



---

## South Florida Water Management District

---

### GOVERNING BOARD MEETING AGENDA

*This meeting is open to the public*

April 9, 2009

9:00 AM

St. Cloud City Hall, Council Chambers

1300 Ninth Street

St. Cloud, FL 34769

*All or part of this meeting may be conducted as a teleconference in order to permit maximum participation of Governing Board members.*

*The Governing Board may take official action at this meeting on any item appearing on this agenda and on any item that is added to this agenda as a result of a change to the agenda approved by the presiding officer of the meeting pursuant to Section 120.525, Florida Statutes. The order of items appearing on the agenda is subject to change during the meeting and is at the discretion of the presiding officer. Public comment will be taken after each presentation and before any Governing Board action(s) except for Governing Board hearings that involve the issuance of final orders based on recommended Orders received from the Florida Division of Administrative Hearings.*

1. **Call to Order** - Eric Buermann, Chairman, Governing Board
2. **Pledge of Allegiance** - Eric Buermann, Chairman, Governing Board
3. **Employee Recognition** - Presented by Carol A. Wehle, Executive Director  
See supporting document: [April Good Samaritan Award.pdf](#)
4. **South Florida Water Management District's 60th Anniversary: Focus on the 1960's** - George Horne, Deputy Executive Director, Operations & Maintenance
5. **Agenda Addendum** - Annette Carter, Director, Office of Governing Board & Executive Services
6. **Abstentions by Board Members from items on the Agenda**
7. **Audit & Finance Committee Report** - Charles Dauray, Chair
8. **Water Resources Advisory Commission (WRAC) Report** - Michael Collins, Chair



# Consent Agenda

*Members of the public wishing to address the Governing Board are to complete a Public Comment Card and submit the card to the front desk attendant. You will be called by the Board Chair or designee to speak. If you want to request that an item be removed from the Consent Agenda and be discussed by the Governing Board, please advise the Governing Board when you are called upon to speak. Governing Board directives limit comments from the public to 3 minutes unless otherwise determined by the Governing Board Chair. Your comments will be considered by the Governing Board prior to adoption of the Consent Agenda.*

Unless otherwise determined by the Chair, Board action on pulled Consent Agenda items will occur at or after 9:00 a.m. on Thursday. Regulatory items pulled from the Consent Agenda for discussion will be heard during the Discussion Agenda. **Unless otherwise noted, all consent agenda items are recommended for approval.**

**9. Public Comment on Consent Agenda**

**10. Pull Items for Discussion from Consent Agenda**

**11. Board Comment on Consent Agenda**

**Regulatory Matters**

**12. Water Use Permit Applications**

Surface Water Management Permit Applications (includes Conservation Easements)

Environmental Resource Permit Applications (includes Conservation Easements)

Denials

Environmental Resource Permit Extensions

Consent Agreements

Amendment to Conservation Easements

Water Shortage Enforcement Actions

See supporting document: [ca\\_wr\\_rm\\_101\\_sd.pdf](#)

**13. Right of Way Occupancy New Permits**

Right of Way Occupancy Permit Modifications

Right of Way Occupancy Permit Requests with Waiver of District Criteria

Relaxation of Standards as Allowed Under District Rule 40E-6.011(9) F.A.C.

See supporting document: [ca\\_om\\_rm\\_100\\_sd.pdf](#)

## Water Resources

14. Enter Final Orders Concurring with the Granting of Temporary Variances from Water Shortage Restrictions Imposed within the Boundaries of the South Florida Water Management District (Pete Kwiatkowski, ext. 2547)  
See supporting document: [ca\\_wr\\_006\\_sd.pdf](#)  
See supporting document: [ca\\_wr\\_001\\_sd.pdf](#)  
See supporting document: [ca\\_wr\\_002\\_sd.pdf](#)
  
15. Enter Final Orders Denying Applications for Variances from Water Shortage Restrictions Imposed within the Boundaries of the South Florida Water Management District (Pete Kwiatkowski, ext. 2547)  
See supporting document: [ca\\_wr\\_007\\_sd.pdf](#)
  
16. Enter an order concurring with emergency order for the purpose of immediate water supply relief for the City of West Palm Beach, Florida (Pete Kwiatkowski, ext. 2547)  
See supporting document: [ca\\_wr\\_003\\_sd.pdf](#)
  
17. **2009-400** A Resolution of the Governing Board of the South Florida Water Management District accepting the Lake Belt Mitigation Committee Annual Report for 2008; providing an effective date. (Terrie Bates, ext. 6952).  
See supporting document: [ca\\_wr\\_106\\_sd1.pdf](#)  
See supporting document: [ca\\_wr\\_106\\_sd.pdf](#)  
See resolution document: [ca\\_wr\\_106\\_rd.pdf](#)
  
18. **2009-401** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 6-month contract with Aquent, Inc. under GSA Contract #GS-23F0102M for two on-site technical editors for the 2010 South Florida Environmental Report Project, in the not-to-exceed amount of \$184,320, for which ad valorem funds in the amount of \$74,880 are budgeted; and the remainder is subject to Governing Board approval of the FY2010 budget; providing an effective date. (Contract Number 4600001722) (Stacey Ollis, ext. 2039)  
See supporting document: [ca\\_wr\\_124\\_sd.pdf](#)  
See resolution document: [ca\\_wr\\_124\\_rd.pdf](#)
  
19. **2009-402** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001483 with the Florida Atlantic University for Florida Bay Seagrass Studies, and authorize a Waiver of Competition as an exception to the standards of competition, to extend the term by 36 months and to increase funding in the amount of \$295,000, for which \$95,000 in dedicated funds (Florida Bay Fund) is budgeted, and the remainder is subject to Governing Board approval of the FY10-FY12 budgets; providing an effective date. (Contract Number 4600001483-A02) (Chris Madden, ext. 4647)  
See supporting document: [wr\\_ca\\_04018a\\_sd.pdf](#)  
See supporting document: [wr\\_ca\\_04018\\_sd.pdf](#)  
See resolution document: [wr\\_ca\\_04018\\_rd.pdf](#)

- 20. 2009-403** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001638 with the Loxahatchee River District for Water Quality and Biological Monitoring Restoration Project, to extend the term by six months and to increase funding in the amount of \$120,000, for which \$108,000 in dedicated funds (state appropriations) is budgeted, and the remainder is subject to Governing Board approval of the FY10 budget; providing an effective date. (Contract Number 4600001638-A01)(Bahram Charkhian, ext. 2284)  
See supporting document: [wr\\_ca\\_04020\\_sd.pdf](#)  
See supporting document: [wr\\_ca\\_04020a\\_sd.pdf](#)  
See resolution document: [wr\\_ca\\_04020\\_rd.pdf](#)
- 21. 2009-404** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a two-year cooperative agreement with the United States Geological Survey for Dynamic Simulation of Hydrologic Restoration in the Picayune Strand Coastal Area and Hydrodynamic and Salinity Characteristics of the Ten Thousand Islands, in the amount of \$547,633, of which the District's contribution is \$481,443, for which \$109,500 in dedicated funds (Comprehensive Everglades Restoration Plan Fund) and \$100,000 in ad valorem funds are budgeted in FY09, and the remainder is subject to Governing Board approval of the FY10 budget; providing an effective date. (Contract Number 4600001473) (Julio Fanjul, ext. 3711).  
See supporting document: [wr\\_ca\\_04019a\\_sd.pdf](#)  
See supporting document: [wr\\_ca\\_04019\\_sd.pdf](#)  
See resolution document: [wr\\_ca\\_04019\\_rd.pdf](#)
- 22. 2009-405** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year contract with the Palm Beach County for Delaware Scrub Restoration Project in the amount of \$225,000, for which dedicated funds (FY09 State Appropriations) are subject to Governing Board approval of the FY10 budget; providing an effective date. (Contract Number 4600001764) (Bahram Charkhian, ext. 2284)  
See supporting document: [wr\\_ca\\_04017\\_sd.pdf](#)  
See supporting document: [wr\\_ca\\_04017a\\_sd.pdf](#)  
See resolution document: [wr\\_ca\\_04017\\_rd.pdf](#)
- 23. 2009-406** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three-year cooperative agreement with the Tohopekaliga Water Authority for construction and testing of a Lower Floridan Aquifer exploratory well in Southern Osceola County in an amount not-to-exceed \$200,000 for which ad valorem funds are budgeted; providing an effective date. (Contract number 4600001767) (Marjorie Craig, ext. 2987)  
See supporting document: [ca\\_wr\\_004\\_sd.pdf](#)  
See resolution document: [ca\\_wr\\_005\\_rd.pdf](#)

## **Everglades Restoration**

- 24. 2009-407** A Resolution of the Governing Board of the South Florida Water Management District approving Staff recommendations for releases of District canal, mineral and road reservations, releases of Trustees of the Internal Improvement Trust Fund (T.I.I.T.F.) canal reservations, and issuance of non-use commitments; providing an effective date. (Vinola Rada, ext. 6836)  
See supporting document: [ca\\_lr\\_100\\_sd.pdf](#)  
See resolution document: [ca\\_lr\\_100\\_rd.pdf](#)  
See supporting document: [ca\\_lr\\_100\\_ExhA.pdf](#)
- 25. 2009-408** A Resolution of the Governing Board of the South Florida Water Management District to approve declaring surplus land interests containing 0.18 acres, more or less, in fee, Section 17, Township 45 South, Range 25 East, Lee County, Six Mile Cypress Project; authorize the conveyance of said property to Lee County at appraised value; subject to certain conditions; providing an effective date. (Kathy Massey, ext. 6835)  
See supporting document: [ca\\_lr\\_101\\_sd.pdf](#)  
See resolution document: [ca\\_lr\\_101\\_rd.pdf](#)
- 26. 2009-409** A Resolution of the Governing Board of the South Florida Water Management District to approve declaring surplus and conveying approximately 555.52 square feet or 0.0128 +/- acres in exchange for approximately 362.76 square feet or 0.0083 +/- acres, located along Snapper Creek (C-2), in Section 5, Township 54 South, Range 40 East, Miami-Dade County, subject to satisfaction of certain terms, conditions and requirements; providing an effective date. (Kathy Massey, ext. 6835)  
See supporting document: [ca\\_lr\\_102\\_sd.pdf](#)  
See resolution document: [ca\\_lr\\_102\\_rd.pdf](#)  
See supporting document: [ca\\_lr\\_102\\_map\\_AZ100-008.pdf](#)  
See supporting document: [ca\\_lr\\_102\\_map\\_AZ100-009.pdf](#)
- 27. 2009-410** A Resolution of the Governing Board of the South Florida Water Management District to approve releasing to the applicant, 42,686 +/- square feet or 0.98 +/- acres from the current access easement area and accepting in exchange a relocated access easement containing 58,381 +/- square feet or 1.34 +/- acres, C-9 Project, located in Section 34, Township 51 South, Range 41 East, Miami-Dade County, subject to satisfaction of certain terms, conditions and requirements; providing an effective date. (Kathy Massey, ext. 6835)  
See supporting document: [ca\\_lr\\_105\\_sd.pdf](#)  
See resolution document: [ca\\_lr\\_105\\_rd.pdf](#)  
See supporting document: [ca\\_lr\\_105\\_map\\_ExhA.pdf](#)

