

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

**OPEN TO THE PUBLIC**

May 4, 2017  
9:00 a.m.

Cedar Key Community Center  
Cedar Key Florida

1. Call to Order
2. Roll Call
3. Announcement of any Amendments to the Agenda by the Chair  
**Amendments Recommended by Staff:** None
4. Public Comment
5. Consideration of the following Items Collectively by Consent:
  - Agenda Item 6 - April 11, 2017 Governing Board, Workshop and Lands Committee Minutes
  - Agenda Item 9 - Approval of March 2017 Financial Report
  - Agenda Item 10 - Approval of Resolution Number 2017-05 for Budget Amendment No. 3
  - Agenda Item 11 - Approval of Resolution Number 2017-06 for Budget Amendment No. 4
  - Agenda Item 20 - Approval of a Modification of Water Use Permit 2-023-220374-4, with a 0.3421 mgd Decrease in Allocation and a Nine-Year Permit Extension, Authorizing the Use of 0.2824 mgd of Groundwater for Agricultural Use at the Carl Allison Farm Project, Columbia County
  - Agenda Item 21- Approval of Water Use Permit 2-079-229661-1 Authorizing the Use of 0.1551 mgd of Groundwater for Agricultural Uses at the Whitty Farm Project, Madison County
6. Approval of Minutes – April 11, 2017 Governing Board, Workshop and Lands Committee Minutes – **Recommend Consent**
7. Items of General Interest for Information/Cooperating Agencies and Organizations
  - A. Presentation of Hydrologic Conditions by Tom Mirti, Director, Water Resource Division
  - B. Cooperating Agencies and Organizations

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**GOVERNING BOARD LEGAL COUNSEL**  
**Tom Reeves**

LC Page 1

8. Update on Legal Activities / Enforcement Status Report
  - A. *Discussion and Action – District Case # 2017-01*
  - B. *Discussion and Action – District Case # 2017-02*

**DIVISION OF ADMINISTRATION AND OPERATIONS**  
**Roary Snider, Chief of Staff**

- AO Page 1 9. Approval of March 2017 Financial Report – **Recommend Consent**
- AO Page 10 10. Approval of Resolution Number 2017-05 for Budget Amendment No. 3 -  
**Recommend Consent**
- AO Page 12 11. Approval of Resolution Number 2017-06 for Budget Amendment No. 4 -  
**Recommend Consent**
12. Fiscal Year 2018 Tentative Budget Presentation
- AO Page 14 13. Approval of Insurance Broker
- AO Page 15 14. Approval of PILT Payments
- AO Page 17 15. Land and Facilities Operations Activity Summary Report
- AO Page 22 16. Acquisition and Disposition Report

**DIVISION OF WATER SUPPLY**  
**Carlos Herd, P.G., Director**

17. Outstanding Florida Springs MFL Presentation

**DIVISION OF WATER RESOURCES**  
**Tom Mirti, Director**

- WR Page 1 18. Authorization for the Executive Director to Execute a Task Work  
Assignment with Huss Drilling, Inc. for Well Construction and Associated  
Hydrogeological Testing
19. Agricultural Water Use Monitoring Update

**DIVISION OF RESOURCE MANAGEMENT**  
**Tim Sagul, P.E., Director**

- RM Page 1 20. Approval of a Modification of Water Use Permit 2-023-220374-4, with a  
0.3421 mgd Decrease in Allocation and a Nine-Year Permit Extension,  
Authorizing the Use of 0.2824 mgd of Groundwater for Agricultural Use at  
the Carl Allison Farm Project, Columbia County – **Recommend Consent**
- RM Page 11 21. Approval of Water Use Permit 2-079-229661-1 Authorizing the Use of  
0.1551 mgd of Groundwater for Agricultural Uses at the Whitty Farm  
Project, Madison County – **Recommend Consent**
- RM Page 20 22. Approval of a Modification of Water Use Permit 2-041-217624-4, with a  
0.0191 mgd Increase in Allocation and a Seven-Year Permit Extension,  
Authorizing the Use of 0.1772 mgd of Groundwater for Agricultural Use at  
the Quincey Tract Project, Gilchrist County

RM Page 30 23. Permitting Summary Report

**AGRICULTURE AND ENVIRONMENTAL PROJECTS**  
**Darrell Smith, Director**

24. RIVER and Springs Projects Presentation

AE Page 1 25. Approval to Enter into Contracts with Two Agricultural Producers to Provide Agricultural Cost-Share Program Funding - Townsend Brothers Ag Enterprises and Grimmway Enterprises, Inc.

**EXECUTIVE OFFICE**  
**Noah Valenstein, Executive Director**

EO Page 1 26. Adoption of Water Shortage Warning Resolution Number 2017-04

EO Page 5 27. District's Weekly Activity Reports

28. Announcements

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

June 13, 2017 9:00 a.m. Board Meeting  
District Headquarters  
Workshop / Committee Meetings

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

29. Adjournment

Any member of the public, who wishes to address the Board on any agenda item, or any other topic, must sign up (including the completion of the required speaker forms) with the Executive Director or designee before the time designated for Public Comment. During Public Comment, the Chair shall recognize those persons signed up to speak on agenda items first. To the extent time permits, the Chair shall thereafter recognize those persons signed up to speak on non-agenda items. Unless, leave is given by the Chair, (1) all speakers will be limited to three minutes per topic, (2) any identifiable group of three persons or more shall be required to choose a representative, who shall be limited to five minutes per topic. When recognized by the Chair during Public Comment, a speaker may request to be allowed to make his or her comments at the time the Board considers a particular agenda item. The Chair may grant or deny such request in the Chair's sole discretion.

Definitions:

- "Lobbies" is defined as seeking to influence a district policy or procurement decision or an attempt to obtain the goodwill of a district official or employee. (112.3261(1)(b), Florida Statutes [F.S.]

- "Lobbyist" is a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. (112.3215(1)(h), F.S.)

The Board may act upon (including reconsideration) any agenda item at any time during the meeting. The agenda may be changed only for good cause as determined by the Chair and stated in the record. If, after the regular time for Public Comment, the agenda is amended to add an item for consideration, the Chair shall allow public comment on the added agenda item prior to the Board taking action thereon.

All decisions of the Chair concerning parliamentary procedures, decorum, and rules of order will be final, unless they are overcome by a majority of the members of the Board in attendance.

If any person decides to appeal any decision with respect to any action considered at the above referenced meeting and hearing, such person may need to ensure a verbatim record of the proceeding is made to include testimony and evidence upon which the appeal is made.

AGENDA

SUWANNEE RIVER WATER MANAGEMENT DISTRICT  
GOVERNING BOARD WORKSHOP

OPEN TO THE PUBLIC

May 5, 2017  
9:00 a.m.

Cedar Key Community Center  
Cedar Key

- District Procurement Process Discussion
- Projects Storyboard Presentation

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 11, 2017

District Headquarters  
Live Oak, Florida

Agenda Item No. 1 – Call to Order. The meeting was called to order at 9:05 a.m.

Agenda Item No 2 – Roll Call

Governing Board:

Seat	Name	Office	Present	Not Present
Aucilla Basin	Bradley Williams		X	
Coastal River Basin	Richard Schwab		X	
Lower Suwannee Basin	Don Quincey, Jr.	Chair	X	
Santa Fe & Wacc. Basins	Kevin W. Brown			X
Upper Suwannee Basin	Alphonas Alexander	Vice Chair	X	
At Large	Virginia H. Johns	Sec./Treas.	X	
At Large	Virginia Sanchez		X	
At Large	Gary Jones		X	
At Large	Vacant		X	

Governing Board General Counsel

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

Staff:

Position	Name	Present	Not Present
Executive Director	Noah Valenstein	X	
Chief of Staff	Roary Snider	X	
Governmental Affairs Director	Steve Minnis		X
Water Supply Division Director	Carlos D. Herd. P.G.	X	
Water Resources Division Director	Tom Mirti	X	
Resource Mgmt. Division Director	Tim Sagul	X	
Agricultural and Environmental Projects Director	Darrell Smith	X	
Communications Director	Katelyn Potter	X	

Guests:

Kevin Wright, Generation Farms	Craig Varn, Manson Bolves & Varn
Lucinda Merritt, Ichetucknee Alliance	Brad Dicks, Florida Farm Bureau
Kristin Simmons, FDEP	Cliff Starling, FDACS
Carlyce Cross, Cross Holdings	Kristin Summers, FDEP
Corey Mikell, H2O Mobile Lab	Ray Hodge, Southeast Milk
J. Wiley Jordan, Camamera	Shane Wellendorf, Tall Timber Research, Inc.
Genny Hall, PC 12 Ventures, LLC	Rodolfo Valladares, City of Alachua
Lisa Baker, Locklear & Associates	Carolee Howe, Shenandoah Dairy
Jeff Cross, Cross Holdings	W. C. Hart, Lafayette Soil and Water District
Steve Gladin	Officer Creech

Georgia Schmitz

**Staff:**

Tyler Jordan

Robin Lamm

Pat Webster

Hugh Thomas

Warren Zwanka

Keith Rowell

Bill McKinstry

Agenda Item No. 3 - Announcement of any Amendments to the Agenda by the Chair:

- Division of Administration and Operations – Supplemental 1 – Authorization for Executive Director to Enter into a Contract to Purchase the Ware Forest Tract, 160 acres +/- in Jefferson County and further Authorizing the Executive Director of the District, the Governing Board attorney, and all other Officers and Employees of the District to do all things Necessary to Complete the Acquisition.

MOTION WAS MADE BY SANCHEZ, SECONDED BY JONES TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 4 – Public Comment.

- Jeff Cross, Cross Holdings – Support of the Water Use Permit recommendation on Board agenda.
- Carolee Howe, Shenandoah Dairy – Thanked the District for support of agriculture.
- Rodolfo Valladares, City of Alachua – Support of the Mill Creek project recommendation on Board agenda.
- Shane Wellendorf, Tall Timber Research, Inc.- Support of the Ware Timber Tract recommendation on Board agenda.

Agenda Item No. 5 - Consideration of the Following Items Collectively by Consent:

- Agenda Item 6 - March 14, 2017 Governing Board Meeting, Lands Committee and Workshop Minutes
- Agenda Item 9 – Approval of February 2017 Financial Report
- Agenda Item 19 - Approval of a Modification of Water Use Permit 2-041-220558-2, with a 0.0434 mgd Increase in Allocation and a Six-Year Permit Extension, Authorizing the Use of 0.0694 mgd of Groundwater for Agricultural Use at the Rantz and Stephanie Smith Farm Project, Gilchrist County
- Agenda Item 20 - Approval of a Modification of Water Use Permit 2-041-221358-2, with a 0.0699 mgd Increase in Allocation and a Ten-Year Permit Extension, Authorizing the Use of 0.1680 mgd of Groundwater for Agricultural Use at the David A. Key Farm Project, Gilchrist County

MOTION WAS MADE BY SANCHEZ, SECONDED BY SCHWAB TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 6 – Approval of Minutes – March 14, 2017 Governing Board Meeting, Lands Committee and Workshop Minutes. Approved on Consent

Agenda Item No. 7 - Items of General Interest for Information/Cooperating Agencies and Organizations.

- Tom Mirti gave a presentation of hydrologic conditions of the District.
- Cooperating Agencies and Organizations – None

**GOVERNING BOARD LEGAL COUNSEL**

Agenda Item No. 8 – Update on Legal Activities / Enforcement Status Report. Tom Reeves updated the Board on the Petitions regarding the Water Supply Plan.

**DIVISION OF ADMINISTRATION AND OPERATIONS**

Agenda Item No. 9 – Approval of February 2017 Financial Report. Approved on Consent

Agenda Item No. 10 – Fiscal Year 2017 Budget Amendment Number 3. Roary Snider, Chief of Staff, presented this item to the Board.

MOTION WAS MADE BY SANCHEZ, SECONDED BY ALEXANDER TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 11 – Fiscal Year 2017 Budget Amendment Number 4. Mr. Snider presented this item to the Board.

MOTION WAS MADE BY ALEXANDER, SECONDED BY JONESTO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 12 - Declaration of Surplus – Town of Greenville Sprayfield Tract – 151 Acres +/- Madison County. Mr. Snider presented this item to the Board.

MOTION WAS MADE BY SANCHEZ SECONDED BY JONES TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 13 – Approval of City of Cedar Key Annexation Request. Mr. Snider presented this item to the Board.

MOTION WAS MADE BY SANCHEZ, SECONDED BY JONES TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 14 – Contract with TSI Disaster Recovery, LLC for Design and Construction Services for River Access Improvements and Resource Protection Projects. Mr. Snider presented this item to the Board.

MOTION WAS MADE BY ALEXANDER, SECONDED BY SCHWAB TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

**SUP 1 – Authorization for Executive Director to Enter into a Contract to Purchase the Ware Forest Tract, 160 acres +/- in Jefferson County and further Authorizing the Executive Director of the District, the Governing Board Attorney, and all other Officers and Employees of the District to do all things Necessary to Complete the Acquisition. Noah Valenstein, Executive Director, requested the item be amended to include the Governing Board’s authorization for the Executive Director to enter into a contract with Ware Forest, LLC, their successors or assigns to purchase the Ware Forest Tract, 160 acres +/- in Jefferson County for an amount not to exceed \$244,800.**

MOTION WAS MADE BY ALEXANDER, SECONDED BY SANCHEZ TO APPROVE THE AMENDMENT TO THE STAFF RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

MOTION WAS MADE BY WILLIAMS TO AMEND THE RECOMMENDATION TO INCLUDE AUTHORIZATION FOR THE EXECUTIVE DIRECTOR TO EXECUTE ANY NEEDED CONTRACT, DEED OR EASEMENT, INCLUDING A FIRST RIGHT OF REFUSAL TO THE SELLER IF THE DISTRICT WAS TO SURPLUS THE PROPERTY IN THE FUTURE AND ALSO INCLUDING A DEED RESTRICTION PROHIBITING THE DISTRICT FROM HARVESTING CYPRESS TREES ON THE PROPERTY.

MOTION WAS MADE BY WILLIAMS, SECONDED BY ALEXANDER TO APPROVE THE STAFFS RECOMMENDATION AS AMENDED. MOTION CARRIED UNANIMOUSLY.

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

Agenda Item No. 16 - Land Acquisition and Disposition Activity Report. The Land Acquisition and Disposition Activity Report was provided as an informational item in the Board materials.

#### **DIVISION OF WATER SUPPLY**

No Items.

#### **DIVISION OF WATER RESOURCES**

Agenda Item No. 17 - Authorization for the Executive Director to Execute a Task Work Assignment with Huss Drilling, Inc. for Well Construction and Associated Hydrogeological Testing. Tom Mirti, Division Director, presented this item to the Board.

BOARD RECOMMENDED THIS ITEM BE PULLED AND BROUGHT TO THE MAY 2017 BOARD MEETING.

Agenda Item No. 18 - Agricultural Water Use Monitoring Update. Mr. Mirti provided this update to the Board.

#### **DIVISION OF RESOURCE MANAGEMENT**

Agenda Item No. 19 – Approval of a Modification of Water Use Permit 2-041-220558-2, with a 0.0434 mgd Increase in Allocation and a Six-Year Permit Extension, Authorizing the Use of 0.0694 mgd of Groundwater for Agricultural Use at the Rantz and Stephanie Smith Farm Project, Gilchrist County. Approved on Consent

Agenda Item No. 20 – Approval of a Modification of Water Use Permit 2-041-221358-2, with a 0.0699 mgd Increase in Allocation and a Ten-Year Permit Extension, Authorizing the Use of 0.1680 mgd of Groundwater for Agricultural Use at the David A. Key Farm Project, Gilchrist County. Approved on Consent.

Agenda Item No. 21 – Approval of a Modification of Water Use Permit 2-121-221458-2, with a 0.4034 mgd Increase in Allocation, Authorizing the Use of 1.7613 mgd of Groundwater for

Agricultural Use at the PC 12 Farm Project, Suwannee County. Warren Zwanka, Chief Hydrogeologist, presented this item to the Board.

MOTION WAS MADE BY SANCHEZ, SECONDED BY JONES TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 22 – Permitting Summary Report. The Permitting Summary Report was provided as an informational item in the Board materials.

### **AGRICULTURE AND ENVIRONMENTAL PROJECTS**

Agenda Item No. 23 - Approval to Contract with the Florida Department of Environmental Protection to Receive Grant Funds for the Mill Creek Sink Stormwater Improvement Project. Darrell Smith, Division Director, presented this item to the Board.

MOTION WAS MADE BY JONES, SECONDED BY SANCHEZ TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 24 - Authorization to Implement the Springs Pilot Agricultural Project. Mr. Smith presented this item to the Board.

MOTION WAS MADE BY JONES, SECONDED BY SCHWAB TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

Agenda Item No. 25 - Approval to Enter into Contract with an Agricultural Producer to Provide Water Conservation Cost-Share Funding – Townsend Brothers Ag Enterprises. Mr. Smith presented this item to the Board.

MOTION WAS MADE BY SANCHEZ, SECONDED BY JONES TO APPROVE THE RECOMMENDATION. MOTION CARRIED UNANIMOUSLY.

### **EXECUTIVE OFFICE**

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

Agenda Item No. 27 - Announcements

Agenda Item No. 28 – Adjournment. Meeting adjourned at 11:00 a.m.

LAND COMMITTEE MEETING

April 11, 2017  
Following Board Meeting

District Headquarters  
Live Oak, FL

1. Call to Order / Committee Roll Call. The Lands Committee Meeting began at 11:07 a.m.

Mr. Alexander filled in for Mr. Brown as Chair of this Committee Meeting.

<b>Committee Members</b>	<b>Present</b>	<b>Not Present</b>
Al Alexander	X	
Kevin Brown		X
Gary Jones	X	
Virginia Sanchez	X	
Bradley Williams	X	

2. Public Comment - None

3. General Discussion / Update - None

4. Land Acquisition / New Property Offers

- Shingle Creek Tract – 72 Acres +/-, Dixie County. Keith Rowell, Surveyor, presented this item to the Committee.

MR. JONES RECOMMENDED THIS ITEM BE PULLED AND BROUGHT TO THE MAY 2017 LANDS COMMITTEE MEETING AND NO MONEY BE SPENT.

5. Conservation Easement Modification Requests - None

6. Surplus Lands / Updates - None

7. Access Easement Requests - None

8. Announcements

9. Adjournment. Meeting adjourned at 11:26 a.m.

\_\_\_\_\_  
Chair

ATTEST:  
  
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**MEMORANDUM**

TO: Governing Board  
FROM: Tim Sagul, P.E., Division Director, Resource Management  
DATE: April 21, 2017  
RE: Enforcement Status Report

**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>Davis, Schnitker, Reeves and Browning, 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>\$25,508.03</b>
<b>Last Update</b>	<b>April 21, 2017</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 the 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. The file was transferred from Brannon, Brown, Haley & Bullock, P.A., to Board Counsel in August 2013 for resolution. The District is in the process of levying on Hick's real property. **The mortgage holder has contacted Board Counsel regarding resolution.**

<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>Davis, Schnitker, Reeves and Browning, P.A.</b>
<b>Date sent to legal</b>	<b>May 2006</b>
<b>Target Date</b>	<b>November 30, 2015</b>
<b>Legal Fees to date</b>	<b>\$13,209</b>
<b>Last Update</b>	<b>February 23, 2017</b>

This enforcement activity has been ongoing for several years. At a 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.

The District and Columbia County entered into an interlocal agreement (ILA) 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 has finished the remedial work. Staff has inspected the site with the County. Staff is awaiting the as-built certifications for the site in order to close out this file. **Staff has contacted the County regarding submittal of the close-out documents. County staff has indicated that the material will be submitted shortly.**

<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>Davis, Schnitker, Reeves and Browning, P.A.</b>
<b>Date sent to legal</b>	<b>May 2006</b>
<b>Target Date</b>	<b>November 30, 2015</b>
<b>Legal Fees to date</b>	<b>\$13,209</b>
<b>Last Update</b>	<b>February 23, 2017</b>

This enforcement activity has been ongoing for several years. At a 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.

The District and Columbia County entered into an interlocal agreement (ILA) 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.

The County has finished the remedial work. Staff has inspected the site with the County and is awaiting the as-built certifications in order to close out this file. **Staff has contacted the County regarding submittal of the close-out documents. County staff has indicated that the material will be submitted shortly.**

**BEFORE THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

Ichetucknee Alliance, Inc.,

Petitioner,

v.

Order No. 2017-01

Suwannee River Water Management  
District,

Respondent.

-----/

**ICHETUCKNEE ALLIANCE'S AMENDED  
PETITION FOR ADMINISTRATIVE HEARING**

Ichetucknee Alliance, Inc. (**Petitioner**), by and through the undersigned counsel, submits this Amended Petition, and states:

1. The St. Johns River Water Management District (**St. Johns**) and the Suwannee River Water Management District (**Suwannee**) jointly developed the January 13, 2017 North Florida Regional Water Supply Plan (**NFRWSP**) because Upper Floridan Aquifer levels have declined in a large geographic region that includes part of both St. Johns' and Suwannee's jurisdictions; and the anticipated water needs in the region cannot be met using only the traditional source, the Upper Floridan Aquifer, without causing harm to water resources and natural systems.

## BACKGROUND

2. On November 22, 2013 Suwannee approved a report titled "Minimum Flows and Levels for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs" (**MFL Waterbodies**), explaining the development of, and recommending proposed minimum flows and levels (**MFLs**) for the MFL Waterbodies. See Appendix

3. The "Priority Springs" include:

1. Lower Santa Fe River Priority Springs:

a. Santa Fe Rise; b. ALA112971 (Treehouse); c. Hornsby; d. Columbia; e. Poe; f. COL 101974 (Unnamed); g. Rum Island; h. July; i. Devil's Ear (Ginnie Group); j. GIL.1012973 (Siphon Creek Rise).

2. Ichetucknee River Priority Springs:

a. Ichetucknee Head; b. Blue Hole; c. Mission; d. Devil's Eye; e. Grassy Hole; f. Mill Pond.

4. Once the minimum flows were determined for the MFL Waterbodies, Suwannee evaluated whether they were being met. Suwannee concluded that the minimum flows were not being met.

5. In March 2014, Suwannee therefore approved a recovery strategy for the Lower Santa Fe and Ichetucknee rivers and "Priority Springs" (the **Recovery Strategy**), which was updated in April 2014. See Appendix

6. The Recovery Strategy explains that "projects, conservation measures, and regulatory strategies to achieve

recovery of the Lower Santa Fe and the Ichetucknee Rivers and priority springs must address regional impacts. These measures are best considered in a regional water supply planning context". Recovery Strategy at p.22.

7. The Recovery Strategy includes in "Appendix A" a "list of current and conceptual regional projects currently being assessed" to implement recovery of flows, and a "preliminary timeline for implementing" the projects is included in "Appendix B". Recovery Strategy at p.22. **The Recovery Strategy states that "A final list of water supply development projects will be included in the Regional Water Supply Plan proposed to be completed in 2015."** Recovery Strategy at p.32 (emphasis added).

8. The Recovery Strategy states that:

**Upon completion, the Plan will also identify potential water conservation initiatives, water supply development projects, including alternative water supply projects, and water resource development projects that collectively will provide sufficient water to meet all existing and future reasonable beneficial needs while sustaining the water resources and natural systems, which includes offsetting predicted water resource impacts.**

Recovery Strategy at p.22 (emphasis in bold added).

9. In March 2014, the Department of Environmental Protection in consultation with Suwannee published a Notice of Proposed Rule in the Florida Administrative Register to adopt

rules which would establish the recommended MFLs for the MFL Waterbodies, and create supplemental regulatory criteria for the review of applications for consumptive use permits within the region (**Supplemental Regulatory Measures**).

10. The MFL rules adopted include Rule 62-42.100(2) regarding the scope of the rulemaking, stating:

(2) The Department recognizes that recovery and prevention strategies may contain both regulatory and non-regulatory provisions. **The non-regulatory provisions are not included in this rule, and will be included in the applicable regional water supply plans approved by the appropriate districts pursuant to Section 373.0421(2) and Section 373.709, F.S.**

(emphasis in bold added)

11. As required by Section 373.0421(2), Florida Statutes, the NFRWSP adoption process was pursued concurrently with the adoption of the unmet MFLs for the MFL Waterbodies.

12. As required Section 373.709(2)(c), Florida Statutes, the NFRWSP includes the Recovery Strategy.

13. As promised in the Recovery Strategy, the NFRWSP plans for the development of a list of "water supply development projects" identified in Appendix K, and the NFRWSP also plans for the development of a list of "water resource development projects" identified in Appendix J.

14. Though the 2014 Recovery Strategy includes a list of current and conceptual regional projects" that were "being assessed," and a "preliminary timeline for implementing," the water resource and water supply development project lists and information included in NFRWSP Appendices J and K is very different. Appendices J and K include different projects not included in the 2014 Recovery Strategy's original project list, Respondent has deemed these projects feasible, more detailed project information is provided, and the projects identified are intended to be implemented, they are no longer just conceptual nor just being assessed; the projects in Appendices J and K are final for purposes of meeting any statutory project requirements.

15. The NFRWSP adopts, modifies and implements the 2014 Recovery Strategy by planning and advancing the implementation of the final vetted projects in NFRWSP Appendices J and K, and looking past the projects conceptualized in the Recovery Strategy at the time the Recovery Strategy was first approved in April 2014.

**OVERARCHING LEGISLATIVE INTENT**

16. Pursuant to Section 373.709(2)(a)(2), Florida Statutes, the NFRWSP must identify sufficient water resource and

water supply development projects, conservation and other strategies to meet water needs (established under Section 373.709(1)), while protecting water resources and natural systems and minimum flows and levels. Section 373.709(2)(a)(2) states in relevant part:

The total capacity of the projects included in the plan must exceed the needs identified in subparagraph 1. and take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and minimum water levels and water reservations.

§373.709(2)(a)(2), Fla. Stat.

17. The 2014 Recovery Strategy recognized the obligations imposed by Section 373.709(2)(a)(2), stating:

Upon completion, **the Plan will also identify potential water conservation initiatives, water supply development projects, including alternative water supply projects, and water resource development projects that collectively will provide sufficient water** to meet all existing and future reasonable beneficial needs while sustaining the water resources and natural systems, **which includes offsetting predicted water resource impacts.**

Recovery Strategy at p.22 (emphasis in bold added).

18. Many of the Priority Springs addressed in the Recovery Strategy and NFRWSP are first magnitude springs, including: Treehouse Spring, Columbia Spring, Devil's Ear Spring, July Spring, Ichetucknee Head Spring, and Blue Hole. These springs

are, by statutory definition, "Outstanding Florida Springs". See §373.802(4), Fla. Stat.

19. Section 373.0421 requires regional water supply plans to be consistent with the requirements of Chapter 373, Florida Statutes when adopted. Because the NFRWSP adopts, modifies and implements the Recovery Strategy, the NFRWSP must address any standards that apply to adoption, modification or implementation of recovery strategies for Outstanding Florida Springs. See, e.g., §§373.805(1) and 373.805(4), Fla. Stat. (respectively requiring MFLs and recovery strategies to be adopted concurrently, and requiring specified information in recovery strategies for Outstanding Florida Springs).

#### **RULE 28-106.201(2) PETITION CRITERIA**

**(a) The name and address of each agency affected and each agency's file or identification number, if known**

20. Because they both approved the NFRWSP, there are two affected agencies: the St. Johns River Water Management District, 4049 Reid St., Palatka, Florida, 32177-2529, and Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida, 32060. St. Johns' File of Record number is 2013-0017 and the order number is SJR 2017-002. Suwannee's order

number is 2017-01 and no other reference number is known by  
Petitioner.

**(b) The name, address, and telephone number of the petitioner;  
the name, address, and telephone number of the petitioner's  
representative, if any, which shall be the address for service  
purposes during the course of the proceeding**

21. Petitioner Ichetucknee Alliance, Inc. is a Florida  
not-for-profit corporation with its principal place of business  
at 203 NE 1st Street, Gainesville, FL 32601; and phone  
number(352)372-4381. Petitioner's counsel's name and address are  
John R. Thomas, Law Office of John R. Thomas, P.A., 211-11 NE  
Boulevard, Gainesville, FL 32601; and phone number (352)  
204-2933; Pleadings may be served on Petitioner electronically  
to [jrthomasesq@gmail.com](mailto:jrthomasesq@gmail.com).

**(b) ...and an explanation of how the petitioner's substantial  
interests will be affected by the agency determination**

22. Section 373.709(1), Florida Statutes establishes that  
water supply planning "must be conducted in an open public  
process, in coordination and cooperation with local  
governments, . . .and other affected and interested parties".  
Petitioner is an affected and interested party that wishes to  
continue to participate in the development of the NFRWSP.

23. The "establishment and implementation of minimum flows  
and levels is a decision that is of the utmost importance to the

citizens who live within the District's jurisdiction and one that will affect future generations. *Southwest Florida Water Management Dist. v. Charlotte Cty.*, 774 So.2d 903, 923 (Fla. 2d DCA 2001). The amendment and implementation of recovery strategies for the Santa Fe and Ichetucknee Rivers and Priority Springs is of the utmost importance to Petitioner's membership.

24. In the Recovery Strategy, Respondent is committed to full public participation in the development and implementation of the Strategy, as follows:

#### 7.3 PUBLIC AND STAKEHOLDER PARTICIPATION

Throughout the development and implementation of MFL recovery measures, **the Department and the WMDs will seek input and participation from the interested stakeholders. As the planning component of this strategy is centered on the North Florida Regional Water Supply Plan, the NFRWSP will provide an excellent forum for stakeholder engagement.** The WMDs also intend to engage the public and provide opportunity for comment and participation in the creation of long-term recovery strategies.

(emphasis in bold added)

25. Petitioner's substantial interests are based on the following:

a. The Lower Santa Fe River system, including its tributary, the Ichetucknee River (below State Road 27), is of "exceptional recreational" and "ecological significance." See Fla. Admin. Code R. 62-302.700(3).

b. The ecological, recreational, and economic values of the Santa Fe and Ichetucknee Rivers are widely recognized. Both rivers flow through lands preserved for public use as part of the State Park System.

c. The Ichetucknee River and its associated springs are a National Natural Landmark and a significant natural resource of importance for their ecosystem services and maintenance of habitat for fish and wildlife.

d. The Ichetucknee Alliance is a membership organization formed by persons who use and enjoy the waters and environs of the Ichetucknee and the Santa Fe Rivers and associated springs in many ways, including, but not limited to, wading, boating, walking, swimming, snorkeling, diving, tubing, canoeing, wildlife observation, photography, personal and commercial research, fishing, and enjoying the aesthetic beauty of the natural habitat.

e. The Ichetucknee Alliance's efforts and association activities are in pursuit of the restoration, preservation, and protection of the ecosystems along the full 5.5 mile length of the Ichetucknee River, including all its associated springs for the use and enjoyment of current and future generations.

f. Petitioner, through the Florida Springs Council, is a party in the NFRWSP proceedings, having timely submitted comments and analysis explaining the deficiencies of the NFRWSP and Recovery Strategy. See §120.52(13)(b), Fla. Stat.

g. Petitioner was granted two extensions of time to file a petition for administrative hearing regarding the NFRWSP, during which extensions, Petitioner met with the executive directors of the water management districts twice. This Amended Petition would not be filed had those meetings been productive.

h. Petitioner's standing was upheld against a motion to dismiss and through the evidentiary administrative hearing with respect to the underlying MFLs for which the Recovery Strategy was developed, as established in the Final Order in *Still-I*.

26. Increasing consumptive uses of groundwater throughout north Florida and south Georgia have contributed to chronic declines in spring flows. Projected future increases in groundwater use for public supply, agriculture, public self-supply, and mining, will further reduce spring and river flows. Like many of the Outstanding Florida Springs, average flows in

the Ichetucknee River and in the springs have declined significantly (recently estimated as 18 to 25%) over the period-of-record. At the time of the adoption of MFLs for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs, these water bodies were determined to not meet the MFLS being established for them.

27. Due to the Respondents' over-allocation of the Upper Floridan Aquifer, the Lower Santa Fe River was estimated to be in recovery with a deficit of 17 cfs (11 mgd) in 2010 and the Ichetucknee River was estimated to be in recovery with a deficit 3 cfs (2 mad) in 2010. The water management districts have since continued to issue permits for consumptive use of the Upper Floridan Aquifer in the region despite these deficits.

28. Lower flows in the Priority Springs equate to lower water velocities which in turn promote excessive growth of filamentous algae and exotic plants such as hydrilla. Lower flows also equal lower water elevations in the spring runs, exposing more aquatic vegetation to destructive impacts from recreational users. Due to declining flows and levels, springs' water transparency has declined, noxious algae have proliferated, fish biomass has been reduced, and submerged aquatic vegetation diversity has been reduced. Primary

productivity and resulting fish and wildlife utilization of the springs and spring runs has significantly declined as water flow has diminished.

29. After many years of concern and study, the 2016 Florida Legislature finally acted to create an expedited process for recovery of MFLs for Florida's first magnitude springs, labeling them and a short list of other springs "Outstanding Florida Springs." §373.802(4), Fla. Stat. (2016). The 2016 legislature recognized that "the adoption of minimum flows and minimum water levels or recovery or prevention strategies for Outstanding Florida Springs requires immediate action." Ch.1, §5, Laws of Fla. 2016; §373.042(2)(c), Fla. Stat. (2016)

30. Among other changes, the 2016 Legislature mandated that if at the time an MFL is initially established, the existing flow or water level in the water body is below the MFL, a governing board, "as part of the regional water supply plan described in s. 373.709, shall concurrently adopt or modify and expeditiously implement a recovery or prevention strategy." §373.0421(2), Fla. Stat. (2016). More specifically, Section 373.805(1), Florida Statutes (2016) requires concurrent adoption of an MFL and recovery strategy if the MFL for an Outstanding Florida Spring is not met at time the MFL is adopted. Finally,

Section 373.0421(3), Florida Statutes (2016) explains that "To ensure that sufficient water is available for all existing and future reasonable-beneficial uses and the natural systems, the applicable regional water supply plan prepared pursuant to s. 373.709 shall be amended to include any water supply development project or water resource development project identified in a recovery or prevention strategy. Such amendment shall be approved concurrently with relevant portions of the recovery or prevention strategy."

31. The 2016 Florida Legislature also specified that Outstanding Florida Spring recovery strategies must include certain minimum information and commitments. Ch. 1, §26 Laws of Fla. 2016. Because many of the Priority Springs, including Ichetucknee Springs, are Outstanding Florida Springs, the recovery strategy adopted, implemented and modified in the NFRWSP "must, at a minimum, include:" a listing of all specific projects identified for implementation of the recovery strategy; priority ranking of each project; an estimate of the project's cost and the date of completion; "the source and amount of financial assistance to be made available by the water management districts for each listed project, which may not be less than 25 percent of the total project cost"; an estimate of each listed project's benefit to an Outstanding Florida Spring;

an implementation plan with 5, 10, 15 and 20 year targets designed with the requirement to achieve the adopted minimum flow or minimum water level no more than 20 years after the adoption of a recovery or prevention strategy. §373.805(4), Fla. Stat. (2016)

32. NFRWSP Chapters 6, 7 and 8, and related appendices, identify planned "water resource development projects" and "water supply development projects" and assess the NFRWSP's overall sufficiency to meet statutory water supply plan requirements. However, Sections 373.0421, 373.709(2) and 373.805(1) and (4), Florida Statutes are not implemented in that the NFRWSP fails to include required project prioritization, commitment to funding the projects, estimates of the benefits of each project to an Outstanding Florida Spring, and implementation plan 5, 10, 15 and 20-year target information. These recovery strategy minimum requirements are to ensure expeditious recovery of Florida's incredible first magnitude springs, which is considered a public emergency, and to increase the transparency and accountability of the water managements in the process. Without committed funding and 5-year targets, there is no certainty that the needed projects will be implemented. The 2016 Legislature determined requiring this information is

necessary and fulfills an important state interest, See Ch. 1, §38 Laws of Fla. 2016.

33. The NFRWSP also fails to provide any information regarding recovery strategies and the sufficiency of the proposed projects to meet the flow recovery requirement for the Itchetucknee River at Highway 27. So Petitioner has no way to monitor or participate in proceedings relating to the likelihood of recovery of these MFL waters.

34. An association pleads standing on behalf of its membership by demonstrating that "a substantial number of its members, although not necessarily a majority, are substantially affected" by the challenged agency action; the subject matter of the challenged agency action is "within the association's general scope of interest and activity"; and "the relief requested is of a type appropriate" for an association to receive on behalf of its members". *Farmworker Rights Organization, Inc. v. Department of Health and Rehabilitative Services*, 417 So.2d 753, 754 (Fla. 1st DCA 1982); *Caloosa Property Owners Ass'n, Inc. v. Palm Beach County Bd. of County Com'rs*, 429 So.2d 1260 (Fla. 1st DCA 1983)(*Florida Home Builders* test for standing in section 120.56(1) rule challenge proceeding was extended in *Farmworkers Rights Organization* to

section 120.57(1) proceedings); *Fla. Home Builders Ass'n v. Dep't of Labor & Emp. Sec.*, 412 So.2d 351, 352-54 (Fla. 1982). Ichetucknee Alliance met this standard with respect to the MFLs for the MFL Waterbodies in *Still-I*, and that alone should adequately demonstrate Ichetucknee Alliance's standing.

35. A substantial number of Petitioner's members, although not necessarily a majority, are substantially affected by the NFRWSP because their use and enjoyment of these water resources has been diminished by reduced flows due to Respondents' water allocations; and contrary to law, the NFRWSP will not ever recover the MFL flows, and will not recover such flows in time to allow Petitioner's members to use and enjoy these waters as they have in the past, and will not make sufficient progress to recover the MFL flows within the statutory 20-year time.

36. Respondent's failure to implement and comply with Sections 373.0421, 373.709(2), and 373.805(4) substantially adversely affects a substantial number of Petitioner's members' substantial interests described above, as follows:

a. Excessive growth of filamentous algae and exotic plants such as hydrilla reflects an imbalance of native flora and that adversely affects and, because of the NFRWSP's deficiencies, will continue to substantially

adversely affect Petitioner's members who wade, walk, swim, snorkel, dive, tube, canoe, take photographs, perform personal and commercial research, because the algae and hydrilla are ugly and tactilely repulsive, and the aesthetic beauty of the natural habitat is greatly diminished.

b. Lower water elevations in the spring runs exposes more aquatic vegetation to destructive impacts from recreational users which diminishes the native flora and causes the water clarity to become murky and unattractive and, because of the NFRWSP's deficiencies, will continue to substantially adversely affect Petitioner's members who wade, walk, swim, snorkel, dive, tube, canoe, take photographs, perform personal and commercial research, because the lack of clarity prevents observation and enjoyment and aesthetic beauty of the natural habitat is greatly diminished.

c. The MFL Waterbodies have provided delight to the senses historically but the aesthetic and fine art value of the historically crystal clear spring waters have been greatly diminished and, because of the NFRWSP's deficiencies, will continue to substantially adversely

affect Petitioner's members who are disappointed and lose appreciation and use of the MFL Waterbodies for these purposes because the declining flows and levels in the springs significantly reduces water transparency, causes tactilely repulsive algae, and eliminates the aesthetic and photogenic attributes of the MFL Waterbodies.

d. As flow has declined, the primary productivity and resulting wildlife utilization of the springs and spring runs has significantly declined and, because of the NFRWSP's deficiencies, this will continue to substantially adversely affect Petitioner's members who visit the MFL Waterbodies to observe and/or photograph or study the wildlife in and around the MFL Waterbodies because such members will have fewer opportunities to observe, photograph and study wildlife using the MFL Waterbodies.

e. As flow has declined, the primary productivity and resulting fish utilization of the MFL Waterbodies has significantly declined and, because of the NFRWSP's deficiencies, will continue to substantially adversely affect Petitioner's members who visit the MFL Waterbodies to fish, study fish, and photograph fish because there are

fewer fish to observe, study and pursue fishing and there are fewer hits and less fish caught.

f. Respondent's failure to follow Section 373.0421, 373.709(2), 373.805(1) and 373.805(4) adversely affects Petitioner's members substantial interests in the use and enjoyment of the MFL Waterbodies because the NFRWSP does not include information demonstrating the sufficiency of the projects, conservation, and other measures to meet the water needs identified in Section 373.709(2) and recover flows in the MFL Waterbodies, Petitioner cannot participate in planning proceedings without 5-year targets, and the degraded conditions in the MFL Waterbodies will continue to substantially adversely affect Petitioner's members' use and enjoyment of them as described herein.

g. Respondent's failure to include the information required by Section 373.805(4) affects Petitioner's members substantial interests in the use and enjoyment of these water resources because these requirements are intended to ensure timely and expedited implementation of recovery strategies and without this information Respondent fails to provide statutorily required assurance of recovery of MFL flows within a reasonable time.

h. The lack of statutorily required information precludes transparency and defeats the Petitioner's ability to monitor and evaluate the timeliness of recovery and implementation of the recovery strategies.

37. Diminished flows in the MFL Waterbodies adversely affecting Petitioners's members' recreational, scholarly and aesthetic use and enjoyment of such waters is an injury of the type or nature these proceedings are designed to protect against. The purpose of recovery strategies and regional water supply plans is to protect and restore the use and enjoyment of waters subject to the strategies and plans.

38. The subject matter of the challenged agency action is within the association's general scope of interest and activity because the Ichetucknee Alliance's general scope of interest and activity is the restoration, preservation, and protection of the Ichetucknee River and its springs and the subject matter of the NFRWSP includes restoration (recovery) of flows in the MFL Waterbodies to restore their balance of flora and fauna and to re-establish healthy ecosystems for the recreational, scholarly and aesthetic use and enjoyment of the people, including Petitioner's members.

39. The relief Petitioner requests is of a type appropriate for an association to receive on behalf of its members. The relief Petitioner seeks is to determine invalid the elements of the NFRWSP that affect the insufficiency of the projects to meet the water needs identified in Section 373.709(2), especially to recover flows in the MFL Waterbodies. The determination that agency action is not consistent with the law and remand to the agency for improvement of the agency action is relief that is appropriate and common for an association to receive on behalf of its members. Petitioner does not seek money damages. See, *Fla. Home Builders Ass'n v. Dept of Labor & Emp. Sec.*, 412 So.2d 351, 352-54 (Fla. 1982).

40. Petitioner incorporates the simultaneously filed Memorandum in Support of Standing herein by reference.

**(c) A statement of when and how the petitioner received notice of the agency decision**

41. Petitioner received notice of St. Johns' decision regarding the NFRWSP on January 31, 2017, when St. Johns e-mailed the undersigned counsel a memorandum dated the same date on the subject: "Notice of District Decision Approving the North Florida Regional Water Supply Plan (NFRWSP)". The memorandum states in relevant part:

The St. Johns River Water Management District (SJRWMD) and the Suwannee River Water Management District (SRWMD) (collectively, the Districts) give joint notice of their decisions on January 17, 2017, approving the North Florida Regional Water Supply Plan with appendices (2010-2035 Planning Horizon) (the NFRWSP),...

Petitioner was granted extensions of time to file a petition regarding the NFRWSP until March 3, 2017. Subsequent orders extended Petitioner's time to file a petition regarding the NFRWSP until March 17, 2017.

**(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate**

42. The disputed issues of material fact include whether:

a. Petitioner's substantial interests are adversely affected by the NFRWSP parts that address water resource development projects and water supply development projects and their sufficiency to meet statutory requirements, including Chapters 6, 7 and 8, and related appendices. Section 373.709(5), Florida Statutes recognizes that the substantial interests of a party may be adversely affected by part of a regional water supply plan;

b. many of the Priority Springs are first magnitude springs, including Ichetucknee Springs;

c. at the time the MFLs for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs were established, flows

were determined to be below the MFLs, the water bodies required a recovery strategy;

d. the NFRWSP adopts, modifies or implements a recovery or prevention strategy for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs;

e. the NFRWSP is the regional water supply plan approved "concurrently" with the establishment of MFLs for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs;

f. the NFRWSP does not include sufficient information to determine that sufficient water supplies are identified to meet anticipated water supply needs and also protect water resources and natural systems, including recovering MFL waterbodies and Outstanding Florida Springs that are in recovery; and

g. the NFRWSP does not include prioritization, committed funding, estimates of benefit to Outstanding Florida Springs , an implementation schedule with 5, 10, 15 and 20-year targets, and plan information and commitments required by Sections 373.709(2) and 373.805(4), Florida Statutes.

**(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action**

43. The ultimate facts include that:

a. Petitioner's substantial interests are adversely affected by the NFRWSP parts that address water resource development projects and water supply development projects and their sufficiency to meet statutory requirements, including Chapters 6, 7 and 8, and related appendices. Section 373.709(5), Florida Statutes recognizes that the substantial interests of a party may be adversely affected by part of a regional water supply plan;

b. many of the Priority Springs are first magnitude springs, including Ichetucknee Springs;

c. at the time the MFLs for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs were established, flows were determined to be below the MFLs, the water bodies required a recovery strategy;

d. the NFRWSP adopts, modifies or implements a recovery or prevention strategy for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs;

e. the NFRWSP is the regional water supply plan approved "concurrently" with the establishment of MFLs for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs;

f. the NFRWSP does not include sufficient information to determine that sufficient water supplies are identified to meet anticipated water supply needs and also protect water resources and natural systems, including recovering MFL waterbodies and Outstanding Florida Springs that are in recovery; and

g. the NFRWSP does not include prioritization, committed funding, estimates of benefit to Outstanding Florida Springs , an implementation schedule with 5, 10, 15 and 20-year targets, and plan information and commitments required by Sections 373.709(2) and 373.805(4), Florida Statutes.

**(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes**

44. The specific statutes that entitle Petitioner to relief are discussed throughout this Amended Petition and include: Sections 373.709(5), 373.709(2), 373.0421(2) and (3), 373.805(1) and (4), Florida Statutes. These statutes require the NFRWSP to identify and plan the development of water supplies and resources to meet the identified water needs in the region and to recover flows in the MFL Waterbodies, but the NFRWSP fails to include sufficient projects to comply with these laws, as described above.

**(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.**

WHEREFORE, Petitioner respectfully requests the following relief: this petition be forwarded to the Division of Administrative Hearings for an administrative hearing pursuant to Section 120.569 and 120.57, Florida Statutes; the NFRWSP parts that relate to the water resource and water supply development projects be invalidated as inconsistent with Florida Law; the proceedings be remanded by the Division of Administrative Hearings for further development of the NFRWSP consistent with the laws; and any other relief that is appropriate under the circumstances.

