acquisition, said lands are maintained in an environmentally acceptable manner, and to the extent practical, in such a way as to restore and protect their natural state and condition; and

**WHEREAS**, should this District subsequently dispose of said lands, all revenues derived there from will be used to acquire other lands for water management, water supply, and the conservation and protection of water resources; and

**WHEREAS**, the Suwannee River Water Management District has expended funds and committed funds for management, maintenance, and capital improvements to land acquired with moneys from the Water Management Lands Trust Fund; and

**WHEREAS**, said committed funds were used, consistent with Chapter 373.59, F.S., to develop management plans which include an evaluation of the resource value, environmental sensitivity, and recreational suitability of these lands; and

**WHEREAS**, moneys expended for field equipment are for equipment whose sole use shall be on District's Lands; and

**WHEREAS**, moneys were expended for water supply planning consistent with 373.709, F.S.; and

**WHEREAS**, the requested funds are within the 2013 Fiscal Year Budget for preacquisition costs, management costs; and water supply expenses; and

**WHEREAS**, any revenues generated from the management of these lands shall be used for management, maintenance, and capital improvements of said lands; and

**WHEREAS**, District desires to be reimbursed for District's moneys so expended or committed; and

**WHEREAS**, the specific acquisition costs are set forth in attachments to this resolution showing expenditures and commitments from January 1, 2013, through March 31, 2013, in the amount of \$14,159.63; and

**WHEREAS**, the specific commitments and expenditures for said management, maintenance, and capital improvements are set forth in attachments to this resolution showing expenditures and commitments from January 1, 2013, through March 31, 2013, in the amount of \$198,892.60; and

**WHEREAS**, the specific expenditures for said water supply expenses are set forth in attachments to this resolution showing expenditures from January 1, 2013, through March 31, 2013, in the amount of \$197,754.04.

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Board of the Suwannee River Water Management District:

(1) The above statements are hereby certified and declared to be true and correct.

(2) District hereby requests the Secretary of the Department of Environmental Protection to release from the Water Management Lands Trust Fund to District the sum of \$14,159.63 for District's acquisition costs necessary to carry out the five-year plan of acquisition.

(3) District hereby requests the Secretary of the Department of Environmental Protection to release from the Water Management Lands Trust Fund the sum of \$198,892.60 for District's expenditures for management, maintenance, and capital improvements of lands previously acquired under Water Management Lands Trust Fund as specifically set forth in the attachments to this resolution.

(4) District hereby requests the Secretary of the Department of Environmental Protection to release from the Water Management Lands Trust Fund the sum of \$197,754.04 for District's water supply planning expenditures as specifically set forth in the attachments to this resolution.

**PASSED AND ADOPTED THIS 16th DAY OF MAY 2013, A.D.**

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT  
BY ITS GOVERNING BOARD**

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**MEMBERS OF THE BOARD:**

**DON QUINCEY, CHAIRMAN  
ALPHONAS ALEXANDER, VICE CHAIRMAN  
RAY CURTIS, SECRETARY/TREASURER  
KEVIN BROWN  
GEORGE COLE  
VIRGINIA JOHNS  
GARY JONES  
VIRGINIA SANCHEZ  
GUY N. WILLIAMS**

**ATTEST:**

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**LAND PRE-ACQUISITION COSTS FOR JANUARY 2013**