- 28. 2009-411** A Resolution of the Governing Board of the South Florida Water Management District to reapprove the acquisition of land interests, originally approved pursuant to Resolution No. 2007-1010, containing 153.64 acres, more or less, for the Biscayne Bay Coastal Wetlands Comprehensive Everglades Restoration Plan (CERP) Project, Cutler Flow Way Component, in Miami-Dade County, in accordance with updated circumstances and for purposes of superseding and replacing the approval contained in Resolution No. 2007-1010, to be conveyed at no cost to the District, subject to certain environmental conditions; providing an effective date. (Bob Schaeffer, ext. 2985)  
See supporting document: [ca\\_lr\\_109\\_sd.pdf](#)  
See resolution document: [ca\\_lr\\_109\\_rd.pdf](#)  
See supporting document: [ca\\_lr\\_109\\_ExhA\\_legal\\_sketch.pdf](#)  
See supporting document: [ca\\_lr\\_109\\_ExhAA\\_map.pdf](#)
- 29. 2009-412** A Resolution of the Governing Board of the South Florida Water Management District authorizing the release of a portion of the Hillsboro Canal Right of Way containing 0.12 acres, more or less, within portions of Lots 8A, 9A and 10A, Block 8, Hillsboro Pines Section "A", Plat Book 42, Page 33, Public Records of Broward County, Florida, in exchange for a perpetual canal easement containing 0.138 acres, more or less, over the North 80 feet of said Lot 8A; providing an effective date. (Kathy Massey, ext. 6835)  
See supporting document: [ca\\_lr\\_104\\_sd.pdf](#)  
See resolution document: [ca\\_lr\\_104\\_rd.pdf](#)  
See supporting document: [ca\\_lr\\_104\\_map\\_ExhA.pdf](#)
- 30. 2009-413** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract CP060614/3600000543 with the City of West Palm Beach and Palm Beach County for the C-51 Canal Sediment Management Project to increase the contract amount by \$1,100,000 of which dedicated funds (State Appropriations) in the amount of \$250,000 are budgeted and the remaining \$850,000 are Palm Beach County funds; providing an effective date. (Contract Number CP060614-A02/3600000543-A02) (Beth Kacvinsky, ext. 3721)  
See supporting document: [da\\_er\\_004\\_Map2\\_sd2.pdf](#)  
See supporting document: [da\\_er\\_004\\_Map1\\_sd1.pdf](#)  
See supporting document: [da\\_er\\_004\\_Memo\\_sd.pdf](#)  
See resolution document: [ca\\_cp\\_rd\\_13063\\_BFLD.pdf](#)

- 31. 2009-414** A Resolution of the Governing Board of the South Florida Water Management District to declare as surplus, lands interests in Palm Beach County, Florida, consisting of (1) fee title to approximately 45 acres of land, together with the Districts interest in and privilege to mine and develop all phosphate, mineral, metals, and petroleum in, on, or under said property, and (2) an access easement over approximately 6 acres of land; and to authorize entering into a Land Exchange and Cooperation Agreement with Florida Power and Light (FPL) with respect to the Compartment B Stormwater Treatment Area Project, Palm Beach County, Florida, that includes the exchange of such surplus land interests for certain real property interests owned by FPL on approximately 103 acres of land in Palm Beach County, Florida; and to pay actual costs, not-to-exceed \$250,000, for FPLs monitoring and consulting fees with respect to District blasting activities adjacent to FPL facilities, and to pay actual costs, not-to-exceed \$480,000, for bird discourager equipment on FPL facilities to reduce the occurrence of bird-related outages, for which dedicated funds (Everglades Trust Fund) are budgeted in reserves; and approve a budget transfer(s) of dedicated funds (Everglades Trust Fund) from Acceler8 Program Support reserves to the EAA Compartment B STA for such blast monitoring and consulting fees in the not-to-exceed amount of \$250,000 and for such bird discourager equipment in the not-to-exceed amount of \$480,000; providing an effective date. (Contract Number 4600001736) (Octavio Castillo, ext. 4035)

See supporting document: [ca\\_er\\_009\\_Map\\_sd.pdf](#)

See supporting document: [ca\\_er\\_009\\_Memo\\_sd.pdf](#)

See resolution document: [ca\\_er\\_009\\_Resolution\\_rd.pdf](#)

#### **Executive Office**

- 32. 2009-415** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District FY2008-2009 budget as shown on the attachment hereto; providing an effective date. (Doug Bergstrom, x6214)

See supporting document: [ca\\_eo\\_001\\_sd.pdf](#)

See supporting document: [ca\\_eo\\_001\\_sd1.pdf](#)

See resolution document: [ca\\_eo\\_001\\_rd.pdf](#)

- 33. 2009-416** A Resolution of the Governing Board of the South Florida Water Management District amending the Fiscal Year 2008-2009 Budget; providing an effective date. (Doug Bergstrom, x6214)

See supporting document: [ca\\_eo\\_002\\_sd.pdf](#)

See resolution document: [ca\\_eo\\_002\\_rd.pdf](#)

- 34. 2009-417** A Resolution of the Governing Board of the South Florida Water Management District authorizing a settlement agreement for \$532,000.00, plus \$111,750.00 for statutory attorneys fees, and \$13,258.92 for experts fees and costs, and approve a budget transfer of Florida Forever Trust Funds from Managerial Reserves within the Biscayne Bay Coastal Wetlands CERP Project to S. CREW/Imperial River Floway CERP Project, for a condemnation action involving acquisition of approximately 10 acres (Tract Nos. 003-782 and 003-783 Kent Manley, Trustee, et al.), improvements, and mobile homes, within the designated boundaries of the Critical CREW (Southern Corkscrew Regional Ecosystem Watershed) Project, styled South Florida Water Management District v. Richard J. Capen, Jr., et al., filed in the 20th Circuit Court for Lee County, Florida, Case No. 04-CA-1657; providing an effective date. (Ed Artau, Ext. 6431)  
See supporting document: [ca\\_oc\\_001\\_sd.pdf](#)  
See resolution document: [ca\\_oc\\_001\\_rd1.pdf](#)
- 35. 2009-418** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit, pursue any appropriate damages and remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against Wilco Land Development, Inc., Brian Wilson, Jerry Wilson and any other appropriate or necessary parties, in the 15th Judicial Circuit court in and for Palm Beach County for violations of Chapter 373 of the Florida Statutes and Chapters 40E-4 and 40E-40 of the Florida Administrative Code for noncompliance with the Districts Consent Order No. SFWMD 2007 005 CO ERP, with effective date of January 18, 2007, and any other violations of District rules, concerning the property known as the Highlands Equestrian Estates, located west of Graham Dairy Road on the South Side of Lott Grade, where the road turns from shell rock to dirt, Section 23, Township 39 South, Range 28 East, Highlands County, Florida, providing an effective date. (Cathy Linton, Ext. 6322)  
See supporting document: [ca\\_oc\\_002\\_sd.pdf](#)  
See resolution document: [ca\\_oc\\_002\\_rd.pdf](#)  
See supporting document: [ca\\_oc\\_002\\_Exh CA.pdf](#)  
See supporting document: [ca\\_oc\\_002\\_Exh Map.pdf](#)  
See supporting document: [ca\\_oc\\_002\\_Exh Ltr.pdf](#)
- 36. 2009-419** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit, pursue any appropriate damages and remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against Wilco Land Development, Inc., Brian Wilson, Jerry Wilson and any other appropriate or necessary parties, in the 15th Judicial Circuit Court in and for Palm Beach County for violations of Chapter 373 of the Florida Statutes and Chapters 40E-4 and 40E-40 of the Florida Administrative Code for Noncompliance with the Districts Consent Order No. SFWMD 2007 004 CO ERP, with effective date of January 18, 2007, and any other violations of District rules, concerning the property known as the Highlands Country Estates, located West of Graham Dairy Road on the North Side of Lott Grade, where the road turns from shell to rock, Section 22, Township 39 South, Range 28 East, Highlands County, Florida, providing an effective date. (Keith Williams, Ext. 2791)  
See supporting document: [ca\\_oc\\_003\\_sd.pdf](#)

See resolution document: [ca\\_oc\\_003\\_rd.pdf](#)

- 37. 2009-420** A Resolution of the Governing Board of the South Florida Water Management District to amend a contract with Bryant, Miller, & Olive, P.A., for legal services regarding bond counsel, public finance other financial and taxation matters and real estate issues for an additional amount of \$450,000.00 for a total not-to-exceed amount of \$1,090,000.00 for which ad valorem funds are budgeted. (Frank Bartolone, x2884)

See supporting document: [da\\_eo\\_sd\\_001.doc](#)

See resolution document: [ca\\_eo\\_rd\\_13105\\_BFLD.pdf](#)

### **Government and Public Affairs**

- 38. 2009-421** A Resolution of the Governing Board of the South Florida Water Management District to approve \$150,000 in FY2009 ad valorem funds in support of economic diversification activities in Hendry County and to assist in transition issues related to the District's acquisition of lands from the United States Sugar Corporation; providing an effective date. (Deena Reppen, ext. 6232)

See supporting document: [ca\\_gp\\_001\\_sd.pdf](#)

See supporting document: [ca\\_gp\\_002\\_sd.pdf](#)

See resolution document: [ca\\_gp\\_001\\_rd.pdf](#)

### **Operations and Maintenance**

- 39. 2009-422** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 3 year work order contract with A Quality Bushog Services Incorporated, the lowest responsive and responsible bidder, for Flat Mowing Services within the Homestead Field Station region in the amount of \$532,431.12 for which ad valorem funds of \$121,762.03 are budgeted; and the remainder is subject to Governing Board approval of the FY10-FY12 budgets; providing an effective date. (Contract Number 4600001755)(Ron Zasloff, ext. 3420)

See supporting document: [ca\\_om\\_001\\_sd.pdf](#)

See resolution document: [ca\\_om\\_rd\\_12958\\_BFLD.pdf](#)

See supporting CJSS: [ca\\_om\\_cj\\_12959\\_BFLD.pdf](#)

- 40. 2009-423** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 120 day contract with Bergeron Land Development Incorporated, the lowest responsible and responsive bidder, for the L-33 Levee Bench Maintenance Project, in the amount of \$812,336 for which ad valorem funds are budgeted; providing an effective date. (Contract Number 4600001775) (Lucine Dadrian, ext. 2060)

See supporting document: [ca\\_om\\_002\\_sd.pdf](#)

See resolution document: [ca\\_om\\_rd\\_13131\\_BFLD.pdf](#)

See supporting CJSS: [ca\\_om\\_cj\\_13132\\_BFLD.pdf](#)

- 41. Board Vote on Consent Agenda**

# Workshop Agenda

## **Water Resources**

- 42. **Central Florida Utilities Update and Issues** - Cecelia Weaver, Director, Orlando Service Center (Ext. 3838)
- 43. **Update on the Kissimmee River Restoration** - Lawrence Glenn, Director, Kissimmee Division (Ext. 6499)
- 44. **Status Update on Kissimmee Basin Water Reservations** - Chip Merriam, Deputy Executive Director, Water Resources (Ext. 6597)

## **Executive Office**

- 45. **'River of Grass' Project Update**
- 46. **Formulation of Strategic Planning and Budgetary Guidance** (continued) - Tom Olliff, Assistant Executive Director (Ext. 2132)
- 47. **Biscayne Bay Coastal Wetlands Project and Cutler Properties Overview** - Ken Ammon, Deputy Executive Director, Everglades Restoration Resources (Ext. 6502)

# Discussion Agenda

## **Water Resources**

48. **2009-424** A Resolution of the Governing Board of the South Florida Water Management District supporting the Florida Cabinet resolution declaring April as Water Conservation Month in Florida; providing an effective date. (Marjorie Craig, ext. 2987)

See supporting document: [da\\_wr\\_001.sd.pdf](#)

See supporting document: [da\\_wr\\_002.rd.pdf](#)