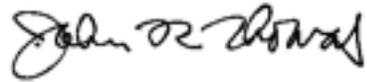
**Certificate for E-Filing**

I HEREBY CERTIFY that the original physically signed document will be retained by Petitioners for the duration of the proceeding and of any subsequent appeal or subsequent proceeding in that cause, and Petitioners will produce it upon the request of other parties.

**Certificate of Service**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by electronic mail to the parties below on

this 17th day of April, 2017.



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**BEFORE THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

Ichetucknee Alliance, Inc.,

Petitioner,

v.

Order No. 2017-01

Suwannee River Water Management  
District,

Respondent.

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**ICHETUCKNEE ALLIANCE'S MEMORANDUM IN SUPPORT OF STANDING  
TO PETITION FOR ADMINISTRATIVE HEARING**

Ichetucknee Alliance, Inc. (**Petitioner**), by and through the undersigned counsel, submits Ichetucknee Alliance'S Memorandum In Support Of Standing To Petition For Administrative Hearing regarding part of the North Florida Regional Water Supply Plan (**NFRWSP**), and states:

**INTRODUCTION**

The St. Johns River Water Management District (**St. Johns**) and the Suwannee River Water Management District (**Suwannee**) jointly approved the NFRWSP on January 17, 2017. St. Johns and Suwannee granted Petitioner extensions until March 17, 2017 to petition for administrative hearing to challenge part of the NFRWSP. Petitioner timely filed petitions for administrative hearing with St. Johns and Suwannee. On March 31, 2017, St. Johns and Suwannee rejected the sufficiency of Petitioner's

allegations as to Petitioner's standing to challenge part of the NFRWSP. This Memorandum is submitted in support of Petitioner's Amended Petition filed simultaneously herewith.

### SUMMARY

Despite efforts to date, overall water quality and water flow trends in Florida's springs have been on alarming trajectories. In 2016, the Florida Legislature determined the progressive degradation of Florida's springs must be treated as an emergency requiring immediate action. Among other things, the 2016 Legislature established new standards for flow recovery strategies for "Outstanding Florida Springs" (**OFS**) to ensure efforts toward the recovery of healthy water resources and ecosystems in OFS proceed right away with committed project funding and 5, 10 and 15-year implementation targets so that recovery is complete within 20 years.

When the Department of Environmental Protection (**DEP**) established minimum flows and levels (**MFLs**) for the Lower Santa Fe and Ichetucknee rivers and Priority Springs in 2015, withdrawals already exceeded the level at which significant harm was expected to occur and the basin was deemed to require recovery. The initial regulatory component of the recovery strategy was adopted along with the MFLs in 2015.

Simultaneously, St. Johns and Suwannee developed the water resource, and water supply development project list part of the recover strategy as part of the NFRWSP. However, St. Johns and Suwannee staff developing the NFRWSP and recovery strategy projects did not implement the 2016 Legislature's new standards for OFS flow recovery strategies.

The NFRWSP parts that address water resource development projects and water supply development projects and their sufficiency to meet statutory requirements, including Chapters 6, 7 and 8, and related appendices, fail to comply with Sections 373.0421(2), 373.709(2) and 373.805(1) and (4), Florida Statutes by failing to include required information regarding project prioritization, committed water management district funding, an estimate of the benefit of each project toward recovery of OFS MFL flows, and an implementation plan with 5, 10, 15 and 20-year targets. The 2016 Legislature determined requiring this information in OFS recovery strategies is necessary and fulfills an important state interest, ensuring transparent accountable expeditious recovery of Florida's first magnitude springs. See Ch. 1, §38 Laws of Fla. 2016.

The NFRWSP also fails to provide any information regarding recovery strategies and the sufficiency of the proposed projects

to meet the flow recovery requirement for the Itchetucknee River at Highway 27 MFL.

As an association acting solely as a representative of its members, Ichetucknee Alliance must demonstrate that "a substantial number of its members, although not necessarily a majority, are substantially affected" by the NFRWSP, that the subject matter of the NFRWSP is within the Ichetucknee Alliance' general scope of interest and activity, and that the relief requested is of a type appropriate for an association to receive on behalf of its members. "If standing is challenged during an administrative hearing, the petitioner must offer evidence to prove that its substantial rights could be affected by the agency's action." *St. Johns Riverkeeper Inc. v. St. Johns River Water Mgmt.*, 54 So.3d 1051, 1054 (Fla. 5th DCA 2011).

**ESTABLISHED FACTUAL BACKGROUND**

Petitioner, St. Johns and Suwannee were adverse parties in administrative proceedings regarding the adoption of MFLs for the Lower Santa Fe and Ichetucknee Rivers and "Priority Springs" and the "Supplemental Regulatory Measures" proposed to be codified in Florida Administrative Code Chapter 62-42. See Appendix H.

The case style is *Paul Still, Fla. Wildlife Fed., Inc. and Ichetucknee Alliance, Inc. v. Suwannee River Water Mgmt. Dist. and Fla. Dept. of Env't'l Protection, etc.*, DOAH Case Nos. 14-1420RU, 14-1421RP, 14-1443RP, 14-1644RP (Final Order Sept. 11, 2014)(Hereinafter ***Still-I***). See Appendix E. The following factual background was established in *Still-I*.

Suwannee's 2010 Water Supply Assessment concluded that groundwater levels of the Upper Floridan Aquifer in the eastern and northeastern portions of Suwannee were in decline. Suwannee's analysis of river and streamflows also found declining trends. The District concluded that existing water sources would not be sufficient to meet projected water demands over the planning period. As a result, the Lower Santa Fe River Basin (including the Ichetucknee River) was designated as a water supply planning region and Suwannee began to develop MFLs for these waterbodies. *Still-I* §§20-21.

The Lower Santa Fe River system, including its tributary, the Ichetucknee River (below State Road 27), is classified as an Outstanding Florida Water, a designation conferred on waters "with exceptional recreational or ecological significance." See Fla. Admin. Code R. 62-302.700(3).

The ecological, recreational, and economic values of the Santa Fe and Ichetucknee Rivers are widely recognized. Both rivers flow through lands preserved for public use as part of the State Park System. *Still-I* §19

Because groundwater withdrawals within St. Johns were also affecting the Lower Santa Fe River Basin and the Ichetucknee River, DEP, Suwannee, and St. Johns entered into an interagency agreement in 2011 to work together on water supply issues and the development of a joint regional groundwater model. *Still-I* §22.

The procedural difficulties faced in establishing minimum flows affected by water uses in two water management districts eventually lead to the Legislature's creation of section 373.042(4) in 2013, which authorizes DEP to adopt relevant rules which the water management districts can apply without the need for their own rulemaking. 2013 Senate Bill 244/2013 Laws of Florida 229. *Still-I* §23.

In June 2013, Suwannee requested that DEP adopt minimum flows for the Lower Santa Fe River Basin and the Ichetucknee River pursuant to the new law. *Still-I* §23.

On November 22, 2013 Suwannee approved a report produced in collaboration with the staff of Janicki Environmental, Inc. and INTERA Incorporated, under contract to Suwannee titled "Minimum Flows and Levels for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs" (hereinafter **MFL Waterbodies**), explaining the development of, and recommending proposed MFLs for the MFL Waterbodies. *Still-I §61; Appendix A.*

The Priority Springs include:

1. Lower Santa Fe River Priority Springs:

- a. Santa Fe Rise;
- b. ALA112971 (Treehouse);
- c. Hornsby;
- d. Columbia;
- e. Poe;
- f. COL 101974 (Unnamed);
- g. Rum Island;
- h. July;
- i. Devil's Ear (Ginnie Group);
- j. GIL.1012973 (Siphon Creek Rise).

2. Ichetucknee River Priority Springs:

- a. Ichetucknee Head;
- b. Blue Hole;
- c. Mission;
- d. Devil's Eye;

e. Grassy Hole;

f. Mill Pond.

Several of the priority springs protected by these MFLs are first magnitude springs (e.g., Treehouse Spring, Columbia Spring, Devil's Ear Spring, July Spring, Ichetucknee Head Spring, and Blue Hole).

If the existing flow in a waterbody is below its established minimum flow, DEP or the district is required to develop a "recovery strategy" designed to "[a]chieve recovery to the established minimum flow or level as soon as practicable." § 373.0421(2), Fla. Stat. *Still-I* §14.

Once the minimum flows were determined for the MFL Waterbodies, Suwannee evaluated whether they are being met. Suwannee concluded that the minimum flows are not being met. Therefore, in accordance with Section 373.0421(2), Florida Statutes, a recovery strategy had to be prepared and implemented. *Still-I* §26.

On March 7, 2014, DEP published a Notice of Proposed Rule in the Florida Administrative Register to adopt the Proposed Rules, which would establish MFLs for the MFL Waterbodies, and create supplemental regulatory criteria for the review of

applications for consumptive use permits in the area  
(**Supplemental Regulatory Measures**). *Still-I* p.6.

On March 11, 2014, Suwannee approved the Recovery Strategy for the MFL Waterbodies (the **Recovery Strategy**), which was updated on April 21, 2014, as noticed in DEP's Notice of Change published on April 8, 2014. The Recovery Strategy is submitted in an appendix hereto. *Still-I* p.8; Appendix B.

#### **THE PROPOSED RULES (NOW FINAL RULES)**

The Proposed Rules would create three sections in a new Chapter 62-42 of the Florida Administrative Code. Appendix H. Rules 62-42.100 and 62-42.200 set forth the scope and definitions:

##### 62-42.100 Scope

(1) The purpose of this chapter is to set forth Department-adopted minimum flows and levels (MFLS) and the regulatory provisions of any required recovery or prevention strategy as provided in Section 373.042(4), F.S.

(2) The Department recognizes that recovery and prevention strategies may contain both regulatory and non-regulatory provisions. **The non-regulatory provisions are not included in this rule, and will be included in the applicable regional water supply plans approved by the appropriate districts pursuant to Section 373.0421(2) and Section 373.709, F.S.**

##### 62-42.200 Definitions

When used in this chapter, the following words shall have the indicated meanings unless the rule indicates otherwise:

(1) Flow Duration Curve means a plot of magnitude of flow versus percent of time the magnitude of flow is equaled or exceeded.

(2) Flow Duration Frequency means the percentage of time that a given flow is equaled or exceeded.

*Still-I* §31 (emphasis in bold added).

Rule 62-42.300 is where the proposed minimum flows are set forth. The minimum flows for the Lower Santa Fe River are established in rule 62-42.300(1)(a); the minimum flows for the Ichetucknee River are established in rule 62-42.300(1)(b); and the minimum flows for 16 "Priority Springs" are established in rule 62-42.300(1)(c). *Still-I* §32.

The minimum flows for the Lower Santa Fe and Ichetucknee Rivers are expressed as water flow in cubic feet per second (**cfs**) at various points on a flow duration curve. *Still-I* §33.

The minimum flows for ten named springs associated with the Santa Fe River and six named springs associated with the Ichetucknee River are set forth as a "percent reduction from the median baseline flow contribution of the spring to the flow" at a particular river gage. This approach, which ties spring flow to river flow, was used by DEP because there is minimal flow data for the springs. *Still-I* § 34.

Rule 62-42.300(1)(d) adopts by reference the Supplemental Regulatory Measures, which is Section 6.0 of the Recovery Strategy. *Still-I* §35.

Proposed Rule 62-42.300(1)(e) states that DEP, in coordination with Suwannee and St. Johns, shall reevaluate these minimum flows after completion of the North Florida Southeast Georgia Regional Groundwater Flow Model, which is currently under development. The rule also states that DEP will "strike" rules 62-42.300(1)(a) through (d) and adopt new rules no later than three years after completion of the final peer review report regarding the new groundwater model, or by December 31, 2019, whichever date is earlier. *Still-I* §36.

#### **THE PROPOSED (NOW APPROVED) RECOVERY STRATEGY**

A recovery strategy is a plan for achieving a return to adopted MFLs and will generally include plans for developing new water supplies and implementing conservation and efficiency measures. See §373.0421(2), Fla. Stat. The practice of the water management districts has been to also adopt regulatory measures that are used in the review of consumptive use permits as part of a recovery strategy. See, e.g., Fla. Admin. Code R. 40D-80.074. That practice was followed for the MFL Waterbodies and was upheld in *Still-I* §§27, 28.

The March 2014 Recovery Strategy includes planning, water conservation, water supply development, and water resource development components. These components comprise the "non-regulatory" portion of the Recovery Strategy. Section 6.0 of the Recovery Strategy, entitled "Supplemental Regulatory Measures," is the regulatory portion and is incorporated by reference in Proposed Rule 62-42.300(1)(d). *Still-I* §28.

The Recovery Strategy Components are described in the Recovery Strategy as follows:

#### **5.0 RECOVERY STRATEGY COMPONENTS**

In order to restore and maintain streamflows to the proposed MFLs, the SRWMD, with support from the Department and SJRWMD, identified five strategic components to be evaluated and incorporated into the Recovery Strategy. The components are:

**Planning Component:** Development of the North Florida Regional Water Supply Plan.

**Water Conservation Component:** Increase the Efficiency of Existing Water Use.

**Water Supply Development Component:** Projects to Implement Alternative Water Supplies.

**Water Resources Development Component:** Projects to Enhance or Protect the Water Resources of the Lower Santa Fe River Basin.

**Regulatory Component:** Utilizing Existing Rules to Ensure Compliance with the Proposed MFLs.

Based on the recent publication of the proposed MFLs for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs, the SRWMD considers these strategy components to

represent a basic foundation for minimum flows recovery in the Lower Santa Fe River Basin. **A list of current and conceptual regional projects currently being assessed for each component is provided in Appendix A.** A preliminary timeline for implementing these components is provided as Appendix B.

#### **5.1 PLANNING COMPONENT: DEVELOPMENT OF THE NORTH FLORIDA REGIONAL WATER SUPPLY PLAN**

As previously discussed, there have been significant impacts to the water resources of the Lower Santa Basin from water uses both within and outside of the SRWMD. **The reductions in streams and springflows in the Lower Santa Fe River Basin are the result of both the local impacts within the Santa Fe Basin and regional declining trends in Upper Floridan aquifer groundwater levels that have occurred throughout north Florida. As such, projects, conservation measures, and regulatory strategies to achieve recovery of the Lower Santa Fe and the Ichetucknee Rivers and priority springs must address regional impacts. These measures are best considered in a regional water supply planning context. To create effective programs and measures to achieve recovery, the Planning Component of the Recovery Strategy is being conducted concurrently and as a component of the North Florida Regional Water Supply Plan.**

The SRWMD and SJRWMD are working together to draft the North Florida Regional Water Supply Plan (Plan), under the IAA. The planning region, shown in Figure 5-1, will address the projected regional water use demand for the 2015-2035 planning horizon, as well as the water resource impacts that could occur based on future projected population growth and estimated increased water demands. **Upon completion, the Plan will also identify potential water conservation initiatives, water supply development projects, including alternative water supply projects, and water resource development projects that collectively will provide sufficient water to meet all existing and future reasonable-beneficial needs while sustaining the water resources and natural systems, which includes offsetting predicted water resource impacts.** The Plan will provide guidance to effectively manage the water resources of the Lower Santa Fe Basin in a holistic manner, and provide the framework to create long-term strategies to address regional impacts to the Lower Santa Fe River Basin.

(titles bold in original, other bold added for emphasis)

The Supplemental Regulatory Measures adopted by reference in Proposed Rule 62-42.300(1)(d) are intended to provide additional criteria for review of consumptive use permit applications during Phase I of the Recovery Strategy. These measures are to be applied to water uses within the North Florida Regional Water Supply Planning Area. *Still-I* §37.

The Recovery Strategy is to be implemented in two phases and the objectives of each phase are described in Table 4-1 of the Recovery Strategy. Phase I includes adoption of Supplemental Regulatory Measures, work with user groups to implement water conservation measures, completion of an improved regional groundwater model, and identification and investigation of water supply projects. *Still-I* §29

Recovery Strategy Section 4.0 explains:

#### **4.0 RECOVERY STRATEGY GOALS AND APPROACH**

Based on the findings in the proposed MFLs for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs, streamflows and springflows on the Lower Santa Fe and Ichetucknee Rivers have fallen below the proposed MFLs. **This circumstance has necessitated the development of a Recovery Strategy, consistent with Section 373.0421, F.S.** The purpose of this Recovery Strategy is to develop near-term managerial practices to address these streamflow impacts, and **provide a framework to identify long-term water management strategies, water resource development projects, and conservation measures, which can be**

**implemented to recover and maintain the flows** in these water bodies at the proposed minimum flow criteria.

#### GUIDING PRINCIPLES

To maximize the effectiveness of the Recovery Strategy, the SRWMD, in conjunction with the Department and SJRWMD, developed the following principles to guide the design and execution of the Recovery Strategy:

Use the best available information.

Strategy components and projects should contribute significantly to resource management and recovery.

Ensure the Recovery Strategy is implemented as expeditiously as practicable.

**Seek consistency with other prevention or recovery strategies, the NFRWSP, and other state and regional water management programs.**

Recovery strategies should not adversely impact water bodies in adjacent basins and counties of north Florida.

Protect the investment of existing water use permit holders.

Provide the flexibility needed to allow economic growth.

Provide incentives to maximize the benefits of public/private partnerships.

These guiding principles support the creation and implementation of an effective and practical strategy for the recovery and maintenance of minimum flows in the Lower Santa Fe and Ichetucknee Rivers and Priority Springs, as defined by the proposed MFLs.

#### RECOVERY GOALS

To further guide the development of this Recovery Strategy and ensure clarity of its intent, the SRWMD, in conjunction with the Department and SJRWMD, enumerated the following goals:

1. Achieve the restoration of the Lower Santa Fe and Ichetucknee Rivers and their priority springs to their proposed minimum flows.
2. Develop measures to provide sufficient water supplies for existing and projected reasonable-beneficial uses as practical.

#### TIME-TABLE FOR STRATEGY IMPLEMENTATION

**In coordination with the SJRWMD and the Department, the SRWMD has established a timeframe for implementation of the Recovery Strategy, which extends from rule adoption through 2035. This schedule coincides with the planning timeframe of the North Florida Regional Water Supply Plan, and Recovery Strategy will be divided into two phases of implementation.** A brief summary of the recovery measures to be conducted in the two phases of the Recovery Strategy is provided in Table 4-1, and the components of the Recovery Strategy are detailed in Sections 5 and 6 of this document. The focus of the first phase will be the implementation of the preliminary regulatory strategies to protect the MFL water bodies from additional harm, creation of water resource development project concepts, and the implementation of water conservation measures. Phase I will extend from rule adoption until the development of the long-term recovery measures with the completion of the North Florida Regional Water Supply Plan, expected to be finalized in late 2015.

**Phase II of the Recovery Strategy will focus on the implementation of the recommendations in the North Florida Regional Water Supply Plan, the adoption of long-term regulatory measures, and the identification and execution of any necessary water resource development and alternative water supply projects.** Phase II will be divided into five-year project cycles, beginning in 2015. After each five-year period, a general assessment of water resource conditions and program efficacy will be conducted in cooperation with the SJRWMD. These five-year cycles will include assessment of the success of the recovery measures implemented to date, and will provide a basis for continuing refinement of the Recovery Strategy and for adaptive management to new hydrologic conditions and water use patterns, as detailed in Section 7 of this document.

The Recovery Strategy, including the non-regulatory portion approved by Suwannee, has been in Phase I. *Still-I* §49.

Suwannee contended in *Still-I* that it was consistent with the law for DEP to adopt only the regulatory portion of the Recovery Strategy by rule and Suwannee may approve the non-regulatory portion and implement it through a regional water supply plan. *Still-I* §43.

It has been the practice of the water management districts to adopt by rule only the regulatory portion of a recovery strategy and to implement the non-regulatory portion as a component of their regional water supply plans. This practice was upheld in *Still-I* § 44.

#### **LEGAL CHALLENGE HISTORY**

Paul Still and Petitioner Ichetucknee Alliance filed petitions challenging Suwannee's action in approving the rules adopted as part of the Recovery Strategy. *Still-I* p.8.

In a motion to dismiss the petitions filed by Petitioner Ichetucknee Alliance and others, DEP argued:

. . . When the Department determines that an existing flow or level is below, or is projected to fall below, the minimum flow or level, the Department is obligated to implement a "recovery or prevention strategy." § 373.0421(2), Fla. Stat. The statute requires such a

strategy to include "the development of additional water supplies and other actions." Id. Crucially, the statute does not mandate any specific regulatory requirements as part of the strategy and in fact, does not mandate that the strategy include any new regulatory requirements. Id.

10. **The strategy, under the plain language of the statute, is to be included as part of a regional water supply plan.** Id; § 373.709(2)(c), Fla. Stat.

11. **Approval of regional water supply plans are not subject to chapter 120 rulemaking requirements; however, any portion of such a plan which affects the substantial interests of a party is subject to section 120.569 of the Florida Statutes. § 373.709(5), Fla. Stat.** *But see Putnam Cnty. Env'tl. Council v. St. Johns River Water Mgmt. Dist.*, supra (certain elements of a regional water supply plan may be subject to chapter 120 rulemaking requirements).

12. **Under section 373.0421 of the Florida Statutes, the sufficiency of a recovery or prevention strategy must logically be determined as a whole, as an optional component of a regional water supply plan.** The regulatory requirements in the proposed rule, which are just one component of a recovery or prevention strategy, cannot be judged as the sole means to achieve the statutory goals in section 373.0421.

DEP's motion to dismiss the petitions filed by Petitioner Ichetucknee Alliance and others is Appendix J.

The Administrative Law Judge denied the Motion to Dismiss, concluding:

Section 373.0421(2) provides that DEP or a water management district shall expeditiously implement a recovery strategy "as part of the regional water supply plan described in s. 373.709." **DEP and SRWMD argue that this means the regional plan is where any such strategy must be challenged.** However, section 373.042(4) expressly contemplates that the recovery strategy can be adopted by DEP rule and DEP has adopted recovery strategy provisions with the challenged rule. DEP and SRWMD argue that all of the recovery strategy

must be considered in determining whether it achieves the purposes and objectives of section 373.0421. That is probably true, but it does not foreclose a challenge to those portions of a recovery strategy which DEP has adopted by rule to show they would prevent the watercourse's recovery, taking into account the entire recovery plan.

*Still I* May 12, 2014 Order Denying Motion to Dismiss at p.6

(emphasis in bold added). The Order Denying Motion to Dismiss is submitted as Appendix K.

Petitioner Ichetucknee Alliance also established standing to challenge the Proposed Rules, as determined by the Administrative Law Judge, who explained:

79. For an association to establish its standing, it must demonstrate that a substantial number of its members are substantially affected by the rule, that the subject matter of the rule is within the association's general scope of interest and activity, and that the relief requested is appropriate for the association to receive for its members. *Fla. Home Builders Ass'n v. Dep't of Labor & Emp. Sec.*, 412 So.2d 351, 353-54 (Fla. 1982).

80. The Alliance satisfied the requirements for association standing.

*Still-I* §§79-80.

The Final Order in *Still-I* determined that the proposed minimum flows were vague because they did not include a period of record (of water flow data) to be used with the flow duration frequencies. Flow duration frequencies are percentages of time that a particular amount of flow (in cubic feet per second) is

equaled or exceeded, which can vary depending on the period of record that is used. *Still-I* §§60-65 and 122.

A Notice of Change filed by DEP on November 7, 2014 did not change the proposed MFLs or the Recovery Strategy included in the Proposed Rules. The Notice of Change merely added the existing technical information that the Administrative Law Judge found missing in the original rule text, which resulted in the Proposed Rules being found by the Judge to be vague. Specifically, these changes include: 1) Adding the period of record used to establish the baseline flows in the Lower Santa Fe and Ichetucknee Rivers and subsequently used to develop the proposed minimum flows, and, 2) Adding the method used for filling the data gaps in the baseline flow record for the Ichetucknee River. *Still-II* p. 5, §2. *Still-II* is submitted as Appendix F.

Dr. Still renewed his challenge by petitioning the Notice of Change and added his wife as a petitioner. The Final Order in *Still-II* concluded among other things that the changes only added information and therefore did not adversely affect the Stills. *Still-II* §§ 10, 14-16.

The Proposed MFL Rules and Supplemental Regulatory Measures became final on June 10, 2015.

STATUTORY REQUIREMENTS APPLYING TO NFRWSP

On January 17, 2017, the North Florida Regional Water Supply Plan was approved at a joint meeting of the Suwannee and the St. Johns Governing Boards. See Appendix C. The NFRWSP was the culmination of a four-year effort pursuant to the Inter-Agency Agreement between St. Johns and Suwannee to address lowered water levels in the Upper Floridan Aquifer regionally.

The NFRWSP includes and amends or modifies the Recovery Strategy challenged in *Still I* and *Still-II*. Therefore, Petitioner closely analyzed the NFRWSP and submitted extensive comments through its representative the Florida Springs Council. See Appendix D.

As a matter of law, the NFRWSP must meet the regional water supply plan requirements described in Section 373.709(2), Florida Statutes. The most relevant requirements are highlighted in bold:

(2) Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:

(a) A **water supply development component** for each water supply planning region identified by the district which includes:

1. A **quantification of the water supply needs** for all existing and future reasonable-beneficial uses within the planning horizon. The level-of-certainty planning goal

associated with identifying the water supply needs of existing and future reasonable-beneficial uses must be based upon meeting those needs for a 1-in-10-year drought event.

a. Population projections used for determining public water supply needs must be based upon the best available data. In determining the best available data, the district shall consider the University of Florida Bureau of Economic and Business Research (BEBR) medium population projections and population projection data and analysis submitted by a local government pursuant to the public workshop described in subsection (1) if the data and analysis support the local government's comprehensive plan. Any adjustment of or deviation from the BEBR projections must be fully described, and the original BEBR data must be presented along with the adjusted data.

b. Agricultural demand projections used for determining the needs of agricultural self-suppliers must be based upon the best available data. In determining the best available data for agricultural self-supplied water needs, the district shall consider the data indicative of future water supply demands provided by the Department of Agriculture and Consumer Services pursuant to s. 570.93 and agricultural demand projection data and analysis submitted by a local government pursuant to the public workshop described in subsection (1), if the data and analysis support the local government's comprehensive plan. Any adjustment of or deviation from the data provided by the Department of Agriculture and Consumer Services must be fully described, and the original data must be presented along with the adjusted data.

**2. A list of water supply development project options, including traditional and alternative water supply project options that are technically and financially feasible,** from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development. In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of alternative water supply projects. If such users propose a project to be listed as an alternative water supply project, the district shall determine whether it meets the

goals of the plan, and, if so, it shall be included in the list. **The total capacity of the projects included in the plan must exceed the needs identified in subparagraph 1. and take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and minimum water levels and water reservations.** Where the district determines it is appropriate, the plan should specifically identify the need for multijurisdictional approaches to project options that, based on planning level analysis, are appropriate to supply the intended uses and that, based on such analysis, appear to be permissible and financially and technically feasible. The list of water supply development options must contain provisions that recognize that alternative water supply options for agricultural self-suppliers are limited.

3. For each project option identified in subparagraph 2., the following must be provided:

a. An estimate of the amount of water to become available through the project.

b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and operating and maintaining the project.

c. An analysis of funding needs and sources of possible funding options. For alternative water supply projects, the water management districts shall provide funding assistance pursuant to s. 373.707(8).

d. Identification of the entity that should implement each project option and the current status of project implementation.

(b) A **water resource development component** that includes:

1. A **listing of those water resource development projects** that support water supply development for all existing and future reasonable-beneficial uses as described in paragraph (a) and **for the natural systems as identified in the recovery or prevention strategies** for adopted minimum flows and minimum water levels or water reservations.

2. For each water resource development project listed:

a. **An estimate of the amount of water to become available through the project for all existing and future reasonable-beneficial uses as described in paragraph (a) and for the natural systems as identified in the recovery or prevention strategies** for adopted minimum flows and minimum water levels or water reservations.

b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and for operating and maintaining the project.

c. An analysis of funding needs and sources of possible funding options.

d. Identification of the entity that should implement each project option and the current status of project implementation.

**(c) The recovery and prevention strategy described in s. 373.0421(2).**

(d) A funding strategy for water resource development projects, which shall be reasonable and sufficient to pay the cost of constructing or implementing all of the listed projects.

(e) Consideration of how the project options addressed in paragraph (a) serve the public interest or save costs overall by preventing the loss of natural resources or avoiding greater future expenditures for water resource development or water supply development. However, unless adopted by rule, these considerations do not constitute final agency action.

(f) The technical data and information applicable to each planning region which are necessary to support the regional water supply plan.

(g) The minimum flows and minimum water levels established for water resources within each planning region.

(h) Reservations of water adopted by rule pursuant to s. 373.223(4) within each planning region.

(i) Identification of surface waters or aquifers for which minimum flows and minimum water levels are scheduled to be adopted.

(j) An analysis, developed in cooperation with the department, of areas or instances in which the variance provisions of s. 378.212(1)(g) or s. 378.404(9) may be used to create water supply development or water resource development projects.

(k) **An assessment of how the regional water supply plan and the projects identified in the funding plans prepared pursuant to sub-subparagraphs (a)3.c. and (b)2.c. support the recovery or prevention strategies** for implementation of adopted minimum flows and minimum water levels or water reservations, including minimum flows and minimum water levels for Outstanding Florida Springs adopted pursuant to s. 373.805; while ensuring that sufficient water will be available for all existing and future reasonable-beneficial uses and the natural systems identified herein; and that the adverse effects of competition for water supplies will be avoided.

In summary, Section 373.709(2) requires a projection of water needs and identification of water supply sources and projects to meet all water needs while protecting water resources.

The 2016 Florida Legislative Session brought significant amendments requiring the WMDs to prioritize and expedite adoption of MFLs and recovery strategies for "Outstanding Florida Springs", which the Legislature defined to include all first magnitude springs (i.e., many of the Priority Springs) and a list of other focus springs. 2016 Laws of Fla. 1. See Appendix I.

Section 373.042(2), Florida Statutes was amended to provide in relevant part that:

(b) For Outstanding Florida Springs identified on a water management district's priority list developed pursuant to subsection (3) which have the potential to be affected by withdrawals in an adjacent district, the adjacent district or districts and the department shall collaboratively develop and implement a recovery or prevention strategy for an Outstanding Florida Spring not meeting an adopted minimum flow or minimum water level.

(c) The Legislature finds as provided in s. 373.801(3)(b) that **the adoption of minimum flows and minimum water levels or recovery or prevention strategies for Outstanding Florida Springs requires immediate action...**

Section 373.0421(2), Florida Statutes was also amended in 2016 to provide in relevant part:

(2) **If, at the time a minimum flow or minimum water level is initially established for a water body pursuant to s. 373.042 or is revised, the existing flow or water level in the water body is below, or is projected to fall within 20 years below, the applicable minimum flow or minimum water level, the department or governing board, as part of the regional water supply plan described in s. 373.709, shall concurrently adopt or modify and implement a recovery or prevention strategy. If a minimum flow or minimum water level has been established for a water body pursuant to s. 373.042, and the existing flow or water level in the water body falls below, or is projected to fall within 20 years below, the applicable minimum flow or minimum water level, the department or governing board shall expeditiously adopt a recovery or prevention strategy. A recovery or prevention strategy shall include the development of additional water supplies and other actions, consistent with the authority granted by this chapter, to:**

(a) **Achieve recovery to the established minimum flow or minimum water level as soon as practicable; or**

When the MFLs were approved for the MFL Waterbodies, flows in the MFL Waterbodies were below the approved MFLs, so Section 373.0421(2) applies and requires "the department or governing board, as part of the regional water supply plan described in s. 373.709, shall concurrently adopt or modify and implement a recovery or prevention strategy...consistent with the authority granted by this chapter [373, Florida Statutes]"

Section 373.0421(3), Florida Statutes further establishes in relevant part that:

(3) To ensure that sufficient water is available for all existing and future reasonable-beneficial uses and the natural systems, the applicable regional water supply plan prepared pursuant to s. 373.709 shall be amended to include any water supply development project or water resource development project identified in a recovery or prevention strategy. Such amendment shall be approved concurrently with relevant portions of the recovery or prevention strategy.

§373.0421(3), Fla. Stat.

Section 373.805(1), Florida Statutes was enacted as part of the 2016 Springs law and provides that:

(1) At the time a minimum flow or minimum water level is adopted pursuant to s. 373.042 for an Outstanding Florida Spring, if the spring is below or is projected within 20 years to fall below the minimum flow or minimum water level, a water management district or the department shall **concurrently adopt a recovery or prevention strategy.**

Section 373.805(4), also newly enacted, provides that:

(4) **The recovery or prevention strategy for each Outstanding Florida Spring must, at a minimum, include:**

(a) **A listing of all specific projects** identified for implementation of the plan;

(b) A **priority listing** of each project;

(c) For each listed project, the **estimated cost of and the estimated date of completion;**

(d) **The source and amount of financial assistance to be made available by the water management district for each listed project, which may not be less than 25 percent of the total project cost** unless a specific funding source or sources are identified which will provide more than 75 percent of the total project cost. The Northwest Florida Water Management District and the Suwannee River Water Management District are not required to meet the minimum requirement to provide financial assistance pursuant to this paragraph;

(e) An **estimate of each listed project's benefit to an Outstanding Florida Spring;** and

(f) An **implementation plan** designed with a target to achieve the adopted minimum flow or minimum water level no more than 20 years after the adoption of a recovery or prevention strategy.

The water management district or the department shall develop a **schedule establishing 5-year, 10-year, and 15-year targets for achieving the adopted minimum flows** or minimum water levels. The schedule shall be used to provide guidance for planning and funding purposes and is exempt from chapter 120.

In Section 373.042(2)(c), the Legislature finds the adoption of recovery strategies for Outstanding Florida Springs "requires immediate action...". Because the MFL Waterbodies were in recovery when the MFLs were adopted in 2015, Section 373.0421(2) and 373.805(1), Florida Statutes require concurrent

adoption of MFLs and a recovery strategy in a regional water supply plan. The NFRWSP is the collaboratively developed regional water supply plan that includes a recovery strategy that is concurrent with the Department's June 2015 adoption of MFLs for the MFL Waterbodies.

Because many of the Priority Springs are Outstanding Florida Springs, Section 373.805(4) requires the Recovery Strategy adopted or modified in the NFRWSP to at a minimum, include: A listing of all specific projects identified for implementation of the plan (a); a priority listing of each project (b); the estimated cost of and the estimated date of completion (c); the source and amount of financial assistance to be made available by the water management district for each listed project, which may not be less than 25 percent of the total project cost ... (d); an estimate of each listed project's benefit to an Outstanding Florida Spring (e); and an implementation plan designed with a target to achieve the adopted minimum flow or minimum water level no more than 20 years after the adoption of a recovery or prevention strategy. Id.

The NFRWSP lacks the priority listing of each Water Resource Development and Water Supply Development project

required by Section 373.805(4)(b), Florida Statutes. The Plan also lacks required information for each project regarding the estimated cost of and the estimated date of completion; and "the source and amount of financial assistance to be made available by the water management district for each listed project, which may not be less than 25 percent of the total project cost unless a specific funding source or sources are identified which will provide more than 75 percent of the total project cost." See §373.805(4)(c) and (d), Fla. Stat.

The NFRWSP also lacks "An estimate of each listed project's benefit to an Outstanding Florida Spring;" and "An implementation plan designed with a target to achieve the adopted minimum flow or minimum water level no more than 20 years after the adoption of a recovery or prevention strategy." See §373.805(4)(e) and (f), Fla. Stat.

The NFRWSP also lacks "an assessment of how the regional water supply plan and the projects identified in the funding plans prepared pursuant to sub-subparagraphs [§373.709(2)] (a)3.c. and (b)2.c. support the recovery or prevention strategies for implementation of adopted minimum flows and minimum water levels. . . ." §373.709(2)(k), Fla. Stat.

The NFRWSP lacks an adequate funding strategy. The Plan includes only a catalog of potential funding options, not a "funding strategy for water resource development projects, which shall be reasonable and sufficient to pay the cost of constructing or implementing all of the listed projects."

§373.709(2)(d), Fla. Stat. Finally, the Plan lacks any analysis of whether the funding strategy is reasonable and sufficient for all projects. *Id.*

#### **STANDING TO CHALLENGE RECOVERY STRATEGY SUFFICIENCY**

The seminal Florida case regarding association standing is *Fla. Home Builders Ass'n v. Dep't of Labor & Emp. Sec.*, 412 So. 2d 351, 352-54 (Fla. 1982). The Florida Supreme Court's reasoning and holding are worth an extended restatement here:

Petitioners contend that the term "substantially affected" in section 120.56(1) should include trade or professional associations which meet the test for associational standing contained in *Hunt v. Washington State Apple Advertising Commission*, 432 U.S. 333, 97 S.Ct. 2434, 53 L.Ed.2d 383 (1977). In response, the department asserts that we should reject the federal case law on standing because the cases are conflicting and irreconcilable. The department further argues that we should adopt the special injury standing rule expressed in *United States Steel Corp. v. Save Sand Key, Inc.*, 303 So.2d 9 (Fla.1974), which has been applied in public nuisance, zoning, and taxpayer cases, when construing the standing requirements of section 120.56(1).

We find the district court's restriction on the standing of associations is an excessively narrow

construction of section 120.56(1) and results in restricted public access to the administrative processes established in the Florida Administrative Procedure Act, chapter 120, Florida Statutes (1979). Expansion of public access to the activities of governmental agencies was one of the major legislative purposes of the new Administrative Procedure Act. 2 In our view, the refusal to allow this builders' association, or any similarly situated association, the opportunity to represent the interests of its injured members in a rule challenge proceeding defeats this purpose by significantly limiting the public's ability to contest the validity of agency rules. While it is true that the "substantially affected" members of the builders' association could individually seek determinations of rule invalidity, the cost of instituting and maintaining a rule challenge proceeding may be prohibitive for small builders. Such a restriction would also needlessly tax the ability of the Division of Administrative Hearings to dispose of multiple challenges based upon identical or similar allegations of unlawful agency action.

The federal courts have consistently allowed standing for this type of association to represent the interests of its members in appropriate circumstances. 3 In *Warth v. Seldin*, 422 U.S. 490, 95 S.Ct. 2197, 45 L.Ed.2d 343 (1975), a builders' association sought to invoke the jurisdiction of the court on behalf of its members. Though ultimately denying standing to the association, the United States Supreme Court stated: "Even in the absence of injury to itself, an association may have standing solely as the representative of its members." 422 U.S. at 511, 95 S.Ct. at 2211. In *Hunt v. Washington State Apple Advertising Commission*, the United States Supreme Court expressly set forth the requirements of associational standing:

Thus we have recognized that an association has standing to bring suit on behalf of its members when: (a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

432 U.S. at 343, 97 S.Ct. at 2441. Although the Court in both *Warth* and *Hunt* was concerned with the federal

constitutional "case or controversy" requirement, 4 the same rule has been applied to actions brought under the Federal Administrative Procedure Act, section 1, 5 U.S.C. § 702 (1976).<sup>5</sup>

[End Note 5: *United States v. SCRAP*, 412 U.S. 669, 93 S.Ct. 2405, 37 L.Ed.2d 254 (1973); *Sierra Club; Association of Data Proc. Serv. Orgs., Inc. v. Camp*, 397 U.S. 150, 90 S.Ct. 827, 25 L.Ed.2d 184 (1970). Section 1 of the Federal Administrative Procedure Act, 5 U.S.C. § 702, provides that "a person ... adversely affected or aggrieved by agency action ... is entitled to judicial review thereof." We believe that the standing requirement of this statute is so similar to the "substantially affected" requirement of section 120.56(1) that we are justified in looking to federal case law for guidance in formulating our rule regarding associational standing under section 120.56.]

After reviewing the legislative history and purpose of chapter 120, we have concluded that a trade or professional association should be able to institute a rule challenge under section 120.56 even though it is acting solely as the representative of its members. **To meet the requirements of section 120.56(1), an association must demonstrate that a substantial number of its members, although not necessarily a majority, are "substantially affected" by the challenged rule. Further, the subject matter of the rule must be within the association's general scope of interest and activity, and the relief requested must be of the type appropriate for a trade association to receive on behalf of its members.** We note that the only issue to be resolved in a section 120.56(1) proceeding is whether an agency rule is valid, and this type of proceeding does not involve association or individual claims for money damages.

(emphasis in bold added)

The standard for association standing articulated in *Fla. Home Builders* was extended to cases in which the petition challenges an agency order in *Farmworker Rights Organization*,

*Inc. v. Department of Health and Rehabilitative Services*, 417

So.2d 753 (Fla. 1st DCA 1982), as follows

Although *Florida Home Builders* involved a rule challenge under section 120.56, rather than a request for a formal proceeding pursuant to section 120.57(1), we find that the standing requirements for associations as set forth in *Florida Home Builders* should be extended to section 120.57(1) proceedings. For the purpose of standing, there is no significant difference between a section 120.56(1) and a section 120.57(1) proceeding. In order to establish standing in the former case a person must show that he has been "substantially affected" by the challenged rule, while in the latter case a party must show that his "substantial interests" are being determined. Based on the similarities between the standing requirements of these two sections, **we now hold that the standing requirements for associations as set forth in Florida Home Builders shall apply equally in both section 120.56(1) and section 120.57(1) proceedings.**

(emphasis in bold added). See also, *Caloosa Property Owners Ass'n, Inc. v. Palm Beach County Bd. of County Com'rs*, 429 So.2d 1260 (Fla. 1st DCA 1983)(*Florida Home Builders* test for standing in section 120.56(1) rule challenge proceeding was extended in *Farmworkers Rights Organization* to section 120.57(1) proceedings).

The current interpretation of the "substantially affected" standard was articulated in *St. Johns Riverkeeper Inc. v. St. Johns River Water Mgmt.*, 54 So.3d 1051, 1054 (Fla. 5th DCA 2011). The Fifth District Court of Appeal reversed St. Johns' rejection of Riverkeeper's standing, explaining:

In *Agrico Chemical Co. v. Dep't of Environmental Regulation*, 406 So.2d 478, 482 (Fla. 2d DCA 1981), the Second District Court of Appeal addressed the issue of "substantial interest" standing, explaining:

We believe that before one can be considered to have a substantial interest in the outcome of the proceeding he must show 1) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a section 120.57 hearing, and 2) that his substantial injury is of a type or nature which the proceeding is designed to protect. The first aspect of the test deals with the degree of injury. The second deals with the nature of the injury.

The Second District explained that the third-party challenger "must frame their petition for a section 120.57 formal hearing in terms which clearly show injury in fact to [protected] interests" and "[i]f their standing is challenged in that hearing by the permit applicant and the protestants are then unable to produce evidence to show that their substantial environmental interests will be affected by the permit grant, the agency must deny standing and proceed on the permit directly with the applicant." *Id.*

In *Farmworker Rights Organization, Inc. v. Dep't of Health and Rehabilitative Servs.*, 417 So.2d 753, 754-55 (Fla. 1st DCA 1982), the First District Court of Appeal found that for an association to establish standing under section 120.57(1) when acting solely as a representative of its members, it must demonstrate that "a substantial number of its members, although not necessarily a majority, are substantially affected by the challenged rule," that "the subject matter of the challenged rule is within the association's general scope of interest and activity," and that "the relief requested is of a type appropriate for a trade association to receive on behalf of its members."

Riverkeeper asserts that the Governing Board improperly mixed the issue of its standing to challenge the District's issuance of the CUP with the merits of its challenge, as occurred in *Peace River/Manasota Reg'l Water Supply Auth. v. IMC Phosphates Co.*, 18 So.3d 1079, 1082 (Fla. 2d DCA 2009) and *Reily Enters., LLC v. Florida Dep't of Env't'l Prot.*, 990 So.2d 1248 (Fla. 4th DCA 2008). **The Peace River and Reily courts each warned against mixing the issue of a party's standing to challenge an agency's action**

with the merits of the challenge. *Peace River*, 18 So.3d at 1084; *Reily*, 990 So.2d at 1251. Additionally, the Peace River court said that **"if standing is challenged during an administrative hearing, the petitioner must offer evidence to prove that its substantial rights could be affected by the agency's action."** *Peace River*, 18 So.3d at 1084 (emphasis added).

**Riverkeeper established substantial interest standing.**

*St. Johns Riverkeeper Inc.*, 54 So.3d at 1054. (emphasis in bold added)

#### **Washington County and Putnam County Cases Are not Relevant**

In *Wash. Cnty. v. Nw. Fla. Water Mgmt. Dist.*, 85 So.3d 1127 (Fla. 1st DCA 2012), the North Florida Water Management District (**North Florida**) adopted a regional water supply plan that identified a geographically undefined inland wellfield as an "alternative water supply" for Bay County. When North Florida proposed to issue the water use permit for Bay County to develop a wellfield in northern Bay County, Washington County and others petitioned the permit. Subsequently, Washington County and others petitioned the plan.

Washington County recognized that inclusion of the wellfield in the regional plan meant the wellfield water use permit would be deemed to be consistent with the public interest, one of three permitting criteria, and the water management district would cooperate with the applicant to permit

the project. See 373.223(5), Fla. Stat. Washington County's asserted interest was in the the applicant having the burden of showing the application meets the public interest criterion.

The First District Court of Appeal concluded the County was not adversely affected by the plan because the plan did not specifically identify the wellfielde being approved by the water management district and the Florida Legislature enacted Section 120.569(2)(p), Florida Statutes providing that a water use permit application is deemed to meet all of the permitting criteria when a water management district proposes to issue the permit. Section 120.569(2)(p) rendered the presumption in Section 373.223(5), Florida Statutes superfluous and of no separate legal affect. Ultimately relying on *Agrico Chem. Co. v. Dept. of Env't'l Reg.*, 406 So.2d 478 (Fla. 2d DCA 1981), the First District Court concluded:

We reverse the orders insofar as they determine, as a general proposition, that the Plan is not subject to challenge under chapter 120, Florida Statutes. The District's ruling directly contravenes the plain language of section 373.709(5) permitting such a challenge if the plan, in part or in whole, affects a party's substantial interests. However, concluding that the Plan has no legal effect on Appellants' ability to challenge a consumptive water use permit granted to Bay County, we affirm the District's determination that Appellants lack standing to challenge the Plan.

*Washington County* instructs only that a regional water supply plan is subject to challenge "if the plan, in part or in whole, affects a party's substantial interests".

Unlike the NFRWSP, the plan in *Washington County* did not include any prevention or recovery strategies. In the instant matter, Petitioner Ichetucknee Alliance does not base its standing on the permitting presumption provided by Section 373.223(5), Florida Statutes nor Petitioner's ability to challenge any consumptive use permit, so *Washington County* offers no further applicable guidance.