Staff Salaries	\$6,488.12
Insurance	\$996.05
Retirement	\$360.65
FICA	\$479.10
<b>TOTAL SALARIES &amp; BENEFITS</b>	<b>\$8,323.92</b>
Other Personal Services	\$0.00
Legal services	\$0.00
Contractual Services	\$2,925.00
<b>TOTAL OTHER PERSONAL SERVICES</b>	<b>\$2,925.00</b>
Printing & Binding	\$0.00
Publication of Notices	\$328.31
Postage	\$0.00
Meetings	\$0.00
Registrations & Training	\$0.00
Travel	\$0.00
Utilities	\$0.00
Communications	\$0.00
Vehicle Maintenance	\$0.00
Facilities Maintenance	\$0.00
Equipment Maintenance	\$0.00
Field Supplies	\$0.00
Office Supplies	\$0.00
Computer Supplies	\$0.00
Fuel & Lubricants	\$0.00
Maps & Aerials	\$0.00
Books & Documents	\$0.00
Non-Capital Land Improvements	\$0.00
Photographic Supplies	\$0.00
Graphic Arts Supplies	\$0.00
Office Support Equipment	\$0.00
Other Commodities	\$0.00
Computer Software	\$0.00
Equipment Rental	\$0.00
Fees & Permits	\$0.00
Other Contractual Services	\$0.00
Other Current Charges	\$0.00
Overhead Allocation (IT, Etc)	\$2,582.40
<b>TOTAL EXPENSES</b>	<b>\$2,910.71</b>
Office Equipment	\$0.00
Mobile Equipment	\$0.00
Field Equipment	\$0.00
<b>TOTAL OPERATING CAPITAL OUTLAY</b>	<b>\$0.00</b>
Land Improvements	\$0.00
<b>TOTAL OPERATING CAPITAL OUTLAY</b>	<b>\$0.00</b>
Interagency Expenditures	\$0.00
<b>TOTAL INTERAGENCY EXPENDITURES</b>	<b>\$0.00</b>
<b>TOTAL LAND PRE-ACQUISITION COSTS</b>	<b>\$14,159.63</b>

**LAND MANAGEMENT COSTS FOR JANUARY 2013**

Staff Salaries	\$32,390.68
Insurance	\$7,145.92
Retirement	\$1,753.36
FICA	\$2,369.32
<b>TOTAL SALARIES &amp; BENEFITS</b>	<b>\$43,659.28</b>
Other Personal Services	\$0.00
Legal Services	\$0.00
Audit Services	\$0.00
Contractual Services	\$132,503.50
<b>TOTAL OTHER PERSONAL SERVICES</b>	<b>\$132,503.50</b>
Payments In Lieu Of Taxes	\$0.00
Printing & Binding	\$0.00
Publication of Notices	\$0.00
Postage	\$0.00
Meetings	\$0.00
Registrations & Training	\$0.00
Travel	\$0.00
Utilities	\$0.00
Communications	\$0.00
Vehicle Maintenance	\$0.00
Facilities Maintenance	\$0.00
Equipment Maintenance	\$0.00
Field Supplies	\$4,329.57
Office Supplies	\$0.00
Computer Supplies	\$0.00
Fuel & Lubricants	\$0.00
Maps & Aerials	\$0.00
Books & Documents	\$0.00
Office Support Equipment	\$0.00
Non-Capital Land Improvements	\$0.00
Photographic Supplies	\$0.00
Other Commodities	\$0.00
Computer Software	\$0.00
Equipment Rental	\$0.00
Property & Casualty Ins	\$0.00
Fees & Permits	\$0.00
Other Current Charges	\$0.00
Overhead Allocation (IT, Etc)	\$18,400.25
<b>TOTAL EXPENSES</b>	<b>\$22,729.82</b>
Office Equipment	\$0.00
Computer Equipment	\$0.00
Mobile Equipment	\$0.00
Field Equipment	\$0.00
<b>TOTAL OPERATING CAPITAL OUTLAY</b>	<b>\$0.00</b>
Construction	\$0.00
Land Improvements	\$0.00
<b>TOTAL OPERATING CAPITAL OUTLAY</b>	<b>\$0.00</b>
Interagency Expenditures	\$0.00
<b>TOTAL INTERAGENCY EXPENDITURES</b>	<b>\$0.00</b>
<b>TOTAL LAND MANAGEMENT COSTS</b>	<b>\$198,892.60</b>