## **Everglades Restoration**

49. **2009-425** A Resolution of the Governing Board of the South Florida Water Management District approving a second amendment to the interlocal agreement with Osceola County and the City of Kissimmee to include additional lands within the Shingle Creek Project, increase the District's commitment by an additional \$2,000,000, revise the form of the conservation easement to be recorded by the County and the City in favor of the District over said lands, require the land to be managed in accordance with the Cooperative Agreement, dated August 26, 2008, between the parties, and the Shingle Creek Regional Park Management Plan, dated August 31, 2007, and extend the term of the agreement, Shingle Creek Project, Osceola County; providing an effective date. (Ruth Clements, ext. 6271)

See supporting document: [da\\_lr\\_106\\_sd.pdf](#)

See resolution document: [da\\_lr\\_106\\_rd.pdf](#)

See supporting document: [da\\_lr\\_106\\_ExhA\\_map.pdf](#)

50. **2009-426** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a cooperative agreement with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, at no cost, for dedication and certification of approximately 55,000 acres of land owned by the Board of Trustees to the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan; providing an effective date. (Contract Number 4600001758) (Paul Warner, ext. 6512)

See supporting document: [da\\_er\\_008\\_FDEP Memo\\_sd.pdf](#)

See resolution document: [da\\_er\\_008\\_Resolution\\_rd.pdf](#)

51. **2009-427** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a master agreement with the U.S. Department of the Army, at no cost, for the purpose of establishing uniform terms and conditions for future project partnership agreements covering cooperation and cost-share in the construction, operation, maintenance, repair, replacement and rehabilitation of projects in the Comprehensive Everglades Restoration Plan; providing an effective date. (Contract Number 4600001759) (Paul Warner, ext. 6512)

See supporting document: [da\\_er\\_005\\_Master Agreement Memo\\_sd.pdf](#)

See supporting document: [da\\_er\\_005\\_Attachment 1\\_sd1 .pdf](#)

See resolution document: [da\\_er\\_005\\_Resolution\\_rd.pdf](#)

- 52. 2009-428** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a project partnership agreement with the U.S. Department of the Army for construction, operation, maintenance, repair, replacement and rehabilitation of the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan, at a total estimated construction cost of \$438,000,000 and an estimated annual operations and maintenance cost of \$3,700,000 for which the South Florida Water Management District will be responsible for providing 50 percent cost-share, and for which funding, if any, is subject to Governing Board approval of future fiscal year budgets; providing an effective date. (Contract Number 4600001760) (Paul Warner, ext. 6512)  
See supporting document: [da\\_er\\_007\\_PPA Memo\\_sd.pdf](#)  
See resolution document: [da\\_er\\_007\\_Resolution\\_rd.pdf](#)
- 53. 2009-429** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a pre-partnership credit agreement with the U.S. Department of the Army, at no cost, for the purpose of establishing eligibility to receive future credit for the costs of constructing features of the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan; providing an effective date. (Contract Number 4600001761) (Paul Warner, ext. 6512)  
See supporting document: [da\\_er\\_006\\_PPCA Memo\\_sd.pdf](#)  
See resolution document: [da\\_er\\_006\\_Resolution\\_rd.pdf](#)
- 54. 2009-430** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 679-day contract with Triple R Paving, Inc., the lowest responsive and responsible bidder, for construction of the Compartment B North Buildout project near Stormwater Treatment Area-2 Cell 4 in an amount not to exceed \$17,474,383 of which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$5,300,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Contract Number 4600001699) (Jeff Kivett, ext. 4018)  
See supporting document: [da\\_er\\_001\\_Memo\\_sd.pdf](#)  
See supporting document: [da\\_er\\_001\\_Map\\_sd.pdf](#)  
See resolution document: [da\\_cp\\_rd\\_12990\\_BFLD.pdf](#)
- 55. 2009-431** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 4-year contract with Florida Power & Light Company (FPL) for construction of electrical power distribution facilities needed to serve the Compartment B North Buildout and South Buildout Stormwater Treatment Area in an amount not to exceed \$2,500,000 for which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$1,000,000 are budgeted, and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Contract Number 46000001713) (Jeff Kivett, ext. 4018)  
See supporting document: [da\\_er\\_003\\_Memo\\_sd.pdf](#)  
See supporting document: [da\\_er\\_003\\_Map\\_sd.pdf](#)  
See resolution document: [da\\_cp\\_rd\\_12992\\_BFLD.pdf](#)

- 56. 2009-432** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 681-day contract with Lodge Construction, Inc., the lowest responsive and responsible bidder, for construction of the Compartment B South Buildout project near Stormwater Treatment Area-2 in an amount not to exceed \$14,234,726 of which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$4,300,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Contract Number 4600001700) (Jeff Kivett, ext. 4018)

See supporting document: [da\\_er\\_002\\_Memo\\_sd.pdf](#)

See supporting document: [da\\_er\\_002\\_Map\\_sd.pdf](#)

See resolution document: [da\\_cp\\_rd\\_12991\\_BFLD.pdf](#)

- 57.** Public Comment

# Public Hearing

## **Water Resources**

### **58. *Public Hearing - Water Resources* Continuation of Public Hearing**

Adopt amendments to Rules 40E-2.051, 40E-2.091, 40E-2.331, 40E-24.011, 40E-24.101, 40E-24.201, 40E-24.301, 40E-24.401, 40E-20.091, 40E-20.331, F.A.C., and the Basis of Review for Water Use Applications within the South Florida Water Management District, and new Rules 40E-2.061, and 40E-24.501, F.A.C., to: 1) implement District-wide mandatory year-round landscape irrigation conservation measures; 2) create a general permit by rule for outdoor residential consumptive use of water and to allow modification of such a permit that does not allow more cumulative days and time to conduct landscape irrigation than those provided under Chapter 40E-24, F.A.C.; and 3) amend the water conservation measures in the Basis of Review to be consistent with the landscape irrigation conservation measures set forth in Chapter 40E-24, F.A.C. (Terrie Bates, Ext. 6952)

### **Continue Public Hearing**

See supporting document: [ph\\_wr\\_001\\_sd.pdf](#)

See supporting document: [40E-20 Amendments v4.pdf](#)

See supporting document: [40E-24 Draft rule v8.pdf](#)

See supporting document: [40E-2 Amendments v5.pdf](#)

## Staff Reports

- 59. **General Counsel Report - Sheryl Wood**
- 60. **Executive Director's Report - Carol Wehle**
- 61. **Board Comment**

# Closed Door Agenda

## **Executive Office**

- 62.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in South Florida Water Management District v. State of Florida, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50-2008-CA-031975XXXMB. (Sheryl G. Wood, Ext. 6976)

### Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in South Florida Water Management District v. State of Florida, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50-2008-CA-031975XXXMB. (Sheryl G. Wood, Ext. 6976)

- 63.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 02-80309-CV-Altonaga/Turnoff; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein. (Sheryl G. Wood, Ext. 6976)

### Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 02-80309-CV-Altonaga/Turnoff; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein. (Sheryl G. Wood, Ext. 6976)

- 64.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. (Sheryl G. Wood, Ext. 6976)

- 65.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Florida Wildlife Federation, et al. v. Johnson, et al., United States District Court, Northern District of Florida, Case No. 08-CV-00324-RH-WCS. (Sheryl G. Wood, Ext. 6876)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Florida Wildlife Federation, et al. v. Johnson, et al., United States District Court, Northern District of Florida, Case No. 08-CV-00324-RH-WCS. (Sheryl G. Wood, Ext. 6976)

- 66.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl G. Wood, Ext. 6976)

Adjournment

- 67. Adjourn**



1. **Call to Order** - Eric Buermann, Chairman, Governing Board



**2. Pledge of Allegiance - Eric Buermann, Chairman, Governing Board**



3. **Employee Recognition** - Presented by Carol A. Wehle, Executive Director  
See supporting document: [April Good Samaritan Award.pdf](#)

## Good Samaritan Award

Terry Dudley, Terry Pennington, Kevin Christy  
Kissimmee Field Station Employees

Terry Dudley, Terry Pennington and Kevin Christy are being recognized for rendering aid to a motorist whose vehicle had stalled on the railroad tracks at a congested intersection.

On November 19<sup>th</sup> 2008, Scott Henderson, Contract Inspector, Kissimmee Field Station, was headed home after work when he came upon the congested intersection. Traffic was backed up, and frustrated motorists were honking their car horns. The woman, whose vehicle was stalled, was frantically calling for help on her cell phone and her despair was apparent.

According to the account given by Scott Henderson, he recognized three familiar faces in District uniforms as he approached the intersection and describes the incident as “the Water Management’s version of a NASCAR pit-stop.” Terry Dudley was on his back attaching a tow strap, Terry Pennington was under the hood troubleshooting and Kevin Christy was pulling off the road to render assistance as well.

Scott Henderson was happy to report that the trio towed the motorist’s vehicle safely out of harms way.

It is with much pride that we recognize these three men as Good Samaritans.



4. **South Florida Water Management District's 60th Anniversary: Focus on the 1960's** - George Horne, Deputy Executive Director, Operations & Maintenance



**5. Agenda Addendum - Annette Carter, Director, Office of Governing Board & Executive Services**



**6. Abstentions by Board Members from items on the Agenda**



**7. Audit & Finance Committee Report - Charles Dauray, Chair**



**8. Water Resources Advisory Commission (WRAC) Report - Michael Collins,  
Chair**



**9. Public Comment on Consent Agenda**



**10. Pull Items for Discussion from Consent Agenda**



**11. Board Comment on Consent Agenda**



**12. Water Use Permit Applications**

Surface Water Management Permit Applications (includes Conservation Easements)

Environmental Resource Permit Applications (includes Conservation Easements)

Denials

Environmental Resource Permit Extensions

Consent Agreements

Amendment to Conservation Easements

Water Shortage Enforcement Actions

See supporting document: [ca\\_wr\\_rm\\_101\\_sd.pdf](#)

**CONSENT AGENDA TABLE OF CONTENTS**  
**PERMIT APPLICATIONS FOR GOVERNING BOARD APPROVAL**  
**April 9, 2009**

	<b>PAGE</b>
<b>I PERMIT APPLICATIONS</b>	
COLLIER COUNTY	1
GLADES COUNTY	2
HENDRY COUNTY	3
HIGHLANDS COUNTY	4
LEE COUNTY	6
MARTIN COUNTY	7
MIAMI-DADE COUNTY	8
OKEECHOBEE COUNTY	9
ORANGE COUNTY	10
PALM BEACH COUNTY	11
ST LUCIE COUNTY	15
<b>II DENIALS</b>	
COLLIER COUNTY	16
MARTIN COUNTY	17
<b>III ENVIRONMENTAL RESOURCE PERMIT EXTENSIONS</b>	
LEE COUNTY	18
MIAMI-DADE COUNTY	19
<b>IV CONSENT AGREEMENTS</b>	20
<b>V AMENDMENT TO CONSERVATION EASEMENTS</b>	22
<b>VI ENFORCEMENT ACTIONS</b>	23

## REGULATION AGENDA ITEMS

**PERMIT/MODIFICATION:** Those listed on the consent agenda are routine in nature, non-controversial and in compliance with current District policy. Unique or controversial projects or those requiring a policy decision are normally listed as discussion items. Permit types include:

**Environmental Resource (ERP):** Permits that consider such factors as the storage of storm water to prevent flooding of a project (upstream or downstream projects); the treatment of stormwater prior to discharge from the site to remove pollutants; and the protection of wetlands on the project site.

**Surface Water Management:** Permits for drainage systems, which address flood protection, water quality, and environmental protection of wetlands.