In *Putnam Cnty. Env'tl. Council v. St. Johns River Water Mgmt. Dist.*, 136 So.3d 766 (Fla. 1st DCA 2014), the association petitioner requested the Florida Land and Water Adjudicatory Commission find St. Johns' regional plan inclusion of river waters as "alternative water supplies" to be inconsistent with Chapter 373, Florida Statutes. Petitioner argued the proposed river project withdrawals were not consistent with the definition of "alternative water supplies" which limits such withdrawals to capture predominately during wet-weather flows. See, 373.019(1), Fla. Stat. Standing in such FLWAC proceedings is based on a request for review meeting the criteria of Section

373.114(1), Florida Statutes. As the First District Court explained:

The Commission has jurisdiction to review "any order or rule of a water management district" if it finds: (i) "the activity authorized by the order would substantially affect natural resources of statewide or regional significance," or (ii) if "the order raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from the standpoint of agency precedent." §373.114(1)(a), Fla. Stat.

*Putnam Cnty. Env'tl. Council, 136 So.3d at 768.*

The *Putnam County Environmental Council* Court merely concluded a challenge to the plan based on the first jurisdictional ground was not available because the plan had no direct affect on natural resources, but that the Council had adequately evoked the Commission's jurisdiction on the basis that the plan "raises issues of policy, statutory interpretation, or rule interpretation that have regional or statewide significance from the standpoint of agency precedent." *Putnam County Environmental Council* had nothing to do with a recovery strategy. These jurisdictional criteria have no relevance to the instant petitions.

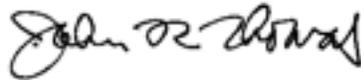
#### **Certificate for E-Filing**

I HEREBY CERTIFY that the original physically signed document will be retained by Petitioners for the duration of the

proceeding and of any subsequent appeal or subsequent proceeding in that cause, and Petitioners will produce it upon the request of other parties.

**Certificate of Service**

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by electronic mail to the parties below on this 17th day of April, 2017.



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STATE OF FLORIDA  
SUWANNEE RIVER WATER MANAGEMENT DISTRICT

ICHETUCKNEE ALLIANCE, INC.,

Petitioner,

v.

DISTRICT CASE NO. 2017-01

SUWANNEE RIVER WATER  
MANAGEMENT DISTRICT,

Respondent,

\_\_\_\_\_ /

**FINAL ORDER DISMISSING PETITION WITH PREJUDICE**

THIS CAUSE having come before the SUWANNEE RIVER WATER MANAGEMENT DISTRICT (the “DISTRICT”) on ICHETUCKNEE ALLIANCE’S AMENDED PETITION FOR ADMINISTRATIVE HEARING (the “AMENDED PETITION”), filed by the petitioner, the ICHETUCKNEE ALLIANCE, INC., a Florida not-for-profit corporation (the “PETITIONER”) and having considered the matters presented, the DISTRICT finds as follows:

**GENERAL**

1. On January 17, 2017, the governing board of the DISTRICT entered its order No. 2017-0001, which was dated and filed on January 17, 2017, and which approved the NORTH FLORIDA REGIONAL WATER SUPPLY PLAN, WITH APPENDICES (2015-2035) (the “PLAN”).
2. Notice was given of such action as provided by DISTRICT rule.
3. On February 7, 2017, the PETITIONER, along with the FLORIDA SPRINGS COUNCIL, INC., a Florida not-for-profit corporation (the “FLORIDA SPRINGS COUNCIL”),

filed FLORIDA SPRINGS COUNCIL, INC. AND ICHETUCKNEE ALLIANCE, INC.  
REQUEST FOR EXTENSION OF TIME TO FILE PETITION TO INITIATE  
ADMINISTRATIVE PROCEEDINGS, (the “MOTION FOR EXTENSION OF TIME”),  
requesting that the DISTRICT extend the time within which the PETITIONER may file a petition  
concerning the PLAN down to March 3, 2017.

4. On February 13, 2017, the DISTRICT entered its ORDER EXTENDING TIME  
TO FILE INITIAL PLEADING which granted the MOTION FOR EXTENSION OF TIME and  
extended the deadline for filing a petition concerning the PLAN to March 3, 2017 as requested.

5. On February 20, 2017, the Executive Director and the General Counsel for the  
DISTRICT, and the Executive Director and Counsel for the ST. JOHNS RIVER WATER  
MANAGEMENT DISTRICT, met with the representatives and counsel for the PETITIONER  
and the FLORIDA SPRINGS COUNCIL to enter into discussions aimed at possibly resolving the  
PETITIONER’s and the FLORIDA SPRINGS COUNCIL’s concerns with the PLAN.

6. On February 22, 2017, the undersigned, counsel for the ST. JOHNS RIVER  
WATER MANAGEMENT DISTRICT and counsel for the PETITIONER and the FLORIDA  
SPRINGS COUNCIL had a telephone conference to discuss legal memoranda they had recently  
exchanged on certain legal issues concerning the PLAN.

7. On March 3, 2017, the DISTRICT entered its SECOND ORDER EXTENDING  
TIME TO FILE INITIAL PLEADING which further extended the deadline for filing a petition  
concerning the PLAN to March 17, 2017.

8. On March 9, 2017, the Executive Director and General Counsel for the  
DISTRICT, and the Executive Director and Counsel for the ST. JOHNS RIVER WATER

MANAGEMENT DISTRICT, again met with the representatives and counsel for the PETITIONER and the FLORIDA SPRINGS COUNCIL to continue discussions concerning possibly resolving the PETITIONER's and the FLORIDA SPRINGS COUNCIL's concerns with the PLAN.

9. On March 17, 2017, the PETITIONER timely filed the PETITION with the DISTRICT. The FLORIDA SPRINGS COUNCIL did not join in the PETITION, nor file a separate petition and is not a party to the above styled action.

10. On March 31, 2017, the DISTRICT, through its executive director, entered its ORDER DISMISSING PETITION WITHOUT PREJUDICE and thereby dismissed the PETITION, but allowed the PETITIONER to file an amended petition within 15 days thereof, if the PETITIONER wished to attempt to cure the matters set out in the ORDER DISMISSING PETITION WITHOUT PREJUDICE.

11. On April 17, 2017, the PETITIONER timely filed the AMENDED PETITION.

*DISTRICT's Required Review of the AMENDED PETITION*

12. Upon receipt of the AMENDED PETITION, the DISTRICT is required to review the AMENDED PETITION to determine if the AMENDED PETITION contains those items required by rule and dismiss the AMENDED PETITION if it is not in substantial compliance with such requirements:

Unless otherwise provided by law, a petition or request for hearing shall include those items required by the uniform rules adopted pursuant to s. 120.54(5)(b). Upon the receipt of a petition or request for hearing, the agency shall carefully review the petition to determine if it contains all of the required information. A petition shall be dismissed if it is not in substantial compliance with these requirements or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition

curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured. The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable. This paragraph does not eliminate the availability of equitable tolling as a defense to the untimely filing of a petition.

§ 120.569(2)(c), Fla.Stat.

13. Further, the DISTRICT is not allowed to refer the AMENDED PETITION to the Division of Administrative Hearings unless the AMENDED PETITION is in substantial compliance with the applicable rules:

The agency may refer a petition to the division for the assignment of an administrative law judge only if the petition is in substantial compliance with the requirements of paragraph (c).

§ 120.569(2)(d), Fla.Stat. *See, Brookwood Extended Care Center of Homestead, LLP v. Agency for Healthcare Admin.*, 870 So.2d 834, 840 (Fla. 3d DCA 2003) (Holding that an agency properly refuses to forward a petition to DOAH where the petition does not comply with the requirements of § 120.569(2)(c-d), Fla.Stat.)

14. The applicable rules require that the AMENDED PETITION contain, among other things, the following:

The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

Fla. Admin. Code R. 28-106.201(2)(b) (Emphasis supplied); *See also*, § 120.569(1), Fla.Stat., (providing in pertinent part that, “[t]he provisions of this section apply in all proceeding in which the substantial interests of a party are determined by an agency.”); § 120.52(13)(b), Fla.Stat.,

(defining a “party” as “[a]ny other person ... whose substantial interests will be affected by proposed agency action....”)

15. To comply with the requirements of Fla. Admin. Code R. 28-106.201, the PETITIONER must do more than give non-specific allegations. The PETITIONER must identify the disputed facts warranting relief. *See, Brookwood Extended Care Center of Homestead, LLP v. Agency for Healthcare Admin.*, 870 So.2d 834, 840 (Fla. 3d DCA 2003) (Holding that the “statute and rules are crystal clear. In a proceeding governed by Rule 28-106.201, the burden is ... on the person or entity petitioning for an administrative hearing to state the ultimate facts, to identify the facts that are in dispute, and to allege the facts that warrant, in the petitioner's opinion, reversal ... non-specific allegations ... will no longer suffice.”) Further, the PETITIONER must “specifically explain” in the AMENDED PETITION how its substantial interests will be adversely affected by the PLAN. *See, W. Frank Wells Nursing Home v. State, Agency for Health Care Admin.*, 979 So.2d 339, 342 (Fla. 1st DCA 2008) (“The nursing home vigorously disputed AHCA's class III deficiency citation, but it did not specifically explain in the petition how the citation adversely affected its substantial interests. ... Accordingly, we REVERSE the order under review and REMAND the case to AHCA with instructions to allow the nursing home an opportunity to amend its petition.”)

16. Of course, a party’s substantial interests must be affected by a particular agency action for the party to have standing to file a petition under § 120.569, FlaStat., concerning such action:

As all of the parties admit, chapter 120 does not actually employ the word “standing,” but the statutory test used is substantially its equivalent. Under the statutory language, a hearing is provided pursuant to section 120.569(1) “in all

proceedings in which the substantial interests of a party are determined by an agency.” Thus the concept of “standing” in an administrative proceeding depends on whether the particular entity at issue qualifies as a “party.” Section 120.52(12)(b) defines a “party” as “[a]ny other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action....””

*Peace River/Manasota v. IMC Phosphates Co.*, 18 So.3d 1079, 1083 (Fla. 2d DCA 2009)

(Emphasis supplied)

17. Should the undisputed facts alleged in the AMENDED PETITION show that the PETITIONER lacks standing, the DISTRICT may dismiss the AMENDED PETITION without the need to refer the AMENDED PETITION to the Division of Administrative Hearings.

*Daytona Beach Kennel Club, Inc. v. Dep’t of Bus. & Prof’l Reg.*, 33 So.3d 799, 800 (Fla. 5th DCA 2010) (“We further find no error in the failure to refer the petition to the Division of Administrative Hearings to conduct a hearing. The issue of standing is normally a question of law, as it was in this case. Dismissal is appropriate where undisputed facts demonstrate that a party lacks standing.”); *Village of Key Biscayne v. Department of Environmental Protection*, 206 So.3d 788, 792 (Fla. 3d DCA 2016) (“[W]e pause to address the Village's argument that the DEP's General Counsel violated the Village's due process rights when he, and not an Administrative Law Judge, determined the Village's standing. Our research reveals that state agencies routinely dismiss petitions for administrative hearing for failure to plead a sufficient basis for the petitioner's standing to bring the petition.”); *Washington County v. Northwest Fla. Water Manage. Dist.*, 85 So.3d 1127, 1130 (Fla. 1st DCA 2012) (Affirming a water management district’s dismissal of a petition challenging a regional water supply plan for lack of standing without referring the petition to the Division of Administrative Hearings.)

The PLAN is a Regional Water Supply Plan

18. The PLAN is a regional water supply plan as provided in § 373.709, Fla.Stat.

19. A regional water supply plan has been described as follows:

Section 373.709, Florida Statutes, calls for the state's water management districts to develop regional water supply plans for areas in which it is determined that “existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses.” § 373.709(1), Fla. Stat. (2010). Water management districts also use the plans to “sustain the water resources and related natural systems [in the region] for the planning period.” *Id.* Among other things, a regional water supply plan must include a “water supply development component” that includes, in turn:

A list of water supply development project options, including traditional and alternative water supply project options, from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development. In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of alternative water supply projects.

*Washington County v. Northwest Fla. Water Manage. Dist.*, 85 So.3d 1127, 1130 (Fla. 1st DCA 2012)

Legal authority to Challenge the PLAN

20. In the AMENDED PETITION, the PETITIONER challenges portions of the PLAN.

21. The sole statutory authority for challenges to regional water supply plans is contained in § 373.709, Fla.Stat., where it provides:

Governing board approval of a regional water supply plan shall not be subject to the rulemaking requirements of chapter 120. However, any portion of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. 120.569.

§ 373.709(5), Fla.Stat.

22. The first sentence of § 373.709(5), Fla.Stat., exempts regional water supply plans from the rulemaking requirements of chapter 120. Thus a regional water supply plan cannot be subject to a “rule challenge” as provided in § 120.56, Fla.Stat., and cannot be challenged as an “invalid exercise of delegated legislative authority.” See, § 120.56(1)(a), Fla.Stat. (“Any person substantially affected by a rule or a proposed rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.”) (Emphasis supplied). As further explained:

The administrative remedies associated with rules, on the one hand, and orders, on the other, are different. A “person substantially affected by a rule or a proposed rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.” See § 120.56(1)(a), Fla. Stat. In contrast, proceedings under Sections 120.569 and 120.57 are available when an agency, by order, determines a party's substantial interests. The object of the proceeding is not to determine the validity of a rule, as in a proceeding brought under Section 120.56, but to adjudicate that party's substantial interests, based on the application of law to a specific set of facts.

*Pasco CWIP Partners v. Florida Housing Finance Corporation*, at paragraph 47;

RECOMMENDED ORDER 2010 WL 610248; DOAH Case Nos. 09-3330, 09-3332, 09-3333, 09-3334, 09-3335, 09-3336, 09-4031 (Fla. DOAH Feb. 18, 2010); FINAL ORDER ADOPTING THE RECOMMENDED ORDER 2010 WL 10075952; FHFC Case Nos. 2009-015GA, 2009-018GA, 2009-019GA, 2009-016GA, 2009-017GA, 2009-020GA, 2009-011GA (Fla. FHFC Apr. 30, 2010)

23. Concerning the second sentence of § 373.709(5), Fla.Stat., it has been held:

[S]ection 373.709(5) provides an avenue for administrative challenge if any part of a regional water supply plan affects a party's substantial interests. Section 120.569 applies “in all proceedings in which the substantial interests of a party are

determined by an agency....” A party asserting entitlement to an administrative hearing pursuant to section 120.569 must demonstrate that (1) it “will suffer injury in fact which is of sufficient immediacy to entitle [it] to a section [120.569] hearing,” and that (2) its “substantial injury is of a type or nature which the proceeding is designed to protect.” *Agrico*, 406 So.2d at 482. See *Mid-Chattahoochee River Users v. Fla. Dep't of Env'tl. Prot.*, 948 So.2d 794, 797 (Fla. 1st DCA 2006); *Menorah Manor, Inc. v. Agency for Health Care Admin.*, 908 So.2d 1100, 1104 (Fla. 1st DCA 2005).

*Washington County v. Northwest Fla. Water Manage. Dist.*, 85 So.3d 1127, 1130-1131 (Fla. 1st DCA 2012).

24. Therefore, for the AMENDED PETITION to sufficiently allege standing, the AMENDED PETITION must specifically explain how the PETITIONER (1) will suffer injury in fact which is of sufficient immediacy to entitle PETITIONER to a section 120.569 hearing, and, that (2) the PETITIONER’s substantial injury is of a type or nature which the proceeding is designed to protect.

*Associational Standing of the PETITIONER*

25. The PETITIONER is an association. Therefore, to have standing, it must show as follows:

For organizational standing, [Petitioner] must prove that a substantial number of its members, but not necessarily a majority, have a substantial interest that would be affected; that the subject matter of the proposed project is within the general scope of the interests and activities for which the organization was created; and that the relief requested is of the type appropriate for the organization to receive on behalf of its members. See *Florida League of Cities Inc. v. Department of Environmental Regulation*, 603 So. 2d 1363 (Fla. 1992); *Friends of the Everglades Inc. v. Board of Trustees of the Internal Improvement Trust Fund*, 595 So. 2d 186 (Fla. 1st DCA 1992).

*Mellita A. Lane, et al v. FDEP, et al*, at paragraph 191; RECOMMENDED ORDER 2007 WL 1430266; Case Nos. 05-1609, 05-1610, 05-1611, 05-1612, 05-1613, 05-1981 (Fla. DOAH May

11, 2007); FINAL ORDER ADOPTING RECOMMENDED ORDER 2007 WL 2363044; Case Nos. 04-1202, 05-0738, 05-0740, 05-0741, 05-0742, 05-0767, 05-0770 (Fla. DEP Aug. 1, 2007)

26. In the AMENDED PETITION, the PETITIONER alleges that a substantial number of its members, although not necessarily a majority, have a substantial interest in the matter to be challenged in the AMENDED PETITION. AMENDED PETITION at paragraphs 34-36.

27. Paragraph 36 of the AMENDED PETITION contains allegations to the effect that a substantial number of the members of the PETITIONER use the subject water bodies for wading, boating, walking, swimming, etc. These uses are generally sufficient to show standing if it can be asserted that they will be “adversely affected” by the challenged agency action. *See, W. Frank Wells Nursing Home v. State, Agency for Health Care Admin.*, 979 So.2d 339, 342 (Fla. 1st DCA 2008) (“The nursing home vigorously disputed AHCA's class III deficiency citation, but it did not **specifically explain** in the petition how the citation **adversely affected** its **substantial interests**. ... Accordingly, we REVERSE the order under review and REMAND the case to AHCA with instructions to allow the nursing home an opportunity to amend its petition.”)

28. The PETITIONER is limited to only challenging those portions of the PLAN it alleges affect its substantial interests. § 373.709(5), Fla.Stat. (“[A]ny **portion** of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. 120.569.”)

*PETITIONER Only Challenges the Portions of the PLAN Dealing with Water Resource Development Projects and Water Resource Supply Projects*

29. The PETITIONER has asserted that the portions of the PLAN which adversely

affect its substantial interests (and therefore the portions of the PLAN it asserts it has standing to challenge) are the “water resource development projects” and “water supply development projects” as shown in Chapters 6, 7 and 8 and their related appendices of the PLAN, as follows:

42. The disputed issues of material fact include whether:

a. Petitioner’s substantial interests are adversely affected by the NFRWSP parts that address **water resource development projects and water supply development projects** and their sufficiency to meet statutory requirements, including **Chapters 6, 7 and 8, and related appendices**. Section 373.709(5), Florida Statutes recognizes that the substantial interests of a party may be adversely affected by part of a regional water supply plan;

\* \* \*

43. The ultimate facts include that:

a. Petitioner’s substantial interests are adversely affected by the NFRWSP parts that address **water resource development projects and water supply development projects** and their sufficiency to meet statutory requirements, including **Chapters 6, 7 and 8, and related appendices**. Section 373.709(5), Florida Statutes recognizes that the substantial interests of a party may be adversely affected by part of a regional water supply plan;

AMENDED PETITION at paragraphs 42(a) and 43(a)

THE POTENTIAL HARM ALLEGED BY THE PETITIONER IS  
TOO SPECULATIVE TO CONFER STANDING

*Water Resource Development Projects and Water Resource Supply Projects*

30. The PLAN describes water resource development projects as follows:

Water resource development projects are typically implemented by the WMDs or by the WMDs in conjunction with other agencies or local governments (ss. 373.705(1)(a); F.S.). These include projects that increase the amount of water available for water supply, collect and analyze data for water supply planning, and study the feasibility and benefits of new techniques.

PLAN at page 51.

The above is consistent with the statutory definition of water resource development:

“Water resource development” means the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments, government-owned and privately owned water utilities, and self-suppliers to the extent assistance to self-suppliers promotes the policies as set forth in s. 373.016.

§ 373.019(25), Fla.Stat.

31. The PLAN describes water resource supply projects as follows:

An important part of the NFRWSP process is identifying water supply development project options necessary to meet the anticipated water needs of the planning area through 2035 planning horizon. While water users are not limited to the projects listed in the NFRWSP plan, the list represents a set of projects that could supply a sufficient quantity of water to meet the projected water demands if implemented.

PLAN at page 53.

The above is consistent with the statutory definition of water supply development:

“Water supply development” means the planning, design, construction, operation, and maintenance of public or private facilities for water collection, production, treatment, transmission, or distribution for sale, resale, or end use.

§ 373.019(26), Fla.Stat.

32. Both water resource development projects and water supply development projects require substantial funding to be constructed. *See*, the PLAN at (1) Table 6 and Appendix J which show the estimated capital costs (in millions of dollars) for each proposed water resource development project and (2) Table 7 and Appendix K which show the estimated capital costs (in millions of dollars) for each proposed water supply project.

33. Florida law provides that the water management districts shall have primary responsibility for water supply development projects whereas the utilities and others will have primary responsibility for water supply projects:

It is the intent of the Legislature that:

\* \* \*

(b) Water management districts take the lead in identifying and implementing water resource development projects, and be responsible for securing necessary funding for regionally significant water resource development projects, including regionally significant projects that prevent or limit adverse water resource impacts, avoid competition among water users, or support the provision of new water supplies in order to meet a minimum flow or minimum water level or to implement a recovery or prevention strategy or water reservation.

(c) Local governments, regional water supply authorities, and government-owned and privately owned water utilities take the lead in securing funds for and implementing water supply development projects. Generally, direct beneficiaries of water supply development projects should pay the costs of the projects from which they benefit, and water supply development projects should continue to be paid for through local funding sources.

§ 373.705(2), Fla.Stat.

*Construction and Implementation of Water Resource **Development** Projects*

34. Concerning the funding of the construction and implementation of water resource development projects, Florida law provides:

(a) The water management districts shall fund and implement water resource development as defined in s. 373.019. The water management districts are encouraged to implement water resource development as expeditiously as possible in areas subject to regional water supply plans.

(b) Each governing board shall include in its annual budget submittals required under this chapter:

1. The amount of funds for each project in the annual funding plan developed pursuant to s. 373.536(6)(a) 4.; and

2. The total amount needed for the fiscal year to implement water resource development projects, as prioritized in its regional water supply plans.

§ 373.705(3), Fla.Stat. (Emphasis Supplied)

Further the “annual funding plan” described above is part of:

A 5-year water resource development work program to be furnished within 30 days after the adoption of the final budget. The program must describe the district's implementation strategy and include an annual funding plan for each of the 5 years included in the plan for the water resource and water supply development components, including alternative water supply development, of each approved regional water supply plan developed or revised under s. 373.709. The work program must address all the elements of the water resource development component in the district's approved regional water supply plans, as well as the water supply projects proposed for district funding and assistance. The annual funding plan shall identify both anticipated available district funding and additional funding needs for the second through fifth years of the funding plan. The work program must identify projects in the work program which will provide water; explain how each water resource and water supply project will produce additional water available for consumptive uses; estimate the quantity of water to be produced by each project; provide an assessment of the contribution of the district's regional water supply plans in supporting the implementation of minimum flows and minimum water levels and water reservations; and ensure sufficient water is available to timely meet the water supply needs of existing and future reasonable-beneficial uses for a 1-in-10-year drought event and to avoid the adverse effects of competition for water supplies.

§ 373.536(6)(a) 4, Fla.Stat. (Emphasis supplied)

35. So, for the DISTRICT’s budget to fund the construction and implementation of a particular water resource development project, the funding must be part of the “5-year water resource development work program” provided in § 373.536(6)(a) 4, Fla.Stat., and then included in the DISTRICT’s annual budget submittals as required by § 373.705(3), Fla.Stat.

36. By January 15 of each year the DISTRICT must submit a preliminary budget to the Legislature for review and comment. § 373.535(1)(a), Fla.Stat.

37. Once funding is included in the DISTRICT's annual budget submittals, the DISTRICT's tentative budget must be submitted to the Governor who may approve or disapprove it, in whole or in part, as follows:

The Executive Office of the Governor may approve or disapprove, in whole or in part, the budget of each water management district. The Executive Office of the Governor shall analyze each budget as to the adequacy of fiscal resources available to the district and the adequacy of district expenditures related to water supply, including water resource development projects identified in the district's regional water supply plans; water quality; flood protection and floodplain management; and natural systems. This analysis shall be based on the particular needs within each water management district in those four areas of responsibility and shall be provided to the Legislative Budget Commission.

§ 373.536(5)(a), Fla.Stat. (Emphasis supplied)

38. Of course, the DISTRICT's budgetary process is not reviewable under Ch. 120, Fla.Stat.:

32. In this instance, the decisions that FHFC made in response to the de-appropriation of \$190 million from its funds, including the decisions relating to the de-obligation of Petitioners' projects, involved the modification of the agency's budget. Petitioners do not have an administrative remedy under Sections 120.569 and 120.57 concerning these exempt decisions: there is simply no agency action to be formulated here. *Cf. Hill v. Monroe County*, 581 So. 2d 225, 226 (Fla. 3d DCA 1991)(The APA "only applies where a challenge is made to a State agency action.").

33. The conclusion that FHFC's budgetary decisions are not subject to quasi-judicial adjudication is consistent with, if not compelled by, the holding in *Palm Beach County Classroom Teachers Ass'n v. School Board of Palm Beach County*, 406 So. 2d 1208 (Fla. 4th DCA 1981). In that case, the legislature recently had appropriated to various county school boards additional funds pursuant to a Supplemental Appropriations Act ("SAA"). A proviso in the SAA instructed that priority was to be given, when deciding how to spend the funds, to increasing salaries for teachers. No doubt encouraged by this, the teachers' union in one county sought to renegotiate teachers' pay with the local school board. The school board, however, refused to bargain. The union then requested a hearing under Section 120.57 to determine the priority for allocation of the funds appropriated under the SAA. The school board entered a final order denying the

union's request for hearing. Id. at 1209.

34. The court affirmed the order. Its decision comprised two pertinent sentences:

[W]e hold that the allocation and disbursement of the funds received through the SAA involves the modification of the agency's budget which entails neither rule making nor an order within the meaning of those terms as set forth in Section 120.52, Florida Statutes (1980). There was, therefore, no necessity for the Board to provide [the union] with a hearing required by Section 120.57.

Id. at 1210.

*Pasco CWIP Partners v. Florida Housing Finance Corporation*, at paragraph 32-34; (Emphasis supplied) RECOMMENDED ORDER 2010 WL 610248; DOAH Case Nos. 09-3330, 09-3332, 09-3333, 09-3334, 09-3335, 09-3336, 09-4031 (Fla. DOAH Feb. 18, 2010); FINAL ORDER ADOPTING THE RECOMMENDED ORDER 2010 WL 10075952; FHFC Case Nos. 2009-015GA, 2009-018GA, 2009-019GA, 2009-016GA, 2009-017GA, 2009-020GA, 2009-011GA (Fla. FHFC Apr. 30, 2010)

39. Then finally, once the DISTRICT's statutory budget process is concluded and all of the statutory requirements of §§ 373.705, 373.535, 373.536, Fla.Stat., and otherwise are met, the budget is then subject to the unrestricted discretion of the Legislature's appropriations power:

[T]he constitution provides that “[n]o money shall be drawn from the treasury except in pursuance of appropriation made by law,” art. VII, § 1(c), Fla. Const. (emphasis added), and that “[p]rovision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.” Art. VII, § 1(d), Fla. Const. (emphasis added).

Based on all these constitutional provisions, this Court has long held that the power to appropriate state funds is legislative and is to be exercised only through duly enacted statutes. *State ex rel. Davis v. Green*, 95 Fla. 117, 127, 116 So. 66, 69 (1928). As we stated in *State ex rel. Kurz v. Lee*:

The object of a constitutional provision requiring an appropriation made by law as the authority to withdraw money from the state treasury is to prevent the expenditure of the public funds already in the treasury, or potentially therein from tax sources provided to raise it, without the consent of the public given by their representatives in formal legislative acts. Such a provision secures to the Legislative (except where the Constitution controls to the contrary) the exclusive power of deciding how, when, and for what purpose the public funds shall be applied in carrying on the government.

121 Fla. 360, 384, 163 So. 859, 868 (1935) (emphasis added). Furthermore, the power to reduce appropriations, like any other lawmaking, is a legislative function.

*Chiles v. Children A, B, C, D, E, and F*, 589 So.2d 260, 264-265 (Fla. 1991) (Emphasis supplied)

Of course any attempt to compel the Legislature to make any particular appropriation is void.

*See, Dep't of Health & Rehab. Servs. v. Brooke*, 573 So.2d 363, 370 (Fla. 1st DCA 1991)

(observing that the legislature's appropriations power was “off limits to the courts” and “had the [court's] orders ... required the Department to make placements that would exceed the amounts set forth in the annual appropriations act by the legislature, or ... encroached upon the legislature's power of appropriation, they would have been rendered in excess of the judges' jurisdiction”)

40. To recap, the inclusion of any particular water resource development project in the PLAN, only means that if the project survives the DISTRICT's statutory budgetary process including:

- A. Inclusion in the “5-year water resource development work program” provided in § 373.536(6)(a) 4, Fla.Stat., which includes such project;
- B. Inclusion in the DISTRICT's annual budget submittals as required by §

373.705(3), Fla.Stat.;

- C. The submission of the budget, in preliminary form to the Legislature for review and comment pursuant to § 373.535(1)(a), Fla.Stat.; and,
- D. The review of the budget by the Executive Office of the Governor pursuant to § 373.536(5)(a), Fla.Stat.;

then the project is subject to the unrestricted discretion of the Legislature to fund or not fund the project pursuant to Legislature's appropriations powers set out in Art. VII, § 1(c-d), Fla. Const.

*Construction and Implementation of Water **Supply** Development Projects*

41. The construction and implementation of the water supply development projects in the PLAN are even more speculative. This is because:

- A. Entities other than the DISTRICT are to “take the lead in securing funds for and implementing water supply development projects.” § 373.705(2)(c), Fla.Stat.; and,
- B. Such non-DISTRICT entities are not required to use any of the water supply development projects which may be set out in the PLAN. § 373.709(7), Fla.Stat. (Nothing contained in ... a regional water supply plan shall be construed to require ... water suppliers to select a water supply development project ... merely because it is identified in the plan.”); *See* PLAN at page 54 (Citing § 373.709(7), Fla.Stat., for the same proposition of law.)

*Threatened Adverse Affect Must not be Hypothetical or Speculative*

42. The PETITIONER must show, in the allegations of the AMENDED PETITION, that the asserted adverse affect is not conjectural, hypothetical or speculative. *South Broward*

*Hosp. Dist. v. State, Agency For Health Care Admin.*, 141 So.3d 678, 681 (Fla. 1st DCA 2014) (“Under the first prong of *Agrico*, the injury-in-fact standard is met by a showing that the petitioner has sustained actual or immediate threatened injury at the time the petition was filed, and “[t]he injury or threat of injury must be both real and immediate, not conjectural or hypothetical.”); *Volusia County School Bd. v. Volusia Homes Builders Ass'n, Inc.*, 946 So.2d 1084, 1091 (Fla. 5th DCA 2006) (Holding that a homebuilders association lacks standing to challenge the recommendation of the School Board to the County to raise impact fees. The court held, “[W]e note that the recommendation was too remote and lacked the direct impact necessary to show that the [Homebuilders Association] was “substantially affected” by the recommendation, as opposed to the County Council's imposition of the increased impact fees requested. ... The recommendation's impact remained speculative until the County Council adopted the ordinance that increased the fees; the record shows this result was not a foregone conclusion.”); *Village Park Mobile Home Ass'n, Inc. v. State, Dept. of Business Regulation, Div. of Florida Land Sales, Condominiums and Mobile Homes*, 506 So.2d 426, 430 and 433 (Fla. 1st DCA 1987) (Finding that the petitioner’s concerns were “speculative” and that, “In the instant case, appellants, at the time they filed their petition, had failed to demonstrate through their allegations that they had sustained either actual injury-in-fact or that they were in danger of sustaining some direct injury as a result of the agency's action.”); *See also, Ameristeel Corp. v. Clark*, 691 So. 2d 473, 477 (Fla. 1997) (Holding that the claim that agency action would result in increased operating costs and, thereby, threaten future viability of petitioner's factory, is not an injury of sufficient immediacy).

43. As the construction and implementation of the water resource development

projects in the PLAN is subject to the budget process and the unrestricted discretion of the Legislature, any alleged, threatened injury concerning the water resource development projects at the time the petition was filed is not real and immediate. Rather it is conjectural or hypothetical and will not support standing.

44. As the construction and implementation of the water resource supply projects in the PLAN are subject to funding by non-DISTRICT entities and such entities are not required to use any of the water supply development projects set out in the PLAN, any alleged, threatened injury concerning the water supply development projects at the time the petition was filed is not real and immediate. Rather it is conjectural or hypothetical and will not support standing.

THE PETITIONER HAS NOT ALLEGED THAT THE PLAN ADVERSELY AFFECTS  
THE PETITIONER'S SUBSTANTIAL INTERESTS

45. The PETITIONER also lacks standing to bring the AMENDED PETITION due to the fact that the PLAN does not adversely affect the PETITIONER's substantial interests.

46. In the AMENDED PETITION, the PETITIONER alleges that consumptive uses have adversely affected or will adversely affect the PETITIONER's members' substantial interests as follows:

26. Increasing consumptive uses of groundwater throughout north Florida and south Georgia have contributed to chronic declines in spring flows. Projected future increases in groundwater use for public supply, agriculture, public selfsupply, and mining, will further reduce spring and river flows. Like many of the Outstanding Florida Springs, average flows in the Ichetucknee River and in the springs have declined significantly (recently estimated as 18 to 25%) over the period of record. At the time of the adoption of MFLs for the Lower Santa Fe and Ichetucknee Rivers and Priority Springs, these water bodies were determined to not meet the MFLS being established for them.

27. Due to the Respondents' over-allocation of the Upper Floridan Aquifer, the Lower Santa Fe River was estimated to be in recovery with a deficit of 17 cfs (11 mgd) in 2010 and the Ichetucknee River was estimated to be in recovery with a deficit 3 cfs (2 mad) in 2010. The water management districts have since continued to issue permits for consumptive use of the Upper Floridan Aquifer in the region despite these deficits.

28. Lower flows in the Priority Springs equate to lower water velocities which in turn promote excessive growth of filamentous algae and exotic plants such as hydrilla. Lower flows also equal lower water elevations in the spring runs, exposing more aquatic vegetation to destructive impacts from recreational users. Due to declining flows and levels, springs' water transparency has declined, noxious algae have proliferated, fish biomass has been reduced, and submerged aquatic vegetation diversity has been reduced. Primary productivity and resulting fish and wildlife utilization of the springs and spring runs has significantly declined as water flow has diminished.

\* \* \*

37. Diminished flows in the MFL Waterbodies adversely affecting Petitioners' members' recreational, scholarly and aesthetic use and enjoyment of such waters is an injury of the type or nature these proceedings are designed to protect against. The purpose of recovery strategies and regional water supply plans is to protect and restore the use and enjoyment of waters subject to the strategies and plans.

AMENDED PETITION at paragraphs 26, 27, 28 and 37.

47. The PETITIONER then alleges that due to the alleged deficiencies in the PLAN, the adverse effects, caused by the consumptive uses, will continue:

36. Respondent's failure to implement and comply with Sections 373.0421, 373.709(2), and 373.805(4) substantially adversely affects a substantial number of Petitioner's members' substantial interests described above, as follows:

- a. Excessive growth of filamentous algae and exotic plants such as hydrilla reflects an imbalance of native flora and that adversely affects and, because of the NFRWSP's deficiencies, will continue to substantially adversely affect Petitioner's members who wade, walk, swim, snorkel, dive, tube, canoe, take photographs, perform personal and commercial research, because the algae and hydrilla are ugly and tactilely repulsive, and the aesthetic beauty of the

natural habitat is greatly diminished.

- b. Lower water elevations in the spring runs exposes more aquatic vegetation to destructive impacts from recreational users which diminishes the native flora and causes the water clarity to become murky and unattractive and, because of the NFRWSP's deficiencies, will continue to substantially adversely affect Petitioner's members who wade, walk, swim, snorkel, dive, tube, canoe, take photographs, perform personal and commercial research, because the lack of clarity prevents observation and enjoyment and aesthetic beauty of the natural habitat is greatly diminished.
- c. The MFL Waterbodies have provided delight to the senses historically but the aesthetic and fine art value of the historically crystal clear spring waters have been greatly diminished and, because of the NFRWSP's deficiencies, will continue to substantially adversely affect Petitioner's members who are disappointed and lose appreciation and use of the MFL Waterbodies for these purposes because the declining flows and levels in the springs significantly reduces water transparency, causes tactilely repulsive algae, and eliminates the aesthetic and photogenic attributes of the MFL Waterbodies.
- d. As flow has declined, the primary productivity and resulting wildlife utilization of the springs and spring runs has significantly declined and, because of the NFRWSP's deficiencies, this will continue to substantially adversely affect Petitioner's members who visit the MFL Waterbodies to observe and/or photograph or study the wildlife in and around the MFL Waterbodies because such members will have fewer opportunities to observe, photograph and study wildlife using the MFL Waterbodies.
- e. As flow has declined, the primary productivity and resulting fish utilization of the MFL Waterbodies has significantly declined and, because of the NFRWSP's deficiencies, will continue to substantially adversely affect Petitioner's members who visit the MFL Waterbodies to fish, study fish, and photograph fish because there are fewer fish to observe, study and pursue fishing and there are fewer hits and less fish caught.

AMENDED PETITION at paragraphs 36 (a-e)

48. Assuming that all of the above allegations are true<sup>1</sup>, the AMENDED PETITION does not show that the PETITIONER's substantial interests will be adversely affected by the PLAN. The PETITIONER alleges that past consumptive uses of groundwater have caused or contributed to declines in flows in the subject water bodies, and that projected future increases in groundwater use will further reduce such flows in the subject water bodies and that such reduced flows have caused and will continue to cause harm to the subject water bodies (AMENDED PETITION at paragraphs 26, 27, 28 and 37). These allegations, at best, may show that the PETITIONER had or has standing to challenge such past or future consumptive uses, but do not show that PETITIONER has standing to challenge the PLAN. This is because the PLAN is not alleged to cause harm. Any adverse effects to the PETITIONER's substantial interests would have already occurred due to past consumptive uses or will occur due to future consumptive uses. The PLAN, which is basically an attempt to make things better and put more water into the system, does not impair any of those uses. The PETITIONER alleges that the PLAN will not have the beneficial effect, or enough of the beneficial effect, which PETITIONER feels is proper or required by statute and therefore the adverse effects "will continue". This is not sufficient to show that the PETITIONER's substantial interests will be adversely affected by the PLAN, as required to show standing.

49. In this regard, the case of *Office of Ins. Regulation and Financial Services Com'n*

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<sup>1</sup>This statement is not a concession that any of the allegations of the AMENDED PETITION are true. The DISTRICT reserves all its rights to contest the allegations of the AMENDED PETITION. Rather, the DISTRICT must treat the allegations of the AMENDED PETITION as true for the purposes of determining standing as required under Florida law. *Mid-Chattahoochee River Users v. Florida Dept. of Environmental Protection*, 948 So.2d 794, 796 (Fla. 1st DCA 2006) ("In determining whether a party has standing to seek a formal administrative hearing, the allegations contained in the party's petition must be taken as true.")

*v. Secure Enterprises, LLC*, 124 So.3d 332 (Fla. 1st DCA 2013) is instructive. In *Secure Enterprises*, the Office of Insurance Regulation (the “OIR”), in response to statutory amendments, amended its administrative rules and incorporated forms to provide new insurance credits to homeowners for certain renovations to their homes. *Secure Enterprises*, at 334. The petitioner in *Secure Enterprises*, was the manufacturer (the “Manufacturer”) of a product called “Secure Door” which is utilized by homeowners to upgrade non-glazed<sup>2</sup> garage doors. *Secure Enterprises*, at 335. The Manufacturer filed a rule challenge.<sup>3</sup> The Manufacturer argued that OIR failed to follow the applicable statutory requirements because OIR’s amendments to its administrative rules and forms failed to grant insurance credits for the Secure Door system:

Appellee, the manufacturer of the Secure Door residential garage door bracing system, challenged the fact that Form 1699 includes an insurance credit for homeowners who upgrade their windows or glazed openings to protect from storm damage but does not include a separate credit for homeowners who upgrade their non-glazed garage doors. Appellee argued that section 627.0629(1) requires that homeowners who upgrade their non-glazed garage doors receive an additional insurance credit.

*Secure Enterprises*, at 335. The Manufacturer asserted that it had standing because, according to the Manufacturer, had the OIR properly followed the statutory requirements, use of the Secure

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<sup>2</sup>A garage door is “glazed” if it contains a glass or plastic window. A garage door is “non-glazed” if it does not contain a glass or plastic window. *See, Secure Enterprises v. Office of Insurance Regulation and Financial Services Commission*, at paragraph 13; 2012 WL 5268376, Case No. 12-1944RX (Fla. DOAH Oct. 19, 2012)

<sup>3</sup>The instant matter is not a “rule challenge”, but rather a “substantial interests” petition under § 120.569. However, as the standing requirements for a “rule challenge” are less demanding than the standing requirements in the instant matter, the failure to meet these standing requirements is certainly relevant herein. *See, Still v. Suwannee River Water Management District, et al, supra*, at paragraph 76 (“A less demanding test for standing is applicable in rule challenge cases than in licensing cases. *See Fla. Dep’t of Prof. Reg. v. Fla. Dental Hygienists Ass’n*, 612 So. 2d 646, 651-52 (Fla. 1st DCA 1993). In a rule challenge, the alleged injury does not have to be immediate. *See NAACP v. Fla. Bd. of Regents*, 863 So. 2d 294, 300 (Fla. 2003).”)

Door product would have qualified homeowners for an insurance credit:

As to its standing to challenge the rules and forms, Appellee alleged that it had been substantially and negatively affected because it manufactures a product that would entitle homeowners to a discount on their home insurance policies had OIR properly implemented the statutory requirements of section 627.0629(1).

*Secure Enterprises*, at 335.

50. The ALJ found that the Manufacturer had standing to bring the rule challenge and then invalidated the OIR's rule amendments and incorporated forms as invalid exercises of delegated legislative authority. *Secure Enterprises*, at 333. The court in *Secure Enterprises*, reversed, finding that the ALJ erred in determining that the Manufacturer had standing. *Secure Enterprises*, at 334 and 340. The court reasoned that:

While the ALJ correctly reasoned based upon the foregoing cases that economic<sup>4</sup> injury may satisfy the injury in fact element of the pertinent standing test, ... [the] manufacturer in this case is claiming economic harm based upon the absence of an insurance credit that Florida homeowners have never been provided. Had this been a situation where OIR eliminated an existing insurance credit for garage doors, Appellee's injury in fact argument would be much stronger. However, as it stands, Appellee has no protected economic right that has been impaired by the rules and forms at issue.

*Secure Enterprises*, at 338-339. (Emphasis supplied)

51. Like the Manufacturer in *Secure Enterprises*, the PETITIONER has not asserted that the PLAN will cause it to lose anything. The Manufacturer in *Secure Enterprises*, asserted that the insurance credits provided in the subject rule were insufficient under the law and that the

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<sup>4</sup>Of course economic injuries are not generally protected under Ch. 373, Fla.Stat. See, *Mid-Chattahoochee River Users v. Florida Dept. of Environmental Protection*, 948 So.2d 794, 797 (Fla. 1st DCA 2006) (Holding that "economic injury is not the type of injury that ... chapter 373 was designed to protect.") However, *Secure Enterprises*, is cited for the proposition that an agency's failure to grant a new benefit, that the petitioner has not previously received, is not the type of injury that will give the petitioner standing to petition under § 120.569, Fla.Stat. This principal is not dependent on whether the asserted injury is economic or otherwise.

rule should have provided for additional credits that would have benefitted the Manufacturer.

*Secure Enterprises*, at 335. Similarly, the PETITIONER asserts that the projects provided in the PLAN are insufficient under the law and that the PLAN should have provided for additional projects that would have benefitted the PETITIONER. (AMENDED PETITION at 42(a) and 43(a)) The court in *Secure Enterprises*, determined that the Manufacturer had no protected right that was impaired and dismissed the Manufacturer's petition. *Secure Enterprises*, at 338-339. As in *Secure Enterprises*, the PETITIONER has no protected right that has been impaired and the AMENDED PETITION should be dismissed.

#### APPLICABILITY OF CH. 2016-1, LAWS OF FLA., TO THE PLAN

52. Finally, the PETITIONER has alleged in the AMENDED PETITION that the PLAN is required to comply with the provisions of Ch. 2016-1, Laws of Fla. This is not the case.

53. Ch. 2016-1, Laws of Fla., mainly concerns Outstanding Florida Springs and does require to the DISTRICT to take certain actions with regards to the PLAN. The requirements asserted by the PETITIONER are contained in § 709.805, Fla.Stat. (AMENDED PETITION at paragraphs 19)

54. This statute was effective July 1, 2016. Ch. 2016-1, § 39, Laws of Fla., and provides in pertinent part:

(1) At the time a minimum flow or minimum water level is adopted pursuant to s. 373.042 for an Outstanding Florida Spring, if the spring is below or is projected within 20 years to fall below the minimum flow or minimum water level, a water management district or the department shall concurrently adopt a recovery or prevention strategy.

(2) When a minimum flow or minimum water level for an Outstanding Florida Spring is revised pursuant to s. 373.0421(3), if the spring is below or is projected within 20 years to fall below the minimum flow or minimum water level, a water

management district or the department shall concurrently adopt a recovery or prevention strategy or modify an existing recovery or prevention strategy. A district or the department may adopt the revised minimum flow or minimum water level before the adoption of a recovery or prevention strategy if the revised minimum flow or minimum water level is less constraining on existing or projected future consumptive uses.

(3) For an Outstanding Florida Spring without an adopted recovery or prevention strategy, if a district or the department determines the spring has fallen below, or is projected within 20 years to fall below, the adopted minimum flow or minimum water level, a water management district or the department shall expeditiously adopt a recovery or prevention strategy.

§ 373.805(1-3), Fla.Stat.

55. The PETITIONER has not alleged in the AMENDED PETITION that:

A. On or after July 1, 2016, the DISTRICT adopted a minimum flow or minimum water level for an Outstanding Florida Spring, as provided in § 373.805(1), Fla.Stat.;

B. On or after July 1, 2016, the DISTRICT revised a minimum flow or minimum water level for an Outstanding Florida Spring, as provided in § 373.805(2), Fla.Stat.; or,

C. On or after July 1, 2016, the DISTRICT determined that an Outstanding Florida Spring, without an adopted recovery or prevention strategy, had fallen below, or was projected within 20 years to fall below, the adopted minimum flow or minimum water level, as provided in § 373.805(3), Fla.Stat.

56. Unless one or more of the above threshold requirements are met, § 373.805, Fla.Stat., is not applicable and any alleged failure to follow the requirements of § 373.805, Fla.Stat., is not actionable under Ch. 120, Fla.Stat., or otherwise.