**WATER SUPPLY PLANNING COSTS FOR JANUARY AND FEBRUARY 2013**

Staff Salaries	\$36,406.27
Insurance	\$4,637.92
Retirement	\$2,040.13
FICA	\$2,717.14
<b>TOTAL SALARIES &amp; BENEFITS</b>	<b>\$45,801.46</b>
Other Personal Services	\$0.00
Legal Services	\$97.50
Audit Services	\$0.00
Contractual Services	\$134,622.09
<b>TOTAL OTHER PERSONAL SERVICES</b>	<b>\$134,719.59</b>
Payments In Lieu Of Taxes	\$0.00
Printing & Binding	\$0.00
Publication of Notices	\$338.00
Postage	\$0.00
Meetings	\$0.00
Registrations & Training	\$150.00
Travel	\$358.67
Utilities	\$0.00
Communications	\$0.00
Vehicle Maintenance	\$0.00
Facilities Maintenance	\$0.00
Equipment Maintenance	\$0.00
Field Supplies	\$29.57
Office Supplies	\$0.00
Computer Supplies	\$0.00
Fuel & Lubricants	\$0.00
Maps & Aerials	\$0.00
Books & Documents	\$52.20
Office Support Equipment	\$0.00
Non-Capital Land Improvements	\$0.00
Photographic Supplies	\$0.00
Other Commodities	\$0.00
Computer Software	\$0.00
Equipment Rental	\$0.00
Property & Casualty Ins	\$0.00
Fees & Permits	\$0.00
Other Current Charges	\$0.00
Overhead Allocation (IT, Etc)	\$16,304.55
<b>TOTAL EXPENSES</b>	<b>\$17,232.99</b>
Office Equipment	\$0.00
Computer Equipment	\$0.00
Mobile Equipment	\$0.00
Field Equipment	\$0.00
<b>TOTAL OPERATING CAPITAL OUTLAY</b>	<b>\$0.00</b>
Construction	\$0.00
Land Improvements	\$0.00
<b>TOTAL OPERATING CAPITAL OUTLAY</b>	<b>\$0.00</b>
Interagency Expenditures	\$0.00
<b>TOTAL INTERAGENCY EXPENDITURES</b>	<b>\$0.00</b>
<b>TOTAL ALTERNATIVE WATER SUPPLY COSTS</b>	<b>\$197,754.04</b>

MEMORANDUM

TO: Governing Board

FROM: Carlos Herd, Division Director, Water Supply

THRU: Ann B. Shortelle, Ph.D., Executive Director

DATE: April 29, 2013

RE: North Florida Regional Water Supply Partnership Stakeholder Advisory Committee Update

**April 22, 2013 Stakeholder Advisory Committee (SAC) Meeting:**

At this meeting the SAC heard presentations on the following topics:

- Available water use data for the years 2001 and 2009 for use in developing the North Florida Southeast Georgia Regional Groundwater Flow Model
- Discussion on the available water use data presentation and development of a recommendation from the SAC for review and vote at the next meeting
- Members' open discussion regarding water supply issues in north Florida

Other information was presented and discussed at the meeting. This summary is intended as an update to the technical information presented to the SAC as it relates to the joint regional water supply planning process between the St. Johns River and Suwannee River Water Management Districts.

Thank you for your attention to this summary of current activities. Please feel free to contact staff prior to the May 16, 2013, Governing Board meeting if you would like further information.

/ch

MEMORANDUM

TO: Governing Board  
FROM: Ann B. Shortelle, Ph.D., Executive Director  
DATE: April 29, 2013  
RE: District's Weekly Reports

Attached are the weekly District activity reports for the month of April.

ABS/rl  
Attachments



## Weekly Activity Report to Governing Board April 1-5, 2013

### *Executive/Management*

- Ann Shortelle, Jon Dinges, Dave Dickens, and Sara Alford participated in a teleconference with DEP to discuss the District's Water Management Lands Trust Fund (WMLTF) and other related topics.
- Jon Dinges met with the City of Lake City Council to urge the adoption of the Water Conservation Proclamation. The Council adopted the proclamation.
- Steve Minnis attended week five of the 2013 Legislative Session.

### *Water Supply*

- Carlos Herd and John Good met with Gainesville Regional Utilities (GRU) to provide an update on the MFL development of the Lower Santa Fe River.
- Louis Mantini, Clay Coarsey, John Good, Michael Hill (FWC) and Jiangtao Sun (EAS) met to discuss the Wacissa Model.
- Trey Grubbs, Dale Jenkins, and Clay Coarsey participated in a SJRWMD water use modeling tool discussion teleconference.

### *Resource Management*

- Ann Shortelle, Jon Dinges, Tim Sagul, Carlos Herd, and Kevin Wright participated in the CUPCon Core Team teleconference.
- Leroy Marshall participated in a webinar regarding the State-wide Environmental Resource Permitting (SWERP) rule along with representatives from DEP and the other four WMDs.

### *Ag Team/Suwannee River Partnership*

- Ann Shortelle and Kevin Wright met with local extension agents to tour the Suwannee County Fair and Livestock Show.
- Kevin Wright attended a Statewide Agricultural Issues Workshop Team Meeting in Orlando to discuss WMD agricultural issues.
- Hugh Thomas attended the Bradford and Levy Soil & Water Conservation District meetings.