**Water Use:** Permits for the use of ground and/or surface water from wells, canals, or lakes.

**Lake Okeechobee Works of the District:** Permits that set concentration limits for total phosphorus in surface discharge from individual parcels in the Lake Okeechobee Basin.

**EAA Works of the District:** Permits to reduce the total phosphorus load from the EAA by 25 percent in water discharged to Works of the District.

**Wetland Resource:** Permits for dredge and fill activities within Waters of the State and their associated wetlands.

**SURFACE WATER MANAGEMENT EXTENSION:** An administrative action to give a permittee additional time to start construction of a project. A permittee has five years from date of permit issuance to start construction. For a variety of reasons, this is not always enough time.

**WATER USE EXTENSION:** An administration action to extend a permit to coincide with a basin expiration date, criteria development, or rule changes.

**ADMINISTRATIVE HEARING:** A case in litigation conducted pursuant to the Administrative Procedures Act (Chapter 120, Florida Statutes) involving the determination of a suit upon its merits. Administrative hearings provide for a timely and cost effective dispute resolution forum for interested persons objecting to agency action.

**FINAL ORDER:** The Administrative Procedures Act requires the District to timely render a final order for an administrative hearing after the hearing officer submits a recommended order. The final order must be in writing and include findings of fact and conclusions of law.

**CONSENT AGREEMENT:** A voluntary contractual agreement between the District and a party in dispute which legally binds the parties to the terms and conditions contained in the agreement. Normally used as a vehicle to outline the terms and conditions regarding settlement of an enforcement action.

**CONSERVATION EASEMENT:** A perpetual fee ownership in real property that retains such land or water area in its predominantly natural, scenic, open, or wooded condition. Conservation easements generally limit the use of the conservation area to passive, recreational activities such as hiking and bicycling. The District will consider as mitigation for the adverse impacts to wetlands or other surface waters functions caused by a proposed project, the preservation, by conservation easement, of wetland ecosystems.

**DENIAL:** This action normally takes place when a proposed project design does not meet water management criteria or the applicant does not supply information necessary to complete the technical review of an application.

**EMERGENCY ORDER and AUTHORIZATION:** An immediate final order issued without notice by the Executive Director, with the concurrence and advice of the Governing Board, pursuant to (Section 373.119(2), Florida Statutes, when a situation arises that requires timely action to protect the public health, safety or welfare and other resources enumerated by rule and statute.

**ENFORCEMENT ACTION:** The category can include a variety of actions that are taken by the District when work is started without a permit or not conducted in accordance with a permit. The District's Field Engineering Division and Office of Counsel coordinate the effort.

**MEMORANDUM OF UNDERSTANDING:** A contractual arrangement between the District and a named party or parties. This instrument typically is used to define or explain parameters of a long-term relationship and may establish certain procedures or joint operating decisions.

**PETITION:** An objection in writing to the District, requesting either a formal or an informal administrative hearing, regarding an agency action or a proposed agency action. Usually a petition filed pursuant to Chapter 120, Florida Statutes, challenges agency action, a permit, or a rule. Virtually all agency action is subject to petition by substantially affected persons.

**SEMINOLE TRIBE WORK PLAN:** The District and the Seminole Indians signed a Water Use Compact in 1987. Under the compact, annual work plans are submitted to the District for review and approval. This plan keeps the District informed about the tribe plans for use of their land and the natural resources. Although this is not a permit, the staff has water resource related input to this plan.

**SITE CERTIFICATIONS:** Certain types of projects (power plants, transmission lines, etc.) are permitted by the Governor and Cabinet under special one-stop permitting processes that supercede normal District permits. The Water Management Districts, DEP, DCA, FGFWFC, and other public agencies are mandatory participants. DEP usually coordinates these processes for the Governor and Cabinet.

**VARIANCES FROM, OR WAIVERS OF, PERMIT CRITERIA:** The Florida Administrative Procedures Act provides that persons subject to an agency rule may petition the agency for a variance from, or waiver of, a permitting rule. The Governing Board may grant a petition for variance or waiver when the petitioner demonstrates that 1) the purpose of the underlying statute will be or has been achieved by other means and, 2) when application of the rule would create a substantial hardship or would violate principles of fairness.

COLLIER COUNTY

\*\*\*\*\*

1. CORKSCREW CITRUS APPL. NO. 051031-50
ALICO INC PERMIT NO. 11-00128-W
SEC 3-10,15,18 TWP 46S RGE 28E ACREAGE: 3100.00
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL
WATER SOURCE: SANDSTONE AND LOWER TAMIAMI AQUIFERS
ALLOCATION: 521.4 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

2. CYPRESS WOODS GOLF AND COUNTRY CLUB APPL. NO. 050225-29
CYPRESS WOODS GOLF AND COUNTRY CLUB MASTER PERMIT NO. 11-01561-W
ASSOCIATION INC ACREAGE: 120.00
SEC 18,19 TWP 48S RGE 26E LAND USE: LANDSCAPE

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL
WATER SOURCE: WATER TABLE AQUIFER, ON-SITE LAKES
ALLOCATION: 19.58 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

3. SWFREC WATER USE APPL. NO. 080617-7
TIIF/ED UNIVERSITY OF FLORIDA PERMIT NO. 11-00024-W
SEC 17,20,21 TWP 46S RGE 29E ACREAGE: 245.00
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE RENEWAL
WATER SOURCE: LOWER TAMIAMI AQUIFER
ALLOCATION: 42.89 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

4. SYNGENTA SEEDS APPL. NO. 050520-4
SYNGENTA SEEDS INC PERMIT NO. 11-00116-W
SEC 6,7 TWP 51S RGE 27E ACREAGE: 138.62
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE EXPIRED/PREVIOUSLY PERMITTED
WATER SOURCE: WATER TABLE AND LOWER TAMIAMI AQUIFERS
ALLOCATION: 19.48 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

GLADES COUNTY

\*\*\*\*\*

1. CARLTON GROVE (ORTONA) APPL. NO. 090116-9  
 WHEELER FARMS INC PERMIT NO. 22-00057-W  
 SEC 20,21,28,29 TWP 42S RGE 30E ACREAGE: 751.00  
 LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE RENEWAL  
 WATER SOURCE: C-43  
 ALLOCATION: 129.15 MILLION GALLONS PER MONTH  
 LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

2. SYFRETT RANCH-ARROW B APPL. NO. 080129-34  
 SYFRETT RANCH INC PERMIT NO. 28-00119-W  
 SEC 3-6 TWP 38S RGE 33E ACREAGE: 3085.00  
 LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL  
 WATER SOURCE: SURFICIAL AQUIFER, C-41A  
 ALLOCATION: 559.5 MILLION GALLONS PER MONTH  
 LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

3. WARR FARM LLC APPL. NO. 090130-25  
 WARR FARM LLC PERMIT NO. 22-00248-W  
 SEC 15,22 TWP 42S RGE 32E ACREAGE: 244.00  
 LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE RENEWAL  
 WATER SOURCE: C-43  
 ALLOCATION: 45.16 MILLION GALLONS PER MONTH  
 LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

HENDRY COUNTY

\*\*\*\*\*

1. JIM'S HAMMOCK  
MARLIN W HILLIARD REVOCABLE TRUST  
SEC 7,8,17,18,20 TWP 43S RGE 32E

APPL. NO. 090205-17  
PERMIT NO. 26-00495-W  
ACREAGE: 2295.00  
LAND USE: DIVERSION AND  
IMPOUNDMENT  
AGRICULTURAL

PERMIT TYPE: WATER USE RENEWAL  
WATER SOURCE: C-43  
ALLOCATION: 492.24 MILLION GALLONS PER MONTH  
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

HIGHLANDS COUNTY

\*\*\*\*\*

1. BIG FARMS (HAPPINESS FARMS) APPL. NO. 080425-19
DP PARTNERS LTD PERMIT NO. 28-00141-W
SEC 1,12,35 TWP 36,37S RGE 30E ACREAGE: 265.00
LAND USE: NURSERY

PERMIT TYPE: WATER USE RENEWAL
WATER SOURCE: FLORIDAN AQUIFER
ALLOCATION: 39.6 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

2. BJ HARRIS AND SON GROVES APPL. NO. 080627-22
BJ HARRIS AND SON INC PERMIT NO. 28-00231-W
SEC 14 TWP 38S RGE 30E ACREAGE: 194.60
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE RENEWAL
WATER SOURCE: ON-SITE RESERVOIR, ON-SITE CANALS
ALLOCATION: 31.37 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

3. CHAMBLEE GROVE APPL. NO. 080616-12
JW YONCE AND SONS INC PERMIT NO. 28-00303-W
SEC 20 TWP 34S RGE 31E ACREAGE: 176.40
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE RENEWAL
WATER SOURCE: FLORIDAN AQUIFER
ALLOCATION: 29.73 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

4. LONESOME ISLAND GROVE APPL. NO. 080530-15
LONESOME ISLAND PARTNERSHIP PERMIT NO. 28-00341-W
SEC 29,32 TWP 37S RGE 31E ACREAGE: 150.04
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE RENEWAL
WATER SOURCE: FLORIDAN AQUIFER
ALLOCATION: 24.58 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*



LEE COUNTY

\*\*\*\*\*

1. ENCLAVES OF EAGLES NEST	APPL. NO.	060414-4
ENCLAVES OF EAGLE NEST LLC	PERMIT NO.	36-05908-P
SEC 30 TWP 43S RGE 25E	ACREAGE:	78.03
	LAND USE:	RESIDENTIAL COMMERCIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (CONCEPTUAL APPROVAL AND NEW  
CONSTRUCTION/OPERATION, INCLUDES CONSERVATION EASEMENT TO THE  
DISTRICT)

RECEIVING BODY: DONALD ROAD DRAINAGE DITCH VIA THE ON-SITE WETLAND VIA SURFACE  
WATER MANAGEMENT SYSTEM

LAST DATE FOR BOARD ACTION: JUNE 11, 2009

\*\*\*\*\*

2. THE SANCTUARY GOLF CLUB	APPL. NO.	081212-9
THE SANCTUARY GOLF CLUB INC	PERMIT NO.	36-01967-W
SEC 2, 11, 12 TWP 46S RGE 21E	ACREAGE:	85.00
	LAND USE:	GOLF COURSE

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL

WATER SOURCE: LOWER AND MID HAWTHORN AQUIFERS

ALLOCATION: 12.94 MILLION GALLONS PER MONTH

LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

MARTIN COUNTY

\*\*\*\*\*

1. HALPATIOKEE REGIONAL PARK AQUATIC HABITAT  
ENHANCEMENT  
MARTIN COUNTY BOARD OF COUNTY COMISSIONERS  
SEC 9 TWP 39S RGE 41E

APPL. NO. 090305-2  
PERMIT NO. 43-02290-P

ACREAGE: 18.00  
LAND USE: ENVIRONMENTAL  
RESTORATION

PERMIT TYPE: ENVIRONMENTAL RESOURCE (NEW CONSTRUCTION/OPERATION)  
RECEIVING BODY: ON-SITE RETENTION  
LAST DATE FOR BOARD ACTION: MAY 14, 2009

\*\*\*\*\*

MIAMI-DADE COUNTY

\*\*\*\*\*

1. NITYAM INC	APPL. NO.	060712-9
NITYAM INC	PERMIT NO.	13-04429-P
SEC 19 TWP 52S RGE 40E	ACREAGE:	4.86
	LAND USE:	COMMERCIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (NEW CONSTRUCTION/OPERATION)  
 RECEIVING BODY: ON-SITE RETENTION  
 LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