THEREFORE it is hereby ORDERED and ADJUDGED that:

1. The AMENDED PETITION shall not be referred to the Division of Administrative Hearings.
2. The AMENDED PETITION is hereby DISMISSED, with prejudice.
3. This order constitutes final agency action of the DISTRICT.
4. The DISTRICT's clerk shall promptly provide a copy of this order to all parties and close the DISTRICT's file on this matter.

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

Any party to this proceeding has the right to seek judicial review of this order pursuant to Section 120.68, Florida Statutes, by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the clerk of the DISTRICT, 9225 CR 49, Live Oak, Florida 32060; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal.

The Notice of Appeal must be filed within 30 days after the date this order is filed with the clerk of the DISTRICT.

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DONE and ORDERED on \_\_\_\_\_, 2017.

GOVERNING BOARD OF THE SUWANNEE  
RIVER WATER MANAGEMENT DISTRICT

By: \_\_\_\_\_  
Don Quincey, Jr  
Chair

ATTEST: \_\_\_\_\_  
Virginia H. Johns  
Secretary Treasurer

**CERTIFICATE OF FILING**

I HEREBY CERTIFY that this order has been filed with the clerk of the DISTRICT and the date of filing was \_\_\_\_\_, 2017.

\_\_\_\_\_  
Tim Sagul  
Deputy Agency Clerk

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of this order has been furnished to Mr. John R. Thomas, 4390 55th Way N., Kenneth City, FL 33709; Email: jrthomasesq@gmail.com Attorney for the PETITIONER, by email on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Tim Sagul  
Deputy Agency Clerk

**Second Amended Petition for Administrative Hearing for the Action of the Suwannee River Water Management District and the Saint Johns River Water Management of Adopting the North Florida Regional Water Supply Plan (NFRWSP)**

On March 31, 2017, the Suwannee River Water Management District issued an Order Dismissing Petition Without Prejudice. On March 31, 2017, the St. Johns River Water Management District emailed Paul Still a document titled St. Johns River Water Management District's Motion to Dismiss with Exhibit A, Order Granting St. Johns River Water Management District's Motion to Dismiss with Leave to Amend. In response to these documents Paul Still's Original Petition was amended by adding an Amendment Addendum addressing the defects identified in the March 31, 2017 documents. Minor corrections or changes were also made in the text of the original petition.

Paul Still emailed both Districts the Amended Petition on April 7, 2017, at 9:25 am. At 9:27 Paul Still downloaded a document attached to an email SERVICE OF COURT DOCUMENT; Still v. SJRWMD (NFRWSP); SJRWMD F.O.R. No. 2017-07 sent from Myra Perschnick [MPerschnick@sjrwmd.com](mailto:MPerschnick@sjrwmd.com). The attached document was the SJRWMD's signed and dated Order Dismissing Petition, with Leave to Amend. The signed and dated Order differed from the Order that was Exhibit A the Motion to Dismiss the Petition.

An Amendment Addendum Number Two has been added to the Amended Petition dated 4/7/2017. To address items raised in the SJRWMD Order Dismissing Petition, with Leave to Amend. Minor corrections or changes were also made in the text of the original and amended petitions.

**(a) The name and address of each agency affected**

Suwannee River Water Management District  
9225 C.R. 49  
Live Oak, Florida, 32060

Saint Johns River Water Management District  
P.O. Box 1429  
Palatka, Florida 32178-1429

**(b) The name, address, any e-mail address, any facsimile number, and telephone number of the petitioner and Statement of how Paul Still's substantial interests will be affected**

Paul Still  
14167 SW 101st Ave  
Starke, FL 32091

904 368-0291

[stillpe@aol.com](mailto:stillpe@aol.com)

1. Paul Still does one or more of the following activities on water bodies in the NFRWSP; canoeing, fishing, photography, nature observation and swimming. The water bodies he uses include the Lower Santa Fe River and its associated springs; Bradford County Lakes Sampson, Rowell, Alligator Creek that flows through Starke, Sampson River, New River, and the Upper Santa Fe River; Clay County Lakes Magnolia, Lowery, Brooklyn, Geneva, Crystal, and Bedford and Alligator Creek.
2. Paul and Kathleen Still own and live on 117 acres on the west side of Lake Sampson in Bradford County. They purchased the property in 1996. The property is used for timber production and wild blueberry production. The property has over 30 acres of cypress production in the old Lake Sampson lakebed. Maintaining soil water in the cypress producing wetlands is critical for cypress timber production.

3. Paul Still is a self supplier of water for his home and agricultural operations. There is a consumptive use permit (CUP) for the Still property that allows water to be pumped from Lake Sampson and wetlands on the Still property. The CUP has the following provision;

Withdrawals from the canal or Lake Sampson are not authorized when the flow of the Upper Santa Fe River at the Worthington Springs gage is at or below 42 cubic feet per second, pursuant to section 40B-8.061, F.A.C.

4. Paul Still had standing in an Administrative Hearing for the Lower Santa Fe MFL and the Recovery Strategy for that MFL. Both are key elements in the NFRWSP.

5. Paul Still served as an elected Supervisor of the Bradford Soil and Water Conservation District (BSWCD) from 2007 through 2010. He served as the BSWCD Administrator from 2011 through 2014. He was elected to a 4 year term as a Supervisor in 2014.

6. Chapter 582 of Florida Statute addresses Soil and Water Conservation Districts. Portions of Chapter 582 are copied below.

**582.02 Legislative policy and findings; purpose of districts.—**

(1) It is the policy of the Legislature to promote the appropriate and efficient use of soil and water resources, protect water quality, prevent floodwater and sediment damage, preserve wildlife, protect public lands, and protect and promote the health, safety, and general welfare of the people of this state.

(2) The Legislature finds that the farm, forest, and grazing lands; green spaces; recreational areas; and natural areas of the state are among the basic assets of the state and the conservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people and is in the public interest.

(3) The Legislature further finds that to ensure the conservation of the state's farm, forest, and grazing lands; green spaces; recreational areas; and natural areas, and to conserve, protect, and use soil and water resources, it is necessary that appropriate land and water resources protection practices be implemented.

7. Paul Still attended the North Florida Regional Water Supply Plan (NFRWSP) Stakeholder Advisory Committee (SAC) meetings and provided written and oral comments on the NFRWSP in his capacity as a BSWCD Supervisor.

8. Paul Still represents the BSWCD on the Suwannee River Water Management District (SRWMD) and St. Johns River Water Management District (SJRWMD) North Florida South

East Georgia (NFSEG) groundwater model Steering Team, represented the BSWCD on the Clay-Putnam Strategy Area Minimum Flows and Levels (MFLs) Prevention/Recovery Strategy Implementation Work Group: Lakes Brooklyn, Cowpen, Geneva, & Grandin. He attended the meetings on behalf of the BSWCD; SJRMWD/SRWMD Northeast Florida Water Supply Planning Area – GROUNDWATER MODELING SUBGROUP, and SJRWMD/SRWMD DWSP 2010 Northeast Florida Work Group.

9. Florida Statute 373.790(5) copied below limits challenges of Water Supply plans to only parts of the plan that affect substantial interests of a party.

FS 373.709(5) Governing board approval of a regional water supply plan shall not be subject to the rulemaking requirements of chapter 120. However, any portion of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. 120.569.

10. Based on his substantial interests presented in paragraph 1 through 8 above, Paul Still contends that the following portions of the NFRWSP affect his substantial interests and are subject to s. 120.569.

North Florida Regional Water Supply Partnership Stakeholder Advisory Committee pages 1-4

Plan Horizon pages 3, 5

Approval Process page 7

Reclaimed Water Projections 21-23

Water Conservation and Irrigation Efficiency 23-24

Chapter 4: Assessment of Groundwater Conditions Associated with Future Water Demand

Projections (NFSEG Modeling Simulations) pages 25- 28

Minimum Flows and Minimum Water Levels pages 32-35

Recovery Strategy pages 35-36

Priority Waterbodies without Minimum Flows and Minimum Water Levels pages 36-37

Wetlands pages 37-39

Chapter 6: Alternative Water Supply Needs Assessment and Delineation of Water Resource Caution Areas (Sufficiency Analysis) pages 42-49

Chapter 7: Project Options pages 50-57

Appendix A: NFRWSP Comments

Appendix B: Demand Projection, Reclaimed Water and Water Conservation Methodology and Tables

Appendix C: Simulated Change in the Potentiometric Surface within the North Florida-Southeast Georgia Regional Groundwater Flow Model Area

Appendix E: Minimum Flows and Minimum Water Levels – Adopted and Priority Lists

Appendix F: Minimum Flows and Minimum Water Levels – Assessment

Appendix G: Recovery Strategy: Lower Santa Fe River Basin

Appendix H: Priority Waterbodies without Minimum Flows and Minimum Water Levels – Assessment

Appendix I: Potential Change to Wetland Function – Methodology and Results

Appendix J: Water Resource Development Project Options

Appendix K: Water Supply Development Project Options

Appendix L: Potential Water Supply Development, Water Resource Development and Conservation Project Options

Appendix M: Water Conservation Project Options

11. The parts of the NFRWSP listed in paragraph 10 fail to demonstrate how the NFRWSP with its selected projects will insure that the water flows and levels in the water bodies that Paul Still uses will be restored or maintained, or that his use of groundwater and surface water, and wetlands he owns will not be impacted over at least a 20 year period in the future.

12. The NFRWSP fails to provide the protection of the resources that Paul Still is expected to address in his position as an elected Supervisor for the BSWCD.

**(c) A statement of when and how the petitioner received notice of the Agency's action**

13. Paul Still received the January 31, 2017, Notice of District Decision Approving the North Florida Regional Water Supply Plan (NFRWSP) by an email on 1/31/2017.

**(d) A statement of all disputed issues of material fact.**

14. The Suwannee River Water Management District St. Johns River Water Management District JOINT GOVERNING BOARD MEETING Minutes January 17, 2017 – 11:00 a.m.

states;

A MOTION FOR APPROVAL OF THE 2015-2035 NORTH FLORIDA REGIONAL WATER SUPPLY PLAN WAS MADE BY RICHARD SCHWAB AND SECONDED BY GARY JONES. THE CHAIR OF THE GOVERNING BOARD OF SUWANNEE RIVER WATER MANAGEMENT DISTRICT CALLED FOR A VOTE AND THAT BOARD VOTED UNANIMOUSLY FOR APPROVAL. THE CHAIR OF THE GOVERNING BOARD OF THE ST. JOHNS RIVER WATER MANAGEMENT DISTRICT CALLED FOR A VOTE ON THE SAME MOTION AND THAT BOARD ALSO VOTED UNANIMOUSLY FOR APPROVAL.

15. At the January 17, 2017, joint meeting where the NFRWSP was voted on, the Chair of the SJRWMD failed to ask for a motion and a second from members of the SJRWMD Governing Board. There was thus no plan before the SJRWMD Governing Board to adopt.

16. A Stakeholder Advisory Committee was used by the Water Management Districts to meet the requirements of 373.709(1). The SAC process failed to provide an adequate forum to allow for the coordination and cooperation of the groups listed in the Florida Statute 373.709(1).

17. The planning period for the NFRWSP is from 2015 to 2035 and thus fails to meet the requirement that the planning period be at least 20 years.

18. The Sufficiency Analysis found in Chapter 6 of the NFRWSP is flawed and does not meet the requirement of Florida Statute 373.709(2), that a RWSP must include sufficient water

resource and water supply development project options to meet projected water demands without causing unacceptable water resource impacts.

19. The analysis provided is flawed because 1) there are errors in the assumptions used to calculate benefits from conservation, water supply development projects and water resource development projects, 2) benefits are not demonstrated for all adopted MFLs that are not being met, 3) benefits to wetlands, or for lakes with and without MFLs are not documented, and 4) benefits are not demonstrated for Outstanding Florida Springs.

20. The NFRWSP states the MFLs for Lakes Brooklyn and Geneva are under review. The NFRWSP does not provide information about the amount of water needed to meet the Minimum Levels for these lakes. Florida Statute does not offer the option of not assessing impacts on existing MFLs because they are under review.

21. Florida Statutes require specific information be provided for each water resource development project listed in a regional water supply plan. The list of water resource development projects in the NFRWSP does not provide the required 1) estimation of the amount of water to become available through the project, 2) the timeframe in which the project option should be implemented, 3) analysis of funding needs and sources of funding, and 4) the entity that should implement the project and the current status of the project.

22. Florida Statutes require specific information be provided for each water supply development project listed in a regional water supply plan. The NFRWSP does not provide the required 1) estimation of the amount of water to become available through the project, 2) the timeframe in which the project option should be implemented, 3) analysis of funding needs and sources of funding, and 4) the current status of the project.

23. The NFRWSP fails to demonstrate that the NFRWSP and the projects it lists are in the public's interest.
24. The NFRWSP fails to provide the technical data required to evaluate the information and projects in the plan and for the claims made in the plan.
25. The NFRWSP does not include the actual rule language that establishes the Minimum Flows and Levels that have been adopted in the planning region.
26. The NFRWSP fails to provide an assessment of how the plan and the projects listed in the plan will protect and recover the river and spring flows identified in the Lower Santa River Basin Recovery Strategy (LSRB Recovery Strategy) and the minimum flows for the Outstanding Florida Springs in the planning region that have been adopted pursuant to s. 373.805.

**e) Concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action**

27. The planning period for the NFRWSP is from 2015 to 2035 and thus fails to meet the requirement that the planning period be at least 20 years. The planning period is important because water use demands are expected to continue to increase after 2035. A plan that does not cover at least 20 years would not provide the protection of beneficial users and natural systems required by Florida Statutes.
28. The Sufficiency Analysis found in Chapter 6 of the NFRWSP is flawed and does not meet the requirement of Florida Statute 373.709(2), that a RWSP must include sufficient water resource and water supply development project options to meet projected water demands without causing unacceptable water resource impacts.

29 The assumptions that all the projects listed in the plan will produce the same benefit to mfl water bodies and that the design capacity of a project equals the benefit to an MFL water body is not supported by the information in the NFRWSP.

30. The NFRWSP fails to establish the increase in flow or level required to meet the flows and levels in adopted MFLs in the planning region.

31. The NFRWSP fails to provide information about how natural systems without MFLs will be protected.

32. The NFRWSP fails to address the Outstanding Florida Springs that are in the planning area.

33. The NFRWSP states the MFLs for Lakes Brooklyn and Geneva are under review. The NFRWSP does not provide information about the amount of water needed to meet the Minimum Levels for these lakes. Florida Statute does not offer the option of not assessing impacts on existing MFLs because they are under review.

34. Florida Statutes require specific information be provided for each water resource development project listed in a regional water supply plan. The list of water resource development projects in the NFRWSP does not provide the required 1) estimation of the amount of water to become available through the project, 2) the timeframe in which the project option should be implemented, 3) analysis of funding needs and sources of funding, and 4) the entity that should implement the project and the current status of the project.

35. Florida Statutes require specific information be provided for each water supply development project listed in a regional water supply plan. The NFRWSP does not provide the required 1) estimation of the amount of water to become available through the project, 2) the timeframe in which the project option should be implemented, 3) analysis of funding needs and sources of funding, and 4) the current status of the project.

36. The NFRWSP fails to demonstrate that the NFRWSP and the projects it lists are in the public's interest.
37. The NFRWSP fails to provide the technical data required to evaluate the information and projects in the plan and for the claims made in the plan.
38. The NFRWSP does not include the actual rule language that establishes the Minimum Flows and Levels that have been adopted in the planning region.
39. The NFRWSP fails to provide an assessment of how the plan and the projects listed in the plan will protect and recover the river and spring flows identified in the Lower Santa River Basin Recovery Strategy (LSRB Recovery Strategy) and the minimum flows for the Outstanding Florida Springs in the planning region that have been adopted pursuant to s. 373.805.

**(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes**

#### **Adoption Process**

40. The method used by the SJRWMD Governing Board to adopt the NFRWSP appears to have deviated from the process used in other SJRWMD Governing Board actions. The NFRWSP was not put forward in the form of a motion and a second made by SJRWMD Governing Board members. The NFRWSP should be returned to the SJRWMD Governing Board for adoption in a manner consistent with other Governing Board Actions.

#### **Stakeholder Advisory Committee**

41. Florida Statutes 373.709(1) provides guidance for conducting water supply planning.

#### **373.709 Regional water supply planning.—**

- (1) The governing board of each water management district shall conduct water supply planning for a water supply planning region within the district identified in the appropriate district water supply plan under s. 373.036, where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the

planning period. The planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water and wastewater utilities, multijurisdictional water supply entities, self-suppliers, reuse utilities, the Department of Environmental Protection, the Department of Agriculture and Consumer Services, and other affected and interested parties. The districts shall actively engage in public education and outreach to all affected local entities and their officials, as well as members of the public, in the planning process and in seeking input.

42. Florida Administrative Code 62-40.531(1) Regional Water Supply Plans has similar

language

(1) As part of the District Water Management Plans, each governing board shall develop a regional water supply plan for each water supply planning region for which the districtwide water supply assessment determines that sources of water are not adequate to supply water for all existing and projected reasonable-beneficial uses and to sustain the surface and ground water resources and related natural systems. The planning shall be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water utilities, self-suppliers, and other affected and interested parties. As part of meeting the requirements of Section 373.0361, F.S., for regional water supply plans:

(a) The planning horizon shall be at least 20 years and shall include intermediate water use projections for every 5 year interval.

(b) Water use estimates and projections shall be provided for the following use classes:

1. Public Supply,
2. Domestic Self Supply,
3. Agriculture,
4. Recreational Irrigation,
5. Industrial/Commercial/Institutional,
6. Thermoelectric.

43. The SRWMD and the SJRWMD (Districts) used a Stakeholder Advisory Committee (SAC) to meet the requirement to coordinate with groups listed in the Statute. The Districts selected 12 persons, 6 from each water management district, to serve on the SAC. The individuals represented the following six entities, Public Water Supply, Agriculture, Commercial/Power Generation, Industrial/ Mining, Environmental, and Local Government.

44. Domestic Self Suppliers were not represented on the SAC. Self suppliers are specifically identified in the Statute and the self suppliers in Agriculture, Commercial/Power Generation, and

Industrial/ Mining sectors were represented. The absence of Domestic Self Suppliers was noted during public comments early in the SAC process but no effort was made to include this important group.

45. The local government and agricultural representatives on the SAC failed to respond to and represent local governmental entities and the agricultural sector.

46. The members of the SAC and Districts staff failed to respond to questions and concerns raised in written communications and during public comments at the end of SAC meetings.

47. The 3 to 5 minute limit imposed on stakeholders making comments limited the ability of stakeholders to present their concerns and provide information to the SAC members.

48. Issues and questions that were presented in writing and during the public comments parts of SAC meetings were not addressed by Districts staff and were not included in Appendix A of the NFRWSP.

49. The SAC approved an incomplete NFRWSP. At the time the SAC approved the NFRWSP, Appendix A was not included.

50. Paul Still contends that the SAC process did not meet the requirements of Florida Statute 373.709(1) for the reasons stated in paragraphs 44 to 49 above.

### **Planning Period Planning Horizon**

51. Florida Statutes 373.709(2) requires that each regional water supply plan must be based on at least a 20-year planning period.

373.709 Regional water supply planning.

(2) Each regional water supply plan must be based on at least a 20-year planning period

52. Florida Administrative code 62-40.531(1)(a) Regional Water Supply Plans, has similar language but uses the term planning horizon.

Florida Administrative code 62-40.531(1)(a) The planning horizon shall be at least 20 years and shall include intermediate water use projections for every 5 year interval.

53. Planning horizon can be defined as the length of time into the future that is accounted for in a particular plan.

54. The planning period for the Water Supply Plan is 2015 to 2035. The NFRWSP adopted January 17, 2017, should have had a planning horizon that would run through January 17, 2037.

55. The length of the planning period is important because demand is expected to increase between 2035 and 2037 as all the counties covered by the NFRWSP are expected to have population increases between 2035 and 2040 and agricultural water use is expected to increase. The current planning period thus underestimates water use demands and the impacts of that water use on natural systems.

56. Thus, the NFRWSP does not meet the requirements Florida Statutes 373.709(2) and Florida Administrative code 62-40.531(1)(a).

### **Sufficiency**

57. Water supply planning is done to insure a region's sources of water are adequate (sufficient) to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems. Florida Statute 373.709(2)(a) has a requirement that the NFRWSP must contain a list of water supply development projects that have a total capacity of the projects included in the plan must exceed the needs identified in the plan's needs analysis.

58. Florida Statute 373.709(2) Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:

(a) A water supply development component for each water supply planning region identified by the district which includes:

1. A quantification of the water supply needs for all existing and future reasonable-beneficial uses within the planning horizon. The level-of-certainty planning goal associated with identifying the water supply needs of existing and future reasonable-beneficial uses must be based upon meeting those needs for a 1-in-10-year drought event.

2. A list of water supply development project options, including traditional and alternative water supply project options that are technically and financially feasible, from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development. In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of alternative water supply projects. If such users propose a project to be listed as an alternative water supply project, the district shall determine whether it meets the goals of the plan, and, if so, it shall be included in the list. The total capacity of the projects included in the plan must exceed the needs identified in subparagraph 1. and take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and minimum water levels and water reservations.

59. Florida Administrative Code 62-40.531(4) addresses water supply development projects

Florida Administrative Code 62-40.531 Regional Water Supply Plans.

(4) Each plan shall include water supply development projects as defined in Section 373.019(21), F.S. Water supply development projects generally include activities intended to benefit specific individual utilities or other users. Examples include the following types of projects when they provide a localized benefit: wellfields, aquifer storage and recovery wells, desalination facilities, water storage reservoirs, conservation programs to improve water use efficiency, and reuse facilities.

60. Florida Statute 373.019(26) provides the definition of “Water supply development”.

Florida Statute 373.019 (26) “Water supply development” means the planning, design, construction, operation, and maintenance of public or private facilities for water collection, production, treatment, transmission, or distribution for sale, resale, or end use.

61. A key requirement in Florida Statute 373.709(2)(a)2 is that “The total capacity of the projects included in the plan must exceed the needs identified in subparagraph 1. and take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and minimum water levels and water reservations.”

62. In support of the above key element water users are allowed to propose projects to be listed as an alternative water supply projects. The districts are then required to determine whether the project meets the goals of the plan, and, if it does, included the project in the list.

63. The LSFRB Recovery Strategy establishes three different water resource constraints that must be addressed in the NFRWSP, 1) the MFL set for the Lower Santa Fe River at the Fort White, 2) the MFL set for the Ichetucknee River at the Highway 27 gage, and 3) the MFLs for 10 individual springs that flow into the Lower Santa Fe River and for 5 individual springs that flow into the Ichetucknee River.

64. The 2016 Florida Statutes addressing Outstanding Florida Springs add a fourth resource constraint because some of the Lower Santa Fe River Basin springs are also Florida Outstanding Springs. There are also two other Florida Outstanding Springs, Falmouth Spring and Peacock Springs, in the NFRWSP region that need to be addressed.

65. Chapter 6: Alternative Water Supply Needs Assessment and Delineation of Water Resource Caution Areas (Sufficiency Analysis) attempts to address the requirements of 373.709(2)(a)2 starting on page 42 of the NFRWSP. The Purpose of the Chapter is copied below.

#### Purpose

Pursuant to s. 373.709(2), F.S., a RWSP must include sufficient water resource and water supply development project options to meet projected water demands without causing unacceptable water resource impacts and must support MFLs recovery or prevention strategies. This chapter discusses the approach used to demonstrate sufficiency of the NFRWSP project options. In addition, this chapter discusses the technical basis used for delineation of WRCAs, identifies differences between the Districts' delineation methodologies and identifies existing and proposed WRCAs pertinent to the NFRWSP (Rule 62-40.520(2), F.A.C.).

66. The information that follows demonstrates that the NFRWSP does not support the recovery strategies for the adopted MFLs and does not address the constraints imposed by Florida Statute 373.709(2).

67. The NFRWSP on page 42 states,

#### Sufficiency Analysis

The Districts determination that the suite of project options was adequate to address the potential water resource impacts are based on the following; 1) that the 117 mgd of future demand identified in Chapter 3 can be addressed by over 200

mgd of projects that do not withdraw water from the Floridan Aquifer, thereby the future impacts identified in Chapter 5 would not occur, and 2) as required by Chapter 373.709, F.S., the Districts have included the LSFRB Recovery Strategy into the NFRWSP.

68. While the projects listed in the NFRWSP may meet the requirement to address the 117 mgd future demand, the Districts fail to provide the data to demonstrate that the listed projects will address water resources constraints, including adopted minimum flows and minimum water levels and particularly the constraints imposed by the LSFRB Recovery Strategy and Florida Statute 373.805 Minimum flows and minimum water levels for Outstanding Florida Springs.

69. The approach the Districts used to calculate the sufficiency of the listed projects and conservation to meet the demands imposed by the 2035 water usage is explained on pages 42 and 43 of the NFEWSP. There are errors in the assumptions and methodology used to determine the sufficiency of the listed projects to meet the constraints imposed by the LSFRB Recovery Strategy.

70. The information copied below from the NFRWSP is difficult to follow because the Districts used two units of flow; cubic feet per second (cfs) and million gallons per day (mgd). The text also changes from addressing specific flow requirements for the Lower Santa Fe at Fort White to total project estimates.

71. On page 43 the NFRWSP states:

The NFRWSP recognizes that the specific analysis in the LSFRB Recovery Strategy (Appendix G) provides the framework for recovering the LSF1 MFLs. The LSFRB Recovery Strategy identified 92.3 mgd of projects would provide the 31.9 cfs (20.6 mgd) flow required to recover the system and meet the 2030 demand. Implementation of projects identified in the recovery strategy is under way. Fourteen projects identified in the LSFRB Recovery Strategy are complete or in progress, with more projects under development. The NFRWSP identified an additional 124.1 mgd of projects beyond those detailed in the LSFRB Recovery Strategy to ensure project options are available to meet regional demands.

The Districts used the ratio of the mgd of projects required to produce the desired recovery flow documented in the LSFRB Recovery Strategy to evaluate whether sufficient projects were listed in the NFRWSP. The Districts estimated the quantity of water produced by projects to recover each projected cfs of recovery needed (92.3 mgd in water of projects identified ÷ 31.9 cfs<sub>1</sub> of recovery = 2.89 mgd of projects per cfs of recovery). As discussed in Chapter 5, and shown in the calculation below, results indicate that under 2035 projected pumping conditions within the NFRWSP area, the Lower Santa Fe River flow, as measured at the Ft. White gage, will need a recovery of 38.0 cfs.

2009 Lower Santa Fe River Flow (708.5 cfs) – 2035 Lower Santa Fe River Flow (687.5 cfs) + 2010 Lower Santa Fe River Flow Recovery (17.0 cfs) = Lower Santa Fe River Flow Starting Recovery Goal (38.0 cfs)

72. The information identifying an additional 124.1 mgd of projects beyond those detailed in the LSFRB Recovery Strategy could not be found in the NFRWSP.

73. The origin of the two values; 2009 Lower Santa Fe River Flow 708.5 cfs and 2035 Lower Santa Fe River Flow 687.5 cfs, is not explained in the NFRWSP.

74. The Lower Santa Fe MFL at Fort White is not based on a single flow. It is based on 7 points on the flow duration curve for the Fort White Gage. The NFRWSP fails to address the actual rule language for the Lower Santa Fe River at Fort White.

75. The NFSEG groundwater model did not exist at the time the LSFRB Recovery Strategy was written so it was not the model used to derive the 2.89 mgd of projects per cfs of recovery referenced on page 43 the NFRWSP. Instead the North Florida groundwater model was used for the LSFRB Recovery Strategy.

76. The NFRWSP text continues with the paragraph copied below.

The Districts evaluated the benefits of using 59.7 mgd of water resource development projects using the NFSEG, which provided 8.4 cfs of potential recovery to the Lower Santa Fe River flow. This would reduce the projected recovery of the Lower Santa Fe River flow to 29.6 cfs. Using the conversion of cfs to mgd above, the Districts have estimated that 85.5 mgd of potential projects are needed to avoid unacceptable water resource impacts and support MFLs recovery strategies.

77. The above paragraph shifts in mid paragraph from discussing potential recovery to the Lower Santa Fe River flow in cfs to mgd of potential projects. The text in this section of the NFRWSP does not provide any information about how the listed project would meet the 29.6 cfs needed. The text seems to assume that all the listed projects will provide 1 cfs of recovery per 2.89 mgd of projects even though the 59.7 mgd of projects listed in the paragraph only produced 8.4 cfs of recovery. Dividing 59.7 mgd of Water Resource Development Projects by 8.4 cfs of potential recovery to the Lower Santa Fe River flow at Fort White gives a value of 7.11 mgd of resource development projects per cfs of recovery.

78. There is a very large difference between the 7.11 mgd of projects per cfs derived from the NFSEG groundwater model and the 2.89 mgd of projects per cfs of recovery from the LSFRB Recovery Strategy that used the North Florida groundwater model. The NFSEG groundwater model value would require 2.46 times more projects than the North Florida groundwater model value. Using different models to evaluate the benefits associated with any conservation measure or listed projects raises a question about the reliability of the results.

79. The statement "Using the conversion of cfs to mgd above, the Districts have estimated that 85.5 mgd of potential projects are needed to avoid unacceptable water resource impacts and support MFLs recovery strategies." relies on the assumption that 2.89 mgd of projects per cfs of recovery applies to all projects. This assumption is not supported by the known information.

80. The NFRWSP does not provide data for the constraints imposed by 1) the MFL adopted for the Ichetucknee River, 2) the MFLs adopted for 10 individual springs that flow into the Lower Santa Fe River, 3) the MFLs adopted for 5 individual springs that flow into the

Ichetucknee River a, 4) the MFLs adopted for Lakes Brooklyn and Geneva and 5) the fact that some of the springs listed are also Florida Outstanding Springs.

81. Florida Statute identifies 3 ways to address the constraints imposed by present and future withdrawals on natural systems. They are water resource development projects, conservation, and water supply development projects. These three methods can be used to insure there is sufficient water for users and the natural systems in the NFRWSP region.

### **Sufficiency Analysis Methodology**

82. The complex geology and hydrogeology of the planning region, the water use and development distribution, and alterations to the landscape make it essential to have a method to evaluate both impacts from water withdrawals and the benefits from activities designed to reduce the impacts of those withdrawals.

83. The effect of this complexity of water supply planning can be seen by looking at the information in the LSFRB Recovery Strategy. The LSFRB Recovery Strategy used the North Florida groundwater model to evaluate the benefits of conservation efforts on flows at Lower Santa Fe River at Fort White and the Ichetucknee River Flow at Highway 27.

Appendix A Table A3 of the LSFRB Recovery Strategy has the following information:

#### **SJRWMD Region 1 Public Supply Conservation Potential**

Est. Project Volume (MGD)	~20.0
Est. Benefit to Santa Fe River Flow (MGD, at Fort White Gage)	1.4
Est. Benefit to Ichetucknee River Flow (MGD, at Hwy 27 Gage)	0.0

#### **City of Alachua Public Supply Conservation**

Est. Project Volume (MGD)	0.11-0.33
Est. Benefit to Santa Fe River Flow (MGD, at Fort White Gage)	0.2
Est. Benefit to Ichetucknee River Flow (MGD, at Hwy 27 Gage)	0.0

84. The benefits from SJRWMD Public Supply Conservation and the City of Alachua Public Supply Conservation illustrate the significance of location on benefits to the Santa Fe River flow

at Fort White. In the SJRWMD 14.29 mgd of conservation was needed to produce 1 mgd of flow at the Santa Fe River at Fort White while only 1.65 mgd of conservation was needed to produce 1 mgd of flow at the Santa Fe River Fort White Gage if the conservation occurred in the City of Alachua.

85. The conservation efforts in the SJRWMD and the City of Alachua provided no benefits to the flow in the Ichetucknee River at Highway 27.

86. The data shows clearly that total project volumes cannot be used to establish benefits to individual water bodies with MFLs.

87. The Districts invested a great deal of time and effort to develop the NFSEG groundwater model to be used as a tool in the NFRWSP. The Districts' staff have indicated that the NFSEG groundwater model is the best available model to conduct planning even though the NFSEG groundwater model has not been peer reviewed.

88. The Districts used the NFSEG groundwater model to evaluate the list of Water Resource Development Projects for benefits to the Lower Santa Fe River flows at Fort White coming from Water Resource Development Projects and this information is in the NFRWSP. However, the NFRWSP does not provide information about the benefits from Water Resource Development Projects to the Ichetucknee River flows at Highway 27 or the benefits to flow from Conservation or Water Supply Development Projects to either the Lower Santa Fe River at Fort White or the Ichetucknee River at Highway 27 derived from the NFSEG groundwater model.

89. The failure to evaluate Conservation and Water Supply Projects with the NFSEG groundwater model is a significant flaw in the NFRWSP.

90. An estimate of the benefits to Lower Santa Fe River flows at Fort White or the Ichetucknee River flows at Highway 27 from Conservation, and Water Supply Development Projects can be

developed from information in the LSRB Recovery Strategy. The LSRB Recovery Strategy used the North Florida groundwater model to estimate the benefits from various projects and conservation to the Lower Santa Fe River flows at Fort White and to the Ichetucknee River flows at Highway 27. The same or similar projects and conservation efforts evaluated in the LSRB Recovery Strategy were included in the NFRWSP. The information in the LSRB Recovery Plan can be used to calculate a conversion rate for similar projects or conservation efforts. The project size in mgd is divided by the estimated benefit in mgd to Lower Santa Fe River flows at Fort White or to the Ichetucknee River flows at Highway 27 to produce the conversion rate. The projects listed in the NFRWSP only provide information about project capacity in mgd. Dividing the project capacity by the conversion rate provides the benefit to Lower Santa Fe River flows at Fort White or to the Ichetucknee River flows at Highway 27.

91. The Water Resource Development Projects were not similar enough to the LSRB Recovery Strategy projects to allow the same type of evaluation of the Water Resource Development Projects for the Lower Santa Fe at Fort White.

92. The following paragraphs provide a review of the sufficiency of water resource development projects, conservation, and water supply development projects to produce the required flow to meet the MFLs for Lower Santa Fe flow at Fort White and the Ichetucknee River at Highway 27. To clearly identify the source of tabular information developed by Paul Still for this Petition the words (Still Petition) follow the Table with a Roman Numeral numbered tables.

**Sufficiency Analysis Water Resource Development Projects  
for the MFL set for the Lower Santa Fe River at the Fort White**

93. The NFRWSP states on page 43,

The Districts evaluated the benefits of using 59.7 mgd of water resource development projects using the NFSEG, which provided 8.4 cfs of potential recovery to the Lower Santa Fe River flow.

94. No information about the methods or data used to generate the value 8.4 cfs was included in the NFRWSP.

95. The lack of supporting data is a concern because some of the listed Water Resource Development Projects locations would suggest they would provide little or no benefit to the Lower Santa Fe River Flow at Fort White.

96. It is noted that 10 mgd Eagle Lake Water Resource Development Projects appears to be Water Supply Development Project. Since the Eagle Lake project has been completed it should be deleted from the list.

97. The Table in Appendix J of the NFRWSP indicates three of the projects totaling 11.50 mgd were to be completed by 1/1/2017. These projects should not be in a plan that is assessing future projects. The impacts of the completed projects should be accounted for by a reduction in water withdrawals starting at the point when the project is completed. If the completed projects are removed it is expected the 8.4 cfs value would change.

98. The 8.4 cfs was converted to 4.52 mgd so comparisons have the same units in the following discussions.

**Sufficiency Analysis Water Resource Development Projects  
for the MFL set for the Ichetucknee River at Highway 27**

99. No information was presented in the NFRWSP relating to the benefits of Water Resource Development Projects to flow at the Ichetucknee River at Highway 27.

100. The NFRWSP on pages 33 and 34 states,

The impact of additional demand projections in the NFRWSP area through the 20-year planning horizon (2035) was evaluated using Comparison 1 (see Chapter 4). The additional predicted decrease in discharge was then added to the 2010 flow deficit. This planning evaluation is separate from the re-evaluation of the established MFLs that will occur prior to the end of 2019 (Rule 62-42.300(1)(e), F.A.C.). If all projected water demands are met using fresh groundwater, modeling results predict that an additional 21 cfs of flow reduction in the Lower Santa Fe River and 13 cfs in the Ichetucknee River will result from 2035 pumping conditions in the NFRWSP area. Therefore, the estimated total amount of recovery needed to achieve the Lower Santa Fe and Ichetucknee River MFLs at 2035 conditions is 38 cfs (17 cfs at 2010 and an additional 21 cfs by 2035) and 16 cfs (3 cfs at 2010 and an additional 13 cfs by 2035), respectively.

101. The data presented above indicates the Ichetucknee River impacts are increasing at a higher rate than the Santa Fe River impacts. This makes it even more important to accurately quantify the benefits of listed projects to the Ichetucknee River flow. Insuring that listed projects and conservation exceed the 16 cfs needed for the Ichetucknee River MFL is very important.

102. There are 5 Water Resource Development Projects listed in Columbia County that total 17.74 mgd. The benefits for these projects to the Ichetucknee River flow at Highway 27 are estimated to be; Falling Creek project 1.32 mgd, Lake City sprayfield project 0.02 mgd, and the 3 other projects 1.09 mgd. The total benefit from all five Columbia County projects to the Ichetucknee River flow at Highway 27 would be 2.43 mgd.

103. There are 2 Water Resource Development Projects in Bradford County totaling 1.6 mgd that could benefit Ichetucknee River flow at Highway 27. Information in Appendix A Table A3 of the LSFRB Recovery was used to establish a conversion factor of 90 mgd of projects for 1 mgd benefit. Using this conversion rate gives a benefit to Ichetucknee River flow at Highway 27 of 0.02 mgd.

104. The other projects listed as Water Resource Development Projects are outside of the springshed for the Ichetucknee River springs and would not be expected to provide flow benefits to the springs.

105. The total benefit from Water Resource Development Projects to Ichetucknee River flow at Highway 27 becomes 2.45 mgd.

### **Sufficiency Analysis Conservation**

106. The NFRWSP states on page 43, “The Districts have identified a high water conservation range potential of 54.0 mgd, “

107. Table 1: 2035 Water Conservation and Irrigation Efficiency Potential (in million gallons per day) from page 24 of the NFRWSP provides information about users groups and conservation potential. Table 1 provides both a low and high conservation potential. The information from Table 1 is copied below.

<b>Category</b>	<b>2035 Low Conservation Potential</b>	<b>2035 High Conservation Potential</b>
Public Supply	11	21
Domestic Self-supply	2	5
Agriculture	25	25
Landscape/Recreation/Aesthetic Self-supply	1	1
Commercial/Industrial/Institutional Self-supply	2	2
Power Generation Self-supply	0	0
<b>Total</b>	<b>41</b>	<b>54</b>

108. Using only the high water conservation potential of 54.0 mgd is a concern because 25 mgd of that potential comes from agriculture. Kerry Kates presented SJRWMD agricultural interests on the SAC and stated in his comments about the NFRWSP draft, “The table should be amended to include a low conservation potential other than 25 mgd to better reflect variable, real-world conditions and to thwart unrealistic and/or unobtainable expectations.”

109. Florida Statute 373.709(2)(a)2 requires the NFRWSP take into account water conservation and adopted minimum flows. The NFRWSP does not provide information about the benefits of

Conservation to flows of the water bodies listed in the LSRB Recovery Strategy. It is not possible to determine if the listed projects and approaches will meet the natural system requirements without this data.

110. The use of the high 54 mgd value for conservation is a concern in part because Appendix M Water Conservation Project Options provides a list of options that total only 9.83 mgd and 7.5 mgd of those projects were completed before 2017. While Florida Statute does not require a listing of Conservation Projects, Florida Statute does require the Districts to take conservation into account. The most transparent way to do that is to provide a list of Conservation Projects that would equal the 54 mgd projected in the NFRWSP.

**Sufficiency Analysis Conservation**  
**MFL Set for the Lower Santa Fe River at the Fort White**

111. The information in Appendix A Tables A2 and A3 of the LSRB Recovery Strategy can be used to calculate the benefits to Santa Fe River flow at Fort White Gage from conservation from agriculture and public supply projects.

112. The information in Table A2 was used to develop the conversion rates for Agricultural Conservation. There are 4 projects related to Agricultural Conservation and each is assigned a low and high potential volume. When added together the 4 projects totaled 4.3 mgd for the low estimate and 8.4 mgd for the high estimate. The benefit to the Santa Fe River flow at Fort White was 2.4 mgd for the low estimate and 4.07 mgd for the high estimate. Dividing project volumes by benefits gives conversion rates of 1.79 mgd of project per mgd of benefit for the low estimate and 2.06 mgd of project per mgd of benefit for the high estimate. Table 1 copied in paragraph 107 above gives an estimate for agricultural conservation of 25 mgd for the planning region. SJRWMD counties contribute 7.8 mgd of the 25 mgd. Based on public water supply conservation estimate in Appendix A Table A3 the 7.8 mgd of agricultural conservation was

assigned a conversion rate of 14.29 mgd of project per 1 mgd of benefit. The SJRWMD agriculture conservation would provide a benefit of 0.55 mgd to the Lower Santa Fe River at Fort White. Subtracting 7.8 mgd from 25 mgd leaves 17.2 mgd to be divided by the benefit rate of 2.06 mgd of project per 1 mgd of benefit to give a high agricultural conservation benefit of 8.35 mgd. The total high agricultural conservation benefit to the flow of the Santa Fe River at Fort White would be 8.90 mgd.

113. Table 1 paragraph 107 above did not provide a value for low agricultural conservation. Because agriculture conservation makes up such a large percentage of the benefits to Lower Santa Fe Basin flows, it is important to evaluate a low conservation potential. Appendix A Table A2 of the LSRB Recovery Strategy does provide data for low and high conservation. The totals for the low value was 4.3 mgd and the high value was 8.4 mgd. This ratio was used to provide an estimate for a low value based on a high value of 25 mgd ( $4.3 \text{ mgd} / 8.4 \text{ mgd} \times 25 \text{ mgd} = 12.8 \text{ mgd}$ ). The 12.8 mgd was assigned to the SJRWMD and the SRWMD based on the same distribution used for the 25 mgd estimate. SJRWMD's share was 3.99 mgd and SRWMD's share was 8.81 mgd. The 3.99 mgd from SJRWMD was divided by 14.25 mgd of projects per mgd of benefit to yield 0.28 mgd and the 8.81 mgd from SRWMD was divided by the low agricultural conservation projects conversion rate of 1.79 mgd of projects per 1 mgd of benefit to yield 4.92 mgd. The flow benefits from both districts was added to give a total benefit of 5.20 mgd of flow to the Lower Santa Fe flow at Fort White from the low conservation estimate using Paul Still's low agriculture conservation estimate.

114. Appendix A Table A3 of the LSFBR Recovery Strategy provides information about water conservation potential from public water supply. Table A3 lists projects that have a total estimated volume of 38.4 mgd and provide a benefit to Santa Fe River flow at Fort White of 5.3

mgd. Dividing 38.4 mgd by 5.3 mgd produces a benefit rate of 7.25 mgd of public supply conservation per mgd of benefit for Lower Santa Fe flow at Fort White. The public supply conservation values from Table 1 in paragraph 107 were divided by 7.25 mgd to yield a benefit of 1.52 mgd for the low public supply conservation rate and 2.90 mgd for the high public supply conservation rate.

115. For this analysis, Paul Still assigned the other conservation categories a benefit rate of 3 mgd of project per 1 mgd of benefit to Santa Fe River flow at Fort White.

116. The results of the above calculations are summarized in the Table I below.

Estimated Conservation benefits to flow of the Lower Santa Fe River at Fort White

**Table I (Still Petition) Conservation Lower Santa Fe River Benefits**

Category	2035 Low Conservation Potential	2035 High Conservation Potential
Public Supply	1.52 mgd	2.90 mgd
Domestic Self-supply	0.67 mgd	1.67 mgd
Agriculture Self-supply	4.92 mgd	8.90 mgd
Landscape/Recreation/Aesthetic Self-supply	0.33 mgd	0.33 mgd
Commercial/Industrial/Institutional Self-supply	0.67 mgd	0.67 mgd
Power Generation Self-supply	0	0
<b>Total</b>	<b>8.11 mgd</b>	<b>14.47 mgd</b>

**Sufficiency Analysis Conservation  
MFL set for the Ichetucknee River at Highway 27**

117. The information in Appendix A Table A2 and A3 of the LSRB Recovery Strategy can be used to calculate the benefits to the Ichetucknee River flow at Highway 27 from conservation for public supply and agriculture.

118. Appendix A Table A3 gives a total benefit to the Ichetucknee River flow at Highway 27 of 0.3 mgd of public supply conservation so that number is used for the public supply benefit for both high and low conservation potential.

119. The information in Appendix A Table A2 of the LSRB Recovery Strategy Table A2 was used to develop the conversion rate for agricultural conservation. There are 4 projects related to agricultural conservation and each is assigned a low and high potential benefit when added together the approaches totaled 4.3 mgd for the low estimate and 8.4 mgd for the high estimate. The benefit to Ichetucknee River flow at Highway 27 was 1.9 mgd for the low conservation potential estimate and 3.9 mgd for the high conservation potential estimate. Dividing project volumes by benefits produced benefit rates of 2.26 mgd of project per mgd of benefit for the low estimate and 2.15 mgd of project per mgd of benefit for the high estimate. Table 1 copied in paragraph 107 above gives an estimate for agricultural conservation of 25 mgd for the planning region. SJRWMD counties contribute 7.98 mgd of the 25 mgd. Based on public supply conservation estimate in Appendix A Table A3 of the LSRB Recovery Strategy, the 7.98 mgd of agricultural conservation would not provide any benefit to the Ichetucknee River flow at Highway 27. Hamilton County is outside the springshed for the Ichetucknee River so its 1.9 mgd of agricultural conservation potential would not be expected to provide any benefit to the Ichetucknee River flow at Highway 27. Subtracting 9.88 mgd of agricultural conservation potential that would not benefit the Ichetucknee River flow at Highway 27 from the 25 mgd total leaves 15.12 mgd for the high agricultural conservation potential. The low agricultural conservation potential was calculated in the same way as was used for the Lower Santa Fe and was estimated to be 7.74. Applying the conversion factors of 2.26 mgd of project per mgd of benefit for the low estimate and 2.15 mgd of project per mgd of benefit for the high estimate

results in a total low agricultural conservation benefit to the Ichetucknee River flow at Highway 27 of 3.42 mgd for low conservation potential estimate and 7.03 mgd for the high conservation estimate.

120. The other conservation categories were assigned an arbitrary benefit rate of 3 mgd of project per benefit to flow to the Ichetucknee River at Highway 27 by Paul Still.