### *Water Resources*

- The District welcomed Marc Minno, who began as an environmental scientist on April 1. Communications staff sent out a press release on his employment with the District.
- Staff attended the Brown Bag Lunch & Learn Florida WMD Water Resource Services Presentation by CH2M Hill.
- Paul Buchanan and David Jenness participated in GIS CUP boundaries and portal meetings with staff from other WMDs.

- Paul Buchanan, Bebe Newsome, and David Jenness hosted and participated in the GIS Quarterly WMD/DEP Inter-District Meeting. Other state agencies and the USGS also participated.

#### *Land Resources*

- Bob Heeke participated in the Discover Florida Wild Update teleconference with DEP staff.
- Charlie Houder and Scott Gregor evaluated prescribed burning on the Woods Ferry Tract.
- Governing Board member Virginia Johns and Bob Heeke attended the R. O. Ranch Board of Directors Meeting.
- Bill McKinstry conducted forest inventory on District lands.

#### *Administrative Services*

- Jon Wood, Rhonda Scott, Deborah Parker, David Jenness and Lloyd Baldwin participated in a Inter-Agency Information Technology Meeting with DEP.

#### *Communications*

- Ann Shortelle wrote an Op-Ed on water conservation that was submitted to the local newspapers.

#### *Announcements for Week of April 8, 2013*

- Governing Board Meeting and Workshop April 9 in Live Oak.
- Jon Dinges will meet with the City of Live Oak to discuss the Water Conservation Proclamation on April 9 at 6:30 p.m.
- Carlos Herd will meet with the City of Starke to discuss the Water Conservation Proclamation on April 9 at 7:00 p.m.
- FLOW workshop from 9 a.m.-1 p.m. Saturday, April 13 at the Columbia County School Board Administrative Complex auditorium, 372 W. Duval Street, Lake City. This workshop is in lieu of the meeting that had originally been scheduled for April 8 that was cancelled.



## Weekly Activity Report to Governing Board April 8-12, 2013

### *Executive/Management*

- Ann Shortelle, Jon Dinges and Steve Minnis attended the Senate Ethics and Elections Committee meeting in Tallahassee.
- Ann Shortelle, Jon Dinges and Tim Sagul met with DEP to discuss two aquifer recharge projects.
- Jon Dinges met with Live Oak and Jasper City Councils to favorably approve the Water Conservation Proclamation, which both Councils adopted.
- Carlos Herd met with the Starke City Council to favorably approve the Water Conservation Proclamation, which the Council adopted.
- Steve Minnis attended week six of the 2013 Legislative Session.

### *Resource Management*

- Brian Kauffman performed preliminary field reconnaissance for the potential Brooks Sink recharge project in Bradford County.
- Leroy Marshall attended the Florida Floodplain Managers Association annual conference in Tampa.

### *Ag Team/Suwannee River Partnership*

- Kevin Wright and Hugh Thomas participated in a conference call to discuss the Santa Fe Basin Management Action Plan and the restoration focus area data.

### *Water Resources*

- Megan Wetherington gave a hydrologic update to the annual meeting of the San Pedro Bay Landowner's Association.
- Staff attended a Lunch-and-Learn Meeting to discuss two approaches to quantifying the role of flow and water chemistry on biology in aquatic ecosystems through streamflow dynamics.
- David Jenness and Paul Buchanan participated in a Geoprocessing Process Improvement Meeting to discuss possibilities of improvement and development of reproducible workflows.

### *Land Resources*

- Bob Heeke and Edwin McCook met with Levy County staff to discuss management of the Devil's Hammock Tract.
- Bob Heeke attended the meeting of the San Pedro Bay Landowners Association.

- Edwin McCook attended the Suwannee Chapter meeting of the Florida Trail Association.

*Administrative Services*

- Dave Dickens facilitated a Chainsaw Safety class for staff.
- Dave Dickens participated in an Emergency Management Training Workshop presented by the Suwannee County Sheriff's Office.