2. SOUTH DADE LANDFILL GWRIT	APPL. NO.	061113-3
MIAMI-DADE COUNTY BOARD OF COUNTY COMMISSIONERS	PERMIT NO.	13-00166-W
SEC 21 TWP 56S RGE 40E	ACREAGE:	179.00
	LAND USE:	INDUSTRIAL

PERMIT TYPE: WATER USE RENEWAL  
 WATER SOURCE: BISCAYNE AQUIFER  
 ALLOCATION: 19 MILLION GALLONS PER MONTH  
 LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

3. WESTVIEW COUNTRY CLUB	APPL. NO.	070507-8
WESTVIEW COUNTRY CLUB	PERMIT NO.	13-00022-W
SEC 27,34 TWP 52S RGE 41E	ACREAGE:	125.00
	LAND USE:	GOLF COURSE

PERMIT TYPE: WATER USE EXPIRED/PREVIOUSLY PERMITTED  
 WATER SOURCE: ON-SITE LAKES  
 ALLOCATION: 22.63 MILLION GALLONS PER MONTH  
 LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

OKEECHOBEE COUNTY

\*\*\*\*\*

1. MC ARTHUR FARMS	APPL. NO.	080227-32
MC ARTHUR FARMS INC	PERMIT NO.	47-00082-W
SEC 3-5,8-11,13-16,20-24 TWP 35S RGE 35E	ACREAGE:	100.00
	LAND USE:	AGRICULTURAL

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL  
 WATER SOURCE: SURFICIAL AQUIFER, ON-SITE RESERVOIR  
 ALLOCATION: 45.88 MILLION GALLONS PER MONTH  
 LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

ORANGE COUNTY

\*\*\*\*\*

1. BAY HILL GOLF COURSE APPL. NO. 081028-12  
THE BAY HILL CLUB PERMIT NO. 48-00760-W  
SEC 21,22,27,28 TWP 23S RGE 28E ACREAGE: 200.00  
LAND USE: GOLF COURSE

PERMIT TYPE: WATER USE RENEWAL  
WATER SOURCE: ON-SITE LAKES  
ALLOCATION: 33.53 MILLION GALLONS PER MONTH  
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

2. GRAND CYPRESS RESORT APPL. NO. 081029-39  
GRAND CYPRESS FLORIDA LLP PERMIT NO. 48-00121-W  
SEC 5,8,9,16,17,21 TWP 24S RGE 28E ACREAGE: 545.58  
LAND USE: GOLF COURSE  
LANDSCAPE

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL  
WATER SOURCE: ON-SITE LAKES  
ALLOCATION: 92.99 MILLION GALLONS PER MONTH  
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

3. LAKE NONA GOLF COURSE AND ESTATES APPL. NO. 080909-2  
LAKE NONA GOLF AND COUNTRY CLUB PERMIT NO. 48-00192-W  
SEC 1,6,8,12,17 TWP 24S RGE 30,31E ACREAGE: 210.00  
LAND USE: GOLF COURSE  
LANDSCAPE

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL  
WATER SOURCE: ON-SITE LAKES  
ALLOCATION: 38.86 MILLION GALLONS PER MONTH  
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

4. MISSION ROAD/PINE HILLS ROAD EXTENSION SEGMENTS 1-3 APPL. NO. 080919-21  
CITY OF ORLANDO PERMIT NO. 48-01956-P  
SEC 5-8 TWP 23S RGE 29E ACREAGE: 47.90  
LAND USE: HIGHWAY

PERMIT TYPE: ENVIRONMENTAL RESOURCE (NEW CONSTRUCTION/OPERATION)  
RECEIVING BODY: SHINGLE CREEK  
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

PALM BEACH COUNTY

\*\*\*\*\*

1. BOCA DUNES GOLF AND COUNTRY CLUB-COVE CLUB APPL. NO. 080929-11
COVE CLUB INVESTORS LTD PERMIT NO. 50-00411-W
SEC 30,31 TWP 47S RGE 42E ACREAGE: 140.00
LAND USE: GOLF COURSE

PERMIT TYPE: WATER USE EXPIRED/PREVIOUSLY PERMITTED
WATER SOURCE: ON-SITE LAKES
ALLOCATION: 22.95 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

2. BUNEVALL PARKER SOUTH APPL. NO. 090130-37
STAR FARMS CORPORATION PERMIT NO. 50-00263-W
SEC 25-26 TWP 45S RGE 36E ACREAGE: 309.00
LAND USE: AGRICULTURAL

PERMIT TYPE: WATER USE RENEWAL
WATER SOURCE: SFWMD CANAL L-19
ALLOCATION: 49.58 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

3. CENTURY VILLAGE WEST PALM BEACH APPL. NO. 070626-28
UNITED CIVIC ORGANIZATION INCORPORATED PERMIT NO. 50-03373-W
SEC 23 TWP 43S RGE 42E ACREAGE: 160.00
LAND USE: LANDSCAPE

PERMIT TYPE: WATER USE MODIFICATION/RENEWAL
WATER SOURCE: ON-SITE LAKES
ALLOCATION: 28.22 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

4. CONGRESS VILLAGE APPL. NO. 080710-3
MS LPC S CONGRESS HOLDINGS LLC PERMIT NO. 50-01181-S
SEC 30 TWP 46S RGE 43E ACREAGE: 44.70
LAND USE: RESIDENTIAL
COMMERCIAL

PERMIT TYPE: SURFACE WATER MANAGEMENT (CONCEPTUAL APPROVAL MODIFICATION)
RECEIVING BODY: PALM BEACH COUNTY CANAL
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*



PALM BEACH COUNTY

\*\*\*\*\*

9. LYONS WEST AGR PUD APPL. NO. 081209-12
BOYNTON BEACH ASSOCIATES XIX LLLP PERMIT NO. 50-08922-W
SEC 30 TWP 45S RGE 41E ACREAGE: 388.10
LAND USE: LANDSCAPE

PERMIT TYPE: WATER USE PROPOSED
WATER SOURCE: ON-SITE LAKES
ALLOCATION: 30.65 MILLION GALLONS PER MONTH
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

10. LYONS WEST AGR-PUD AKA FOGG 4-PLATS ONE AND TWO APPL. NO. 080630-10
BOYNTON BEACH ASSOCIATES XIX LLLP PERMIT NO. 50-07306-P
SEC 29,30 TWP 45,46S RGE 42E ACREAGE: 395.27
LAND USE: RESIDENTIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (CONCEPTUAL APPROVAL MODIFICATION AND
CONSTRUCTION/OPERATION MODIFICATION)
RECEIVING BODY: LAKE WORTH DRAINAGE DISTRICT L-24, L-25, L-26 CANALS
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

11. PB COUNTY JAIL EXPANSION II STOCKADE VIDEO APPL. NO. 090128-8
VISITATION PERMIT NO. 50-02042-S
PALM BEACH COUNTY FACILITIES
SEC 31 TWP 43S RGE 42E ACREAGE: 29.70
LAND USE: INSTITUTIONAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (CONCEPTUAL APPROVAL MODIFICATION AND
CONSTRUCTION/OPERATION MODIFICATION)
RECEIVING BODY: LAKE WORTH DRAINAGE DISTRICT L-4 CANAL
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

12. PBIA CONCEPTUAL STORMWATER PLAN APPL. NO. 080417-15
PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS PERMIT NO. 50-00471-S
SEC 5,6,25,29-32,36 TWP 43,44S RGE 42,43E ACREAGE: 1568.70
LAND USE: COMMERCIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (CONCEPTUAL APPROVAL MODIFICATION)
RECEIVING BODY: C-51
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

PALM BEACH COUNTY

\*\*\*\*\*

13. PGA NATIONAL GOLF CLUB AND SPORTS CENTER	APPL. NO.	080213-7
PGA NATIONAL GOLF CLUB AND SPORTS CENTER	PERMIT NO.	50-00617-W
SEC 9,10,15,16, TWP 42S RGE 42E	ACREAGE:	507.00
	LAND USE:	GOLF COURSE

PERMIT TYPE: WATER USE EXPIRED/PREVIOUSLY PERMITTED  
 WATER SOURCE: ON-SITE LAKES  
 ALLOCATION: 95.74 MILLION GALLONS PER MONTH  
 LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

14. TURNPIKE BUSINESS PARK AKA HOURGLASS PARCEL	APPL. NO.	080701-11
MPC 3 LLC	PERMIT NO.	50-08983-P
SEC 27 TWP 43S RGE 42E	ACREAGE:	47.63
	LAND USE:	INDUSTRIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (CONCEPTUAL APPROVAL AND NEW CONSTRUCTION/  
 OPERATION)  
 RECEIVING BODY: LAKE WORTH DRAINAGE DISTRICT CANAL L-4  
 LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

ST LUCIE COUNTY

\*\*\*\*\*

1. INDIAN HILLS GOLF COURSE IRRIGATION	APPL. NO.	080509-3
CITY OF FORT PIERCE FLORIDA	PERMIT NO.	56-00845-W
SEC 10,15 TWP 35S RGE 40E	ACREAGE:	130.00
	LAND USE:	GOLF COURSE

PERMIT TYPE: WATER USE MODIFICATION  
WATER SOURCE: OFF-SITE LAKES  
ALLOCATION: 24.82 MILLION GALLONS PER MONTH  
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

2. RIVERLAND - KENNEDY	APPL. NO.	090206-6
RIVERLAND/KENNEDY LLP	PERMIT NO.	56-00558-S
SEC 16-21,28,33 TWP 37S RGE 39E	ACREAGE:	3845.00
	LAND USE:	RESIDENTIAL COMMERCIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (PERMIT EXTENSION)  
RECEIVING BODY: C-23  
LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

DENIALS

COLLIER COUNTY

\*\*\*\*\*

1. BIG CYPRESS INDUSTRIAL APPL. NO. 050318-15  
 BASIK DEVELOPMENT LLC PERMIT NO. N/A  
 SEC 18 TWP 51S RGE 27E ACREAGE: 7.30  
 LAND USE: INDUSTRIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (NEW CONSTRUCTION/OPERATION)  
 RECEIVING BODY: US 41 CONVEYANCE VIA OFF-SITE AND ON-SITE SWALE  
 PRIMARY ISSUES: FINAL ORDER TO DENY DUE TO APPLICANT'S FAILURE TO COMPLETE APPLICATION

LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*

2. INTERNATIONAL CARPET APPL. NO. 070213-9  
 BLAJIAN BROTHERS LLC PERMIT NO. 11-00212-S  
 SEC 36 TWP 49S RGE 25E ACREAGE: .46  
 LAND USE: INDUSTRIAL

PERMIT TYPE: ENVIRONMENTAL RESOURCE (GENERAL PERMIT MODIFICATION)  
 RECEIVING BODY: UNKNOWN  
 PRIMARY ISSUES: FINAL ORDER TO DENY DUE TO APPLICANT'S FAILURE TO COMPLETE APPLICATION

LAST DATE FOR BOARD ACTION: APRIL 9, 2009

\*\*\*\*\*



ENVIRONMENTAL RESOURCE PERMIT EXTENSIONS

LEE COUNTY

\*\*\*\*\*

PERMIT NO.	PROJECT NAME	APPLICANT
36-01148-S	SR 739 FROM US 41 TO SIX MILE CYPRESS PKWY	FLORIDA DEPARTMENT OF TRANSPORTATION

\*\*\*\*\*

ENVIRONMENTAL RESOURCE PERMIT EXTENSIONS

MIAMI-DADE COUNTY

\*\*\*\*\*

PERMIT NO.	PROJECT NAME	APPLICANT
13-03078-P	MERCEDES HOMES - HOMESTEAD PUD	MERCEDES HOMES INC

\*\*\*\*\*

CONSENT AGREEMENTS

\*\*\*\*\*

1. RESPONDENT: MPG AVE MARIA, LTD.  
PROJECT: AVE MARIA RED RABBIT

SEC 5 TWP 48S RGE 29E COLLIER COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED CONSTRUCTION