121. The results of the above calculations are summarized in the Table II.

**Table II (Still Petition) Conservation Ichetucknee River Flow Benefits**

Category	2035 Low Conservation Potential	2035 High Conservation Potential
Public Supply	0.30 mgd	0.30 mgd
Domestic Self-supply	0.67 mgd	1.67 mgd
Agriculture Self-supply	3.42 mgd	7.03 mgd
Landscape/Recreation/Aesthetic Self-supply	0.33 mgd	0.33 mgd
Commercial/Industrial/Institutional Self-supply	0.67 mgd	0.67 mgd
Power Generation Self-supply	0	0
<b>Total</b>	<b>5.39 mgd</b>	<b>10.00 mgd</b>

**Sufficiency Analysis Water Supply Development Projects**

122. It is the listed Water Supply Development Projects that must have a total capacity to exceed the needs identified in the NFRWSP and must take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and minimum water levels. The MFLs covered by the LSRB Recovery Plan impose the most significant water resource constraint identified in the NFRWSP.

123. The NFRWSP fails to provide the benefit provided from Water Supply Development Projects to the MFL water bodies listed in the LSRB Recovery Strategy. The same methods used to derive the benefits for the conservation benefits to the Lower Santa Fe River at Fort White and the Ichetucknee River at Highway 27 were used by Paul Still to estimate benefits from Water Supply Development Projects.

124. Florida Statute 373.709(2)(a)2 copied below imposes an extra responsibility on the Districts with respect to alternative water supply projects.

In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of alternative water supply projects. If such users propose a project to be listed as an alternative water supply project, the district shall determine whether it meets the goals of the plan, and, if so, it shall be included in the list.

125. The NFRWSP list of Water Supply Development Projects contains 88.33 mgd of reclaimed water projects that appear to have been submitted by the North Florida Utility Coordinating Group. There is no indication in the NFRWSP that the Districts evaluated these projects to determine if they meet the goals of the plan. The information provided in the list does not allow for an independent review of the projects to determine if the same water is counted multiple times; once when it goes through a filter, again when it is in a tank and a third time when it travels through pipes.

126. The assumption that the design capacity of an element in a water supply development project will equal the benefit to the flow at any adopted MFL cannot be supported by the information in the NFRWSP. This flaw in the NFRWSP is very significant.

**Sufficiency Analysis Water Supply Development Projects  
for the MFL set for the Lower Santa Fe River at the Fort White**

127. The NFRWSP lists 97.2 mgd of Water Supply Development Projects. However, 88.33 mgd of those projects are reclaimed water projects in the SJRWMD. A reclaimed water project in the SJRWMD would be expected to provide a similar benefit to the flow at the Lower Santa Fe MFL at the Fort White Gage as the benefit from conservation in the SJRWMD. A conversion rate of 14.29 mgd of projects to produce 1 mgd of benefit to the Lower Santa Fe River at Fort White used for 88.33 mgd of reclaimed water projects would provide 6.18 mgd of benefit to Lower Santa Fe River flow at the Fort White.

128. The Vulcan sand mine project is listed as part of the 97.2 mgd of water supply development projects with an Estimated Water Supply Benefit of 2.61mgd. The same project is listed in Appendix A Table A5 of the LSFRB Recovery Strategy with a benefit to the Lower Santa Fe River flow at Fort White of 0.1 mgd.

129. The remaining Water Supply Development Projects were assigned a conversion rate and the results are shown in Table III.

**Table III (Still Petition) Water Supply Development Projects Benefits Lower Santa Fe River**

	Estimated Water Supply Benefit	Benefit Conversion Rate	Benefit at Fort White
SJRWMD Reclaimed Water Projects	87.83 mgd	14.29	6.15 mgd
Vulcan Project	2.61 mgd	26.10	0.10 mgd
Other Projects SJRWMD	5.02 mgd	14.29	0.34 mgd
Alachua County Other Projects	1.12 mgd	2.00	0.56 mgd
Columbia County Other Projects	0 .54 mgd	5.00	0.11 mgd
<b>Total</b>	<b>97.12 mgd*</b>		<b>7.26 mgd</b>

\* The total in Appendix K was shown as 97.16 mgd. The source of the difference of 0.04 mgd could not be identified.

The 7.26 mgd equals 11.23 cfs

130. The date of completion raises another issue with the listed Water Supply Development Projects. The Table in Appendix K of the NFRWSP indicates many of the projects were completed prior to 1/1/2017. The completed projects totaling 38.443 mgd should not be in a plan that is assessing future projects. The impacts of the completed projects should be accounted for by a reduction in water withdrawals.

131. Florida Statute 373.70(2)(a)2 copied below seems to support the argument that completed projects should not be included in the list. It does not seem reasonable to assume water users

would be allowed to select a completed project from the Water Supply Development Project list. Development implies new sources of water.

**373.709** (2) Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:

- (a) A water supply development component for each water supply planning region identified by the district which includes
  - 2. A list of water supply development project options, including traditional and alternative water supply project options that are technically and financially feasible, from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development.

132. Removing the completed projects from the list of Water Supply Development Projects gives the results in the Table IV for the Lower Santa Fe River at Fort White.

**Table IV (Still Petition) Water Supply Development Projects Benefits Completed Projects Removed**

	Estimated Water Supply Benefit	Benefit Conversion Rate	Benefit at Fort White
SJRWMD Reclaimed Water Projects	49.40 mgd	14.29	3.46 mgd
Vulcan Project	2.61 mgd	26.10	0.10 mgd
Other Projects SJRWMD	5.02 mgd	14.28	0.35 mgd
Alachua County Other Projects	1.12 mgd	2.00	0.56 mgd
Columbia County Other Projects	.54 mgd	5.00	0.11 mgd
<b>Total</b>	<b>58.69 mgd</b>		<b>4.58 mgd</b>

The 4.58 mgd equals 7.09 cfs

**Sufficiency Analysis Water Supply Development Projects for the MFL set for the Ichetucknee River at Highway 27**

133. All but one of the Water Supply Development Projects are outside the springshed for the Ichetucknee River springs and would not be expected to contribute to the Ichetucknee River flow at Highway 27. Only 1 Columbia County Water Resource Development Projects

is expected to benefit the Ichetucknee River flow at Highway 27. The project has an estimated volume of 0.54 mgd and would provide a benefit of 0.04 mgd.

**Sufficiency Analysis Totals  
for the MFL set for the Lower Santa Fe River at the Fort White**

134. The totals of all the projects and the High Conservation Estimate for the Lower Santa Fe River at the Fort White Gage are summarized in the Table V.

**Table V (Still Petition) Water Supply Development Projects Benefits to Lower Santa Fe River High Conservation Estimate**

	Benefit Lower Santa Fe River Fort White Gage
High Conservation Estimate	14.47 mgd
Water Resource Development	4.52 mgd
Water Supply Development	7.26 mgd
<b>Total</b>	<b>26.25 mgd</b>

The 26.25 mgd equals 40.61cfs.

135. Based on the analysis in the table in paragraph 134 above, the projects listed in the NFRWSP would exceed the required 38 cfs for the high conservation estimates by 2.61 cfs.

136. The totals of all the projects and the Low Conservation Estimate and the low agriculture conservation estimate are summarized in the Table VI.

**Table VI (Still Petition) Water Supply Development Projects Benefits to Lower Santa Fe River Low Conservation Estimate**

	Benefit Lower Santa Fe River Fort White
Low Conservation Estimate	8.11 mgd
Water Resource Development	4.52 mgd
Water Supply Development	7.26 mgd
<b>Total</b>	<b>19.89 mgd</b>

The 19.89 mgd equals 30.77 cfs

137. The Low Conservation Estimate fails to supply the required flow to the Lower Santa Fe River at Fort White by 7.23 cfs.

138. Table VII shows the benefits if projects completed before 1/1/2017 are removed from the list and the High Conservation Estimate is used.

**Table VII (Still Petition) Water Supply Development Projects Benefits to Lower Santa Fe River High Conservation Estimate and Completed Projects Removed**

	Benefit Lower Santa Fe River Fort White Gage
High Conservation Estimate	14.47 mgd
Water Resource Development	4.52 mgd
Water Supply Development	4.58 mgd
<b>Total</b>	<b>23.57 mgd</b>

The 23.57 mgd equals 36.47 cfs

139. When completed projects are removed from the list even the High Conservation Estimate totals fail to supply the 38 cfs to the Lower Santa Fe River at Fort White. The total in the table would be even lower if the completed Water Resource Development Projects were removed.

140. The Table VIII shows the benefits if projects completed before 1/1/2017 are removed from the list and the Low Conservation Estimate is used.

**Table VIII (Still Petition) Water Supply Development Projects Benefits to Lower Santa Fe River Low Conservation Estimate and Completed Projects Removed.**

	Benefit Lower Santa Fe River Fort White Gage
Conservation low	8.11 mgd
Water Resource Development	4.52 mgd
Water Supply Development	4.58 mgd
<b>Total</b>	<b>17.21 mgd</b>

The 17.21 mgd equals 26.63 cfs

141. When the completed projects are removed from the list the remaining projects fail to produce the required flow of 38 cfs for the Lower Santa Fe River at Fort White by 11.37 cfs.

142. Table IX summarizes the estimates of benefits to flows for the Lower Santa Fe River at Fort White for the different scenarios presented.

**Table IX Estimated Benefits to the Lower Santa Fe River at Fort White**

	<b>Estimate Flow Benefit</b>
High Conservation	40.61 cfs
Low Conservation	30.77 cfs
High Conservation completed projects removed	36.47 cfs
Low Conservation low ag conservation completed project removed	26.63 cfs

143. Only the high conservation scenario provides the required 38 cfs. The other scenarios fail to meet the required 38 cfs of flow by between 1.53 cfs and 11.37 cfs.

**Sufficiency Analysis Totals  
for the MFL set for the Ichetucknee River at Highway 27**

144. The totals of the benefits of all the projects and High Conservation are summarized in the Table X.

**Table X (Still Petition) Water Supply Development Projects Benefits to the Ichetucknee River High Conservation Estimate**

	Benefit Ichetucknee River Highway 27
High Conservation Estimate	10.00 mgd
Water Resource Development	2.43 mgd
Water Supply Development	0.04 mgd
<b>Total</b>	<b>12.47 mgd</b>

The 12.47 mgd equals 19.29 cfs

145. The totals of the benefits of all the projects and the Low Conservation Estimate summarized are in the Table XI.

**Table XI (Still Petition) Water Supply Development Projects Benefits to the Ichetucknee River Low Conservation Estimate**

	Benefit Ichetucknee River Highway 27
Low Conservation Estimate	5.39 mgd
Water Resource Development	2.43 mgd
Water Supply Development	0.04 mgd
<b>Total</b>	<b>7.86 mgd</b>

The 7.86 mgd equals 12.16 cfs

146. The listed projects and conservation provide the required flow to the Ichetucknee River at Highway 27 if the high conservation potential is used. However, if the Low Conservation Estimate is used the flows fail to meet the 16 cfs required by 3.84 cfs.

147. The completed projects would not be expected to provide a benefit for the Ichetucknee River.

#### **Sufficiency Analysis for Keystone Lakes**

148. Lake Brooklyn and Lake Geneva have adopted MFLs.

149. The NFRWSP states on page 33;

Analyses indicate that the adopted MFLs for lakes Brooklyn (Clay County), Cowpen (Putnam County) and Geneva (Clay County) are not met under existing conditions. However, MFLs for these waterbodies were developed and adopted in the 1990s using methods that current science indicates are not applicable to sandhill lakes with extremely high ranges of stage fluctuation. As such, re-evaluation of these MFLs is in progress so that the revised MFLs reflect current methods and the best available science. The Lake Cowpen Notice of Proposed Rule was approved for publication in December 2016; Lakes Brooklyn and Geneva are scheduled for 2017.

150. No information is provided in the NFRWSP relating to the sufficiency of the listed projects and conservation to meet the established level for Lakes Brooklyn and Geneva. Florida Statute does not provide the option of not addressing an adopted MFL because it is being reevaluated.

**Other Statutory Requirements Not Meet by the NFRWSP**

151. Florida Statute 373.709(2)(a)3c. reads “An analysis of funding needs and sources of possible funding options. For alternative water supply projects, the water management districts shall provide funding assistance pursuant to s.373.707(8).” Appendix K has columns with Total Capital (\$M) Estimated and Annual O&M but sources of possible funding options are not provided.

152. Florida Statute 373.70(2)(b) copied below imposes some additional requirements for the Water Resource Development Projects listed in the NFRWSP.

**373.709 (2)** Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:

- (b) A water resource development component that includes:
  - 1. A listing of those water resource development projects that support water supply development for all existing and future reasonable-beneficial uses as described in paragraph (a) and for the natural systems as identified in the recovery or prevention strategies for adopted minimum flows and minimum water levels or water reservations.
  - 2. For each water resource development project listed:
    - a. An estimate of the amount of water to become available through the project for all existing and future reasonable-beneficial uses as described in paragraph (a) and for the natural systems as identified in the recovery or prevention strategies for adopted minimum flows and minimum water levels or water reservations.
    - b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and for operating and maintaining the project.

- c. An analysis of funding needs and sources of possible funding options.
- d. Identification of the entity that should implement each project option and the current status of project implementation.
- (e) Consideration of how the project options addressed in paragraph (a) serve the public interest or save costs overall by preventing the loss of natural resources or avoiding greater future expenditures for water resource development or water supply development. However, unless adopted by rule, these considerations do not constitute final agency action.

153. Appendix J Water Resource Development Project Options appears to be the list the Districts have produced to meet the requirements of **373.709 (2)(b)2**. Appendix J does not meet the requirements of Florida Statutes because it is not fully responsive to 2a, 2b, 2c, and 2d.

154. The key requirement in Florida Statute 373.709 (2)(b)2a that is not met by the information in Appendix J is an estimate of the amount of water to become available through the projects for the natural systems as identified in the recovery or prevention strategies for adopted minimum flows.

155. The Project Capacity (mgd) column does not represent the amount of flow that will become available to the Santa Fe River flow at Fort White or the Ichetucknee River at Highway 27. The Districts acknowledge that project capacity does not represent water made available to natural systems when they state on page 43 of the NFRWSP, “The Districts evaluated the benefits of using 59.7 mgd of water resource development projects using the NFSEG, which provided 8.4 cfs of potential recovery to the Lower Santa Fe River flow. “

156. Florida Statute 373.709 (2)(b)2 requires the information about flow be presented for each water resource development project.

157. Florida Statute 373.709 (2)(b)2b requires a timeframe. Only a completion date is listed in Appendix J. A completion data is not a timeframe. A timeframe has a start and an end date.

158. Florida Statute 373.709 (2)(b)2c requires an analysis of funding needs and sources of possible funding options. The funding needs and sources are vague because sources are not identified.

159. Florida Statute 373.709 (2)(b)2d requires the entity implementing each project option and the current status of project implementation be provided. The current status is not provided.

The very costly Black Creek project refers to a local Cooperator.

160. Florida Statute 373.709(2) Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:

- (e) Consideration of how the project options addressed in paragraph (a) serve the public interest or save costs overall by preventing the loss of natural resources or avoiding greater future expenditures for water resource development or water supply development.

161. The NFRSWP on page 54 states;

In compiling the list of water supply project options, there was a consideration of how the public interest is served by the project or how the project will save costs overall by preventing the loss of natural resources or avoiding greater future expenditures for water resource development or water supply development. The identified projects will serve the public interest by providing, in an affordable manner, water to meet basic public health, safety, and welfare needs, as well as, providing water for agricultural, CII, recreational, and other typical public supply system needs within the NFRWSP area.

162. No information or data is provided to how “an affordable manner” is defined. The statement does not appear to meet the requirements Florida Statute 373.709(2)(e).

163. Florida Statute 373.709(2)(f) requiring the plan include supporting data and information be included in the plan is copied below.

164. Florida Statute 373.709(2) Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:

- (f) The technical data and information applicable to each planning region which are necessary to support the regional water supply plan.

165. The NFRWSP on page 28 describes 6 Scenarios and 4 Comparisons in which the data from the NFSEG Groundwater model were used.

## Scenarios

Scenario 1: 2009 estimated water use - calibrated baseline condition

Scenario 2: 2035 projected water demand in the NFRWSP area only with pumping held at 2009 estimated water use outside NFRWSP area

Scenario 3: Scenario 2 with water resource development projects included

Scenario 4: Pumps off within the entire NFSEG domain

Scenario 5: 2035 projected water demand within the entire NFSEG domain

Scenario 6: Scenario 5 with water resource development projects included

## Comparisons

Comparison 1: MFLs lakes, wetlands and the LSFIs including OFS (Scenario 2 minus Scenario 1)

Comparison 2: Upper Santa Fe River and non-MFLs priority water bodies (Scenario 2 minus Scenario 4)

Comparison 3: MFLs lakes, wetlands and the LSFIs (Scenario 5 minus Scenario 1)

Comparison 4: Upper Santa Fe River and non-MFLs priority water bodies (Scenario 5 minus Scenario 4)

The actual data in the form of expected flow at any of the adopted MFLs in the two Districts are not included in the NFRWSP.

166. Appendix C has only 4 of the many possible images that could be generated from the NFSEG groundwater model data.

167. The data used to support the claim that lakes without MFLs would not be impacted was not included in the NFRWSP.

168. The NFRWSP provides no data that show the wetland impacts noted in the plan will be addressed by the projects identified.

169. Appendix B of the NFRWSP on page 14 refers to Appendixes A, B, C, D, and E. These Appendixes are not included in the document. The text of Appendix B of the NFRWSP references Tables A-5, A-6, A-6c, A-7, A-8, A-9, and A-10. These tables are not part of Appendix B of the NFRWSP. The tables included with Appendix B of the NFRWSP all start with the letter B and these may be the tables referenced in the text as the A tables.

170. Florida Statute 373.709(2)(g) addresses minimum flows and levels and is copied below;

Florida Statute 373.709(2) Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:

(g) The minimum flows and minimum water levels established for water resources within each planning region.

171. The NFRWSP has a list of water bodies with MFLs. The Statute language appears to be asking for the actual rule language that establishes the minimum flows and levels.

172. Florida Statute 373.709(2)(k) addresses recovery implementation and Outstanding Florida Springs and is copied below.

Florida Statute 373.709(2) Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:

(k) An assessment of how the regional water supply plan and the projects identified in the funding plans prepared pursuant to sub-subparagraphs (a)3.c. and (b)2.c. support the recovery or prevention strategies for implementation of adopted minimum flows and minimum water levels or water reservations, including minimum flows and minimum water levels for Outstanding Florida Springs adopted pursuant to s. 373.805; while ensuring that sufficient water will be available for all existing and future reasonable-beneficial uses and the natural systems identified herein; and that the adverse effects of competition for water supplies will be avoided.

173. There is no apparent response to this requirement in the NFRWSP. Of particular concern is the lack of information presented about Florida Statute 373.805 dealing with Outstanding Florida Springs. There are 8 Outstanding Florida Springs in the NFRWSP planning region. Six of the Outstanding Florida Springs are included in the LSFRB Recovery Strategy. Two Outstanding Florida Springs do not have MFLs.

174. The NFRWSP on page 45 states;

**SRWMD 2010 Water Supply Assessment**

In 2010, the SRWMD completed a Water Supply Assessment (WSA; SRWMD, 2010). Based on technical analyses in the 2010 WSA, which predicted unacceptable impacts to river and springs flows within the northeastern part of the SRWMD for the 2010 – 2030 planning period, the SRWMD Governing Board authorized designation of four WRCAs on October 11, 2011 (Figure 19): Alapaha River Basin, Upper Suwannee River Region,

Upper Santa Fe River Basin, and the LSFRB. This action identified the need for SRWMD to develop a RWSP for the designated WRCAs. The NFRWSP is the RWSP for these designated WRCAs.

175. This Water Use Caution Area was based on the alleged migration of the ground water divide to the southwest after 1980 and the finding that the MFL for the Upper Santa Fe River at the Worthington Springs gage would not be met in the 2010-2015 time period. A June 8, 2011 USGS letter states the groundwater divide had not moved from its position in 1980. The NFRWSP concludes the Upper Santa Fe MFLs will be met through 2035. The data presented in the Water Supply Plan fails to support the continuation of the Water Resource Caution Area for the Upper Santa Fe River.

176. The 5 year review of the 2010 SRWMD Water Assessment should have been completed in 2015. That review document should have been a key document used in the NFRWSP. The status of the SRWMD Water Assessment review is unknown.

**(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Agency to take with respect to the Agency's proposed action.**

177. Extend the projections in the plan to 2038 so the plan addresses the statutory requirement that a Water Supply Plan be based on at least a 20-year planning period.

178. Use the NFSEG groundwater model for each project to determine the benefit each project provides to each MFL water body and each identified recovery strategy and to each constraint identified in the plan.

179. Add listed projects if the current list when evaluated by the NFSEG groundwater model does not meet identified demands for each adopted MFL and any other natural system constraint.

180. Evaluate the flows in each Outstanding Florida Springs and determine if the projected flows will be met with the projects listed. Add listed projects that will benefit individual Outstanding Florida Springs if needed.

181. Address the current minimum levels set for Lakes Brooklyn and Geneva or wait to adopt a NFRWSP until new minimum levels are set for the two lakes.

### **Amendment Addendum**

182. The defects in Paul Still's 3/16/2017 identified by both the SRWMD and the SJRWMD appear to be associated with standing and Paul Still's failure to demonstrate he has the substantial interests required to confer standing due to an injury that is sufficient to entitle him to a section 120.57 hearing. These defects in turn require the Districts to dismiss Paul Still's Petition because it is not in substantial compliance with Rule 28-106.201(2) or Florida Statute 120.569(2)(d).

183. This Amendment Addendum is written to cure the defects identified in the Districts' documents from 3/31/2017.

184. The word substantial has multiple definitions. The definition that appears to fit the "substantial compliance" context would be "being that specified to a large degree". This interpretation is supported by case law.

185. *Brookwood Extended Care Center of Homestead, LLP v. Agency for Healthcare Admin*, 870 So.2<sup>nd</sup> 834 (Fla. 3d DCA 2003) reads:

*See McIntyre v. Seminole County Sch. Bd.*, 779 So. 2d 639 (Fla. 5th DCA 2001)(where only item employee failed to include in hearing request was how he became aware of School Board's action, the deficiency would not be deemed dispositive, and employee's letter was sufficient to meet the minimum requirements listed in section 120.54(5)(b) 4 for a hearing request).

186. *Brookwood Extended Care Center of Homestead, LLP v. Agency for Healthcare Admin*, 870 So.2<sup>nd</sup> 834 (Fla. 3d DCA 2003) (Cope, J., specially concurring) reads:

This also follows from the wording of the statute itself. The statute allows dismissal only if the petition "is not in substantial compliance with these requirements...." § 120.569(2)(c), Fla. Stat. (emphasis added); *see also id.* § 120.569(2)(d). The statute requires the agency to look at the substance of the petition. Substantial compliance, not perfect compliance, is all that is required. Nitpicking and hypertechnical reading of petitions are not allowed.

187. The Districts fail to provide the standard by which they judge if a Petition is in substantial compliance with Florida Statutes. This lack of a uniform standard makes a response by any Petitioner more difficult.

**Explanation of how Paul Still's substantial interest are or will be affected by the NFRWSP**

188. The issue of substantial interest and standing has been addressed and expanded in recent cases.

189. In *Henry C. Ross Petitioner, vs City of Tarpon Springs and Southwest Florida Water Management District*, No. 1-10214 (April 22, 2011) Administrative Law Judge David M. Maloney addressed this expansion in his Amended Recommended Order. The relevant sections of that Amended Recommended Order are copied below.

*78. In Gibby Family Trust v. Blueprint 2000 and Dep't of Env'tl. Prot., Case No. 10-9292 (DOAH April 11, 2011), Administrative Law Judge Johnston recently wrote the following with regard to the "standing" standard in a section 120.57 administrative proceeding:*

*32. For years, standing to be a party in a proceeding under section 120.57 was determined under the standard set out in *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So. 2d 478, 482 (Fla. 2d DCA 1981):*

*[B]efore one can be considered to have a substantial interest in the outcome of the proceeding he must show 1) that he will suffer injury in fact which is of sufficient immediacy to entitle him to a section 120.57 hearing, and 2) that his substantial injury is of a type or nature which the proceeding is designed to protect. The first aspect of the test deals with the degree of injury. The second deals with the nature of the injury.*

*Although Agrico was decided on the second prong of the test, its first prong also has been applied make standing determinations.*

*33. More recent appellate decisions have clarified the first prong of the Agrico Test. In order for a third party to have standing as a petitioner to challenge agency action in an administrative proceeding, the evidence must prove that the petitioner has substantial rights or interests that reasonably could be affected by the agency's action. See St. Johns Riverkeeper, Inc., et al. v. St. Johns River Water Mgmt. Distr., et al., Fla. 5th DCA Case No. 5D09-1644, Op. Filed February 18, 2011; Palm Beach Cnty. Env'tl. Coal. V. Fla. Dep't of Env'tl. Prot., 14 So. 3d 1076, 1078 (Fla. 4th DCA 2009) Peace River/Manasota Reg'l Water Supply Auth. v. IMC Phosphates Co., 18 So. 3d 1079, 1082 (Fla. 2d DCA 2009); Reily Enters., LLC v. Fla. Dep't of Env'tl. Prot., 990 So. 2d 1248, 1251 (Fla. 4th DCA 2008). See also §403.412(5), Fla. Stat. ("A citizen's substantial interests will be considered to be determined or affected if the party demonstrates it may suffer an injury in fact which is of sufficient immediacy and is of the type and nature intended to be protected by this chapter.") Gibby Family Trust, at 14-16.*

*79. The Fifth DCA St. Johns Riverkeeper case and the three cases which preceded it cited above, two of which were decided by the Fourth DCA and one by the Second DCA, (the "St. Johns 27 Riverkeeper Line of Cases") appear to have relaxed the first prong of the Agrico test for a party to have standing in a 120.57 proceeding. Rather than prove an actual injury in fact of sufficient immediacy as required by the first prong of the Agrico test, a party need only allege such an injury and then prove that it was reasonable to expect that such an injury could occur. Proof that the actual injury would occur should the agency action be implemented is not necessary under the St. Johns Riverkeeper Line of Cases for a party to have standing.*

190. The last two sentences above appear to be applicable in Paul Still's case. *"Rather than prove an actual injury in fact of sufficient immediacy as required by the first prong of the Agrico test, a party need only allege such an injury and then prove that it was reasonable to expect that such an injury could occur. Proof that the actual injury would occur should the agency action be implemented is not necessary under the St. Johns Riverkeeper Line of Cases for a party to have standing."*

191. Riverkeeper established substantial interest standing in the Riverkeeper case. Among other

things, the record contains evidence establishing that (1) Riverkeeper's purpose and mission is the protection of the St. Johns River as a natural resource, and its principal activities are use and enjoyment of the River.

192. In *Reily Enters., LLC v. Fla. Dep't of Env'tl. Prot.*, 990 So. 2d 1248, 1251 (Fla. 4th DCA 2008), the Petitioner Thomas Fullman established standing because he could see the Indian River from his house across the Reily property. He and his family have "spent time down at the causeway," and they have "enjoyed the river immensely with all of its amenities" over the years. He was concerned that the project will affect his "quality of life" and "have effects on the environment and aquatic preserve [that he and his family] have learned to appreciate."

193. Paul Still's use of area lakes, rivers, and springs for canoeing, photography, and nature observation is similar to the uses in *Riverkeeper*. and the Reily case.

194. The recreational uses of lakes and rivers is dependent on water levels. Lake and river levels can fall below the point that canoeing is no longer possible. Canoeing along the cypress lined and shallow Lakes Sampson and Rowell is limited at low water levels. The lake edge communities are particularly rich in ecological diversity and are a prime area for photography and nature observation. Low river levels make large stretches of the Santa Fe River unaccessible by canoe.

195. The parts of the NFRWSP associated lake and river levels include;

Chapter 4: Assessment of Groundwater Conditions Associated with Future Water Demand Projections (NFSEG Modeling Simulations) pages 25- 28

Minimum Flows and Minimum Water Levels pages 32-35

Priority Waterbodies without Minimum Flows and Minimum Water Levels pages 36-37

Wetlands pages 37-39

Appendix C: Simulated Change in the Potentiometric Surface within the North Florida-Southeast Georgia Regional Groundwater Flow Model Area

Appendix E: Minimum Flows and Minimum Water Levels – Adopted and Priority Lists

Appendix F: Minimum Flows and Minimum Water Levels – Assessment

Appendix G: Recovery Strategy: Lower Santa Fe River Basin

Appendix H: Priority Waterbodies without Minimum Flows and Minimum Water Levels – Assessment

Appendix I: Potential Change to Wetland Function – Methodology and Results

196. One purpose of the NFRWSP is to ensure that there is adequate sources of water to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period.

Florida Statute 373.709 Regional water supply planning.—

(1) The governing board of each water management district shall conduct water supply planning for a water supply planning region within the district identified in the appropriate district water supply plan under s. 373.036, where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period.

197. Insuring adequate water for natural systems also provides water levels that allow Paul Still to use the areas lakes, springs, and rivers. The NFRWSP fails to document that the districts have identified sources of water or conservation efforts to meet the needs of all existing and future users and also sustain the water resources and related natural systems. This failure causes the direct/immediate injury that entitles Paul Still to a section 120.569 hearing. The disputed material facts are found in paragraphs 14 to 39 of this Amended Petition. These facts are expanded and connected to rules and statues in paragraphs 40 to 176 of this Amended Petition.

198. Recreational use of water bodies is clearly within the zone of interest contemplated by section Florida Statute 373.709. MFLs are the primary tool used in determining the need for a water supply plan. Recreation in and on the water is one of the items that must be considered when setting a MFL.

199. The CUP for the Still property referenced in Paragraph 3 of this Amended Petition conveys a right to use water from Lake Sampson. The right is conditioned on the flow of water in the Santa Fe River as measured at the Worthington Springs Gage. Paul Still is not permitted to withdraw water if the flow at the Worthington Springs gage falls below 42 cfs. The agency action of not providing in the Water Supply Plan sufficient projects to meet the statutory requirement in Florida Statute 373.709(2)(a)2 that “The total capacity of the projects included in the plan must exceed the needs identified in subparagraph 1. and take into account water conservation and other demand management measures, as well as water resources constraints, including adopted minimum flows and minimum water levels and water reservations.” cause the injury Paul Still will suffer because he will not be able to use water from Lake Sampson.

200. This injury is not remote or speculative. It is real and immediate in time. Based on SRWMD data Santa Fe River flow at the Worthington Spring Gage fell below 42 cfs on 2/21/2017 and remained below 42 cfs until 4/4/2017. On 3/16/17 and 3/17/17 a freeze occurred that resulted in the loss of 90% of the Still property wild blueberry crop. The primary use of water from Lake Sampson identified in the Still CUP is for frost and freeze protection. This source of water would not have been available during the March 2017 freeze because of low flow in the Santa Fe River at Worthington Springs.

201. The failure of the NFRWSP to meet the requirements set out in Florida Statutes 373.709 for a Water Supply plan will result in a failure to provide for sufficient flows and levels of the

waterbodies Paul Still uses. The NFRWSP plan has projected future demands and Paul Still contends these demands are not offset by the proposed actions or projects in the NFRWSP. If the demands are not offset, the frequency and duration of low water levels will increase. Low water levels impact Paul Still's use of waterbodies. The basis for Paul Still's contention is found in paragraphs 57-150 of this Amended Petition.

202. Paul Still's Amended Petition is not like the Washington County or Village of Key Biscayne because the Amended Petition clearly establishes the direct effect, the injury, and the disputed facts associated with the NFRWSP's failure to meet the statutory requirements of a Water Supply Plan.

203. The responsibility associated with being an Elected Supervisor for the BSWCD does not depend on the BSWCD being a Petitioner in this case. Florida Statute 582.20 copied below appears to extend the responsibilities to individual supervisors as well as the district.

Florida Statute 582.20 Powers of districts and supervisors.—A soil and water conservation district organized under the provisions of this chapter shall constitute a governmental subdivision of this state, and a public body corporate and politic, exercising public powers, and such district and the supervisors thereof shall have the following powers, in addition to others granted in other sections of this chapter:

(1) To conduct surveys, studies, and research relating to soil and water resources and to publish and disseminate the results of such surveys, studies, research, and related information:

204. The fact that the BSWCD is not a Petitioner at this point is not relevant. The BSWCD could decide to be an intervenor in the case once it is referred to DOAH.

205. With respect to standing the Lower Santa Fe MFL case, the Lower Santa Fe MFL is the basis for most of the NFRWSP. Appendix G: of the NFRWSP is the Recovery Strategy: Lower Santa Fe River Basin created as part of the Lower Santa Fe MFL.

206. *Brookwood Extended Care Center of Homestead, LLP v. Agency for Healthcare Admin*, 870 So.2<sup>nd</sup> 834 (Fla. 3d DCA 2003) (Cope, J., specially concurring) provides some guidance with respect an agency’s responsibilities related to forwarding Petitions to DOAH.

There is an inherent conflict of interest in this system. The administrative agency which wishes to assess the administrative penalty is the same agency which is allowed to deny a hearing outright, simply on the basis of deficiencies real or imagined in the petition for administrative hearing.

AHCA advised us at oral argument that the agency clerk takes paragraph 120.569(2)(c), Florida Statutes (2002) to be a legislative mandate to dismiss petitions for hearing which do not comply with the statute. I have no quarrel with the idea that the statutes must be obeyed, but if the agency which is assessing the administrative fine is also the agency determining the right to a hearing, then the agency's power to deny a hearing must be carefully circumscribed.

It goes without saying that the due process clause of the Federal and Florida Constitutions applies in administrative hearings. *See, e.g., Cherry Communications, Inc. v. Deason*, 652 So. 2d 803, 804 (Fla.1995); *United Ins. Co. v. State Dept. of Ins.*, 793 So. 2d 1182, 1183 (Fla. 1st DCA 2001). Litigants are entitled to fair notice and an opportunity to be heard before a fine or other administrative penalty is imposed upon them.

Because of due process considerations, if there is any doubt about the sufficiency of the petition, the doubt must be resolved in favor of granting the administrative hearing.

The courts and administrative officers should safeguard the constitutionally protected right to a fair hearing in the administrative process. The statute requires substantial compliance, not strict compliance, in submitting a petition for an administrative hearing. All doubt should be resolved in favor of granting an administrative hearing. A detailed reiteration of the facts contained in an administrative complaint is unnecessary; there only needs to be a brief specification of the facts which are controverted in good faith.

207. Brookwood involved a penalty and this case does not, but the guidance is still relevant.

208. The Brookwood case was also cited in *Village of Key Biscayne Department of Environmental Protection*, 206 So.3d 788, 792 (Fla. 3d DCA 2016)

However, as we have noted in the past, “the system,” as it presently exists, “is hazardous to those who want to request an administrative hearing.” *See Brookwood Extended Care Ctr. of Homestead, LLP v. Agency for Healthcare Admin.*, 870 So. 2d 834, 842 (Fla. 3d DCA 2003) (Cope, J., specially concurring). Statutory modification may be warranted here to circumscribe the scope of power of the unelected, but no doubt well-meaning, individuals who populate our ever expanding administrative state. *Id.*

## **Amendment Addendum Number Two**

209. The April 7, 2017, SJRWMD Order states:

The Petition is dismissed without prejudice to Petitioner to amend his Petition to demonstrate that ( 1) he "will suffer injury in fact which is of sufficient immediacy to entitle [him] to a section [120.569] hearing," and that (2) his "substantial injury is of a type or nature which the proceeding is designed to protect," as required by Agrico, including a specific explanation "in the petition how the [parts of the plan being challenged] adversely affected [Petitioner's] substantial interests," as required by *W. Frank Wells Nursing Home v. State, Agency for Health Care Admin.*, 979 So.2d 339, 342 (Fla. 1st DCA 2008).

210. The SJRWMD fails to cite *St. Johns Riverkeeper, Inc., et al. v. St. Johns River Water Mgmt.Distr., et al.*, Fla. 5th DCA Case No. 5D09-1644, Op. Filed February 18, 2011 a more recent ruling than the 2008 *W. Frank Wells Nursing Home* case and a case that the SJRWMD was a party. See paragraphs 188 to 193 above.

211. Florida Statutes 373 PART VII WATER SUPPLY POLICY, PLANNING, PRODUCTION, AND FUNDING includes provisions for the development of regional water supply plans. Florida Statutes 373.701.701 states; "Declaration of policy. It is declared to be the policy of the Legislature:

(1) To promote the availability of sufficient water for all existing and future reasonable-beneficial uses and natural systems."

212. Florida Statutes 373 is implemented by rules found in CHAPTER 62-40 WATER RESOURCE IMPLEMENTATION RULE.

213. Parts of 62-40.110 Declaration and Intent state in part,  
(1) The waters of the state are among its basic resources. Such waters should be managed to conserve and protect natural resources and scenic beauty and to realize the full beneficial use of the resource. Recognizing the importance of water to the state, the Legislature passed the Water Resources Act, Chapter 373, F.S., and the Air and Water Pollution Control Act, Chapter 403, F.S. Additionally, numerous goals and policies within the State Comprehensive Plan, Chapter 187, F.S., address water resources and natural systems protection.

(6) It is an objective of the State to protect the functions of entire ecological systems, as developed and defined in the programs, rules, and plans of the Department and water management districts.

(7) It is a goal of this chapter that sufficient water be available for all existing and future reasonable-beneficial uses and the natural systems, and that the adverse effects of competition for water supplies be avoided.

(8) The Department and the Districts shall take into account cumulative impacts on water resources and manage those resources in a manner to ensure their sustainability.

If the rules are not followed, then it is reasonable to allege that the intent and goals of both statutes and rules will not be met. As a result, the natural resources and scenic beauty will not be protected, the full beneficial use of the resource cannot be realized, the functions of entire ecological systems will not be protected, sufficient water will not be available for all existing and future reasonable-beneficial uses and the natural systems, and water resources will not be used sustainably. Any water or natural resource user can allege they will suffer an injury that is of the type that CHAPTER 62-40 WATER RESOURCE IMPLEMENTATION RULE was established to prevent.

214. The rules dealing with water supply planning are found in 62-40.531 Regional Water Supply Plans. However, 62-40110(3) places some responsibility on the Districts to address Chapter 62-40 as a whole in the water supply planning process.

62-40110(3) These policies shall be construed as a whole and no individual policy shall be construed or applied in isolation from other policies. All constructions of this chapter shall give meaning to all parts of the rule when possible.

This is important because the regional water supply plans incorporate requirements to address other parts of Chapter 62-40.

215. It is reasonable to assume that the Chapter 62-40 provides the minimum requirements to meet Florida Statutes and the assurances it provides with respect to water resources. If the rules established in Chapter 62-40 are not followed it is reasonable to assume that the assurances that water resource users are provided in Florida Statutes 373 are not going to be met and water

resource users will be injured as a result in the degradation of water resources and in some cases the water resources will not be available to persons who want to use the water resource. It is the Districts failure to follow the rules in Chapter 63-40 that causes the injury alleged by Paul Still.

215. In response to the SJRWMD dismissal order each section of the plan listed in paragraph 10 above will be related to a part of 62-40.531 FAC.

**216. North Florida Regional Water Supply Partnership Stakeholder Advisory Committee pages 1-4 and Appendix A: NFRWSP Comments**

62-40.53(1) FAC states in part; “The planning shall be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately owned water utilities, self-suppliers, and other affected and interested parties.” The failure of the SAC process to meet the requirements of 62-40.531(1) FAC is addressed in paragraphs 43-99 above.

217. Paul Still alleges that because the Districts failed to address the issues raised in the SAC process and in the written comments received about the draft NFRWSP (Appendix A of the NFRWSP) they failed to meet the requirements of 62-40.53(1) FAC. This failure directly impacts the NFRWSP’s ability to insure the water Paul Still uses will be available for his use now and that sufficient water will be available for the natural systems to allow his continued uses of those natural systems. See paragraphs 197 to 201 and 215 above.

**218. Plan Horizon pages 3, 5,**

62-40.53(1)(a) FAC states; “The planning horizon shall be at least 20 years and shall include intermediate water use projections for every 5 year interval.” The failure of the NFRWSP to meet this rule requirement is addressed paragraphs 51-55 above.

219. Paul Still alleges that because Districts failed to have the NFRWSP cover a 20 year planning horizon the NFRWSP does not meet the requirements of 62-40.53(1)(a) FAC. This failure directly impacts the NFRWSP's ability to insure the water Paul Still uses will be available for his use now and in the planning horizon and that sufficient water will be available for the natural systems to allow his continued uses of those natural systems. See paragraphs 197 to 201 and 215 above.

**220. Approval Process page 7**

62-40.53(1) FAC requires a water supply plan be developed. The NFRWSP says it was adopted by the District Governing Boards. The issue of the method SJRWMD used to adopt the NFRWSP is addressed in paragraphs 14 and 15 above.

221. Paul Still alleges that because the SJRWMD Governing Board's failed to follow its standard procedures in adopting the NFRWSP a question is created about the adoption of the NFRWSP. This question directly impacts the NFRWSP's ability to insure the water Paul Still uses will be available for his use now and in the planning horizon and that sufficient water will be available for the natural systems to allow his continued uses of those natural systems because it creates uncertainty about the validity of the NFRWSP. See paragraphs 197 to 201 and 215 above.

**222. Reclaimed Water Projections 21-23, Water Conservation and Irrigation Efficiency pages 23-24, Chapter 6: Alternative Water Supply Needs Assessment and Delineation of Water Resource Caution Areas (Sufficiency Analysis) pages 42-49, Chapter 7: Project Options pages 50-57, Appendix B: Demand Projection, Reclaimed Water and Water Conservation Methodology and Tables, Appendix K: Water Supply Development Project**

**Options, Appendix L: Potential Water Supply Development, Water Resource Development and Conservation Project Options, Appendix M: Water Conservation Project Options,**

62-40.53(4) FAC states; “Each plan shall include water supply development projects as defined in Section 373.019(21), F.S. Water supply development projects generally include activities intended to benefit specific individual utilities or other users. Examples include the following types of projects when they provide a localized benefit: wellfields, aquifer storage and recovery wells, desalination facilities, water storage reservoirs, conservation programs to improve water use efficiency, and reuse facilities”. The issues associated with how the NFRWSP addresses reclaimed water and conservation are addressed in paragraphs 57 to 150 above.

223. Paul Still alleges that the NFRWSP does not meet the requirements of 62-40.53(4) FAC. This failure directly impacts the NFRWSP’s ability to insure the water Paul Still uses will be available for his use now and in the planning horizon and that sufficient water will be available for the natural systems to allow his continued uses of those natural systems. See paragraphs 197 to 201 and 215 above.

**224. Chapter 4: Assessment of Groundwater Conditions Associated with Future Water Demand, Projections (NFSEG Modeling Simulations) pages 25- 28, Appendix C: Simulated Change in the Potentiometric Surface within the North Florida-Southeast Georgia Regional Groundwater Flow Model Area,**

62-40.531(1)(b) FAC states; “Water use estimates and projections shall be provided for the following use classes:

1. Public Supply,
2. Domestic Self Supply,
3. Agriculture,
4. Recreational Irrigation,
5. Industrial/Commercial/Institutional,
6. Thermoelectric”

Florida Statute 373.709(2) states; “Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:

- (f) The technical data and information applicable to each planning region which are necessary to support the regional water supply plan.”

The information presented in the parts of the NFRWSP listed in this paragraph form the basis for determining the sufficiency of the projects and efforts identified in the NFRWSP. The failure of the NFRWSP to provide the data generated from the NFSEG Modeling Simulations is addressed in paragraphs 165-169 above. Without this data, a user of water resources cannot independently evaluate the effectiveness of the projects and efforts that are proposed to address the identified constraints identified in the NFRWSP.

225. Paul Still alleges that the NFRWSP does not meet the requirements of Florida Statute 373.709(2). This failure directly impacts the NFRWSP’s ability to insure the water Paul Still uses will be available for his use now and in the planning horizon and that sufficient water will be available for the natural systems to allow his continued uses of those natural systems. See paragraphs 197 to 201 and 215 above.

**226. Minimum Flows and Minimum Water Levels pages 32-35, Appendix E: Minimum Flows and Minimum Water Levels – Adopted and Priority Lists, Appendix F: Minimum Flows and Minimum Water Levels – Assessment**

Florida Statute 373.709(2)(g) states; “Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to

- (g) The minimum flows and minimum water levels established for water resources within each planning region.”

The issues associated with Minimum Flows and Levels are addressed in paragraphs 150 and 171.

227. Paul Still alleges that the NFRWSP does not meet the requirements of Florida Statute 373.709(2)(g). This failure directly impacts the NFRWSP's ability to insure Paul Still will be able to use the Lower Santa Fe River and its springs and Lake Geneva. See paragraphs 191-198 and 197 to 201 and 215 above.

**228. Recovery Strategy pages 35-36, Appendix G: Recovery Strategy: Lower Santa Fe River Basin**

The Recovery Strategy: Lower Santa Fe River Basin forms the basis for the NFRWSP and as such the same issues apply to recovery elements of the NFRWSP. It is the use of the information in the NFRWSP that is questioned not the actual document.

**229. Priority Waterbodies without Minimum Flows and Minimum Water Levels pages 36-37, Wetlands pages 37-39, Appendix H: Priority Waterbodies without Minimum Flows and Minimum Water Levels – Assessment, and Appendix I: Potential Change to Wetland Function – Methodology and Results.**

62-40.531(1) FAC states; "As part of the District Water Management Plans, each governing board shall develop a regional water supply plan for each water supply planning region for which the districtwide water supply assessment determines that sources of water are not adequate to supply water for all existing and projected reasonable-beneficial uses and to sustain the surface and ground water resources and related natural systems." The section listed in this paragraph would represent the surface water bodies and related natural systems that are to be sustained.

The NFRWSP fails to establish that the projects and effort listed in the NFRWSP will be sufficient to sustain surface water resources and natural systems.

230. Paul Still alleges that the NFRWSP does not meet the requirements of 62-40.531(1) FAC. This failure directly impacts the NFRWSP's ability to insure Paul Still will be able to use Lakes Sampson and Rowell and the wetlands he owns will function. See paragraphs 197-201 and 215 above.