*Announcements for Week of April 15, 2013*

- Quarterly TIP meeting on April 15.
- Brown Bag Lunch and Learn: Florida's Nitrate Criteria for Springs on April 18.
- The Acquisition and Restoration Council on April 19 to consider a recommendation to amend the boundary of the Longleaf Pine Ecosystem Florida Forever Project to add the 986-acre Ellaville Sandhill Tract. If approved, this will allow the DEP to recommend that the Governor and Cabinet acquire title to the Ellaville Tract through an exchange with the District for the Damascus Peanut Company Tract.



## Weekly Activity Report to Governing Board April 15-19, 2013

### *Executive/Management*

- Ann Shortelle attended The Ichetucknee Partnership Executive Committee Meeting in Lake City.
- Ann Shortelle attended the Nature Coast Regional Water Authority meeting in Fanning Springs.
- Ann Shortelle, Jon Dinges, and Tom Reeves met with Tri-County Electric Cooperative Madison to discuss agriculture water use monitoring efforts.
- Steve Minnis attended week seven of the 2013 Legislative Session.

### *Water Supply*

- Carlos Herd and Jon Dinges participated in a teleconference with SJRWMD staff concerning the North Florida Regional Water Supply Plan.

### *Resource Management*

- Kevin Wright, Lindsey Marks, Trey Grubbs and Marc Minno attended the GRU Consumptive Use Permit Pre Application Meeting along with staff from SJRWMD.
- Staff participated in a Lunch and Learn program titled "Florida's Nitrate Criteria for Springs – A Methodology for Predicting what it would Take to Achieve it at an Impacted Spring".
- Leroy Marshall attended a meeting with FDOT regarding a new paving product (KBI-Flexi-Pave).
- Leroy Marshall participated in a webinar regarding the Statewide ERP (SWERP) Permitting rule, along with representatives from DEP and the other WMDs.
- Pat Webster, Louis Mantini and Tim Sagul participated in a meeting with FDOT and their consultants regarding the proposed Starke By-Pass.

### *Ag Team/Suwannee River Partnership*

- Kevin Wright spoke at the Suwannee Academic Boosters Student Recognition Luncheon.

### *Water Resources*

- Staff upgraded equipment at 4 wells, and installed new real-time gages at Hampton Lake and Wacissa River/Goose Pasture.

### *Land Resources*

- Charlie Houser attended a webinar concerning Greenhouse Gases, Environmental Market Concepts and the Emerging California Cap and Trade Program.

### *Communications*

- Communications staff sent out press releases on SRP's new conservation technician and the next North Florida Regional Water Supply Partnership (NFRWSP) Stakeholder Advisory Committee meeting.
- Communications staff wrote an article and text for an ad about the District's water conservation projects and partnership efforts that will appear in the Lake City Reporter's Environmental Awareness Tab on April 21. This effort will help commemorate Water Conservation Month and Earth Day.

### *Announcements for Week of 4/22*

- NFRWSP Stakeholder Advisory Committee meeting will take place on April 22 in Lake City.
- Surplus Land Committee will meet on April 24.



## Weekly Activity Report to Governing Board April 22-26

### *Executive/Management*

- Ann Shortelle and Jon Dinges met with representatives from Florida Farm Bureau and Tom Reeves to discuss grower agreements on electric data for water use monitoring.
- Ann Shortelle, Jon Dinges and Steve Minnis met with the North West Florida Water Management District to discuss mutual coordination efforts.
- Don Quincey and Jon Dinges attended the City of Fanning Springs Wastewater Treatment Plant Dedication and Earth Day Celebration.
- Steve Minnis attended week eight of the 2013 Legislative Session.
- Ann Shortelle attended the North American Lake Management Society Board Meeting in Chicago, Illinois.

### *Water Supply*

- Carlos Herd, Dale Jenkins and Hugh Thomas attended the North Florida Regional Water Supply Partnership meeting at Florida Gateway College.
- Carlos Herd attended the North Central Florida Regional Planning Council Meeting.

### *Resource Management*

- Pat Webster, Tim Sagul, Carlos Herd, Dale Jenkins, Charlie Houder and Erich Marzolf participated in Bradford County Flood Abatement and Aquifer Recharge Opportunities meeting with representatives from Starke, Bradford County and FDOT.
- Jerry Bowden attended the North Central Florida RACEC Catalyst Site/North Florida INTERMODAL PARK Quarterly Meeting in Lake City.
- James Link participated in the monthly Region IV Coastal Outreach Conference Call regarding the status of all current FEMA contracts.
- Leroy Marshall participated in a webinar regarding the Statewide ERP (SWERP) Permitting rule along with representatives from DEP and the other WMDs.
- Pat Webster participated in a conference call with DEP, DOT and the other WMDs regarding water related issues including TMDLs, BMAPs, stormwater re-use, and water use issues.