\*\*\*\*\*

2. RESPONDENT: MARQUESA PLAZA, LLC.  
PROJECT: MARQUESA PLAZA

SEC 18 TWP 49S RGE 26E COLLIER COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING NON-COMPLIANCE WITH PERMIT  
CONDITIONS

\*\*\*\*\*

3. RESPONDENT: ORANGE TREE UTILITY COMPANY  
PROJECT: ORANGE TREE TUILITY PUBLIC WATER SUPPLY

SEC 14 TWP 48S RGE 27E COLLIER COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTIO REGARDING NON-COMPLIANCE WITH PERMIT  
CONDITIONS

\*\*\*\*\*

4. RESPONDENT: DEVELOPMENT ASSOCIATES, INC.  
PROJECT: BONITA SPRINGS CHARTER SCHOOL

SEC 22 TWP 47S RGE 25E LEE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED CONSTRUCTION

\*\*\*\*\*

5. RESPONDENT: JAMERSON FARMS OPERATIONS, LLC.  
PROJECT: JAMERSON FRI FIELD

SEC 26-28, 33 TWP 45S RGE 26E LEE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WATER USE

\*\*\*\*\*

6. RESPONDENT: MEADOW RUN PROPERTY OWNERS ASSOCIATION, INC.  
PROJECT: MEADOW RUN PROPERTY

SEC Hanson Grant TWP 38S RGE 40E MARTIN COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING NON-COMPLIANCE WITH PERMIT  
CONDITIONS

\*\*\*\*\*

7. RESPONDENT: OKEECHOBEE COUNTY  
PROJECT: OKEECHOBEE COUNTY PLATTS BLUFF ROAD EXTENSION

SEC 17,19,20,29,30 TWP 36S RGE 34E OKEECHOBEE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WORKS AND ALTERATION  
OF WETLANDS

\*\*\*\*\*

CONSENT AGREEMENTS

\*\*\*\*\*

8. RESPONDENT: NFI  
PROJECT: NFI LANDSTREET PARKING LOT EXPANSION

SEC 35 TWP 23S RGE 29E ORANGE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WATER USE

\*\*\*\*\*

9. RESPONDENT: PHILLIP DRAWDY  
PROJECT: PHILLIP DRAWDY

SEC 29 TWP 36S RGE 37E ST. LUCIE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WORKS AND WETLAND  
IMPACTS

\*\*\*\*\*

10. RESPONDENT: WASTE PRO SOUTHWEST, LLC.  
PROJECT: WASTE PRO

SEC 24 TWP 45S RGE 25E LEE COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WORKS

\*\*\*\*\*

11. RESPONDENT: HORIZON CENTER CONDOMINIUM ASSOCIATION, INC.  
PROJECT: HORIZON CENTER

SEC 18 TWP 48S RGE 41E BROWARD COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WATER USE

\*\*\*\*\*

12. RESPONDENT: PLAZA LAKES, LLC  
PROJECT: PLAZA LAKES

SEC 16 TWP 25S RGE 30E OSCEOLA COUNTY  
SETTLEMENT OF AN ENFORCEMENT ACTION REGARDING UNPERMITTED WORKS AND WETLAND  
IMPACTS

\*\*\*\*\*

**AMENDMENT TO CONSERVATION EASEMENTS**

\*\*\*\*\*  
1. APPROVE AMENDMENT OF A CONSERVATION EASEMENT FOR MUD LAKE CONSERVATION AREA  
RECORDED BY THE GREATER ORLANDO AVIATION AUTHORITY PURSUANT TO ENVIRONMENTAL  
RESOURCE PERMIT 48-00063-S FOR THE PURPOSES OF: (1) FACILITATING CONSTRUCTION  
AUTHORIZED BY FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION PERMIT NO. ERP48-  
0234306-003-SI (FDEP PERMIT); (2) RELEASING AND ADDING AREAS SUBJECT TO THE  
CONSERVATION EASEMENT AND CORRECTING SCRIVENER ERRORS IN A LEGAL DESCRIPTION.  
\*\*\*\*\*

**ENFORCEMENT ACTIONS**

\*\*\*\*\*  
1. CONCUR WITH SFWMD STAFF'S RECOMMENDATION FOR ENFORCEMENT ACTIONS AGAINST  
RESPONDENTS FOR VIOLATIONS OF WATER SHORTAGE RESTRICTIONS (LIST OF RESPONDENTS  
ACTIONS IS ATTACHED)  
\*\*\*\*\*

**Enforcement Actions April 2009 Governing Board**

County	Project Name
BROWARD	KFC COMMERCIAL BLVD



**13. Right of Way Occupancy New Permits**

Right of Way Occupancy Permit Modifications

Right of Way Occupancy Permit Requests with Waiver of District Criteria

Relaxation of Standards as Allowed Under District Rule 40E-6.011(9)  
F.A.C.

See supporting document: [ca\\_om\\_rm\\_100\\_sd.pdf](#)

**TABLE OF CONTENTS**

**RIGHT OF WAY OCCUPANCY CONSENT AGENDA FOR GOVERNING BOARD APPROVAL**

**APRIL 9, 2009**

	<u><b>PAGES</b></u>
<b>I. RIGHT OF WAY OCCUPANCY NEW PERMITS:</b>	<b>1, 2</b>
Governing Board action is required for routine requests for permits which conform to applicable rules for utilization of Works and Lands of the District. Items are placed on this Consent Agenda when the staff's recommendation is for <u>approval</u> .	
<b>II. RIGHT OF WAY OCCUPANCY PERMIT MODIFICATIONS:</b>	<b>3</b>
Governing Board action is required for routine requests for permits which conform to applicable rules for utilization of Works and Lands of the District. Items are placed on this Consent Agenda when the staff's recommendation is for <u>approval</u> .	
<b>III. RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA:</b>	<b>4 - 6</b>
Governing Board action is required on petitions received requesting a waiver of District criteria. Section 120.542, F.S. and Rule 28-104.002, F.A.C., requires agencies to <u>grant variances and waivers</u> to their own rules when a person subject to the rules files a petition and demonstrates that he or she can achieve, or has achieved, the purpose of the underlying statute by other means <u>and</u> when application of rule would create a substantial hardship or would violate principles of fairness. A "substantial hardship" is defined as a demonstrated economic, technological, legal or other type of hardship to the person requesting the waiver. "Principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule. A "waiver" is defined as an agency decision not to apply all or part of a rule to the person subject to the rule.	
<b>IV. RELAXATION OF STANDARDS AS ALLOWED UNDER DISTRICT RULE 40E-6.011(9) F.A.C.:</b>	<b>7</b>
Governing Board reserves sole authority to make a determination that portions of the District's rights of way are inaccessible for routine maintenance activities due to a variety of physical limitations. While a determination that a certain segment of right of way is presently unusable for routine land-based maintenance activities and relaxation of the restrictions in zones 2, 3, 4, and 5 may be allowed, such determination shall be at the sole discretion of the District and does not obviate the need for individuals with proposed or existing facilities within these areas to obtain permits from the District. Further, the District reserves the right to enter these areas to conduct emergency operations or to require the removal of any encroachments that are inconsistent with these rules at such time as maintenance access is perfected through the area	

**RIGHT OF WAY OCCUPANCY NEW PERMITS**

1. AT&T Permit Number 13408  
Palm Beach County Appl. No. 09-0204-2  
(Easement)

AUTHORIZING: NINE EXISTING 4" PVC CONDUITS OF WHICH SIX CONTAIN FIBER OPTIC CABLE ATTACHED TO THE WEST SIDE OF THE WELLINGTON ROAD BRIDGE CROSSING C-51 CANAL.

LAST DATE FOR BOARD ACTION: APRIL 9, 2009

- 
2. TEDDY C. ARTEMIU & ANDREA KLEOPA, Permit Number 13412  
CO TRUSTEES Appl. No. 09-0209-1  
Palm Beach County (Easement)

AUTHORIZING: INSTALLATION OF A FENCE ENCLOSURE ENCROACHING 30' IN THE RIGHT OF WAY (40' FROM THE TOP OF THE CANAL BANK), THREE EXISTING CITRUS TREES WITHIN FENCED AREA AND REMOVAL OF TWO AVOCADO TREES WITHIN THE NORTH RIGHT OF WAY OF THE HILLSBORO CANAL AT THE REAR OF 23444 MIRABELLA CIRCLE (LOT 15, VALENCIA).

LAST DATE FOR BOARD ACTION: APRIL 9, 2009

- 
3. ANTONIO & MARYSOL SEICENTOS, JR. Permit Number 13414  
Miami-Dade County Appl. No. 09-0218-1  
(Easement)

AUTHORIZING: FENCE ENCLOSURE ENCROACHING 10' (3' FROM THE TOP OF THE CANAL BANK) AND INSTALLATION OF 130 LINEAR FEET OF CONCRETE RIBBLE RIP-RAP WITH FILTER FABRIC BENEATH, WITHIN THE SOUTH RIGHT OF WAY OF C-2 AT THE REAR OF 8181 SW 84<sup>TH</sup> TERRACE (LOT 17, BLOCK 1, GALLOWAY ESTATES AT SNAPPER CREEK).

LAST DATE FOR BOARD ACTION: MAY14, 2009

---





**RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH  
WAIVER OF DISTRICT CRITERIA**

1. Consideration of a request by **Mariela Sanchez** (Application Number 07-0817-1, Permit Number 13194) for issuance of a Right of Way Occupancy Permit for a proposed cross fence with 2-16' vehicular gates located within the west right of way of the Faka Union Canal on the east side of 3884 16<sup>th</sup> Avenue Southeast. Location: Collier County, Section 17, Township 49 South, Range 28 East.

The applicant's request for waiver of the District's criteria, which governs the placement of permanent and/or semi-permanent above-ground encroachments (cross-fence within 40 feet of top of bank) within Works or Lands of the District, is based on substantial hardship. The applicant asserts that, in the interest of safety and due to the fact that their property is located adjacent to a public road, the encroachments (cross fence and gates) are necessary in order to prevent unauthorized access. The District will benefit as well by the prohibition of unauthorized vehicular access to the right of way. The staff of the Big Cypress Basin has reviewed the proposal and site conditions and has determined that the proposed facilities will not interfere with the District's current ability to perform necessary construction, alteration, operation and routine maintenance activities, so the purpose of the underlying statute will be achieved.

The applicant's petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to section 120.542(6), F.S., notice of the petition was provided to the Department of State and was published in *Volume 33, Number 39 of the Florida Administrative Weekly* on September 28, 2007. No public comments were received.

Therefore, staff recommends **approval** of the issuance Right of Way Occupancy Permit Number 13194 and **approval** of the Petition for Waiver of the District's criteria which governs the placement of semi-permanent/permanent above-ground encroachments within 40' top of canal bank within Works or Lands of the District.

(Easement)

---

2. Consideration of a request by **Florida Department of Transportation** (Application Number 07-1220-1M, Permit (MOD) Number 986) for issuance of a Modification to Right of Way Occupancy Permit Number 986 and waiver of the District's criteria for the proposed replacement of the Krome Avenue Bridge crossing the C-6 canal. Location: Miami-Dade County, Section 9, Township 52 South, Range 39 East.