**231. Appendix J: Water Resource Development Project Options**

Florida Statutes 373.709 (2) states; "Each regional water supply plan must be based on at least a 20-year planning period and must include, but need not be limited to:

- (b) A water resource development component that includes:
  - 1. A listing of those water resource development projects that support water supply development for all existing and future reasonable-beneficial uses as described in paragraph (a) and for the natural systems as identified in the recovery or prevention strategies for adopted minimum flows and minimum water levels or water reservations.
  - 2. For each water resource development project listed:
    - a. An estimate of the amount of water to become available through the project for all existing and future reasonable-beneficial uses as described in paragraph (a) and for the natural systems as identified in the recovery or prevention strategies for adopted minimum flows and minimum water levels or water reservations.
    - b. The timeframe in which the project option should be implemented and the estimated planning-level costs for capital investment and for operating and maintaining the project.
    - c. An analysis of funding needs and sources of possible funding options.
    - d. Identification of the entity that should implement each project option and the current status of project implementation.
    - (e) Consideration of how the project options addressed in paragraph (a) serve the public interest or save costs overall by preventing the loss of natural resources or avoiding greater future expenditures for water resource development or water supply development. However, unless adopted by rule, these considerations do not constitute final agency action.

The failure of the NFRWSP to meet the requirements of Florida Statutes 373.709 (2) is addressed in paragraphs 165-169 above.

232. Paul Still alleges that the NFRWSP does not meet the requirements of Florida Statutes 373.709 (2). This failure directly impacts the NFRWSP's ability to insure the water Paul Still uses will be available for his use now and in the planning horizon and that sufficient water will be available for the natural systems to allow his continued uses of those natural systems. See paragraphs 197 to 201 and 215 above.

Paul Still

Above typed name should be considered a signature

4/17/2017

Paul Still

Date

STATE OF FLORIDA  
SUWANNEE RIVER WATER MANAGEMENT DISTRICT

PAUL STILL,

Petitioner,

v.

DISTRICT CASE NO. 2017-02

SUWANNEE RIVER WATER  
MANAGEMENT DISTRICT,

Respondent,  
\_\_\_\_\_ /

**FINAL ORDER DISMISSING PETITION WITH PREJUDICE**

THIS CAUSE having come before the SUWANNEE RIVER WATER MANAGEMENT DISTRICT (the “DISTRICT”) on the SECOND AMENDED PETITION FOR ADMINISTRATIVE HEARING FOR THE ACTION OF THE SUWANNEE RIVER WATER MANAGEMENT DISTRICT AND THE SAINT JOHNS RIVER WATER MANAGEMENT OF ADOPTING THE NORTH FLORIDA REGIONAL WATER SUPPLY PLAN (NFRWSP) (the “AMENDED PETITION”), filed by the petitioner, PAUL STILL (the “PETITIONER”) and having considered the matters presented, the DISTRICT finds as follows:

**GENERAL**

1. On January 17, 2017, the governing board of the DISTRICT entered its order No. 2017-0001, which was dated and filed on January 17, 2017, and which approved the NORTH FLORIDA REGIONAL WATER SUPPLY PLAN, WITH APPENDICES (2015-2035) (the “PLAN”).
2. Notice was given of such action as provided by DISTRICT rule.
3. On February 13, 2017, the PETITIONER filed PAUL STILL REQUESTS FOR

EXTENSION OF TIME TO FILE PETITION TO INITIATE ADMINISTRATIVE PROCEEDINGS (the “MOTION FOR EXTENSION OF TIME”), requesting that the DISTRICT extend the time within which the PETITIONER may file a petition concerning the PLAN down to March 3, 2017.

4. On February 15, 2017, the DISTRICT entered its ORDER EXTENDING TIME TO FILE INITIAL PLEADING which granted the MOTION FOR EXTENSION OF TIME and extended the deadline for filing a petition concerning the PLAN to March 3, 2017 as requested.

5. On March 3, 2017, the DISTRICT entered its SECOND ORDER EXTENDING TIME TO FILE INITIAL PLEADING which further extended the deadline for filing a petition concerning the PLAN to March 17, 2017.

6. On March 14, 2017, the Executive Director and General counsel of the DISTRICT met with the PETITIONER to enter into discussions aimed at possibly resolving the PETITIONER’s concerns with the PLAN.

7. On March 16, 2017, the PETITIONER timely filed the PETITION with the DISTRICT.

8. On March 31, 2017, the DISTRICT, through its executive director, entered its ORDER DISMISSING PETITION WITHOUT PREJUDICE and thereby dismissed the PETITION, but allowed the PETITIONER to file an amended petition within 15 days thereof, if the PETITIONER wished to attempt to cure the matters set out in the ORDER DISMISSING PETITION WITHOUT PREJUDICE.

9. On April 17, 2017, the PETITIONER timely filed the AMENDED PETITION with the DISTRICT.

DISTRICT's Required Review of the AMENDED PETITION

8. Upon receipt of the AMENDED PETITION, the DISTRICT is required to review the AMENDED PETITION to determine if the AMENDED PETITION contains those items required by rule and dismiss the AMENDED PETITION if it is not in substantial compliance with such requirements:

Unless otherwise provided by law, a petition or request for hearing shall include those items required by the uniform rules adopted pursuant to s. 120.54(5)(b). Upon the receipt of a petition or request for hearing, the agency shall carefully review the petition to determine if it contains all of the required information. A petition shall be dismissed if it is not in substantial compliance with these requirements or it has been untimely filed. Dismissal of a petition shall, at least once, be without prejudice to petitioner's filing a timely amended petition curing the defect, unless it conclusively appears from the face of the petition that the defect cannot be cured. The agency shall promptly give written notice to all parties of the action taken on the petition, shall state with particularity its reasons if the petition is not granted, and shall state the deadline for filing an amended petition if applicable. This paragraph does not eliminate the availability of equitable tolling as a defense to the untimely filing of a petition.

§ 120.569(2)(c), Fla.Stat.

9. Further, the DISTRICT is not allowed to refer the AMENDED PETITION to the Division of Administrative Hearings unless the AMENDED PETITION is in substantial compliance with the applicable rules:

The agency may refer a petition to the division for the assignment of an administrative law judge only if the petition is in substantial compliance with the requirements of paragraph (c).

§ 120.569(2)(d), Fla. Stat. *See Brookwood Extended Care Center of Homestead, LLP v. Agency for Healthcare Admin.*, 870 So.2d 834, 840 (Fla. 3d DCA 2003) (holding that an agency properly refuses to forward a petition to DOAH where the petition does not comply with the requirements of § 120.569(2)(c-d), Fla. Stat.)

10. The applicable rules require that the AMENDED PETITION contain, among

other things, the following:

The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;

Fla. Admin. Code R. 28-106.201(2)(b) (emphasis supplied); *See also*, § 120.569(1), Fla. Stat., (providing in pertinent part that, “[t]he provisions of this section apply in all proceeding in which the substantial interests of a party are determined by an agency.”); § 120.52(13)(b), Fla. Stat., (defining a “party” as “[a]ny other person ... whose substantial interests will be affected by proposed agency action....”)

11. To comply with the requirements of Fla. Admin. Code R. 28-106.201, the PETITIONER must do more than give non-specific allegations. The PETITIONER must identify the disputed facts warranting relief. *See Brookwood Extended Care Center of Homestead, LLP v. Agency for Healthcare Admin.*, 870 So.2d 834, 840 (Fla. 3d DCA 2003) (holding that the “statute and rules are crystal clear. In a proceeding governed by Rule 28-106.201, the burden is ... on the person or entity petitioning for an administrative hearing to state the ultimate facts, to identify the facts that are in dispute, and to allege the facts that warrant, in the petitioner's opinion, reversal ... non-specific allegations ... will no longer suffice”). Further, the PETITIONER must “specifically explain” in the AMENDED PETITION how its substantial interests will be adversely affected by the PLAN. *See W. Frank Wells Nursing Home v. State, Agency for Health Care Admin.*, 979 So.2d 339, 342 (Fla. 1st DCA 2008) (“(t)he nursing home vigorously disputed AHCA's class III deficiency citation, but it did not specifically explain in the petition how the citation adversely affected its substantial interests. ... Accordingly, we REVERSE the order under review and REMAND the case to AHCA with instructions to allow

the nursing home an opportunity to amend its petition”).

12. Of course, a party’s substantial interests must be affected by a particular agency action for the party to have standing to file a petition under § 120.569, Fla. Stat., concerning such action:

As all of the parties admit, chapter 120 does not actually employ the word “standing,” but the statutory test used is substantially its equivalent. Under the statutory language, a hearing is provided pursuant to section 120.569(1) “in all proceedings in which the substantial interests of a party are determined by an agency.” Thus the concept of “standing” in an administrative proceeding depends on whether the particular entity at issue qualifies as a “party.” Section 120.52(12)(b) defines a “party” as “[a]ny other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action....”

*Peace River/Manasota v. IMC Phosphates Co.*, 18 So.3d 1079, 1083 (Fla. 2d DCA 2009)

(emphasis supplied).

13. Should the undisputed facts alleged in the AMENDED PETITION show that the PETITIONER lacks standing, the DISTRICT may dismiss the AMENDED PETITION without the need to refer the AMENDED PETITION to the Division of Administrative Hearings.

*Daytona Beach Kennel Club, Inc. v. Dep’t of Bus. & Prof’l Reg.*, 33 So.3d 799, 800 (Fla. 5th DCA 2010) (“(w)e further find no error in the failure to refer the petition to the Division of Administrative Hearings to conduct a hearing. The issue of standing is normally a question of law, as it was in this case. Dismissal is appropriate where undisputed facts demonstrate that a party lacks standing”); *Village of Key Biscayne v. Department of Environmental Protection*, 206 So.3d 788, 792 (Fla. 3d DCA 2016) (“[w]e pause to address the Village’s argument that the DEP’s General Counsel violated the Village’s due process rights when he, and not an Administrative Law Judge, determined the Village’s standing. Our research reveals that state

agencies routinely dismiss petitions for administrative hearing for failure to plead a sufficient basis for the petitioner's standing to bring the petition”); *Washington County v. Northwest Fla. Water Manage. Dist.*, 85 So.3d 1127, 1130 (Fla. 1st DCA 2012) (Affirming a water management district’s dismissal of a petition challenging a regional water supply plan for lack of standing without referring the petition to the Division of Administrative Hearings.)

*The PLAN is a Regional Water Supply Plan*

14. The PLAN is a regional water supply plan as provided in § 373.709, Fla.Stat.
15. A regional water supply plan has been described as follows:

Section 373.709, Florida Statutes, calls for the state's water management districts to develop regional water supply plans for areas in which it is determined that “existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses.” § 373.709(1), Fla. Stat. (2010). Water management districts also use the plans to “sustain the water resources and related natural systems [in the region] for the planning period.” *Id.* Among other things, a regional water supply plan must include a “water supply development component” that includes, in turn:

A list of water supply development project options, including traditional and alternative water supply project options, from which local government, government-owned and privately owned utilities, regional water supply authorities, multijurisdictional water supply entities, self-suppliers, and others may choose for water supply development. In addition to projects listed by the district, such users may propose specific projects for inclusion in the list of alternative water supply projects.

*Washington County v. Northwest Fla. Water Manage. Dist.*, 85 So.3d 1127, 1130 (Fla. 1st DCA 2012)

*Legal authority to Challenge the PLAN*

16. In the AMENDED PETITION, the PETITIONER challenges portions of the PLAN.
17. The sole statutory authority for challenges to regional water supply plans is

contained in § 373.709, Fla.Stat., where it provides:

Governing board approval of a regional water supply plan shall not be subject to the rulemaking requirements of chapter 120. However, any portion of an approved regional water supply plan which affects the substantial interests of a party shall be subject to s. 120.569.

§ 373.709(5), Fla.Stat.

18. The first sentence of § 373.709(5), Fla.Stat., exempts regional water supply plans from the rulemaking requirements of chapter 120. Thus a regional water supply plan cannot be subject to a “rule challenge” as provided in § 120.56, Fla.Stat., and cannot be challenged as an “invalid exercise of delegated legislative authority.” *See*, § 120.56(1)(a), Fla.Stat. (“Any person substantially affected by a rule or a proposed rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.”) (Emphasis supplied). As further explained:

The administrative remedies associated with rules, on the one hand, and orders, on the other, are different. A “person substantially affected by a rule or a proposed rule may seek an administrative determination of the invalidity of the rule on the ground that the rule is an invalid exercise of delegated legislative authority.” *See* § 120.56(1)(a), Fla. Stat. In contrast, proceedings under Sections 120.569 and 120.57 are available when an agency, by order, determines a party's substantial interests. The object of the proceeding is not to determine the validity of a rule, as in a proceeding brought under Section 120.56, but to adjudicate that party's substantial interests, based on the application of law to a specific set of facts.

*Pasco CWIP Partners v. Florida Housing Finance Corporation*, at paragraph 47;

RECOMMENDED ORDER 2010 WL 610248; DOAH Case Nos. 09-3330, 09-3332, 09-3333, 09-3334, 09-3335, 09-3336, 09-4031 (Fla. DOAH Feb. 18, 2010); FINAL ORDER ADOPTING THE RECOMMENDED ORDER 2010 WL 10075952; FHFC Case Nos. 2009-015GA, 2009-018GA, 2009-019GA, 2009-016GA, 2009-017GA, 2009-020GA, 2009-011GA (Fla. FHFC Apr. 30, 2010)

19. Concerning the second sentence of § 373.709(5), Fla.Stat., it has been held:

[S]ection 373.709(5) provides an avenue for administrative challenge if any part of a regional water supply plan affects a party's substantial interests. Section 120.569 applies “in all proceedings in which the substantial interests of a party are determined by an agency....” A party asserting entitlement to an administrative hearing pursuant to section 120.569 must demonstrate that (1) it “will suffer injury in fact which is of sufficient immediacy to entitle [it] to a section [120.569] hearing,” and that (2) its “substantial injury is of a type or nature which the proceeding is designed to protect.” *Agrico*, 406 So.2d at 482. See *Mid-Chattahoochee River Users v. Fla. Dep't of Env'tl. Prot.*, 948 So.2d 794, 797 (Fla. 1st DCA 2006); *Menorah Manor, Inc. v. Agency for Health Care Admin.*, 908 So.2d 1100, 1104 (Fla. 1st DCA 2005).

*Washington County v. Northwest Fla. Water Manage. Dist.*, 85 So.3d 1127, 1130-1131 (Fla. 1st DCA 2012).

20. Therefore, for the AMENDED PETITION to sufficiently allege standing, the AMENDED PETITION must specifically explain how the PETITIONER (1) will suffer injury in fact which is of sufficient immediacy to entitle PETITIONER to a section 120.569 hearing, and, that (2) the PETITIONER’s substantial injury is of a type or nature which the proceeding is designed to protect.

*PETITIONER Challenges the Portions of the Plan Dealing with or Related to Water Resource Development Projects and Water Resource Supply Projects*

21. The PETITIONER has asserted that the portions of the PLAN which adversely affect its substantial interests (and therefore the portions of the PLAN it asserts it has standing to challenge) are all related to the “selected projects” contained in the PLAN, which can only mean the “water resource development projects” and “water supply development projects” shown in Chapters 6, 7 and 8 and their related appendices of the PLAN.

22. As stated in the AMENDED PETITION:

11. The parts of the NFRWSP listed in paragraph 10 fail to demonstrate how **the NFRWSP with its selected projects** will insure that the water flows and

levels in the water bodies that Paul Still uses will be restored or maintained, or that his groundwater and surface water, and wetlands he owns will not be impacted over at least a 20 year period in the future.

AMENDED PETITION at paragraph 11.

THE POTENTIAL HARM ALLEGED BY THE PETITIONER IS  
TOO SPECULATIVE TO CONFER STANDING

*Water Resource Development Projects and Water Resource Supply Projects*

23. The PLAN describes water resource development projects as follows:

Water resource development projects are typically implemented by the WMDs or by the WMDs in conjunction with other agencies or local governments (ss. 373.705(1)(a); F.S.). These include projects that increase the amount of water available for water supply, collect and analyze data for water supply planning, and study the feasibility and benefits of new techniques.

PLAN at page 51.

The above is consistent with the statutory definition of water resource development:

“Water resource development” means the formulation and implementation of regional water resource management strategies, including the collection and evaluation of surface water and groundwater data; structural and nonstructural programs to protect and manage water resources; the development of regional water resource implementation programs; the construction, operation, and maintenance of major public works facilities to provide for flood control, surface and underground water storage, and groundwater recharge augmentation; and related technical assistance to local governments, government-owned and privately owned water utilities, and self-suppliers to the extent assistance to self-suppliers promotes the policies as set forth in s. 373.016.

§ 373.019(25), Fla.Stat.

24. The PLAN describes water resource supply projects as follows:

An important part of the NFRWSP process is identifying water supply development project options necessary to meet the anticipated water needs of the planning area through 2035 planning horizon. While water users are not limited to the projects listed in the NFRWSP plan, the list represents a set of projects that could supply a sufficient quantity of water to meet the projected water demands if implemented.

PLAN at page 53.

The above is consistent with the statutory definition of water supply development:

“Water supply development” means the planning, design, construction, operation, and maintenance of public or private facilities for water collection, production, treatment, transmission, or distribution for sale, resale, or end use.

§ 373.019(26), Fla. Stat.

25. Both water resource development projects and water supply development projects require substantial funding to be constructed. *See*, the PLAN at (1) Table 6 and Appendix J which show the estimated capital costs (in millions of dollars) for each proposed water resource development project and (2) Table 7 and Appendix K which show the estimated capital costs (in millions of dollars) for each proposed water supply project.

26. Florida law provides that the water management districts shall have primary responsibility for water supply development projects whereas the utilities and others will have primary responsibility for water supply projects:

It is the intent of the Legislature that:

\* \* \*

(b) Water management districts take the lead in identifying and implementing water **resource** development projects, and be responsible for securing necessary funding for regionally significant water **resource** development projects, including regionally significant projects that prevent or limit adverse water resource impacts, avoid competition among water users, or support the provision of new water supplies in order to meet a minimum flow or minimum water level or to implement a recovery or prevention strategy or water reservation.

(c) Local governments, regional water supply authorities, and government-owned and privately owned water utilities take the lead in securing funds for and implementing water **supply** development projects. Generally, direct beneficiaries of water **supply** development projects should pay the costs of the projects from which they benefit, and water **supply** development projects should continue to be paid for through local funding sources.

§ 373.705(2), Fla. Stat.

Construction and Implementation of Water Resource *Development* Projects

27. Concerning the funding of the construction and implementation of water resource development projects, Florida law provides:

(a) The water management districts shall fund and implement water resource development as defined in s. 373.019. The water management districts are encouraged to implement water resource development as expeditiously as possible in areas subject to regional water supply plans.

(b) Each governing board shall include in its annual budget submittals required under this chapter:

1. The amount of funds for each project in the annual funding plan developed pursuant to s. 373.536(6)(a) 4.; and

2. The total amount needed for the fiscal year to implement water resource development projects, as prioritized in its regional water supply plans.

§ 373.705(3), Fla. Stat. (emphasis supplied).

Further the “annual funding plan” described above is part of:

A 5-year water resource development work program to be furnished within 30 days after the adoption of the final budget. The program must describe the district's implementation strategy and include an annual funding plan for each of the 5 years included in the plan for the water resource and water supply development components, including alternative water supply development, of each approved regional water supply plan developed or revised under s. 373.709. The work program must address all the elements of the water resource development component in the district's approved regional water supply plans, as well as the water supply projects proposed for district funding and assistance. The annual funding plan shall identify both anticipated available district funding and additional funding needs for the second through fifth years of the funding plan. The work program must identify projects in the work program which will provide water; explain how each water resource and water supply project will produce additional water available for consumptive uses; estimate the quantity of water to be produced by each project; provide an assessment of the contribution of the district's regional water supply plans in supporting the implementation of minimum flows and minimum water levels and water reservations; and ensure sufficient water is available to timely meet the water supply needs of existing and future reasonable-beneficial uses for a 1-in-10-year drought event and to avoid the

adverse effects of competition for water supplies.

§ 373.536(6)(a) 4, Fla. Stat. (emphasis supplied).

28. So, for the DISTRICT's budget to fund the construction and implementation of a particular water resource development project, the funding must be part of the "5-year water resource development work program" provided in § 373.536(6)(a) 4, Fla. Stat., and then included in the DISTRICT's annual budget submittals as required by § 373.705(3), Fla. Stat.

29. By January 15 of each year the DISTRICT must submit a preliminary budget to the Legislature for review and comment. § 373.535(1)(a), Fla. Stat.

30. Once funding is included in the DISTRICT's annual budget submittals, the DISTRICT's tentative budget must be submitted to the Governor who may approve or disapprove it, in whole or in part, as follows:

The Executive Office of the Governor may approve or disapprove, in whole or in part, the budget of each water management district. The Executive Office of the Governor shall analyze each budget as to the adequacy of fiscal resources available to the district and the adequacy of district expenditures related to water supply, including water resource development projects identified in the district's regional water supply plans; water quality; flood protection and floodplain management; and natural systems. This analysis shall be based on the particular needs within each water management district in those four areas of responsibility and shall be provided to the Legislative Budget Commission.

§ 373.536(5)(a), Fla. Stat. (emphasis supplied).

31. Of course, the DISTRICT's budgetary process is not reviewable under Ch. 120, Fla. Stat.:

32. In this instance, the decisions that FHFC made in response to the de-appropriation of \$190 million from its funds, including the decisions relating to the de-obligation of Petitioners' projects, involved the modification of the agency's budget. Petitioners do not have an administrative remedy under Sections 120.569 and 120.57 concerning these exempt decisions: there is simply no agency action to be formulated here. *Cf. Hill v. Monroe County*, 581 So. 2d 225, 226 (Fla. 3d DCA 1991)(The APA "only applies where a challenge is made to a State

agency action.”).

33. The conclusion that FHFC's budgetary decisions are not subject to quasi-judicial adjudication is consistent with, if not compelled by, the holding in *Palm Beach County Classroom Teachers Ass'n v. School Board of Palm Beach County*, 406 So. 2d 1208 (Fla. 4th DCA 1981). In that case, the legislature recently had appropriated to various county school boards additional funds pursuant to a Supplemental Appropriations Act (“SAA”). A proviso in the SAA instructed that priority was to be given, when deciding how to spend the funds, to increasing salaries for teachers. No doubt encouraged by this, the teachers' union in one county sought to renegotiate teachers' pay with the local school board. The school board, however, refused to bargain. The union then requested a hearing under Section 120.57 to determine the priority for allocation of the funds appropriated under the SAA. The school board entered a final order denying the union's request for hearing. *Id.* at 1209.

32. The court affirmed the order. Its decision comprised two pertinent sentences:

[W]e hold that the allocation and disbursement of the funds received through the SAA involves the modification of the agency's budget which entails neither rule making nor an order within the meaning of those terms as set forth in Section 120.52, Florida Statutes (1980). There was, therefore, no necessity for the Board to provide [the union] with a hearing required by Section 120.57.

*Id.* at 1210.

*Pasco CWIP Partners v. Florida Housing Finance Corporation*, at paragraph 32-34; (Emphasis supplied) RECOMMENDED ORDER 2010 WL 610248; DOAH Case Nos. 09-3330, 09-3332, 09-3333, 09-3334, 09-3335, 09-3336, 09-4031 (Fla. DOAH Feb. 18, 2010); FINAL ORDER ADOPTING THE RECOMMENDED ORDER 2010 WL 10075952; FHFC Case Nos. 2009-015GA, 2009-018GA, 2009-019GA, 2009-016GA, 2009-017GA, 2009-020GA, 2009-011GA (Fla. FHFC Apr. 30, 2010)

33. Then finally, once the DISTRICT’s statutory budget process is concluded and all of the statutory requirements of §§ 373.705, 373.535, 373.536, Fla. Stat., and otherwise are met, the budget is then subject to the unrestricted discretion of the Legislature’s appropriations power:

[T]he constitution provides that “[n]o money shall be drawn from the treasury except in pursuance of appropriation made by law,” art. VII, § 1(c), Fla. Const. (emphasis added), and that “[p]rovision shall be made by law for raising sufficient revenue to defray the expenses of the state for each fiscal period.” Art. VII, § 1(d), Fla. Const. (emphasis added).

Based on all these constitutional provisions, this Court has long held that the power to appropriate state funds is legislative and is to be exercised only through duly enacted statutes. *State ex rel. Davis v. Green*, 95 Fla. 117, 127, 116 So. 66, 69 (1928). As we stated in *State ex rel. Kurz v. Lee*:

The object of a constitutional provision requiring an appropriation made by law as the authority to withdraw money from the state treasury is to prevent the expenditure of the public funds already in the treasury, or potentially therein from tax sources provided to raise it, without the consent of the public given by their representatives in formal legislative acts. Such a provision secures to the Legislative (except where the Constitution controls to the contrary) the exclusive power of deciding how, when, and for what purpose the public funds shall be applied in carrying on the government.

121 Fla. 360, 384, 163 So. 859, 868 (1935) (emphasis added). Furthermore, the power to reduce appropriations, like any other lawmaking, is a legislative function.

*Chiles v. Children A, B, C, D, E, and F*, 589 So.2d 260, 264-265 (Fla. 1991) (emphasis supplied).

Of course any attempt to compel the Legislature to make any particular appropriation is void.

*See, Dep't of Health & Rehab. Servs. v. Brooke*, 573 So.2d 363, 370 (Fla. 1st DCA 1991)

(observing that the legislature's appropriations power was “off limits to the courts” and “had the [court's] orders ... required the Department to make placements that would exceed the amounts set forth in the annual appropriations act by the legislature, or ... encroached upon the legislature's power of appropriation, they would have been rendered in excess of the judges' jurisdiction”).

34. To recap, the inclusion of any particular water resource development project in the PLAN, only means that if the project survives the DISTRICT's statutory budgetary process

including:

- A. Inclusion in the “5-year water resource development work program” provided in § 373.536(6)(a) 4, Fla. Stat., which includes such project;
- B. Inclusion in the DISTRICT’s annual budget submittals as required by § 373.705(3), Fla. Stat.;
- C. Survival through the submission of the budget, in preliminary form to the Legislature for review and comment pursuant to § 373.535(1)(a), Fla. Stat.; and,
- D. Survival through the review of the budget by the Executive Office of the Governor pursuant to § 373.536(5)(a), Fla. Stat.;

then the project is subject to the unrestricted discretion of the Legislature to fund or not fund the project pursuant to Legislature’s appropriations powers set out in Art. VII, § 1(c-d), Fla. Const.

*Construction and Implementation of Water Supply Development Projects*

35. The construction and implementation of the water supply development projects in the PLAN are even more speculative. This is because:

- A. Entities other than the DISTRICT are to “take the lead in securing funds for and implementing water supply development projects.” § 373.705(2)(c), Fla. Stat.; and,
- B. Such non-DISTRICT entities are not required to use any of the water supply development projects which may be set out in the PLAN. § 373.709(7), Fla. Stat. (Nothing contained in ... a regional water supply plan shall be construed to require ... water suppliers to select a water supply development project ... merely because it is identified in the plan.”); *See* PLAN at page 54 (Citing § 373.709(7), Fla. Stat., for the same proposition of law.)

Threatened Adverse Affect Must not be Hypothetical or Speculative

36. The PETITIONER must show, in the allegations of the AMENDED PETITION, that alleged adverse affects are not conjectural, hypothetical or speculative. *South Broward Hosp. Dist. v. State, Agency For Health Care Admin.*, 141 So.3d 678, 681 (Fla. 1st DCA 2014). (“(u)nder the first prong of Agrico, the injury-in-fact standard is met by a showing that the petitioner has sustained actual or immediate threatened injury at the time the petition was filed, and ‘[t]he injury or threat of injury must be both real and immediate, not conjectural or hypothetical.’”); *Volusia County School Bd. v. Volusia Homes Builders Ass'n, Inc.*, 946 So.2d 1084, 1091 (Fla. 5th DCA 2006) (Holding that a homebuilders association lacks standing to challenge the recommendation of the School Board to the County to raise impact fees. The court held, “[W]e note that the recommendation was too remote and lacked the direct impact necessary to show that the [Homebuilders Association] was “substantially affected” by the recommendation, as opposed to the County Council's imposition of the increased impact fees requested. ... The recommendation's impact remained speculative until the County Council adopted the ordinance that increased the fees; the record shows this result was not a foregone conclusion”); *Village Park Mobile Home Ass'n, Inc. v. State, Dept. of Business Regulation, Div. of Florida Land Sales, Condominiums and Mobile Homes*, 506 So.2d 426, 430 and 433 (Fla. 1st DCA 1987) (finding that the petitioner’s concerns were “speculative” and that, “In the instant case, appellants, at the time they filed their petition, had failed to demonstrate through their allegations that they had sustained either actual injury-in-fact or that they were in danger of sustaining some direct injury as a result of the agency's action.”); *See also Ameristeel Corp. v. Clark*, 691 So. 2d 473, 477 (Fla. 1997) (holding that the claim that agency action would result in increased operating costs and, thereby, threaten future viability of petitioner's factory, is not an

injury of sufficient immediacy).

37. As the construction and implementation of the water resource development projects in the PLAN is subject to the budget process and the unrestricted discretion of the Legislature, any alleged, threatened injury concerning the water resource development projects at the time the petition was filed is not real and immediate. Rather it is conjectural or hypothetical and will not support standing.

38. As the construction and implementation of the water resource supply projects in the PLAN are subject to funding by non-DISTRICT entities and such entities are not required to use any of the water supply development projects set out in the PLAN, any alleged, threatened injury concerning the water supply development projects at the time the petition was filed is not real and immediate. Rather it is conjectural or hypothetical and will not support standing.

THE PETITIONER HAS NOT ALLEGED THAT THE PLAN ADVERSELY AFFECTS  
THE PETITIONER'S SUBSTANTIAL INTERESTS

39. The PETITIONER also lacks standing to bring the AMENDED PETITION due to the fact that the PLAN does not adversely affect the PETITIONER's substantial interests.

40. In the AMENDED PETITION, the PETITIONER alleges that:

2. Paul and Kathleen Still own and live on 117 acres on the west side of Lake Sampson in Bradford County. They purchased the property in 1996. The property is used for timber production and wild blueberry production. The property has over 30 acres of cypress production in the old Lake Sampson lakebed. Maintaining soil water (*sic*) in the cypress production wetlands is critical for cypress timber production.

AMENDED PETITION at paragraph 2.

41. Assuming that all of the above allegations are true<sup>1</sup>, the AMENDED PETITION

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<sup>1</sup>This statement is not a concession that any of the allegations of the PETITION are true. The DISTRICT reserves all its rights to contest the allegations of the PETITION. Rather, the

does not show that the PETITIONER's substantial interests will be adversely affected by the PLAN. The AMENDED PETITION contains absolutely no specific allegations showing how adoption and implementation of the PLAN will adversely impact either PETITIONER's timber production or wild blueberry production. The AMENDED PETITION certainly does not allege specific allegations showing how the PLAN will adversely affect the maintenance of soil and water in cypress production wetlands. PETITIONER must allege more than the types of agricultural and/or silvicultural activities on his property – he must clearly and specifically allege how the PLAN adversely affects these activities, and this he has not done.

42. The PETITIONER alleges that he “does one or more of the following activities on water bodies in the NFRSWP; canoeing, fishing, photography, nature observation and swimming. The water bodies he uses include the Lower Santa Fe River and its associated springs; Bradford County Lake Sampson, Rowell, Alligator Creek that flows through Starke, Sampson River, New River, and the Upper Santa Fe River; Clay County Lakes Magnolia, Lowery, Brooklyn, Geneva, Crystal, and Bedford and Alligator Creek.” AMENDED PETITION at paragraph 1. Certainly, it is possible that the alleged activities may have been adversely affected by alleged past consumptive uses if the alleged past consumptive uses were too high, or by other causes. For instance, if the consumptive uses allowed in the past were too high and decreased flows in the referenced water bodies, then canoeing, fishing, photography, etc. might have been impaired. But any impairment to those interests would have already occurred or will occur due to future consumptive uses. The PLAN, which is basically an attempt to make things

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DISTRICT must treat the allegations of the PETITION as true for the purposes of determining standing as required under Florida law. *Mid-Chattahoochee River Users v. Florida Dept. of Environmental Protection*, 948 So.2d 794, 796 (Fla. 1st DCA 2006) (“In determining whether a party has standing to seek a formal administrative hearing, the allegations contained in the party's petition must be taken as true.”)

better and put more water into the system, does not impair any of those uses. Rather, the PETITIONER alleges that the PLAN will not have the beneficial effect, or enough of the beneficial effect, which PETITIONER feels is proper or required by statute. This is not sufficient to show that the PETITIONER's substantial interests will be adversely affected by the PLAN, as required to show standing.

43. In this regard, the case of *Office of Ins. Regulation and Financial Services Com'n v. Secure Enterprises, LLC*, 124 So.3d 332 (Fla. 1st DCA 2013) is instructive. In *Secure Enterprises*, the Office of Insurance Regulation (the "OIR"), in response to statutory amendments, amended its administrative rules and incorporated forms to provide new insurance credits to homeowners for certain renovations to their homes. *Secure Enterprises*, at 334. The petitioner in *Secure Enterprises*, was the manufacturer (the "Manufacturer") of a product called "Secure Door" which is utilized by homeowners to upgrade non-glazed<sup>2</sup> garage doors. *Secure Enterprises*, at 335. The Manufacturer filed a rule challenge.<sup>3</sup> The Manufacturer argued that OIR failed to follow the applicable statutory requirements because OIR's amendments to its administrative rules and forms failed to grant insurance credits for the Secure Door system:

Appellee, the manufacturer of the Secure Door residential garage door bracing

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<sup>2</sup>A garage door is "glazed" if it contains a glass or plastic window. A garage door is "non-glazed" if it does not contain a glass or plastic window. See, *Secure Enterprises v. Office of Insurance Regulation and Financial Services Commission*, at paragraph 13; 2012 WL 5268376, Case No. 12-1944RX (Fla. DOAH Oct. 19, 2012).

<sup>3</sup>The instant matter is not a "rule challenge", but rather a "substantial interests" petition under § 120.569. However, as the standing requirements for a "rule challenge" are less demanding than the standing requirements in the instant matter, the failure to meet these standing requirements is certainly relevant herein. See, *Still v. Suwannee River Water Management District, et al, supra*, at paragraph 76 ("A less demanding test for standing is applicable in rule challenge cases than in licensing cases. See *Fla. Dep't of Prof. Reg. v. Fla. Dental Hygienists Ass'n*, 612 So. 2d 646, 651-52 (Fla. 1st DCA 1993). In a rule challenge, the alleged injury does not have to be immediate. See *NAACP v. Fla. Bd. of Regents*, 863 So. 2d 294, 300 (Fla. 2003).")

system, challenged the fact that Form 1699 includes an insurance credit for homeowners who upgrade their windows or glazed openings to protect from storm damage but does not include a separate credit for homeowners who upgrade their non-glazed garage doors. Appellee argued that section 627.0629(1) requires that homeowners who upgrade their non-glazed garage doors receive an additional insurance credit.

*Secure Enterprises*, at 335. The Manufacturer asserted that it had standing because, according to the Manufacturer, had the OIR properly followed the statutory requirements, use of the Secure Door product would have qualified homeowners for an insurance credit:

As to its standing to challenge the rules and forms, Appellee alleged that it had been substantially and negatively affected because it manufactures a product that would entitle homeowners to a discount on their home insurance policies had OIR properly implemented the statutory requirements of section 627.0629(1).

*Secure Enterprises*, at 335.

44. The ALJ found that the Manufacturer had standing to bring the rule challenge and then invalidated the OIR's rule amendments and incorporated forms as invalid exercises of delegated legislative authority. *Secure Enterprises*, at 333. The court in *Secure Enterprises*, reversed, finding that the ALJ erred in determining that the Manufacturer had standing. *Secure Enterprises*, at 334 and 340. The court reasoned that:

While the ALJ correctly reasoned based upon the foregoing cases that economic<sup>4</sup> injury may satisfy the injury in fact element of the pertinent standing test, ... [the] manufacturer in this case is claiming economic harm based upon the absence of an insurance credit that Florida homeowners have never been provided. Had this been a situation where OIR eliminated an existing insurance credit for garage doors, Appellee's injury in fact argument would be much stronger. However, as it stands, Appellee has no protected economic right that

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<sup>4</sup>Of course economic injuries are not generally protected under Ch. 373, Fla.Stat. See, *Mid-Chattahoochee River Users v. Florida Dept. of Environmental Protection*, 948 So.2d 794, 797 (Fla. 1st DCA 2006) (Holding that "economic injury is not the type of injury that ... chapter 373 was designed to protect.") However, *Secure Enterprises*, is cited for the proposition that an agency's failure to grant a new benefit, that the petitioner has not previously received, is not the type of injury that will give the petitioner standing to petition under § 120.569, Fla.Stat. This principal is not dependent on whether the asserted injury is economic or otherwise.

**has been impaired by the rules and forms at issue.**

*Secure Enterprises*, at 338-339 (emphasis supplied).

45. Like the Manufacturer in *Secure Enterprises*, the PETITIONER has not asserted that the PLAN will cause it to lose anything. The Manufacturer in *Secure Enterprises*, asserted that the insurance credits provided in the subject rule were insufficient under the law and that the rule should have provided for additional credits that would have benefitted the Manufacturer. *Secure Enterprises*, at 335. Similarly, the PETITIONER alleges that the projects provided in the PLAN are insufficient under the law and implicitly argues that the PLAN should provide for projects that will provide additional benefit the PETITIONER. The court in *Secure Enterprises*, determined that the Manufacturer had no protected right that was impaired and dismissed the Manufacturer's petition. *Secure Enterprises*, at 338-339. As in *Secure Enterprises*, the PETITIONER has no protected right that has been impaired and the AMENDED PETITION should be dismissed.

46. In support of his standing, PETITIONER also alleges:

3. Paul Still is a self supplier of water for his home and agricultural operations. There is a consumptive use permit (CUP) for the Still property that allows water to be pumped from Lake Sampson and wetlands on the Still property. The CUP has the following provision;

Withdrawals from the canal or Lake Sampson are not authorized when the flow of the Upper Santa Fe River at the Worthington Springs gage is at or below 42 cubic feet per second, pursuant to section 40B-8.061, F.A.C.

AMENDED PETITION at paragraph 3.

47. Again, PETITIONER has failed to specifically allege how the PLAN will adversely impact his consumptive use permit or his ability to withdraw and use water under the CUP. The AMENDED PETITION certainly does not contain any specific allegations showing

how the PLAN will adversely impact the flow of the Upper Santa Fe River at the Worthington Springs gage. Once again PETITIONER seems to be arguing that no benefit will result to his CUP, water allocation under the CUP, and the flow of the Upper Santa Fe River at the Worthington Springs gage, from the projects listed in the PLAN, and this does not give PETITIONER standing in these proceedings.

48. In paragraph 4 of the AMENDED PETITION, PETITIONER alleges that “Paul Still had standing in an Administrative Hearing for the Lower Santa Fe MFL and the Recovery Strategy for that MFL. Both are key elements of the NFRWSP.” PETITIONER’s standing in these rule challenges are irrelevant to whether he has standing in this substantial interests proceeding. First, PETITIONER may not relitigate the issues in the aforementioned rule challenges in this proceeding. The rule challenges have been litigated, and are resolved. Second, in this substantial interests proceeding, PETITIONER must allege and prove his standing without relying on the much lower and different standing requirements for the referenced rule challenges.

49. In paragraphs 5, 6, 7, 8, and 12 of the AMENDED PETITION, PETITIONER relies on his position as an elected supervisor of the Bradford Soil and Water Conservation District (“BSWCD”) to support his standing claims. PETITIONER generally alleges in these paragraphs his various positions with the BSWCD from 2007 to the present, a Florida statute which states the purpose of soil and water conservation districts, PETITIONER’s participation in the NFRWSP Stakeholder Advisory Committee “in his capacity as a BSWCD Supervisor,” and his representation of the BSWCD in various groups and meetings at the St. Johns River Water Management District and the Suwannee River Water Management District related to groundwater modeling and minimum flows and levels and recovery strategies. PETITIONER

also alleges that “(t)he NFRWSP fails to provide the protection to the resources that Paul Still is expected to address in his position as an elected Supervisor for the BCWCD.” AMENDED PETITION at paragraph 12.

50. PETITIONER cannot, in these proceedings, represent the interests of the BSWCD. First, the BSWCD is a governmental subdivision of the State of Florida with the power to sue and be sued, make contracts, etc. *See*, § 582.20(8), Fla.Stat., and therefore could have filed its own petition in these proceedings if it wished to challenge the NFRWSP. Second, PETITIONER has not alleged that he is an attorney or qualified representative authorized to represent the interests of the BSWCD in this proceeding, and may not represent the interests of BSWCD in his personal capacity. Hence, the allegations related to the BSWCD, even if proven, do not give PETITIONER standing, in his personal capacity, to participate in this proceeding.

THEREFORE it is hereby ORDERED and ADJUDGED that:

1. The AMENDED PETITION shall not be referred to the Division of Administrative Hearings.
2. The AMENDED PETITION is hereby DISMISSED, with prejudice.
3. This order constitutes final agency action of the DISTRICT.
4. The DISTRICT’s clerk shall promptly provide a copy of this order to all parties and close the DISTRICT’s file on this matter.

**NOTICE OF RIGHT TO JUDICIAL REVIEW**

Any party to this proceeding has the right to seek judicial review of this order pursuant to Section 120.68, Florida Statutes, by filing a Notice of Appeal pursuant to Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the clerk of the Suwannee River Water Management

District, 9225 CR 49, Live Oak, Florida 32060; and by filing a copy of the Notice of Appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal.

The Notice of Appeal must be filed within 30 days after the date this order is filed with the clerk of the Suwannee River Water Management District.

DONE and ORDERED on \_\_\_\_\_, 2017.

GOVERNING BOARD OF THE SUWANNEE  
RIVER WATER MANAGEMENT DISTRICT

By: \_\_\_\_\_  
Don Quincey, Jr  
Chair

ATTEST: \_\_\_\_\_  
Virginia H. Johns  
Secretary Treasurer

**CERTIFICATE OF FILING**

I HEREBY CERTIFY that this order has been filed with the clerk of the DISTRICT and the date of filing was \_\_\_\_\_, 2017.

\_\_\_\_\_  
Tim Sagul  
Deputy Agency Clerk

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of this order has been furnished to Mr. Paul Still; Email: stillpe@aol.com, by email on \_\_\_\_\_, 2017.

\_\_\_\_\_  
Tim Sagul  
Deputy Agency Clerk

MEMORANDUM

TO: Governing Board

FROM: Roary E. Snider, Esq., Chief of Staff

DATE: April 30, 2017

RE: Approval of March 2017 Financial Report

RECOMMENDATION

**Staff recommends the Governing Board approve the March 2017 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.

RS/pf  
Attachments

**Suwannee River Water Management District  
Cash Report  
March 2017**

<b>ACCOUNT</b>	<b>Monthly Interest</b>	<b>Interest Rate %</b>	<b>Closing Balance</b>
Bank of America Permit Fee	-	-	\$0.00
First Federal Permit Fee	\$15.00	0.41%	\$49,705.74
First Federal Accounts Payable			\$35,000.00
First Federal Depository	\$205.01	0.47%	\$2,251,019.50
SPIA	<u>\$48,778.05</u>	1.14%	<u>\$48,066,361.30</u>
<b>TOTAL</b>	<b>\$48,998.06</b>		<b>\$50,402,086.54</b>

BOA Permit Fee Account Closed in March. Activity routed to existing First Federal Permit Fee Account.

**Suwannee River Water Management District  
Statement of Sources and Uses of Funds  
For the Month ending March 31, 2017  
(Unaudited)**

	<b>Current Budget</b>	<b>Actuals Through 3/31/2017</b>	<b>Variance (Under)/Over Budget</b>	<b>Actuals As A % of Budget</b>
<b>Sources</b>				
Ad Valorem Property Taxes	\$ 5,727,117	\$ 4,852,041	\$ (875,076)	85%
Intergovernmental Revenues	\$ 44,512,962	\$ 6,612,550	\$ (37,900,412)	15%
Interest on Invested Funds	\$ 244,137	\$ 293,539	\$ 49,402	120%
License and Permit Fees	\$ 120,000	\$ 87,278	\$ (32,722)	73%
Other	\$ 988,488	\$ 788,595	\$ (199,893)	80%
Fund Balance	\$ 18,797,768		\$ (18,797,768)	0%
<b>Total Sources</b>	<b>\$ 70,390,472</b>	<b>\$ 12,634,003</b>	<b>\$ (57,756,469)</b>	<b>18%</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	\$ 10,685,707	\$ 2,086,788	\$ 29,286	\$ 8,569,632	20%	20%
Acquisition, Restoration and Public Works	\$ 52,002,354	\$ 2,357,333	\$ 22,729	\$ 49,622,292	5%	5%
Operation and Maintenance of Lands and Works	\$ 4,680,671	\$ 985,343	\$ 107,337	\$ 3,587,991	21%	23%
Regulation	\$ 1,367,953	\$ 443,482	\$ 4,976	\$ 919,495	32%	33%
Outreach	\$ 228,202	\$ 69,687	\$ -	\$ 158,514	31%	31%
Management and Administration	\$ 1,425,585	\$ 764,081	\$ 7,604	\$ 653,900	54%	54%
<b>Total Uses</b>	<b>\$ 70,390,472</b>	<b>\$ 6,706,715</b>	<b>\$ 171,933</b>	<b>\$ 63,511,824</b>	<b>10%</b>	<b>10%</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 financial statement is prepared as of March 31, 2017 and covers the interim period since the most recent audited financial statements.