### *Ag Team/Suwannee River Partnership*

- Kevin Wright, Hugh Thomas, and Joel Love attended the Suwannee River Partnership Breakfast meeting.

### *Water Resources*

- Ann Shortelle, Jon Dinges, Dave Dickens, Carlos Herd and Erich Marzolf participated in a tour of the Santa Fe River Basin with members of Our Santa Fe River and Florida Department of Environmental Protection.

- Staff installed monitoring equipment on two wells at Manatee State Park and Steinatchee, and installed a new gage at Pickett Lake.

#### *Land Resources*

- Richard Rocco conducted field inspections of the Madeline Moore and Linden Davidson conservation easements
- Charlie Houder attended a meeting with DEP, Fish and Wildlife Conservation Commission and Florida Forest Service to discuss interagency coordination of land management activities.

#### *Administrative Services*

- Dave Dickens attended a pre-meeting for the Statewide Hurricane Exercise at the State Emergency Operations Center.

#### *Communications*

- Communications staff sent out press releases on two new employees at the District – Darlene Saindon and Darshan Shah.

#### *Announcements for Week of April 29, 2013*

- There will be a Lunch & Learn titled “Managing Forests to Increase Water Yield” on April 30.
- There will be a Brown Bag Lunch & Learn titled “Temporal Changes in the Upper Suwannee River Watershed” on May 3.



## Weekly Activity Report to Governing Board April 29-May 3, 2013

### *Executive/Management*

- Ann Shortelle gave a presentation on water-related issues at the Levy County Cattlemen's Association semi-annual meeting.
- Chairman Don Quincey and Ann Shortelle met with the Financial Auditors for a summary briefing.
- Ann Shortelle and staff members met with representatives of Rayonier to discuss development of a recharge enhancement project at Brooks Sink in Bradford County.
- Steve Minnis attended week nine of the 2013 Legislative Session.

### *Water Supply*

- Carlos Herd met with the North Florida Regional Water Supply Partnership on Wednesday for a Stakeholder Advisory Committee planning meeting.
- Carlos Herd attended the Florida Ground Water Association convention in Orlando.

### *Resource Management*

- Tim Sagul and Gloria Hancock attended the DEP Water Well quarterly meeting in Orlando along with representatives from the other WMD's and Department of Health officials.
- Leroy Marshall, Paul Buchanan, and Dave Dickens participated in the Florida Silver Jackets quarterly conference call.
- Leroy Marshall participated in a webinar regarding the Statewide ERP (SWERP) Permitting rule along with representatives from DEP and the other WMDs.

### *Ag Tem/Suwannee River Partnership*

- Kevin Wright attended the Suwannee County Conservation District Banquet on April 30.

### *Water Resources*

- Staff participated in a Lunch and Learn about Temporal Changes in the Upper Suwannee River Watershed presented by Kelly Bishop of HSW Engineering.
- Paul Buchanan, Bebe Willis, David Jenness and Glenn Horvath attended the ESRI Southeast User Conference in Jacksonville to learn about new GIS techniques and tools.
- Staff added a new, telemetered well at Wacissa Tower to the groundwater network, and installed a rain gage and telemetry at four wells in Mallory Swamp.

### *Land Resources*

- Charlie Houser attended the R. O. Ranch Board of Directors meeting.

*Administrative Services*

- Staff participated in a Lunch and Learn concerning Health Savings Accounts, our current plans and questions and answers.
- Dave Dickens attended a presentation of the 2013 Educational Seminar Series on Risk Management Prevention & Best Practices in Gainesville.

*Communications*

- Communications staff issued press releases on recognizing April as Springs Protection Awareness Month and timber harvest activities on District lands.
- Staff responded to many calls related to the Lowndes County sewer main spill into the Withlacoochee River.
- Erich Marzolf coordinated agency communications concerning the sewer spill.

*Announcements for Week of May 6, 2013:*

- Ann Shortelle will speak at the Paynes Prairie Sheetflow Groundbreaking Event on May 8.