The applicant's request for a waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground facilities within 40 feet of the top of the canal bank and governs the minimum low member elevation of pile-supported facilities within Works or Lands of the District and is based on "substantial hardship". In order to meet the District's minimum vertical clearance requirement (low member elevation) for pile-supported structures, the structure must provide a minimum low member elevation of 2 feet above the design water surface or a minimum of 6 feet above the seasonal high optimum water control elevation, whichever produces the higher low member elevation. In areas where existing conditions limit the vertical clearance, or it is not feasible for economic

## RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA

reasons, the District may give consideration to a reduction. However, in no case will an elevation be allowed to be less than 2 feet above the design water surface elevation.

In this case, the applicant asserts that in order to meet FDOT current safety standards, which incorporate guardrail and a concrete barrier wall along both sides of the bridge, accommodate SFWMD maintenance access (which has been provided at all four bridge quadrants) and to avoid encroaching into lands slated for CERP, a lower, low member elevation must be utilized. The proposed low member elevation of the bridge will be set at 8.96' NGVD which meets the vertical clearance criteria of 2 feet above the new design water surface elevation for Structure S-515 of 4.8' NGVD. The District's Operations Resource Maintenance staff has determined that the proposed Krome Avenue Bridge set at an elevation of 8.96' NGVD will not significantly interfere with the District's access and ability to perform necessary construction, alteration, operation and maintenance activities, so the purpose of the underlying statute will be achieved.

The applicant's petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to Section 120.542(6), F.S. notice of the petition was provided to the Department of State and was published in *Volume 34, Number 3* of the *Florida Administrative Weekly* on *January 18, 2008*. No public comments were received.

Therefore, staff recommends **approval** of the issuance of a Modification to Right of Way Occupancy Permit Number 986 and **approval** of the petition for Waiver of the District's criteria which governs the minimum low member elevation of pile-supported facilities within Works or Lands of the District.  
(Easement)

- 
3. Consideration of a request by **Canal Investments, Inc.**, (Application Number 09-0213-1, Permit Number 13407) for Waiver of the District's criteria and issuance of a Right of Way Occupancy Permit for the proposed installation of a cross-fence with vehicular access gate at the east property line extended and to allow an asphalt parking area accommodating 6 parking spaces with bollards, buried electrical service with lighting and portion of an exfiltration trench to remain within the north right of way of C-4 adjacent to 10690 S.W. 7<sup>th</sup> Terrace. Location: Miami-Dade County, Section 5, Township 55 South, Range 40 East.

The applicant's request for waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground encroachments within 40 feet of the top of the canal bank and within the District's designated equipment staging areas at all bridges and pile-supported utility crossings as well as the placement of retention/detention facilities and use of motor vehicles (parking) within Works or Lands of the District is based on "principles of fairness" and "substantial hardship". The applicant has had the existing facilities at their current location since 2002 when he acquired the property and loss of the parking area would result in the inability of the applicant to continue with ongoing business activity. The District has been negotiating with the applicant for the acquisition of a permanent access easement through the applicant's property for ingress and egress to its canal right of way as well as improving its easement lying

## RIGHT OF WAY OCCUPANCY PERMIT REQUESTS WITH WAIVER OF DISTRICT CRITERIA

adjacent to the canal, which currently grants access only and does not include use of the easement for the purpose of the District constructing and maintaining the C-4 Gravity (Flood) Wall. This Settlement Agreement, which includes the granting of the improved construction/access easement to the District, will be resolved under the authority delegated to the General Counsel and Executive Director. The proposed flood wall is one of several of the District's projects providing increased flood protection in the Sweetwater/Belen area. The District's issuance of a permit for the existing and proposed encroachments as described above is a condition of the Settlement Agreement. The applicant has agreed to remove the portion of an existing concrete wall from within the District's right of way and replace it with a cross-fence with 16-foot wide gate for the passage of the District's vehicles and equipment.

The staff of the Operations and Maintenance Resource Department has no objection to the proposed cross-fence or the existing encroachments as the District will gain the ability to access its right of way for construction and maintenance as well as routine and emergency operations via the improved easement interest included in the Settlement Agreement.

The applicant's petition has been reviewed by the Office of Counsel for compliance with the applicable legal requirements. Pursuant to Section 120.542(6), F.S. notice of the petition was provided to the Department of State and was published in *Volume 35, Number 13* of the *Florida Administrative Weekly* on April 3, 2009. (Subject to receipt of no objection by April 17, 2009).

Therefore, staff recommends **approval** of the issuance of Right of Way Occupancy Permit Number 13407 and **approval** of the petition for waiver of the District's criteria which governs the placement of permanent and/or semi-permanent above-ground encroachments within 40 feet of the top of the canal bank and within the District's designated equipment staging areas at all bridges and pile-supported utility crossings as well as the placement of retention/detention facilities and use of motor vehicles (parking) within Works or Lands of the District.

**RELAXATION OF STANDARDS AS ALLOWED UNDER  
DISTRICT RULE 40E-6.011(9) F.A.C.:**

1. It is the recommendation of the staff of the Operations and Maintenance Resource Department that the Governing Board waive, for future Right of Way Occupancy Permit Applications for existing, unauthorized encroachments, the requirement contained in the District Rules which specifies that an unencumbered 40 foot wide strip of right of way, as measured from the top of bank landward, is required in order for the District to perform the routine operations and maintenance activities along the following reach of C-100A (Cutler Drain Canal), located in Section 14, Township 55 South, Range 40 East, Miami-Dade County:
  - A. The east and west right of way of C-100A beginning 30' south of the south right of way of S.W. 120<sup>th</sup> Street running southerly approximately 1,240' to the north face of the S.W. 124<sup>th</sup> Street Bridge. (Station 128+90± through 146+60±.)

Staffs' recommendation is based on the fact that the 30 foot wide easterly and westerly overbank right of way throughout this reach of C-100A have been encumbered with encroachments for many years, consisting of existing vegetation and above-ground encroachments which block the District's access; and, there is presently no access to the site from public road right of way. This relaxation is a result of the District's effort to install and provide bank stabilization within a portion of the proposed relaxed area.

District Rule 40E-6.011(9), F.A.C., (Policy and Purpose), states that "the District reserves sole authority to make a determination that portions of the District's rights of way are inaccessible for routine maintenance activities due to a variety of physical limitations. While a determination that a certain segment of right of way is presently unusable for routine land-based maintenance activities such determination shall be at the sole discretion of the District, would only allow permissibility of existing encroachments and does not obviate the need for individuals with proposed or existing facilities within these areas to obtain permits from the District. Further, in relaxing the 40 foot standard, should the existing facilities be damaged, the permittee would not be allowed to replace the facility or in the case of trees or other plantings when the existing trees die, or are blow down, etc., they would not be allowed to be replaced. The District reserves the right to enter these areas to conduct emergency operations or to require the removal of any encroachments that are inconsistent with these rules at such time as maintenance access is perfected through the area."  
(Easement)



14. Enter Final Orders Concurring with the Granting of Temporary Variances from Water Shortage Restrictions Imposed within the Boundaries of the South Florida Water Management District (Pete Kwiatkowski, ext. 2547)  
See supporting document: [ca\\_wr\\_006\\_sd.pdf](#)  
See supporting document: [ca\\_wr\\_001\\_sd.pdf](#)  
See supporting document: [ca\\_wr\\_002\\_sd.pdf](#)

**Approved Variance Log Report for April 2009 Governing Board**

**3/27/2009**

#	Var No	Project Name	Date Received	Date Completed	County	Status	Staff Text
1	4664	MEDITERRA MASTER PLANNED COMMUNITY	3/9/2009	3/27/2009	Lee	COMPLETE	Applicant is a residential community that successfully demonstrated water savings using an irrigation system with 'high tech' controllers. They are authorized to utilize this system throughout the Mediterra Community and are not restricted to the days and hours listed in the water shortage order. They will provide the Variance Coordinator with a schedule for installing the new controllers and will provide monthly water usage data on a quarterly basis.
2	4666	MOSTYN THAYER	3/13/2009	3/16/2009	Saint Lucie	COMPLETE	Applicant has a manual irrigation system and his work schedule does not allow him to comply with current restrictions. He is authorized to water on Mondays at the scheduled times.
3	4669	Riverland Growers Property Owners Association	3/18/2009	3/20/2009	Saint Lucie	COMPLETE	Applicant is authorized to install a temporary booster pump on the C-23 Canal. This will be used when stages are 15.5' or lower and the applicant will follow all restrictions. THE APPLICANT MUST TAKE ALL STEPS NECESSARY TO MAKE THE SYSTEM COMPLY WITH RESTRICTIONS SUBSEQUENT TO THE END OF THE CURRENT RESTRICTIONS AND PRIOR TO THE NEXT WATER SHORTAGE DECLARATION.

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Chip Merriam, Deputy Executive Director, Water Resources Management

**DATE:** April 9, 2009

**SUBJECT:** Concurrence with the Granting of Temporary Variances from Water Shortage Restrictions Imposed within the entire South Florida Water Management District.

**Background:** On April 11, 2008, Order No. 2008-166-DAO-WS became effective, imposing modified Phase II Severe Water Shortage Restrictions for all use classes withdrawing water from the surface waters and groundwater within the South Florida Water Management District. Pursuant to provisions contained in the Order and within District Rule 40E-21.275, F.A.C., variances from specified water restrictions can be issued based on good cause. Applicants that have demonstrated that the conditions for issuance of a variance have been met may be issued a temporary variance by the Executive Director or her designee. Pursuant to District rules, all such temporary variances must be acted upon by the Governing Board at its next regularly scheduled meeting. The list of temporary variances granted along with staff recommendations is attached.

**How this helps meet the District's 10-year Strategic Plan:** Variances ensure continuing consistency in water use and support the rules to protect water resources and maximize efficient use of water during these extreme hydrologic conditions. The variances still require users to adhere to the water shortage restrictions.

**Funding Source:** There is no funding source associated with this item.

**This item impacts what area of the District, both resource area and geography:** The entire sixteen counties of the South Florida Water Management District.

**What concerns could this Board item raise?** Economic impacts associated with the water restrictions. Environmental and recreational impacts associated with low levels within surface water features of the area

**Why should the Governing Board approve this item?** This item will allow flexibility to assist water users with site-specific constraints to comply with the water shortage cut-backs.

If you have any questions, please do not hesitate to call me at ext. 6597.

CM/pk

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Chip Merriam, Deputy Executive Director, Water Resources Management

**DATE:** April 9, 2009

**SUBJECT:** Concurrence with the Granting of Temporary Variances from Water Shortage Restrictions Imposed within the entire South Florida Water Management District.

**Background:** On September 11, 2008, Order No. 2008-420-DAO-WS became effective, imposing modified Phase II Severe Water Shortage Restrictions for all use classes withdrawing water from the surface waters and groundwater within the South Florida Water Management District. Pursuant to provisions contained in the Order and within District Rule 40E-21.275, F.A.C., variances from specified water restrictions can be issued based on good cause. Applicants that have demonstrated that the conditions for issuance of a variance have been met may be issued a temporary variance by the Executive Director or her designee. Pursuant to District rules, all such temporary variances must be acted upon by the Governing Board at its next regularly scheduled meeting. The list of temporary variances granted along with staff recommendations is attached.

**How this helps meet the District's 10-year Strategic Plan:** Variances ensure continuing consistency in water use and support the rules to protect water resources and maximize efficient use of water during these extreme hydrologic conditions. The variances still require users to adhere to the water shortage restrictions.

**Funding Source:** There is no funding source associated with this item.

**This item impacts what area of the District, both resource area and geography:** The entire sixteen counties of the South Florida Water Management District.