**STATEMENT OF ACTIVITY - REVENUE AND EXPENSE ROLLUP (UNAUDITED)**

**March 31, 2017**

Recap of All Funds	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	12,634,003.75	0.00	70,390,472.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	2,514,035.10	0.00	6,047,220.67
TOTAL CONTRACTUAL SERVICES	2,577,224.48	30,227.60	33,700,249.96
TOTAL OPERATING EXPENSES	456,463.06	28,395.54	1,164,795.00
TOTAL CAPITAL OUTLAY	25,712.99	113,309.43	215,076.00
TOTAL FIXED CAPITAL OUTLAY	618,386.37	0.00	7,973,236.00
TOTAL INTERAGENCY EXPENSES	514,893.36	0.00	21,289,894.08
TOTAL EXPENDITURES	<u>6,706,715.36</u>	<u>171,932.57</u>	<u>70,390,471.71</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>5,927,288.39</u>	<u>(171,932.57)</u>	<u>0.29</u>

Fund 01: General Fund	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	7,189,188.58	0.00	11,878,485.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	2,123,190.90	0.00	5,246,012.49
TOTAL CONTRACTUAL SERVICES	729,488.85	7,498.30	4,409,775.00
TOTAL OPERATING EXPENSES	313,365.99	23,260.12	792,714.00
TOTAL CAPITAL OUTLAY	1,640.99	11,107.84	92,032.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	140,994.20	0.00	1,337,952.00
TOTAL EXPENDITURES	<u>3,308,680.93</u>	<u>41,866.26</u>	<u>11,878,485.49</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>3,880,507.65</u>	<u>(41,866.26)</u>	<u>(0.49)</u>

Fund 02: Emergency Operations	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	0.00	0.00	0.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	16,567.07	0.00	0.00
TOTAL CONTRACTUAL SERVICES	0.00	0.00	0.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	0.00	0.00	0.00
TOTAL EXPENDITURES	<u>16,567.07</u>	<u>0.00</u>	<u>0.00</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>(16,567.07)</u>	<u>0.00</u>	<u>0.00</u>

*\*Salaries associated with Hurricane Hermine; applied for FEMA reimbursement*

**STATEMENT OF ACTIVITY - REVENUE AND EXPENSE ROLLUP (UNAUDITED)**

**March 31, 2017**

Fund 05: Middle Suwannee	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	4,209.87	0.00	589,083.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	0.00	0.00	0.00
TOTAL CONTRACTUAL SERVICES	4,209.87	22,729.30	589,083.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	0.00	0.00	0.00
TOTAL EXPENDITURES	<u>4,209.87</u>	<u>22,729.30</u>	<u>589,083.00</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>0.00</u>	<u>(22,729.30)</u>	<u>0.00</u>

Fund 06: Springs Appropriation	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	542,692.50	0.00	30,647,104.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	1,391.14	0.00	0.00
TOTAL CONTRACTUAL SERVICES	507,165.72	0.00	18,387,989.20
TOTAL OPERATING EXPENSES	5,771.50	0.00	0.00
TOTAL CAPITAL OUTLAY	24,072.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	141,800.00	0.00	12,259,114.00
TOTAL EXPENDITURES	<u>680,200.36</u>	<u>0.00</u>	<u>30,647,103.20</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>(137,507.86)</u>	<u>0.00</u>	<u>0.80</u>

*\*Expenditures to be covered by DEP Reimbursement Grant; reimbursement requested*

Fund 07: Local Revenue	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	105,600.00	0.00	105,600.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	0.00	0.00	0.00
TOTAL CONTRACTUAL SERVICES	0.00	0.00	0.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	24,501.55	0.00	105,600.00
TOTAL EXPENDITURES	<u>24,501.55</u>	<u>0.00</u>	<u>105,600.00</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>81,098.45</u>	<u>0.00</u>	<u>0.00</u>

**STATEMENT OF ACTIVITY - REVENUE AND EXPENSE ROLLUP (UNAUDITED)**  
**March 31, 2017**

Fund 08: WMLTF / Springs	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	337,956.16	0.00	329,352.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	15,402.26	0.00	0.00
TOTAL CONTRACTUAL SERVICES	317,553.90	0.00	290,917.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	5,000.00	0.00	38,435.08
TOTAL EXPENDITURES	<u>337,956.16</u>	<u>0.00</u>	<u>329,352.08</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>0.00</u>	<u>0.00</u>	<u>(0.08)</u>

Fund 10: Florida Forever & P-2000	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	76,335.02	0.00	8,358,000.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	0.00	0.00	0.00
TOTAL CONTRACTUAL SERVICES	29,004.25	0.00	0.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	6,358,000.00
TOTAL INTERAGENCY EXPENSES	0.00	0.00	2,000,000.00
TOTAL EXPENDITURES	<u>29,004.25</u>	<u>0.00</u>	<u>8,358,000.00</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>47,330.77</u>	<u>0.00</u>	<u>0.00</u>

Fund 12: DOT ETDM	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	245.73	0.00	0.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	2,813.81	0.00	0.00
TOTAL CONTRACTUAL SERVICES	0.00	0.00	0.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	0.00	0.00	0.00
TOTAL EXPENDITURES	<u>2,813.81</u>	<u>0.00</u>	<u>0.00</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>(2,568.08)</u>	<u>0.00</u>	<u>0.00</u>

**STATEMENT OF ACTIVITY - REVENUE AND EXPENSE ROLLUP (UNAUDITED)**  
**March 31, 2017**

Fund 13: Land Management/Operations	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	2,731,461.10	0.00	4,497,071.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	351,289.84	0.00	801,208.18
TOTAL CONTRACTUAL SERVICES	446,674.30	0.00	2,288,829.00
TOTAL OPERATING EXPENSES	137,325.57	5,135.42	372,081.00
TOTAL CAPITAL OUTLAY	0.00	102,201.59	123,044.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	275,000.00
TOTAL INTERAGENCY EXPENSES	36,073.50	0.00	636,909.00
TOTAL EXPENDITURES	<u>971,363.21</u>	<u>107,337.01</u>	<u>4,497,071.18</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>1,760,097.89</u>	<u>(107,337.01)</u>	<u>(0.18)</u>

Fund 19: DOT Mitigation	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	7,631.38	0.00	1,074,132.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	1,741.02	0.00	0.00
TOTAL CONTRACTUAL SERVICES	66,168.09	0.00	1,074,131.43
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	0.00	0.00	0.00
TOTAL EXPENDITURES	<u>67,909.11</u>	<u>0.00</u>	<u>1,074,131.43</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>(60,277.73)</u>	<u>0.00</u>	<u>0.57</u>

*\*Expenditures to be covered by Reimbursement Grant; reimbursement requested*

Fund 29: SRP	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	30,439.64	0.00	175,000.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	0.00	0.00	0.00
TOTAL CONTRACTUAL SERVICES	0.00	0.00	0.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	29,250.00	0.00	175,000.00
TOTAL EXPENDITURES	<u>29,250.00</u>	<u>0.00</u>	<u>175,000.00</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>1,189.64</u>	<u>0.00</u>	<u>0.00</u>

**STATEMENT OF ACTIVITY - REVENUE AND EXPENSE ROLLUP (UNAUDITED)**

**March 31, 2017**

Fund 30: Camp Blanding Buffer Lands	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	1,340,927.08	0.00	1,340,236.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	0.00	0.00	0.00
TOTAL CONTRACTUAL SERVICES	13,900.00	0.00	0.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	618,386.37	0.00	1,340,236.00
TOTAL INTERAGENCY EXPENSES	0.00	0.00	0.00
TOTAL EXPENDITURES	<u>632,286.37</u>	<u>0.00</u>	<u>1,340,236.00</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>708,640.71</u>	<u>0.00</u>	<u>0.00</u>

Fund 33: PCS Mitigation	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	676.44	0.00	0.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	0.00	0.00	0.00
TOTAL CONTRACTUAL SERVICES	0.00	0.00	0.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	0.00	0.00	0.00
TOTAL EXPENDITURES	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>676.44</u>	<u>0.00</u>	<u>0.00</u>

Fund 51: District Ag Cost Share	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	0.00	0.00	2,173,213.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	0.00	0.00	0.00
TOTAL CONTRACTUAL SERVICES	141,658.40	0.00	2,114,213.33
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	0.00	0.00	59,000.00
TOTAL EXPENDITURES	<u>141,658.40</u>	<u>0.00</u>	<u>2,173,213.33</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>(141,658.40)</u>	<u>0.00</u>	<u>(0.33)</u>

*\*Expenditures to be covered by Fund Balance*

**STATEMENT OF ACTIVITY - REVENUE AND EXPENSE ROLLUP (UNAUDITED)**

**March 31, 2017**

Fund 53: District River Cost Share	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	0.00	0.00	4,947,184.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	0.00	0.00	0.00
TOTAL CONTRACTUAL SERVICES	0.00	0.00	269,300.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	137,274.11	0.00	4,677,884.00
<b>TOTAL EXPENDITURES</b>	<u>137,274.11</u>	<u>0.00</u>	<u>4,947,184.00</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>(137,274.11)</u>	<u>0.00</u>	<u>0.00</u>

*\*Expenditures to be covered by Fund Balance*

Fund 56: FEMA Grants	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	266,216.10	0.00	3,124,112.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	0.00	0.00	0.00
TOTAL CONTRACTUAL SERVICES	266,216.10	0.00	3,124,112.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	0.00	0.00	0.00
<b>TOTAL EXPENDITURES</b>	<u>266,216.10</u>	<u>0.00</u>	<u>3,124,112.00</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

Fund 60: Reimbursable Grants	<u>Y-T-D</u> <u>ACTUAL</u>	<u>ENCUM.</u>	<u>ANNUAL</u> <u>BUDGET</u>
<b>REVENUES</b>			
TOTAL REVENUES	424.15	0.00	1,151,900.00
<b>EXPENDITURES</b>			
TOTAL SALARIES AND BENEFITS	1,639.06	0.00	0.00
TOTAL CONTRACTUAL SERVICES	55,185.00	0.00	1,151,900.00
TOTAL OPERATING EXPENSES	0.00	0.00	0.00
TOTAL CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL FIXED CAPITAL OUTLAY	0.00	0.00	0.00
TOTAL INTERAGENCY EXPENSES	0.00	0.00	0.00
<b>TOTAL EXPENDITURES</b>	<u>56,824.06</u>	<u>0.00</u>	<u>1,151,900.00</u>
<b>EXCESS REVENUES OVER (UNDER) EXPENDITURES</b>	<u>(56,399.91)</u>	<u>0.00</u>	<u>0.00</u>

*\*Salaries are for Union County LAP projects to be covered by DOT grant; contractual services covered by grant*

MEMORANDUM

TO: Governing Board  
FROM: Roary E. Snider, Esq., Chief of Staff  
DATE: April 30, 2017  
RE: Budget Amendment 2017-03

RECOMMENDATION

**Staff recommends the Governing Board adopt Resolution 2017-05 to formally adopt Budget Amendment 2017-03 as adopted at the April 2017 Governing Board Meeting**

BACKGROUND

This budget amendment authorizes additional unanticipated carry-forward to complete the Ichetucknee Springs Water Quality Improvement Project in the amount of \$578,182, of which \$204,066 is from the District's Fund Balance and \$374,116 is from State Revenues. This will have no impact on the District's ad valorem taxation collection.

The current budget for EOG Code 2.3 is \$15,814,664.

This budget amendment was submitted to the Executive Office of the Governor for approval pursuant to Ch. 373, F.S., and such approval has been received.

RS/pf  
Attachments

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2017-05**

**AMENDING THE FISCAL YEAR (FY) 2017 BUDGET**

**WHEREAS**, chapters 200 and 373, Florida Statutes, require the Governing Board of the Suwannee River Water Management District (District) to adopt a final budget for each fiscal year; and

**WHEREAS**, by Resolution No. 2016-09, after a public hearing on September 27, 2016, the Governing Board of the District adopted a final budget for the District covering its proposed operations and other requirements for the ensuing fiscal year, beginning October 1, 2016 through September 30, 2017; and

**WHEREAS**, the Governing Board via memorandum approved Budget Amendment 2017-03 on April 11, 2017,

**WHEREAS**, the Budget Amendment was submitted to the Executive Office of the Governor for approval pursuant to Chapter 373, Florida Statutes, and that approval has been received,

**WHEREAS**, in accordance with section 189.016(6), Florida Statutes, the District will post the adopted amendment on its official website within five days after its adoption; and

**WHEREAS**, a budget amendment involves an action that increases or decreases total appropriated Fund amounts in the Budget; and

**WHEREAS**, pursuant to section 120.525, Florida Statutes, the District has provided notice of its intention to amend the Budget in the published notification of the Governing Board meeting at which the amendment was considered; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Board of the District, that:

1. The Budget is hereby amended as summarized in the memorandum dated March 31, 2017 requesting Budget Amendment 2017-03.

**PASSED AND ADOPTED THIS 4th DAY OF MAY, 2017 A.D.**

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

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**MEMBERS OF THE BOARD:**

**DON QUINCEY, CHAIR  
ALPHONAS ALEXANDER, VICE CHAIR  
VIRGINIA H. JOHNS, SECRETARY/TREASURER  
KEVIN W. BROWN  
GARY JONES  
VIRGINIA SANCHEZ  
RICHARD SCHWAB  
BRADLEY WILLIAMS  
CHARLES KEITH**

**ATTEST:** \_\_\_\_\_

MEMORANDUM

TO: Governing Board  
FROM: Roary E. Snider, Esq., Chief of Staff  
DATE: April 30, 2017  
RE: Budget Amendment 2017-04

RECOMMENDATION

**Staff recommends the Governing Board adopt Resolution 2017-06 to formally adopt Budget Amendment 2017-04 as adopted at the April 2017 Governing Board Meeting**

BACKGROUND

This budget amendment authorizes additional unanticipated revenues associated with a State Grant to fund a portion of the Mill Creek Sink Project of \$1,000,000 from the Department of Environmental Protection. This will have no impact on the District's ad valorem taxation collection.

The current budget for EOG Code 2.3 is \$15,814,664.

This budget amendment was submitted to the Executive Office of the Governor for approval pursuant to Ch. 373, F.S., and such approval has been received.

RS/pf  
Attachment

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2017-06**

**AMENDING THE FISCAL YEAR (FY) 2017 BUDGET**

**WHEREAS**, chapters 200 and 373, Florida Statutes, require the Governing Board of the Suwannee River Water Management District (District) to adopt a final budget for each fiscal year; and

**WHEREAS**, by Resolution No. 2016-09, after a public hearing on September 27, 2016, the Governing Board of the District adopted a final budget for the District covering its proposed operations and other requirements for the ensuing fiscal year, beginning October 1, 2016 through September 30, 2017; and

**WHEREAS**, the Governing Board via memorandum approved Budget Amendment 2017-04 on April 11, 2017,

**WHEREAS**, the Budget Amendment was submitted to the Executive Office of the Governor for approval pursuant to Chapter 373, Florida Statutes, and that approval has been received,

**WHEREAS**, in accordance with section 189.016(6), Florida Statutes, the District will post the adopted amendment on its official website within five days after its adoption; and

**WHEREAS**, a budget amendment involves an action that increases or decreases total appropriated Fund amounts in the Budget; and

**WHEREAS**, pursuant to section 120.525, Florida Statutes, the District has provided notice of its intention to amend the Budget in the published notification of the Governing Board meeting at which the amendment was considered; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Governing Board of the District, that:

1. The Budget is hereby amended as summarized in the memorandum dated March 31, 2017 requesting Budget Amendment 2017-04.

**PASSED AND ADOPTED THIS 4th DAY OF MAY, 2017 A.D.**

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

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**MEMBERS OF THE BOARD:**

**DON QUINCEY, CHAIR  
ALPHONAS ALEXANDER, VICE CHAIR  
VIRGINIA H. JOHNS, SECRETARY/TREASURER  
KEVIN W. BROWN  
GARY JONES  
VIRGINIA SANCHEZ  
RICHARD SCHWAB  
BRADLEY WILLIAMS  
CHARLES KEITH**

**ATTEST:** \_\_\_\_\_

MEMORANDUM

TO: Governing Board  
FROM: Roary E. Snider, Esq., Chief of Staff  
DATE: April 30, 2017  
RE: Insurance Broker Services

RECOMMENDATION

**Staff recommends the Governing Board authorize the Executive Director to negotiate and execute a contract with a vendor to provide insurance broker services**

BACKGROUND

The District offers employee-benefit insurances including health insurance, dental insurance, vision insurance, disability insurance, and life insurance. Florida Statute 112.08(2)(a) requires that the District competitively bid insurance products. The District retains an Insurance Broker selected pursuant to a Request for Qualifications (RFQ), which details the Insurance Broker's expertise on matters relevant to the District's business. The Insurance Broker assists the District in competitively procuring insurance products.

RS/pf

MEMORANDUM

TO: Governing Board

FROM: Roary E. Snider, Esq., Chief of Staff

DATE: April 30, 2017

RE: Approval of Payment in Lieu of Taxes

RECOMMENDATION

**Staff recommends the Governing Board approve Payment in Lieu of Taxes in the amount of \$357,978.64 from the Fiscal Year 2016-2017 State Appropriation for Land Management for qualifying counties.**

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 and the County qualifies for PILT. PILT only applies to 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. This year 12 counties have applied for a total of \$357,978.64. The reimbursement amounts for each county are shown in Attachment "A".

RS/pf  
Attachment

**ATTACHMENT A**

**2016 SCHEDULE OF PAYMENT  
IN LIEU OF TAXES**

BRADFORD	\$	21,159.28
COLUMBIA	\$	37,738.76
DIXIE	\$	21,289.88
GILCHRIST*	\$	56,796.36
HAMILTON	\$	37,156.48
JEFFERSON	\$	9,163.13
LAFAYETTE	\$	77,581.69
LEVY	\$	30,401.84
MADISON	\$	19,917.45
SUWANNEE	\$	30,294.19
TAYLOR**	\$	15,646.87
UNION	\$	832.71
<b>TOTAL</b>	<b>\$</b>	<b><u>357,978.64</u></b>

\*A portion of Gilchrist County's PILT payment in the amount of \$17,944.05 reverts back to the District for costs of Otter Springs entrance road improvements. This loan payment will discontinue in 2020.

\*\*Taylor County's PILT payment of \$15,646.87 reverts back to the District for land conveyance loan repayment. This loan payment will discontinue in 2024.

## MEMORANDUM

TO: Governing Board  
FROM: Roary E. Snider, Esq., Chief of Staff  
DATE: April 30, 2017  
SUBJECT: District Land Management & Twin River State Forest (TRSF) Activity Summary

On April 5 District land management staff completed the statutorily required annual land management review of District lands. This year the review team visited tracts in the Upper Suwannee River basin.

In Fiscal Year 2017 the District received funding from the Florida Forest Service and the U.S. Fish and Wildlife Service to conduct vegetation management treatments on the Mallory Swamp tract in Lafayette County. This funding will be applied toward roller-chopping approximately 2,000 acres on this site. To date, the contractor has successfully roller-chopped approximately 1,523 acres.

District maintenance contractors and portable sanitation providers upgraded their services to the summer schedule on April 1. Dispersed recreation contractors service recreation areas twice monthly and portable sanitation services are weekly except for Suwannee Springs due to heavy usage. It will be serviced twice weekly.

District and Florida Fish & Wildlife Conservation staff held their annual coordination meeting to review additional properties to be added to the wildlife management area system and review and recommend rules, hunt dates and additional hunting opportunities.

District staff, Florida Trail Association and US Forest Service continues to work on rerouting the Florida National Scenic Trail further down the Suwannee through Mayo to the Steinhatchee River and up the Big Bend Coast to St. Marks.

The Woods Ferry tract was closed to the public for seven days due to a wildfire and maintenance issues at the canoe launch. The steps at the canoe launch has been repaired.

Additional steps were added to the stairs that access the river at Suwannee Springs.

District staff participated on the advisory committees to update the unit management plans for Troy Springs State Park and Ichetucknee Springs State Park.

District staff has rewritten the campfire guidelines for campfires allowed by special use authorizations during overnight boat and canoe trips. The updated standard use the new Florida Forest Service Fire Danger Index Report (FDI) rather than the Ketch-Bryam Drought Index (KBDI). The new FDI better reflects the volatility of fuels than the KBDI.

District staff and Florida Fish and Wildlife Conservation Commission held their annual Wildlife Management Area cooperators meeting on April 18, 2017.

The Withlacoochee Spring Trail Ride was held on Twin Rivers State Forest with close to 200 horseback riding participants.

The 2017 road, trail, and firebreak invasive exotic survey update is being completed on Twin Rivers State Forest. (70% complete).

The attached report summarizes the status of current District and TRSF activities for the preceding month. District staff may address any items of particular interest to the Board or provide information to Board members upon request.

/pf

**District Prescribed Fire Report**

**Summary Table FY 2017**

	<b>2017 Target Acres</b>	<b>Acres Complete</b>
SRWMD	11,000	5,589
FFS TRSF	2,000	459
<b>TOTAL</b>	<b>13,000</b>	<b>6,048</b>

Contractors conducting prescribed burns on Suwannee River Water Management District (District) lands this year include: Attack-1 Fire Management (ATK-1), B&B Dugger (B&B), Natural Resource Planning Services (NRPS), Schmidt Reforestation Services (SRS), and Wildland Fire Services (WFS). Also included in this report are the acres the Florida Forest Service burns on Twin Rivers State Forest (FFS TRSF). When available, the Florida Forest Service (FFS COOP) will also provide a crew to burn additional acres on both District tracts and Twin Rivers State Forest.

**FY 2017 Activity Table (2/14 - 3/16)**

		B&B	NRPS	WFS	SRS	ATK-1	FFS COOP	FFS TRSF	Total Acres	Total Wildfire Acres
<b>TRACT</b>	<b>COUNTY</b>									
Mill Creek North	Madison	390								
Withlacoochee Quail Farm	Madison	172								
Jennings Bluff	Hamilton				110					
Peacock Slough	Suwannee		145							
Woods Ferry	Suwannee									29
<i>Sub-total for Period</i>		562	145	0	110	0	0	0	817	29.00
<i>Previous Acres Burned</i>		1,147	1,120	1,5450	399	0	561	459		
<b>Total Acres</b>		<b>1,709</b>	<b>1,265</b>	<b>1,545</b>	<b>399</b>	<b>0</b>	<b>561</b>	<b>459</b>	<b>6,048</b>	<b>29.00</b>

## District Timber Sales

- Steinhatchee Springs #16 contract was executed and preharvest meeting was held on January 11, 2016. Harvesting started on May 27. Harvesting was suspended on August 8 due to flooding. The harvest restarted on October 6. The contract was extended due to wet weather from TS Colin and Hurricane Hermine. The sale is now complete and contract closed out.
- Mattair Springs #4 preharvest meeting was held on February 19, 2016 and harvesting commenced on that same day. 100% of the pine has been harvested. The crew has moved back on to harvest hardwood chips. The contract has been extended.
- Contracts have been executed on Steinhatchee Springs #17 and #18. Soils are too wet for harvest following the April 3,4 rainfall. Almost 8" of rain fell at the Cooks Hammock fire tower.

Tract	Contract	Acres	Tons Harvested	Revenue	Status	Contract End Date
Steinhatchee Springs #16	15/16-046	422	14,758	\$426,292.68	Harvest Complete	December 30, 2016*
Mattair Springs #4	15/16-056	196	4,675	\$86,486.93	Harvest Underway	May 31, 2017
Steinhatchee Springs #17	16/17-085	303			Harvest Suspended	January 20, 2018
Steinhatchee Springs #18	16/17-086	208			Harvest Suspended	January 20, 2018

Consultants are preparing timber sales for Blue Sink and White Springs Tracts to reduce risk factors associated with potential Southern Pine Beetle infestations. Staff is developing a timber sale at Stephen Foster on lands leased to DEP to reduce loblolly pine density.

## District Conservation Easement Monitoring

- Conservation Easement inspections for Hancock Otter Creek and Cedar Hammock and Weyerhaeuser Gainesville Wellfield tracts were completed. Inspection Reports are being drafted.
- A meeting was held with Lyme Timber and State DEP regarding the State Conservation Easement with Lyme Timber in Dixie County that the District will monitor. The DEP will provide more guidance but the initial inspection will be planned for the end of 2017.
- Staff is working with Loncala to revise the exhibit maps at Montechoa.
- Staff inspected the California Swamp easement with Campbell Global on March 17. Staff is working with Bailey Brothers to set up an inspection in the next 30 days.

### **Twin River State Forest Timber Sales**

Contracts have been executed on Mill Creek South#9 and Ellaville #14.

Tract	Contract	Acres	Tons Harvested	Revenue	Status	Contract End Date
Mill Creek South #9	16/17-083	95			Contract executed	January 20, 2018
Ellaville #14	16/17-084	99			Contract executed	January 20, 2018

Additional timber sales to reduce risks associated with Southern Pine Beetle are being planned for the Ellaville Tract and the Pot Springs Tract. TRSF staff has begun the field work associated with 2 of these sales on the Ellaville Tract.

MEMORANDUM

TO: Governing Board  
 FROM: Roary E. Snider, Esq., Chief of Staff  
 DATE: April 30, 2017  
 RE: Land Acquisition and Disposition Activity Report

**Approved for Detailed Assessment**

Owner	Project Name	Acres	County	Comments
Michael and Freda Shaw	Shaw Conservation Easement Exchange	1,099	Lafayette	Negotiations are in progress.
Rock Bluff Spring Co., LLC	Rock Bluff Springs	173	Gilchrist	Governing Board Approved continuation of detailed assessment and negotiations on 11/8/2016. Owner performing appraisals.
SRWMD	Sandlin Bay Sale/Exchange to U.S. Forest Service	2,023	Columbia	USFS Staff received authorization to proceed with purchase March 1, 2017subject to appraisal update.
BTG Pactual MoDOT Tract	Camp Blanding Buffers BTG Pactual	630+/-	Bradford	North Florida Land Trust (NFLT) purchased tract. Staff to work with NFLT on WRD project.
Jerry Coker, etal	Lumber Camp Springs	37 +/-	Gilchrist	Title Issue regarding access being resolved. Contract will be presented to GB upon resolution.
Ware Forest, LLC	Ware Forest	160 +/-	Jefferson	Timber Cruise and Appraisal Complete. Negotiations underway by acquisition partner.
Tim Walker, Etal	Tim Walker Conservation Easement	90 +/-	Lafayette	Appraisal ITB underway.

**Authorized for Surplus**

Tract	Acres	County	Acquired Date	Funding Source	Appraisal Date	Listing Date	Price	Comments
Alligator Lake	43	Columbia	8/10/2001	P2000	N/A	N/A	N/A	Columbia County to complete requirements of Interlocal Agreement. Alligator Creek Tract will be conveyed to County upon confirmation of completion.

Authorized for Surplus (continued)

Tract	Acres	County	Acquired Date	Funding Source	Appraisal Date	Listing Date	Price	Comments
Falmouth North (8 lots)	6	Suwannee	04/1998	WMLTF	8/27/2010	11/18/10	Fee entire tract \$34,930	Listing agreement expired, but available for sale.
Timber River	1	Madison	03/1998	WMLTF	8/5/2010; Updated 7/30/2014	11/18/10	Fee entire tract \$6,950	Listing agreement expired, but available for sale.
Turtle Spring Surplus Tract	32	Lafayette	5/13/2015	Florida Forever	5/24/2015	N/A	\$85,000 (\$67,000 for Acreage Parcel, &18,000 for Subdivision Lot)	Appraisal is complete. Available for purchase or Exchange
Branford Bend	50	Lafayette	6/30/2004	Florida Forever Bonds	ITB in Process	N/A	To be determined by appraisal.	Survey of Surplus Tract Underway.
RO Ranch West	570	Lafayette	7/27/2006	Florida Forever Bonds	To be ordered if Surplus Activities resume.	N/A	To be determined by appraisal	Governing Board approved surplus on 8/11/2015. Surplus Activities suspended until March 8 <sup>th</sup> 2017.
Columbia County Surplus	78 +/-	Columbia	07/2015	Enforcement Action	ITB in Process	N/A	To be determined by appraisal	Governing Board approved surplus on 7/12/2016
Horseshoe Beach Wellfield Tract	98 +/-	Dixie	07/2011	Florida Forever Bonds	N/A for Conveyance to Govt. Entity	N/A	N/A	Governing Board approved surplus on 7/12/2016

Authorized for Exchange

Tract	Acres	County	Acquired Date	Funding Source	Appraisal Date	Listing Date	Price	Comments
Shingle Landing and 47 Bridge	0.81 & 3.87	Gilchrist	10/17/95 & 02/15/00	P2000	N/A	N/A	N/A	Exchange Completed.

/kr

MEMORANDUM

TO: Governing Board  
FROM: Tom Mirti, Director, Division of Water Resources  
DATE: April 30, 2017  
RE: Authorization for the Executive Director to Execute a Task Work Assignment with Huss Drilling, Inc. for Well Construction and Associated Hydrogeological Testing

RECOMMENDATION

**Staff recommends the Governing Board authorize the Executive Director to execute Task Work Assignment No. 3 to Huss Drilling, Inc., for well construction and associated hydrogeological testing throughout the District for an amount not to exceed \$222,050.**

BACKGROUND

At the September 8, 2015, Governing Board Meeting, the Board approved a list of qualified well drilling contractors and enter into multi-year contracts with each of the qualified contractor. The list identified three qualified contractors: Partridge Well Drilling Company, Inc., of Jacksonville, Florida, Huss Drilling, Inc., of Dade City, Florida, and A.C. Schultes of Florida, Inc., of Gibsonton, Florida. Contracts have been established with each contractor and an Invitation to Bid (ITB 16/17-013WR) for Task Work Assignment No. 3 was sent to each of the three qualified contractors on March 17, 2017.

On March 31, 2017, timely bid responses were opened at District headquarters in Live Oak. Huss Drilling, Inc., submitted the lowest bid to conduct the work at \$222,050. All bid responses are tabulated below:

<b>Bidder</b>	<b>Task Work Authorization No. 3 Proposed Bid Amount</b>
A.C. Schultes of Florida, Inc.	No bid submittal
Huss Drilling, Inc.	\$222,050
Partridge Well Drilling Company, Inc.	Bid received late

Results from the two prior task work authorization bids are provided below

<b>Bidder</b>	<b>Task Work Authorization No. 1 Proposed Bid Amount</b>
Huss Drilling, Inc.	\$176,500
Partridge Well Drilling Company, Inc.	\$215,800
A.C. Schultes of Florida, Inc.	\$829,850

Bidder	Task Work Authorization No. 2 Proposed Bid Amount
Huss Drilling, Inc.	\$203,205
Partridge Well Drilling Company, Inc.	\$233,250
A.C. Schultes of Florida, Inc.	No bid submittal

The well construction specifications and listed bid item costs have been compared with those of neighboring water management districts and compare favorably both in terms of what well construction specifications are requested of drilling contractors and for the relative unit costs.

The goal of monitor well construction is to obtain a well suitable for water level and quality sample collection from clearly identified aquifers and geological formations. In addition, detailed geotechnical information about the subsurface is collected during the drilling process. These requirements necessitate the use of PVC well casing, which in turn requires mud rotary well drilling equipment and methods. In the District, residential and irrigation wells are typically constructed with driven steel casings, which can be installed more quickly and at lower cost, but at the expense of collection of detailed geotechnical information and with the potential of compromising water quality sampling analyses. Table 1 (below) provides a cost comparison with other Districts of typical and recent monitor well construction bid results.

**Table 1. Cost Comparison of Monitor Well Drilling**

Description		SRWMD	SWFWMD	SJRWMD	Comments
Mob/Demob	EA	\$1,500	NA	\$1,100	SWF Mob built into drilling cost
Standby	HR	\$125	\$200	\$150	
Gravel	CY	\$500	NA	\$125	SWF provides materials
Cement	SK	\$30	NA	\$30	SWF provides materials
Hole Plug	SK	\$30	NA	\$30	SWF provides materials
SPT	LF	\$20	NA	\$19.3	SWF performs own SPT
Core Samples	LF	\$0	NA	\$40	SWF obtains own cores
Install 12" casing	LF	\$80	\$81	\$77.75	SWF provides materials
Install 8" casing	LF	\$80	\$75	\$62.94	SWF provides materials
Install 4" casing	LF	\$40	NA	\$38.66	
Drill with 4" bit	LF	\$30	\$14	\$12	
Install 4" screen	LF	\$40	NA	\$63.75	SWF provides materials
Install 4" PVC csg	LF	\$40	NA	\$32.33	SWF provides materials
Well Development	HR	\$225	\$200	\$170	
Bollards, protective csg, concrete pad	EA	\$1,000	NA	\$880	SJR uses 4" diameter bollards and a 2' pad SWF provides materials SRWMD uses 6" bollards and a 3' pad
Geophysical	EA	\$2,500		\$1,800	SJR does not include video/SWF conducts geophysical testing with own staff

Upon finalization of Task Work Assignment No. 3 with the approved low bidder, staff and the District's Contractor, Barnes, Ferland and Associates, will schedule drilling and geotechnical work at identified well sites as soon as is practical. Funding for this recommendation is included in the Fiscal Year 2017 budget under fund code 01-2586-2-1200-27.

THM/pf

## MEMORANDUM

TO: Governing Board

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

DATE: April 21, 2017

RE: Approval of a Modification of Water Use Permit 2-023-220374-4, with a 0.3421 mgd Decrease in Allocation and a Nine-Year Permit Extension, Authorizing the Use of 0.2824 mgd of Groundwater for Agricultural Use at the Carl Allison Farm Project, Columbia County

### RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-023-220374-4 with seventeen standard conditions and eight special limiting conditions, to Carl Allison, in Columbia County**

### BACKGROUND

This is a modification of an existing agricultural water use to update crop rotations and receive a nine-year permit extension for voluntarily implementing automated monitoring of withdrawals. The project consists of 438 controlled acres and is located two miles northwest of SR-247 and one mile south of CR-242, approximately eight miles southwest of Lake City, in Columbia County. Approximately 250 acres of hay and 100 acres of a corn/ rye rotation are irrigated through a traveling gun irrigation system. Groundwater is also used to provide the water needs of approximately 80 head of cattle. The WUPAR and GWRAPPS models were used determine the supplemental irrigation requirements, and the application review resulted in a 0.3420 mgd decrease in allocation, from 0.6245 mgd to 0.2824 mgd in 1-in-10-year drought conditions.

All wells 8-inches in diameter or greater (1 of 2) will be monitored using telemetry. There are no lower quality water sources currently available for use, no reports of interference from previous withdrawals, and no harm to water resources associated with withdrawals at this project. The project area is located within the Lower Santa Fe River Basin Water Resource Caution Area.

Staff has determined the proposed withdrawals are in accordance with MFLs and MFL recovery strategies pursuant to Chapters 62-42 and 40B-8, Florida Administrative Code (F.A.C.). The application is complete and satisfies the conditions for issuance in Chapter 40B-2, F.A.C.

/tm  
Attachments

WATER USE TECHNICAL STAFF REPORT  
12-Apr-2017  
APPLICATION #: 2-023-220374-4

**Owner:** Carl Allison  
3707 SW Salem Rd  
Lake City, FL 32024  
(386) 303-1393

**Applicant:** Carl Allison  
3707 SW Salem Rd  
Lake City, FL 32024  
(386) 303-1393

**Agent:** Not Applicable

**Compliance Contact:** Carl Allison  
3707 SW Salem Rd  
Lake City, FL 32024  
(386) 303-1393

**Project Name:** Carl Allison Farm  
**County:** Columbia

**Located in WRCA:** Yes  
**Objectors:** No

**Authorization Statement:**

The permittee is authorized to withdraw a maximum of 0.1456 mgd of groundwater for supplemental irrigation of hay and a maximum of 0.1355 mgd of groundwater for supplemental irrigation of corn/ rye. The permittee is also authorized to withdraw a maximum of 0.0012 mgd of groundwater for livestock use.

**Recommendation:** Approval  
**Reviewers:** Tim Sagul; Stefani Weeks; Warren Zwanka

**WATER USE SUMMARY:**

<b>Allocation Summary</b>		
<b>Average Daily Rate (Million Gallons Per Day)</b>	<b>Freeze Protection (Million Gallons Per Year)</b>	<b>New Water to Average Daily Rate (Million Gallons Per Day)</b>
0.2824	0.0000	-0.3421

**Recommended Permit Duration and Compliance Reporting:** 9-year permit extension; to expire May 11, 2037.

**USE STATUS:** This is a modification of an existing agricultural use to receive a 9-year extension for voluntary monitoring of groundwater withdrawals and enroll in the district's cost-share program for a fertigation tank.

**PROJECT DESCRIPTION:**

The project is located two miles northwest of SR-247 and one mile south of CR-242 on SW Cypress Lake Drive, approximately 8 miles southwest of Lake City in Columbia County, and consist of 438 controlled and 350 irrigated acres. Groundwater from one irrigation well will be used to irrigate 250 acres of hay and 100 acres of corn through a traveling gun system. Groundwater from one livestock well will also be used to fulfill the watering requirements of approximately 80 head of beef cattle.

The permittee has elected to provide SRWMD telemetry to comply with the water use reporting requirements of special condition 18.

**WATER USE CALCULATIONS:**

The District's WUPAR model was used to determine the 15.61 inches/ year supplemental irrigation requirement for corn. The GIS-Based Water Resources and Agricultural Permitting and Planning System was used to determine the following supplemental irrigation requirements:

Hay: 7.83 inches/ year

Rye (oats) grown from November 1 to February 28: 2.61 inches/ year

The livestock watering requirements were calculated using the industry standard 15 gallons per cow per day.

**PERMIT APPLICATION REVIEW:**

Section 373.223, Florida Statutes (F.S.), and Section 40B-2.301, Florida Administrative Code (F.A.C.), require an applicant to establish 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.

In addition, the above requirements are detailed further in the District's Water Use Permitting Applicant's Handbook ("A.H."). District staff has reviewed the water use permit application pursuant to the above-described requirements and have determined that the application meets the conditions for issuance of this permit. Highlights of the staff review are provided below.

**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), F.A.C.

**Will this use interfere with any presently existing legal use of water?  
[ref. 40B-2.301(1)(b)]**

No. Project withdrawals were modeled and showed a simulated Upper Floridan aquifer drawdown of less than 0.5 foot at the project boundary. Additionally, no reports of interference from previous groundwater withdrawals have been received by the district. Therefore, continued groundwater withdrawals at this project are not expected to 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. The use of water for agricultural purposes is consistent with the public interest.

**Will this use be in such a quantity that is necessary for economic and efficient use?  
[ref. 40B-2.301(2)(a)]**

Yes. Water use consistent with the aforementioned supplemental irrigation models and industry standards is economic and efficient. The permittee will implement the following water conservation measures for the agricultural uses: checking daily for irrigation leaks and repairing them as needed, burying irrigation pipe to prevent damage, using UF-IFAS and NRCS-approved irrigation scheduling methods, maintaining written records of rainfall, employing operational pump shutdown to prevent pump operation in the event of an irrigation system malfunction, planting cover crops in the winter, and irrigating at night and when the wind is less than 5 mph when feasible.

**Will the source of the water be suitable for the consumptive use?  
[ref. 40B-2.301(2)(c)]**

Yes. Staff determined the Upper Floridan aquifer is suitable for the consumptive use.

**Will the source of the water be capable of producing the requested amount?  
[ref. 40B-2.301(2)(d)]**

Yes. Staff determined the Upper Floridan aquifer is capable of producing the requested amounts.

**Except when the use is for human food preparation and direct human consumption, is the lowest quality water source that is suitable for the purpose and is technically, environmentally, and economically feasible being utilized?  
[ref. 40B-2.301(2)(e)]**

Yes. The lowest quality water source that is suitable for the purpose and that is technically, environmentally, and economically feasible is being utilized.

**Will the use harm existing offsite land uses as a result of hydrologic alterations?**  
[ref. 40B-2.301(2)(f)]

No. The use is not expected to harm offsite land uses.

**Will the use cause harm to the water resources of the area that include water quality impacts to the water source resulting from the withdrawal or diversion, water quality impacts from dewatering discharge to receiving waters, saline water intrusion or harmful upconing, hydrologic alterations to natural systems, including wetlands or other surface waters, or other harmful hydrologic alterations to the water resources of the area?**  
[ref. 40B-2.301(2)(g)]

No. Project withdrawals were modeled and showed a simulated Upper Floridan aquifer drawdown of less than 0.5 feet at project wetlands. Staff inspected project wetlands and determined the continued water use is not expected to cause any harm to natural systems of the water resources of the area for the duration of the permit.

**Is the use in accordance with any minimum flow or level and implementation strategy established pursuant to Sections 373.042 and 373.0421, F.S.?**  
[ref. 40B-2.301(2)(h)]

Yes. The proposed withdrawals are in accordance with MFLs and MFL recovery strategies pursuant to Chapters 62-42 and 40B-8, F.A.C.

**Will the project use water reserved pursuant to subsection 373.223(4), F.S.?**  
[ref. 40B-2.301(2)(i)]

No. The project will not use water reserved by the Governing Board pursuant to subsection 373.223(4), F.S.

**WITHDRAWAL POINT INFORMATION:**

**Site Name:** Carl Allison Farm

Wells Detail						
District ID	Station Name	Casing Diameter (inches)	Capacity (GPM)	Source Name	Status	Use Type
119544	Livestock Well	4	20	FAS - Upper Floridan Aquifer	Active	Agricultural
120176	Chucks Well	10	1000	FAS - Upper Floridan Aquifer	Active	Agricultural

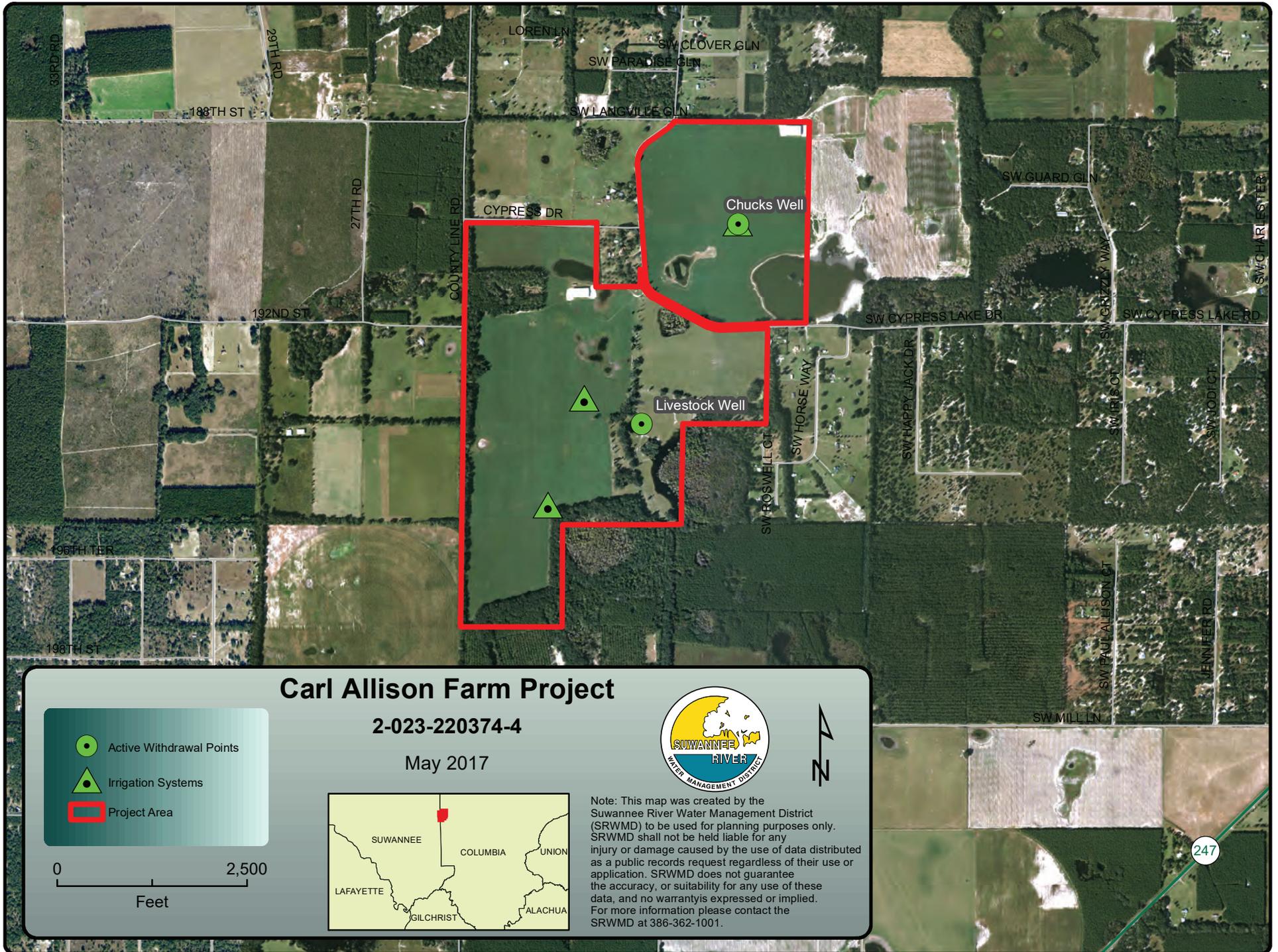
## Conditions

1. All water 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, F.S., 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.
2. 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.
3. The 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 water use is made. Where the 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 section 40B-2.351, F.A.C. Alternatively, the permittee may surrender the water use permit to the District, thereby relinquishing the right to conduct any activities under the permit.
4. 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, F.S. 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.
5. With advance notice to the permittee, District staff with proper identification shall have permission to enter, inspect, observe, collect samples, and take measurements of permitted facilities to determine compliance with the permit conditions and permitted plans and specifications. The permittee shall either accompany District staff onto the property or make provision for access onto the property.
6. A permittee may seek modification of any term of an unexpired permit. The permittee is advised that section 373.239, F.S., and section 40B-2.331, F.A.C., are applicable to permit modifications.

7. This permit shall expire on **5/4/2037**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.402(8)(a), F.A.C., and the required fee to the District pursuant to section 40B-2.361, F.A.C., up to one year prior to this expiration date in order to continue the use of water.
8. Use classification is **Agricultural**.
9. Source classification is **Groundwater**.
10. The permitted water withdrawal facilities consist of the stations in the Withdrawal Point Information table(s).
11. The 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.
12. The 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.
13. The 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.
14. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.
15. The 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 (**2-023-220374-4**).
17. The District reserves the right to open this permit, following notice to the permittee, to include a permit condition prohibiting withdrawals for resource protection.

18. 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.
19. 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.
20. 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.
21. The permittee agrees to participate in a Mobile Irrigation Lab (MIL) program and allow access to the Project Site for the purpose of conducting a MIL evaluation at least once every five years.
22. Following the effective date of the re-evaluated Minimum Flows and Levels adopted pursuant to Rule 62-42.300(1)(e), F.A.C., this permit is subject to modification during the term of the permit, upon reasonable notice by the District to the permittee, to achieve compliance with any approved MFL recovery or prevention strategy for the Lower Santa Fe River, Ichetucknee River, and Associated Priority Springs. Nothing herein shall be construed to alter the District's authority to modify a permit under circumstances not addressed in this condition.
23. The permittee shall install and maintain no less than one backflow prevention device when fertigating and no less than two backflow prevention devices when chemigating on all wells or surface water pumps connected to the irrigation system. The backflow prevention device(s) shall be installed between the water source and the injection point.
24. The permittee is authorized to withdraw a maximum of 0.1456 mgd of groundwater for supplemental irrigation of hay and a maximum of 0.1355 mgd of groundwater for supplemental irrigation of corn/ rye. Daily allocations are calculated on an average annual basis and the maximum allocation is only authorized in 1-in-10 year drought conditions.

25. The permittee is authorized to withdraw a maximum of 0.0012 mgd of groundwater for livestock use. Daily allocations are calculated on an average annual basis.



# Carl Allison Farm Project

2-023-220374-4

May 2017



-  Active Withdrawal Points
-  Irrigation Systems
-  Project Area



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 21, 2017

RE: Approval of Water Use Permit 2-079-229661-1 Authorizing the Use of 0.1551 mgd of Groundwater for Agricultural Uses at the Whitty Farm Project, Madison County

### RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-079-229661-1, with seventeen standard conditions and seven special limiting conditions, to Brian Kauffman, in Madison County.**

### BACKGROUND

This is a new permit for a new agricultural water use that received one letter of objection citing land ownership, water use authorization, and application fee issues. The project consists of 156 controlled acres and is located on the south side of US Hwy 90, approximately 1.5 miles north of SR 6 in Madison County. Approximately 95 acres of a corn/ carrot or a peanut/ rye rotation will be irrigated using groundwater from one well through one center pivot irrigation system. The WUPAR and GWRAPPS models were used to determine the 0.1551 mgd supplemental irrigation requirements in 1-in-10 year drought conditions.

The single 12-inch diameter irrigation well will be monitored using reporting of electrical consumption. There are no lower quality water sources currently available for use; and interference with existing water uses and harm to water resources from the proposed withdrawals are not anticipated. The project is not located within a Water Resource Caution Area.

Staff has determined the proposed withdrawals will not contribute to a violation of MFLs adopted in Chapters 62-42 and 40B-8, Florida Administrative Code (F.A.C.). All issues cited by the objector during the receipt noticing period were addressed in the completion of the application review. The application is complete and satisfies the conditions for issuance in Chapter 40B-2, F.A.C.

WZ/tm  
Attachments

WATER USE TECHNICAL STAFF REPORT  
12-Apr-2017  
APPLICATION #: 2-079-229661-1

**Owner:** Brian Kauffman  
1075 NE Geranium Street  
Madison, FL 32340

**Applicant:** Brian Kauffman  
1075 NE Geranium Street  
Madison, FL 32340

**Agent:** Not Applicable

**Compliance Contact:** Brian Kauffman  
1075 NE Geranium Street  
Madison, FL 32340

**Project Name:** Whitty Farm  
**County:** Madison

**Located in WRCA:** No

**Objectors:** Yes

**Authorization Statement:**

The permittee is authorized to withdraw a maximum of 0.1551 mgd of groundwater for supplemental irrigation of a corn/ carrot rotation, a maximum of 0.0870 mgd of groundwater for supplemental irrigation of a peanut/ rye rotation.

**Recommendation:** Approval

**Reviewers:** Tim Sagul; Warren Zwanka

**WATER USE SUMMARY:**

<b>Allocation Summary</b>		
<b>Average Daily Rate (Million Gallons Per Day)</b>	<b>Freeze Protection (Million Gallons Per Year)</b>	<b>New Water to Average Daily Rate (Million Gallons Per Day)</b>
0.1551		0.1551

**Recommended Permit Duration and Compliance Reporting:** 20-year permit duration

**USE STATUS:** This is a new permit for an agricultural water use

**PROJECT DESCRIPTION:**

This project will be located on the south side of US Hwy 90, approximately 2 miles east of Lee, FL in Madison County, and consists of 157 controlled and 95 irrigated acres. Either a corn/ carrot or a peanut/ rye rotation will be irrigated using groundwater from one well through one center pivot irrigation system.

The permittee has elected to provide electrical usage to comply with the water use reporting requirements of special condition 18.

**Water Use Calculations:**

The District's WUPAR model was used to calculate the 15.61 inches/ year of supplemental irrigation for corn grown from March 1<sup>st</sup> to July 15<sup>th</sup>. The GIS-Based Water Resources and Agricultural Permitting and Planning System (GWRAPPS) was used to determine the following supplemental irrigation requirements:

Peanuts grown from April 15 to October 1: 9.95 inches/ year

Carrots grown from October 1 to February 28: 6.34 inches/ year

Rye (oats) grown from November 1 to February 28: 2.36 inches/ year

**PERMIT APPLICATION REVIEW:**

Section 373.223, Florida Statutes (F.S.), and Section 40B-2.301, Florida Administrative Code (F.A.C.), require an applicant to establish 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.

In addition, the above requirements are detailed further in the District's Water Use Permitting Applicant's Handbook ("A.H."). District staff has reviewed the water use permit application pursuant to the above-described requirements and have determined that the application meets the conditions for issuance of this permit. Highlights of the staff review are provided below.

**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), F.A.C.

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

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

No. Project withdrawals were modeled and showed a simulated Upper Floridan aquifer drawdown of less than 0.5 foot at the project boundary. Therefore, the proposed groundwater withdrawals at this project are not expected to 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. The use of water for agricultural purposes is consistent with the public interest.

**Will this use be in such a quantity that is necessary for economic and efficient use?  
[ref. 40B-2.301(2)(a)]**

Yes. Water use consistent with the aforementioned supplemental irrigation models is economic and efficient. The permittee will implement the following water conservation measures for the agricultural uses: checking for irrigation leaks and repairing them as needed, ensuring end gun shutoffs work properly and water only target crops, installing a new or retrofitted pivot system and maintaining an 80% irrigation distribution uniformity, burying irrigation pipe to reduce damage potential, using UF-IFAS and NRCS-approved methods and soil moisture probes for scheduling irrigation, maintaining metered and written records of rainfall, utilizing an irrigation rainfall shut-off system, employing operational pump shutdown to prevent pump operation in the event of an irrigation system malfunction, planting cover crops in the winter, applying conservation tillage in the planting area, and irrigating when the wind is less than 5 mph when feasible.

**Will the source of the water be suitable for the consumptive use?  
[ref. 40B-2.301(2)(c)]**

Yes. Staff determined the Upper Floridan aquifer is suitable for the consumptive use.

**Will the source of the water be capable of producing the requested amount?  
[ref. 40B-2.301(2)(d)]**

Yes. Staff determined the Upper Floridan aquifer is capable of producing the requested amounts.

**Except when the use is for human food preparation and direct human consumption, is the lowest quality water source that is suitable for the purpose and is technically, environmentally, and economically feasible being utilized?  
[ref. 40B-2.301(2)(e)]**

Yes. The lowest quality water source that is suitable for the purpose and that is technically, environmentally, and economically feasible is being utilized.

**Will the use harm existing offsite land uses as a result of hydrologic alterations?  
[ref. 40B-2.301(2)(f)]**

No. The use is not expected to harm offsite land uses.

**Will the use cause harm to the water resources of the area that include water quality impacts to the water source resulting from the withdrawal or diversion, water quality impacts from dewatering discharge to receiving waters, saline water intrusion or harmful upcoming, hydrologic alterations to natural systems, including wetlands or other surface waters, or other harmful hydrologic alterations to the water resources of the area?**

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

No. Project withdrawals were modeled and showed a simulated Upper Floridan aquifer drawdown of less than 0.5 feet at the project boundary. There are no wetlands on or proximate to the project. Therefore, staff determined the proposed water use is not expected to cause any harm to natural systems of the water resources of the area for the duration of the permit.

**Is the use in accordance with any minimum flow or level and implementation strategy established pursuant to Sections 373.042 and 373.0421, F.S.?**

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

Yes. The proposed withdrawals are in accordance with MFLs and MFL recovery strategies pursuant to Chapters 62-42 and 40B-8, F.A.C.

**Will the project use water reserved pursuant to subsection 373.223(4), F.S.?**

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

No. The project will not use water reserved by the Governing Board pursuant to subsection 373.223(4), F.S.

**WITHDRAWAL POINT INFORMATION:**

**Site Name:** Whitty Farm

<b>Wells Detail</b>						
<b>District ID</b>	<b>Station Name</b>	<b>Casing Diameter (inches)</b>	<b>Capacity (GPM)</b>	<b>Source Name</b>	<b>Status</b>	<b>Use Type</b>
131095	Well 1	12	Unknown	FAS - Upper Floridan Aquifer	Proposed	Agricultural

## Conditions

1. All water 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, F.S., 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.
2. 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.
3. The 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 water use is made. Where the 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 section 40B-2.351, F.A.C. Alternatively, the permittee may surrender the water use permit to the District, thereby relinquishing the right to conduct any activities under the permit.
4. 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, F.S. 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.
5. With advance notice to the permittee, District staff with proper identification shall have permission to enter, inspect, observe, collect samples, and take measurements of permitted facilities to determine compliance with the permit conditions and permitted plans and specifications. The permittee shall either accompany District staff onto the property or make provision for access onto the property.
6. A permittee may seek modification of any term of an unexpired permit. The permittee is advised that section 373.239, F.S., and section 40B-2.331, F.A.C., are applicable to permit modifications.

7. This permit shall expire on **5/4/2037**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.402(8)(a), F.A.C., and the required fee to the District pursuant to section 40B-2.361, F.A.C., up to one year prior to this expiration date in order to continue the use of water.
8. Use classification is **Agricultural**.
9. Source classification is **Groundwater**.
10. The permitted water withdrawal facilities consist of the stations in the Withdrawal Point Information table(s).
11. The 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.
12. The 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.
13. The 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.
14. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.
15. The 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 (**2-079-229661-1**).
17. The District reserves the right to open this permit, following notice to the permittee, to include a permit condition prohibiting withdrawals for resource protection.

18. 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.
19. 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.
20. 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.
21. Following the effective date of the re-evaluated Minimum Flows and Levels adopted pursuant to Rule 62-42.300(1)(e), F.A.C., this permit is subject to modification during the term of the permit, upon reasonable notice by the District to the permittee, to achieve compliance with any approved MFL recovery or prevention strategy for the Lower Santa Fe River, Ichetucknee River, and Associated Priority Springs. Nothing herein shall be construed to alter the District's authority to modify a permit under circumstances not addressed in this condition.
22. The permittee's water use shall be consistent with the MFL prevention or recovery strategy developed for any water body from which this permitted water use directly or indirectly withdraws or diverts water, pursuant to subsection 40B-2.301(2)(h), F.A.C.
23. The permittee shall install and maintain no less than one backflow prevention device when fertigating and no less than two backflow prevention devices when chemigating on all wells or surface water pumps connected to the irrigation system. The backflow prevention device(s) shall be installed between the water source and the injection point.
24. The permittee is authorized to withdraw a maximum 0.1551 mgd of groundwater for supplemental irrigation of a corn/ carrot rotation or a maximum 0.0870 mgd of groundwater for supplemental irrigation of a peanut/ rye rotation. Daily allocations are calculated on an average annual basis and the maximum allocation is only authorized in 1-in-10 year drought conditions.



# Whitty Farm Project

2-079-229661-1

May 2017



-  Proposed Withdrawal Points
-  Irrigation\_Systems
-  Project Boundary



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 21, 2017

RE: Approval of a Modification of Water Use Permit 2-041-217624-4, with a 0.0191 mgd Increase in Allocation and a Seven-Year Permit Extension, Authorizing the Use of 0.1772 mgd of Groundwater for Agricultural Use at the Quincey Tract Project, Gilchrist County

### RECOMMENDATION

**Staff recommends the Governing Board approve Water Use Permit number 2-041-217624-4 with seventeen standard conditions and eight special limiting conditions, to HTK Farms LLC and Tillis Farms LLC, in Gilchrist County**

### BACKGROUND

This is a modification and split transfer of ownership of an existing agricultural water use to receive a seven-year permit extension for voluntarily implementing automated monitoring of withdrawals. The project consists of 138 controlled acres and is located two miles southeast of Trenton on SR-339, in Gilchrist County. Approximately 120 acres of a corn/ rye or peanuts/ rye rotation are irrigated through a center pivot irrigation system. Groundwater is also used to provide the water needs of approximately 300 head of cattle. The WUPAR and GWRAPPS models were used determine the supplemental irrigation requirements, and the application review resulted in a 0.0191 mgd increase in allocation, from 0.1581 mgd to 0.1772 mgd in 1-in-10-year drought conditions.

All wells 8-inches in diameter or greater (1 of 2) will be monitored using electric consumption. There are no lower quality water sources currently available for use, no reports of interference from previous withdrawals, and no harm to water resources associated with withdrawals at this project. The project area is not located within Water Resource Caution Area.

Staff has determined the proposed withdrawals are in accordance with MFLs and MFL recovery strategies pursuant to Chapters 62-42 and 40B-8, Florida Administrative Code (F.A.C.). The application is complete and satisfies the conditions for issuance in Chapter 40B-2, F.A.C.

/tm  
Attachments

WATER USE TECHNICAL STAFF REPORT  
21-Apr-2017  
APPLICATION #: 2-041-217642-4

**Owner:** Murray Tillis  
Tillis Farms LLC  
PO Box 1669  
Chiefland, FL 32644  
(352) 535-5436

HTK Farms LLC  
476 NE 446th St  
Old Town, FL 32680  
(352) 498-5360

**Applicant:** Murray Tillis  
Tillis Farms LLC  
PO Box 1669  
Chiefland, FL 32644  
(352) 535-5436

HTK Farms LLC  
476 NE 446th St  
Old Town, FL 32680  
(352) 498-5360

**Agent:** Not Applicable

**Compliance Contact:** Murray Tillis  
Tillis Farms LLC  
PO Box 1669  
Chiefland, FL 32644  
(352) 535-5436

**Project Name:** Quincey Tract

**County:** Gilchrist

**Located in WRCA:** No

**Objectors:** No

**Authorization Statement:**

The permittee is authorized to withdraw a maximum of 0.1727 mgd of groundwater for supplemental irrigation of corn/ rye or a maximum of 0.1193 mgd of groundwater for supplemental irrigation of peanuts/ rye. The permittee is also authorized to withdraw a maximum of 0.0045 mgd of groundwater for livestock use.

**Recommendation:** Approval

**Reviewers:** Tim Sagul; Stefani Leavitt; Warren Zwanka

**WATER USE SUMMARY:**

<b>Allocation Summary</b>		
<b>Average Daily Rate (Million Gallons Per Day)</b>	<b>Freeze Protection (Million Gallons Per Year)</b>	<b>New Water to Average Daily Rate (Million Gallons Per Day)</b>
0.1772	0.0000	0.0191

**Recommended Permit Duration and Compliance Reporting:** Seven-year permit extension; to expire March 11, 2037.

**USE STATUS:** This is a modification and transfer of an existing agricultural use to add voluntary monitoring of groundwater withdrawals.

**PROJECT DESCRIPTION:**

This project is located on SR-339 approximately two miles southeast of Trenton in Gilchrist County, and consists of 138 controlled and 120 irrigated acres. Groundwater from one irrigation well is used to irrigate a corn/ rye or peanut/ rye rotation. Groundwater from one livestock well is also used to irrigated approximately 300 head of beef cattle. The corn/ rye and peanut/ rye crop rotations were added in this sequence (previously melons) and resulted in a 0.0191 mgd allocation increase.

The permittee has elected to provide SRWMD electrical consumption to comply with the water use reporting requirements of special condition 18.

**WATER USE CALCULATIONS:**

The District's WUPAR model was used to determine the 15.61 inches/ year supplemental irrigation requirement for corn. The GIS-Based Water Resources and Agricultural Permitting and Planning System was used to determine the following supplemental irrigation requirements:

Peanuts grown from March 25 to October 15: 9.62 inches/ year

Rye (oats) grown from October 15 to February 25: 3.74 inches/ year

The livestock watering requirements were calculated using the industry standard 15 gallons per cow per day.

**PERMIT APPLICATION REVIEW:**

Section 373.223, Florida Statutes (F.S.), and Section 40B-2.301, Florida Administrative Code (F.A.C.), require an applicant to establish 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.

In addition, the above requirements are detailed further in the District's Water Use Permitting Applicant's Handbook ("A.H."). District staff has reviewed the water use permit application pursuant to the above-described requirements and have determined that the application meets the conditions for issuance of this permit. Highlights of the staff review are provided below.

**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), F.A.C.

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

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

No. Project withdrawals were modeled and showed a simulated Upper Floridan aquifer drawdown of less than 0.5 foot at the project boundary. Additionally, no reports of interference from previous groundwater withdrawals have been received by the District. Therefore, continued groundwater withdrawals at this project are not expected to 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. The use of water for agricultural purposes is consistent with the public interest.

**Will this use be in such a quantity that is necessary for economic and efficient use?**

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

Yes. Water use consistent with the aforementioned supplemental irrigation models and industry standards is economic and efficient. The permittee will implement the following water conservation measures for the agricultural uses: checking daily for irrigation leaks and repairing them as needed, using new or retrofitted pivot irrigation systems and efficiency testing those systems every five years to maintain an 80% distribution uniformity, ensuring end gun shutoffs are working properly and only watering target crops, burying irrigation pipe to prevent damage, using UF-IFAS and NRCS-approved methods and soil moisture probes for scheduling irrigation, employing operational pump shutdown to prevent pump operation in the event of an irrigation system malfunction, planting cover crops in the winter, and irrigating at night and when the wind is less than 5 mph when feasible.

**Will the source of the water be suitable for the consumptive use?**

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

Yes. Staff determined the Upper Floridan aquifer is suitable for the consumptive use.

**Will the source of the water be capable of producing the requested amount?  
[ref. 40B-2.301(2)(d)]**

Yes. Staff determined the Upper Floridan aquifer is capable of producing the requested amounts.

**Except when the use is for human food preparation and direct human consumption, is the lowest quality water source that is suitable for the purpose and is technically, environmentally, and economically feasible being utilized?  
[ref. 40B-2.301(2)(e)]**

Yes. The lowest quality water source that is suitable for the purpose and that is technically, environmentally, and economically feasible is being utilized.

**Will the use harm existing offsite land uses as a result of hydrologic alterations?  
[ref. 40B-2.301(2)(f)]**

No. The use is not expected to harm offsite land uses.

**Will the use cause harm to the water resources of the area that include water quality impacts to the water source resulting from the withdrawal or diversion, water quality impacts from dewatering discharge to receiving waters, saline water intrusion or harmful upconing, hydrologic alterations to natural systems, including wetlands or other surface waters, or other harmful hydrologic alterations to the water resources of the area?  
[ref. 40B-2.301(2)(g)]**

No. Project withdrawals were modeled and showed a simulated Upper Floridan aquifer drawdown of less than 0.5 feet at the project boundary. There are no wetlands on or proximate to the project therefore continued water use is not expected to cause any harm to natural systems of the water resources of the area for the duration of the permit.

**Is the use in accordance with any minimum flow or level and implementation strategy established pursuant to Sections 373.042 and 373.0421, F.S.?  
[ref. 40B-2.301(2)(h)]**

Yes. The proposed withdrawals are in accordance with MFLs and MFL recovery strategies pursuant to Chapters 62-42 and 40B-8, F.A.C.

**Will the project use water reserved pursuant to subsection 373.223(4), F.S.?  
[ref. 40B-2.301(2)(i)]**

No. The project will not use water reserved by the Governing Board pursuant to subsection 373.223(4), F.S.

## WITHDRAWAL POINT INFORMATION:

Site Name: Quincey Tract

Wells Detail						
District ID	Station Name	Casing Diameter (inches)	Capacity (GPM)	Source Name	Status	Use Type
118694	Well #2	2	30	FAS - Upper Floridan Aquifer	Active	Agricultural
120921	Well #1	10	1000	FAS - Upper Floridan Aquifer	Active	Agricultural

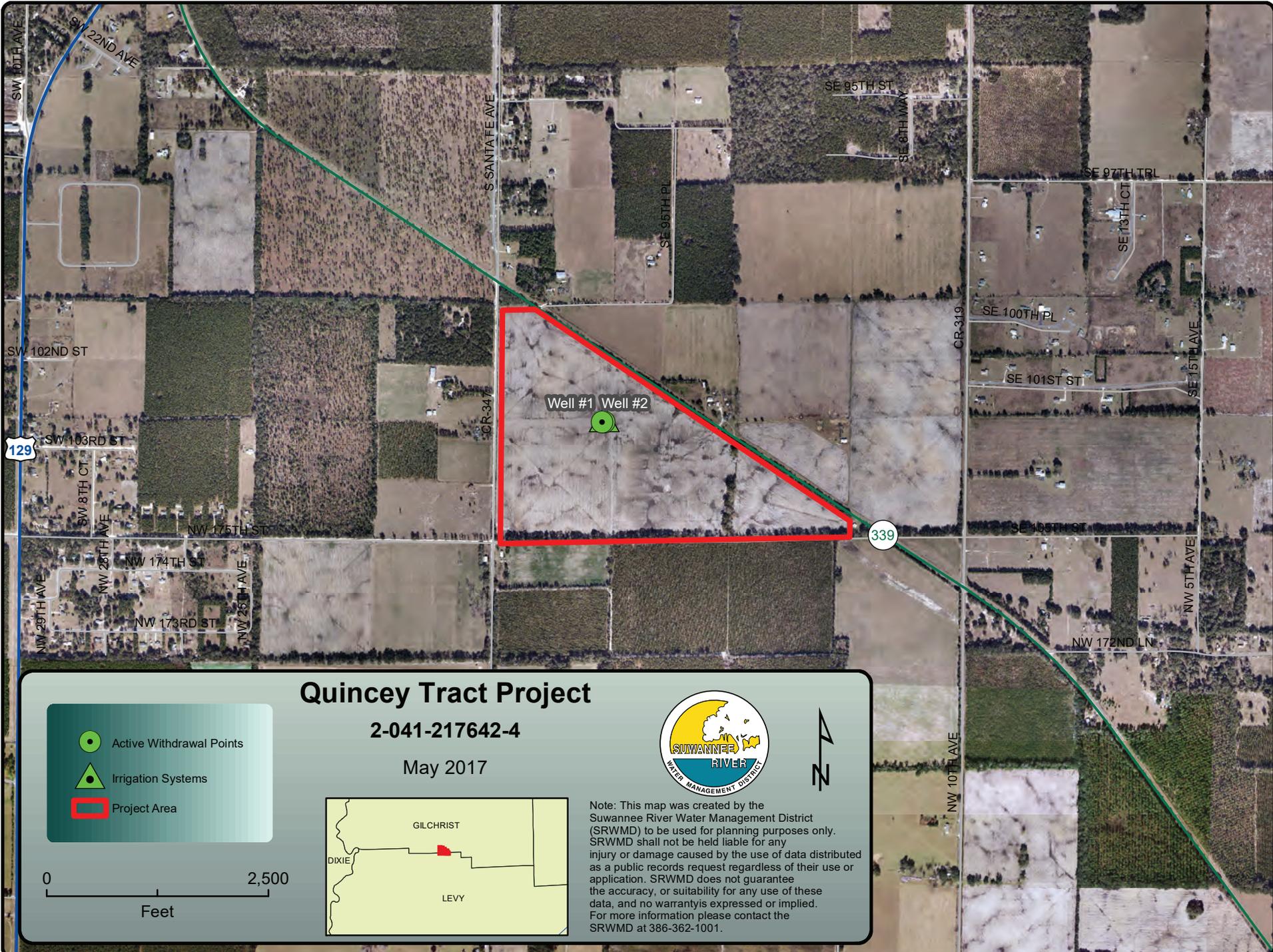
## Conditions

1. All water 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, F.S., 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.
2. 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.
3. The 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 water use is made. Where the 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 section 40B-2.351, F.A.C. Alternatively, the permittee may surrender the water use permit to the District, thereby relinquishing the right to conduct any activities under the permit.
4. 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, F.S. 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.

5. With advance notice to the permittee, District staff with proper identification shall have permission to enter, inspect, observe, collect samples, and take measurements of permitted facilities to determine compliance with the permit conditions and permitted plans and specifications. The permittee shall either accompany District staff onto the property or make provision for access onto the property.
6. A permittee may seek modification of any term of an unexpired permit. The permittee is advised that section 373.239, F.S., and section 40B-2.331, F.A.C., are applicable to permit modifications.
7. This permit shall expire on **3/11/2037**. The permittee must submit the appropriate application form incorporated by reference in subsection 40B-2.402(8)(a), F.A.C., and the required fee to the District pursuant to section 40B-2.361, F.A.C., up to one year prior to this expiration date in order to continue the use of water.
8. Use classification is **Agricultural**.
9. Source classification is **Groundwater**.
10. The permitted water withdrawal facilities consist of the stations in the Withdrawal Point Information table(s).
11. The 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.
12. The 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.
13. The 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.
14. If any condition of the permit is violated, the permittee shall be subject to enforcement action pursuant to chapter 373, F.S.

15. The 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 **(2-041-217642-4)**.
17. The District reserves the right to open this permit, following notice to the permittee, to include a permit condition prohibiting withdrawals for resource protection.
18. 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.
19. 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.
20. 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.
21. Following the effective date of the re-evaluated Minimum Flows and Levels adopted pursuant to Rule 62-42.300(1)(e), F.A.C., this permit is subject to modification during the term of the permit, upon reasonable notice by the District to the permittee, to achieve compliance with any approved MFL recovery or prevention strategy for the Lower Santa Fe River, Ichetucknee River, and Associated Priority Springs. Nothing herein shall be construed to alter the District's authority to modify a permit under circumstances not addressed in this condition.
22. The permittee agrees to participate in a Mobile Irrigation Lab (MIL) program and allow access to the Project Site for the purpose of conducting a MIL evaluation at least once every five years.

23. The permittee shall install and maintain no less than one backflow prevention device when fertigating and no less than two backflow prevention devices when chemigating on all wells or surface water pumps connected to the irrigation system. The backflow prevention device(s) shall be installed between the water source and the injection point.
24. The permittee is authorized to withdraw a maximum of 0.1727 mgd of groundwater for supplemental irrigation of corn/ rye or a maximum of 0.1193 mgd of groundwater for supplemental irrigation of peanuts/ rye. Daily allocations are calculated on an average annual basis and the maximum allocation is only authorized in 1-in-10 year drought conditions.
25. The permittee is authorized to withdraw a maximum of 0.0045 mgd of groundwater for livestock use. Daily allocations are calculated on an average annual basis.



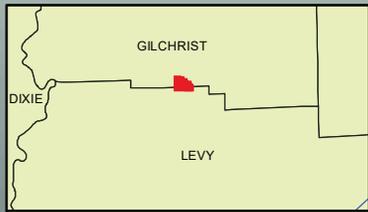
# Quincey Tract Project

2-041-217642-4

May 2017



-  Active Withdrawal Points
-  Irrigation Systems
-  Project Area



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 21, 2017  
 RE: Permitting Summary Report

**Environmental Resource Permitting (ERP) Activities**

**Permit Review**

The following table summarizes the environmental resource permitting activities during the month of January 2017 and program totals from January 2012 to March 2017.

March 2017	Exemption Requests	Noticed Generals	Generals	10-2 Self Certifications	Individuals	Conceptuals	Total
Applications received	8	2	8	5	9	0	32
Permits issued	6	3	7	5	2	0	23
Inspections	2	1	47	5	7	0	62
<b>Total permits issued from January 2012 to March 2017</b>	282	196	280	253	192	12	1215

The following Individual Environmental Resource Permits were issued by staff, pursuant to 373.079(4)(a), Florida Statutes, in March 2017.

Permit Number	Project Name	County	Issue Date
211718-3	Oak View Village Phase 2 Modification	Alachua	3/10/2017
226907-2	Gloria's Way Subdivision Modification	Alachua	3/10/2017

**Water Use Permitting and Water Well Construction Activities**

The following table summarizes water use and water well permitting activities during the month of March 2017.

<b>March 2017</b>	<b>Received</b>		<b>Issued</b>
<b>Water Use Permits</b>	12		8
<b>Water well permits issued: 176</b>			
Abandoned/Destroyed	5	Livestock	1
Agricultural Irrigation	7	Monitor	17
Aquaculture	0	Nursery	0
Climate Control	0	Other	0
Fire Protection	0	Public Supply	3
Garden (Non-Commercial)	0	Self-supplied Residential	140
Landscape Irrigation	3	Drainage or Injection	0
Commercial or Industrial	0	Remediation Recovery	0

**Rulemaking Schedule  
April 2017**

**40B-4 (Amendments)  
ERP/ Works of the District Permits**

GB Rule Dev. Auth.	12/9/2014
Notice of Rule Dev.	
GB Proposed Rule Auth.	12/9/2014
Send to JAPC/OFARR	
Notice of Proposed Rule	
Notice of Rule Change	
Mail to DOS	
Effective Date	

**40B-4.400 (Amendments)  
Environmental Resource Permitting**

GB Rule Dev. Auth.	12/9/2014
Notice of Rule Dev.	
GB Proposed Rule Auth.	12/9/2014
Send to JAPC/OFARR	
Notice of Proposed Rule	
Notice of Rule Change	
Mail to DOS	
Effective Date	

**40B-9 (Amendments)  
WMD Lands Acquisition and Use**

GB Rule Dev. Auth.	10/11/2016
Notice of Rule Dev.	10/28/2016
GB Proposed Rule Auth.	10/11/2016
Send to JAPC/OFARR	11/10/2016
Notice of Proposed Rule	11/14/2016
Notice of Rule Change	11/29/2016
Mail to DOS	12/20/2016
Mailed to Legislature	1/13/2017
Effective Date	<b>5/8/2017</b>

MEMORANDUM

TO: Governing Board  
FROM: Darrell Smith, Director, Agriculture and Environmental Projects  
DATE: April 21, 2017  
RE: Approval to Enter into Contracts with Two Agricultural Producers to Provide Agricultural Cost-Share Program Funding - Townsend Brothers Ag Enterprises and Grimmway Enterprises, Inc.

RECOMMENDATION

**Staff recommends the Governing Board authorize the Executive Director to enter into contracts with two applicants as part of the Florida Department of Environmental Protection and District Agricultural Cost-Share Program in the amount of \$69,050.**

Background

At the January 2015, Governing Board meeting, the Board authorized the Executive Director to execute an agreement with the Florida Department of Environmental Protection (FDEP) for agricultural water conservation, nursery conservation, and nutrient management cost-share totaling \$3,660,000. The District's funding contributions is from the Agricultural Cost-Share Program. In addition, participating agricultural producers provide a cost-share match of 25 percent or more to this program.

**Townsend Bros. Ag Enterprises**

This proposed cost-share project is with Townsend Bros. Ag Enterprises on parcels located in northern Suwannee County and eastern Madison County. The project will install ten remote controlling units and one centralized remote controlling system. These tools reduce groundwater use by allowing enhanced management and timing of irrigation scheduling events, granting the producer remote control capability of nine center pivot irrigation systems, and notify the producer of mechanical malfunctions and system failures.

The upgrades to these irrigation systems are estimated to result in approximately 0.07 million gallons per day of water savings at a cost of \$0.11 per thousand gallons over the estimated life of the equipment (estimated life span of 10 years for remote controlling equipment equates to 270 million gallons of water saved over the life of the equipment). This project is located within the Upper Suwannee River Basin and Madison Blue Springshed.

The project cost is \$41,333.33, with FDEP contributing \$18,500.00 through Agreement No. S0796 (Suwannee River Water Management District Springs Protection Projects) and the District contributing \$12,500.00 through the Agricultural Cost-Share Program for a total of \$31,000.00 in cost-share funds recommended for Governing Board approval. The applicant's portion of these items will be \$10,333.33. Exhibit A is a list of the proposed cost-shared items, proposed funding amounts, and water conservation tools. Exhibit B is a breakdown of the items being cost-shared.

Funding for this project is included in the Fiscal Year 2017 budget under Account Codes 06-2586-7-2400-07-05, and 51-2596-7-2400-06-07.

**Grimmway Enterprises, Inc.**

This proposed cost-share project is with Grimmway Enterprises, Inc. on parcels located in eastern Madison County. The project will install four remote controlling units on four center pivot irrigation systems and retrofit three center pivots to be capable of variable rate irrigation. These tools reduce groundwater use by allowing enhanced management and timing of irrigation scheduling events, granting the producer remote control capability of four irrigation systems, and notify the producer of mechanical malfunctions and system failures.

The upgrades to these irrigation systems are estimated to result in approximately 0.03 million gallons per day of water savings at a cost of \$0.30 per thousand gallons over the estimated life of the equipment (equipment life span in 10 years and equates to 125 million gallons of water saved over the life of the equipment). This project is located within the Madison Blue Springshed.

The project cost is \$50,733.33, with FDEP contributing \$6,000.00 through Agreement No. S0796 (Suwannee River Water Management District Springs Protection Projects) and the District contributing \$32,050.00 through the Agricultural Cost-Share Program for a total of \$38,050.00 in cost-share funds recommended for Governing Board approval. The applicant's portion of these items will be \$12,683.33. Exhibit A is a list of the proposed cost-shared items, proposed funding amounts, and water conservation tools. Exhibit B is a breakdown of the items being cost-shared.

Funding for this project is included in the Fiscal Year 2017 budget under Account Codes 06-2586-7-2400-07-05, and 51-2596-7-2400-06-07.

JWG/rl

**Exhibit A – Project Overview**

<b>Owner Name</b>	<b>County</b>	<b>Improved Water Conservation</b>	<b>Advanced Nutrient Management</b>	<b>Project Description</b>
Townsend Bros. Ag Enterprises	Suwannee/ Madison	\$31,000	-	10 Remote Control Units, 1 Centralized Remote Controlling System
Grimmway Enterprises, Inc.	Madison	\$38,050	-	4 Remote Control Units, 1 Upgraded Controller Panel, 3 Irrigation System Retrofits
	<b>Total Estimated</b>	<b>\$69,050</b>		

**Exhibit B – Itemized List**

<b>Producer</b>	<b>Item</b>	<b>Maximum Cost Share Amount</b>	<b>Quantity</b>	<b>FDEP &amp; SRWMD Item Total</b>	<b>Producer Share</b>
Townsend Bros. Ag Enterprises	Remote Controls of Equipment	\$2,200	10	\$22,000	\$7,333.33
	Centralized Remote Controlling System	\$9,000	1	\$9,000	\$3,000
	<b>Totals:</b>			<b>\$31,000</b>	<b>\$10,333.33</b>
Grimmway Enterprises	Remote Controls of Equipment	\$2,200	4	\$8,800	\$2,933.33
	Upgraded Control Panel	\$4,500	1	\$4,500	\$1,500
	Irrigation Retrofit	\$8,250	3	\$24,750	\$8,250
	<b>Totals:</b>			<b>\$38,050</b>	<b>\$12,683.33</b>

## MEMORANDUM

TO: Governing Board  
FROM: Noah Valenstein, Executive Director  
Date: April 28, 2017  
RE: Adoption of Water Shortage Warning Resolution Number 2017-04

### RECOMMENDATION

## **Staff recommends that the Governing Board adopt Water Shortage Warning Resolution Number 2017-04.**

### BACKGROUND

The District staff has been monitoring the hydrologic conditions to determine if action is required regarding potential water shortage warnings and/or declarations within the District.

### DISCUSSION

As of April 19, 2017, current county average annual rainfall for Alachua, Bradford and Levy counties are near the 5<sup>th</sup>, 5<sup>th</sup> and 20<sup>th</sup> percentiles, respectively. As of April 11, 2017, the U. S. Drought Monitor for Florida identifies the southeast portion of the District as being “abnormally dry”. Drought conditions in neighboring water management districts to the south and east are more intense and have prompted those districts to issue water shortage warnings for the entire area of each respective district. Monitoring indicates that streamflows in the Suwannee and Santa Fe rivers are generally all below average (less than the 25<sup>th</sup> percentile) for this time of year.

To date, 2017 rainfall for the District has been well below average and the rainfall prediction from the National Weather Service’s Climate Prediction Center for the one month (May 2017) and three month (May-July 2017) timeframes call for equal chances of normal, above normal, or below normal rainfall.

Although conditions have not yet reached the point where there is an anticipation of insufficient water to meet expected user demand and to protect the water resources in the District, current conditions do warrant heightened water conservation awareness in Alachua, Bradford and Levy counties, and the issuance of a water shortage warning would also be consistent with existing memoranda of understandings with neighboring Districts pertaining to these two counties.

Because of the aforementioned factors, staff recommends that the Governing Board adopt the attached Water Shortage Warning Resolution Number 2017-04.

THM/rl  
Attachment

**SUWANNEE RIVER WATER MANAGEMENT DISTRICT**  
**GOVERNING BOARD RESOLUTION**

Resolution  
Number: 2017-04

Date Approved: May 4, 2017

Subject: Water Shortage Warning Resolution  
Approval:



\_\_\_\_\_  
Don Quincey, Chairman

\_\_\_\_\_  
Virginia Johns, Secretary/Treasurer

**WATER SHORTAGE WARNING RESOLUTION NUMBER 2017-04**

The Governing Board of the Suwannee River Water Management District (District), during a regularly scheduled meeting held on May 4, 2017, at Cedar Key, Florida, received data and recommendations from District staff regarding hydrologic conditions and other pertinent facts regarding the potential for a water shortage within portions of the District. The Governing Board being fully apprised of the matter, issues this document containing the following findings of fact and resolutions:

**FINDINGS OF FACT**

1. The District's Water Shortage Plan (Plan), adopted as Chapter 40B-21 of the Florida Administrative Code (F.A.C.) provides that the District will evaluate and monitor water conditions within the District and compare current data to historical data to determine whether estimated present and available water supplies are sufficient.
2. The purposes of the plan are to protect the water resources of the District from serious harm; to assure equitable distribution of available water resources among all water users during times of shortage; to provide advanced knowledge; and promote greater security for water use permittees.
3. As set forth in Rule 40B-21.621, F.A.C., the District has implemented a standing Phase I Water Shortage Advisory encouraging all water to initiate conservation and eliminate wasteful or inefficient water use.
4. The District has entered into Interagency Agreements with St. Johns River Water Management District and Southwest Florida Water Management District to coordinate year-round water conservation and water shortage measures to ensure consistent implementation in Alachua and Levy counties.
5. Numerous counties and cities throughout the District have adopted year-round water conservation measures and water shortage ordinances.

6. As of April 19, 2017, hydrologic conditions indicate that there is an increased likelihood that there will be insufficient water to meet the estimated user demands or to protect the water resource from serious harm in those portions of Alachua, Bradford and Levy counties located within the District, as well as in unincorporated areas of Alachua and Levy counties within other water management District boundaries, in accordance with interagency agreements in place. Surface water conditions are low to very low, and rainfall in those counties is deficient.

7. Drought indicators are summarized as follows:

**Rainfall**

- For the period April 19, 2016, through April 18, 2017, for the fifteen counties within the District, there was an average rainfall deficit of approximately 10.5 inches based on records beginning in 1932.
- The 12-month rainfall ending April 18, 2017 is in the lowest 20 percent of all 12-month periods, and in parts of the counties specified is approaching the lowest 5 percent of all 12-month periods.

**Groundwater Conditions**

- Of the 88 upper Floridan monitor wells polled on April 16, 2017, 3 had levels in the lowest 10 percent of all records, considered extremely low. Eleven other wells had levels in the lowest 25 percent of all records.

**Surfacewater Conditions**

- The Suwannee River at Branford gage monitors flow contributed by 79 percent of the 9,973-square mile Suwannee River drainage area and has continuous records since 1931. The average flow rate on April 18, 2017, was in the lowest 14 percent of all 7-day average flows.
- The Santa Fe River near Fort White gage monitors flow contributed by 74 percent of the 1,374-square mile Santa Fe River drainage area and has continuous records since 1927. The average flow rate on April 18, 2017, was in the lowest 27 percent of all 7-day average flows and the lowest 12 percent of all 8-week average flows.
- On April 3, 2017, flow rates for other gaging stations in the upper Santa Fe River basin at Worthington Springs, near Graham, and on the New River were either below or approaching the 10<sup>th</sup> percentile of daily flows.

**Drought Indices**

- As of April 11, 2017, the U. S. Drought Monitor for Florida identifies the southeast portion of the District as being “abnormally dry”. Drought impacts in neighboring water management districts to the south and east are more intense and have prompted those districts to issue water shortage warnings for the entire area of each respective district.
- The Palmer (long-term) Drought Severity Index published by the Climate Prediction Center showed North Florida in the near normal category for the week ending April 15, but indicated severe drought conditions immediately to the south of the District.

**Forecast and Climatology**

- The three-month precipitation probability outlook published by the Climate Prediction Center on March 16, 2017, shows North Florida having warmer than normal temperatures across the District, and equal chances of above normal, normal, or below normal precipitation for the District through July 31, 2017.

7. Upon careful consideration of the hydrologic conditions, District data, qualitative factors and staff recommendations, the Executive Director has determined that a Water Shortage Warning for Alachua, Bradford and Levy counties is necessary and should be so Resolved.

**RESOLUTION**

THEREFORE, based on the foregoing Findings of Fact, may it be RESOLVED that:

8. A Water Shortage Warning is declared for all ground and surface water sources in those portions of Alachua, Bradford, and Levy counties within the District boundary, and including those unincorporated areas of Alachua and Levy counties within the Saint Johns River Water Management District and the Southwest Florida Water Management District, respectively, in accordance with interagency agreements in place.

9. All classes of water users are encouraged to reduce their water use and to conserve water to the maximum extent possible.

10. All landscaping irrigation users are urged to voluntarily reduce their water use by limiting irrigation to no more than two days each week during Daylight Savings Time as set forth in Rule 40B-2.041, F.A.C.

11. All golf course irrigation users are encouraged to use water in accordance with the provisions of subsection 40B-21(6)(b), F.A.C.

12. The District encourages the public to contact their respective county or city to determine the specific year-round water conservation measures and water shortage ordinance requirements.

13. This warning shall remain in effect from May 4, 2017, until July 31, 2017, unless otherwise modified, revoked, or rescinded by the Governing Board.

MEMORANDUM

TO: Governing Board  
FROM: Noah Valenstein, Executive Director  
DATE: April 28, 2017  
RE: District's Weekly Activity Reports

Attached are the weekly District activity reports.

Please feel free to contact staff prior to the Governing Board meeting if you would like further information.

NV/rl  
Attachments



## Weekly Activity Report to Governing Board for March 26 – April 1, 2017

### Executive / Management

- Steve Minnis attended Week 4 of the 2017 Regular Legislative Session.

### Water Resources

- Tom Mirti and Leslie Ames attended a project development and coordination meeting at the Lower Suwannee National Wildlife Refuge with partners including the U.S. Fish and Wildlife Service and Florida Fish and Wildlife Conservation Commission, to discuss hydrologic restoration projects.
- Tom Mirti attended the Ichetucknee unit management plan review meeting in Fort White.

### Water Supply

- Carlos Herd and Trey Grubbs attended the peer-review kick-off meeting for the NFSEG Regional Groundwater Flow Model in Palatka.

### Resource Management

- Tim Sagul, Mary Diaz, and Pat Webster met with staff from Lake City to discuss the Gwen Lake RIVER grant proposal.
- Leroy Marshall participated in a webinar training for the FEMA Non-Disaster grants process.
- Leroy Marshall met with the District's FEMA contractors to discuss enhancements to the District's website regarding our FEMA program and to discuss the upcoming FEMA grant cycle.

### Agriculture and Environmental Projects

- Darrell Smith presented on District agricultural programs at the Alachua County Farmer Meeting in Gainesville.
- Jamie Bell inspected planting progress at the Ichetucknee Springs Water Quality Improvement Project site in Lake City.
- Jamie Bell presented an overview of aquifer recharge and water conservation projects at the American Water Resources Association (AWRA) March 2017 Technical meeting in Gainesville.
- Patrick Webster conducted a field review at Gwen Lake.
- Justin Garland met with representatives from the Florida Rural Water Association regarding agricultural cost-share in Suwannee County.
- Justin Garland met with Shaw Farms regarding agricultural cost-share in Alachua County.

**Communications**

- Hugh Thomas represented the District at the Springs Celebration Annual Chili Cookoff at O'Leno National Park.

**Announcements for the week of April 9 – 15.**

- The District Governing Board is scheduled to meet at 9 a.m. on April 11 at the District Headquarters followed by a Governing Board Workshop. The Lands Committee is scheduled to meet following the Workshop.



## Weekly Activity Report to Governing Board for April 2 - 8, 2017

### Executive / Management

- Noah Valenstein, with Steve Minnis and Leslie Ames attending, spoke at Representative Porter and Senator Bradley Springs Protection Awareness Month Press Event at the Capitol. Also, participating were Representatives Clemons and Peters, Interim Secretary Ryan Matthews, SJRWMD Executive Director Ann Shortelle, NFWMD Governing Board Member Jon Costello, representatives from The Ichetucknee Partnership, and representatives from the Lake City Chamber of Commerce.
- Steve Minnis attended Week 5 of the 2017 Regular Legislative Session.

### Water Resources

- Tom Mirti and Patrick Webster met with representatives from Rayonier to discuss the Brooks Sink Phase-II project.
- Tom Mirti participated in the SJRWMD drought coordination call on Tuesday.

### Water Supply

- Trey Grubbs and David Christian attended HSPF (surface water modeling) training at the FDEP offices in Tallahassee.

### Resource Management

- Tim Sagul attended the Florida Floodplain Managers Association Annual meeting in St. Petersburg.
- Leroy Marshall attended the Project Management Institute annual meeting in Jacksonville.
- Warren Zwanka participated in the monthly Consumptive Use Permitting anti-drift conference call with representatives from DEP and the other WMDs.

### Agriculture and Environmental Projects

- Darrell Smith presented at the UF Water Panel Discussion in Gainesville.
- Justin Garland conducted a site-visit at Carl Allison Farms regarding agricultural cost-share.
- Hugh Thomas attended the Suwannee Board of County Commissioners meeting.
- Leslie Ames attended the Gulf Consortium Meeting in Tallahassee.
- Jamie Bell attended the FEMA Flood Managers Annual Conference in St. Petersburg.

### Communications

- No reporting activity.

### Announcements for the week of April 16 - 22.

- No announcements.



## Weekly Activity Report to Governing Board for April 9 - 15, 2017

### Executive / Management

- Steve Minnis attended the first half of Week 6 of the 2017 Regular Legislative Session, and Leslie Ames attended the second half.
- SRWMD leadership and management staff attended SRWMD Leadership Development Training in Gainesville last week hosted by the UF/IFAS Center for Leadership. Topics included: problem solving style, strengths assessments, communications, and personality awareness.

### Administrative and Operations

- No reporting activity.

### Water Resources

- No reporting activity.

### Water Supply

- No reporting activity.

### Resource Management

- Leroy Marshall participated in a conference call with FEMA representatives regarding the RiskMap updates.
- Leroy Marshall participated in a conference call with our FEMA contractors regarding the status of the FY 09-15 grants.

### Agriculture and Environmental Projects

- Hugh Thomas presented to the Santa Fe Springs Working Group on recently completed and current projects at the SRWMD.
- Hugh Thomas attended the Lower and Middle Suwannee Basin Management Action Plan (BMAP) meeting held by FDEP at District Headquarters.
- Patrick Webster and Jamie Bell conducted a site visit at the Rushing Property project site in Lafayette County.
- Patrick Webster attended a meeting regarding the Roosevelt Circle project in Mayo.

### Communications

- No reporting activity.

### Announcements for the week of April 23 - 29.

- No announcements.