**What concerns could this Board item raise?** Economic impacts associated with the water restrictions. Environmental and recreational impacts associated with low levels within surface water features of the area

**Why should the Governing Board approve this item?** This item will allow flexibility to assist water users with site-specific constraints to comply with the water shortage cut-backs.

If you have any questions, please do not hesitate to call me at ext. 6597.

CM/pk



15. Enter Final Orders Denying Applications for Variances from Water Shortage Restrictions Imposed within the Boundaries of the South Florida Water Management District (Pete Kwiatkowski, ext. 2547)  
See supporting document: [ca\\_wr\\_007\\_sd.pdf](#)

Denial Recommendations: Variance Log Report for April 2009 Governing Board

3/27/2009

#	Var No	Project Name	Date Received	Date Completed	County	Status	Staff Text
2	4670	DORAL ISLES COMMUNITY ASSOCIATION	3/18/2009	3/26/2009	Miami-Dade	DENIED	Application is recommended for denial. Applicant is a HOA in the process of obtaining a consumptive use permit but has not submitted all of the requested information.



- 16.** Enter an order concurring with emergency order for the purpose of immediate water supply relief for the City of West Palm Beach, Florida (Pete Kwiatkowski, ext. 2547)  
See supporting document: [ca\\_wr\\_003\\_sd.pdf](#)

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
3301 Gun Club Road  
West Palm Beach, Florida 33406**

**IN RE: ORDER NO. SFWMD 2009- 069 DAO WU**

**EMERGENCY ORDER FOR THE PURPOSE OF  
IMMEDIATE WATER SUPPLY RELIEF FOR THE  
CITY OF WEST PALM BEACH, FLORIDA**

---



RECEIVED  
DISTRICT CLERK'S OFFICE  
APR 19 2009 10:01 AM  
SOUTH FLORIDA  
WATER MANAGEMENT DISTRICT

**EMERGENCY ORDER**

The Executive Director of the South Florida Water Management District ("District"), pursuant to Section 373.119(2), Florida Statutes, and Rule 40E-1.611, Florida Administrative Code, after considering the recommendations of District staff and being otherwise fully appraised of the matter, issues the following Emergency Order containing Findings of Fact, Ultimate Facts and Conclusions of Law:

**FINDINGS OF FACT**

**I. THE PARTIES**

1. The District is a public corporation of the State of Florida, existing pursuant to Chapter 25270, Laws of Florida, 1949, and operating pursuant to Chapter 373, F.S., and Title 40E, F.A.C., as a multi-purpose water management district with its principal office at 3301 Gun Club Road, West Palm Beach, Florida. The District has the power and duty to protect Florida's water resources and to administer and enforce the

provisions of Chapter 373, F.S., and the rules promulgated there under, Title 40E, F.A.C. The District has jurisdiction over the matters addressed in this Order.

2. The City of West Palm Beach (City), as authorized by District, provides drinking water to a service area of approximately 35,900 acres, including the Town of Palm Beach, Town of South Palm Beach, and unincorporated sections of Palm Beach County.

## II. CITY OF WEST PALM BEACH CONSUMPTIVE USE PERMIT

3. The City received Consumptive Use Permit #50-00615-W (permit), from the District on October 12, 2006. The City has a maximum allocation not to exceed 1,339 million gallons per month (MGM) at its Clear Lake Water Treatment Plant.

4. The City primarily receives its drinking water from 8 surface water pumps at two locations on Clear Lake. Clear Lake receives discharge from the M-Canal, which is supplied by two 65,000 gallon per minute pumps at the L-8 Tieback Canal, as well as rainfall/runoff collected in the City's Water Catchment Area, which receives water from Lake Okeechobee, and flows from the City's Wellfield.

5. The conditions of the consumptive use permit authorize the City to withdraw groundwater from the Surficial Aquifer System (SAS) at the Wellfield, located adjacent to the East Central Regional Wastewater Treatment Plant on a one-to-one basis relative to the delivery of reclaimed water from the Wetlands-Based Water

Reclamation Project (WBWRP) to the Wellfield. These permit conditions were incorporated into the consumptive use permit for the purpose of protecting wetland resources and other existing legal users. The remainder of the City's water supply is withdrawn from surface water in Clear Lake which originates from the pumps at the L-8 Tieback Canal.

### **III. CIRCUMSTANCES SURROUNDING THE CITY OF WEST PALM BEACH'S WATER SUPPLY SOURCES**

6. The City's water supply lakes have been declining sharply. For example, the lake level at Clear Lake was 12.40 feet on February 8, 2009 and declined to 11.55 feet just 20 days later on February 28, 2009. This represents a .04 feet decline per day. Without additional recharge, the City's lakes would reach levels at which further pumping would be restricted in approximately 60 days.

7. These declining water levels are attributable to dry weather conditions. So far this dry season, the City of West Palm Beach, including the Water Catchment Area, has received fairly limited rains. Rainfall over the area from November through March 17 averaged about 2.50", which is over 13" below the historical average for the period.

8. However, this area has received a recent burst of rainfall. Since the morning of March 18, 2009, it has received a welcomed 1-2 inches of rain.

9. During the remainder of the dry season, evaporation is expected to

overwhelm rainfall. Evaporation rates will be about double rainfall amounts until the onset of the wet season during late May or early June.

#### **IV. PROPOSED TEMPORARY TEST DIVERSION AND STORAGE OF WATER FROM THE C-51 CANAL**

10. The City's request is to conduct a three day test to intercept water from the C-51 Canal that would otherwise be discharged to tide through the S-155 Structure. Given the opportunity presented by the recent, significant rainfall, water is presently available for such diversion. Without the City intercepting this water, the District will release the water to tide pursuant to the S-155 Structure's operating criteria.

11. The City's objectives for this test include assessing whether: (1) meaningful water can be moved through the Boyd structure, and (2) this water can be effectively treated by the Renaissance Project.

#### **ULTIMATE FACTS AND CONCLUSIONS OF LAW**

12. Section 373.119 (2), F.S., authorizes the Executive Director of the District; in the event of an emergency requiring immediate action to protect the public health, safety or welfare, with the concurrence of the Governing Board and without prior notice, to issue an order reciting the existence of such an emergency and requiring that such action be taken as deemed necessary. Pursuant to Section 373.119(3), F.S., any

person to whom an emergency order is directed pursuant to subsection (2), shall comply therewith immediately, but on petition to the Board shall be afforded a hearing as soon as possible.

13. Rule 40E-1.611, F.A.C., states that an emergency exists when immediate action is necessary to protect, in part, public health, safety, welfare, or the health of animals and recreational or agricultural uses of land.

14. Pursuant to Section 373.119(2), F.S., and the facts described above, the Executive Director finds that an emergency exists requiring immediate action necessary to protect the public welfare.

**NOW, THEREFORE BE IT ORDERED**, that the Executive Director of the District, pursuant to the authority of Section 373.119(2), F.S, and Rule 40E-1.611, F.A.C., hereby issues this Emergency Authorization and Order:

**AUTHORIZED EMERGENCY ACTIVITIES**

15. The following limited activities are temporarily authorized and/or ordered:

The City is authorized, between March 19, 2009 and March 22, 2009, to intercept and capture a maximum of 400 acre feet per day, not to exceed 1,200 acre feet of water from the C-51 Canal. On a daily basis, the City must contact the District's Operational Control Room to confirm water availability and receive written confirmation of the same from the District. This water will be diverted via the Boyd Structure, a gravity connection to the C-51 Canal. The City shall provide the District with a summary report

documenting the quantity of water withdrawn during this test event.

16. This Order is temporary in nature and shall not relieve the City of any obligation to obtain necessary federal, state, local, or special district approvals.

17. This Order shall not be construed as a substitute for, or waiver of, any right of way, surface water management, water use, or other permits required of the City under the District's rules and regulations.

18. This Order shall not constitute waiver of the District's regulatory jurisdiction, nor be construed to authorize any activity within the jurisdiction of the District except in accordance with the express terms of this Order. In addition, it shall not be construed as relieving the City from any responsibilities, duties or liabilities it may have to other local, state, or federal agencies exercising authority over the areas covered by this Order.

19. This Order is meant to provide authorization for a short-term testing scenario and shall not be construed as a substitute for any solution, temporary or long-term, that may be proposed and/or approved by the District.

20. This Order does not convey any property rights or any rights or privileges other than those specified in the Order.

21. Failure to comply with the conditions contained within this Order shall constitute a violation of a District Order under Chapter 373, Fla. Stat., and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

22. If, for any reason, including any adverse water quality, water quantity, or other negative impacts occur as a result of this Order, the District reserves the right to

immediately withdraw this Order upon notice.

22. The City shall hold and save the District harmless from any and all damages, claims, or liabilities which may arise by reason of this Order.

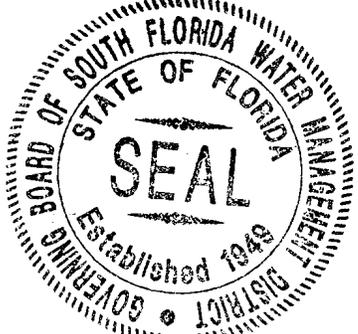
23. If the District petitions or sues for enforcement of the terms of this Order, the District reserves the right to initiate appropriate legal action, to impose civil penalties and collect attorney's fees and costs.

24. Persons whose substantial interests are affected by this Order shall have a right, pursuant to Chapter 120 and Section 373.119(3), Fla. Stat., and as stated in the attached Notice of Rights to petition for an administrative hearing.

25. This Order shall take effect upon execution by the Executive Director of the District, or his designee, and shall expire at 12:01 AM, March 23, 2009. This Order is subject to the Governing Board's concurrence at its next regularly scheduled meeting.

26. A Notice of Rights is attached as Exhibit A.

**DONE AND SO ORDERED** at West Palm Beach, Palm Beach County, Florida, this 19<sup>th</sup> day of March, 2009.



BY: [Signature]  
CAROL WEHLE  
EXECUTIVE DIRECTOR

LEGAL FORM APPROVED:

ATTESTED:

BY: [Signature]  
Elizabeth D. Ross

BY: [Signature]  
DATE: 3-19-09

## NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

### **RIGHT TO REQUEST ADMINISTRATIVE HEARING**

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569 and 120.57, Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision, unless one of the following shorter time periods apply: 1) within 14 days of the notice of consolidated intent to grant or deny concurrently reviewed applications for environmental resource permits and use of sovereign submerged lands pursuant to Section 373.427, Fla. Stat.; or 2) within 14 days of service of an Administrative Order pursuant to Subsection 373.119(1), Fla. Stat. "Receipt of written notice of agency decision" means receipt of either written notice through mail, or electronic mail, or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action. Any person who receives written notice of a SFWMD decision and fails to file a written request for hearing within the timeframe described above waives the right to request a hearing on that decision.

### **Filing Instructions**

The Petition must be filed with the Office of the District Clerk of the SFWMD. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** Any person wishing to receive a clerked copy with the date and time stamped must provide an additional copy. A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Any document received by the office of the SFWMD Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day. Additional filing instructions are as follows:

- Filings by mail must be addressed to the Office of the SFWMD Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must be delivered to the Office of the SFWMD Clerk. **Delivery of a petition to the SFWMD's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the SFWMD's security officer to contact the Clerk's office.** An employee of the SFWMD's Clerk's office will receive and file the petition.
- Filings by facsimile must be transmitted to the SFWMD Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the SFWMD Clerk receives the complete document.

### **Initiation of an Administrative Hearing**

Pursuant to Rules 28-106.201 and 28-106.301, Fla. Admin. Code, initiation of an administrative hearing shall be made by written petition to the SFWMD in legible form and on 8 and 1/2 by 11 inch white paper. All petitions shall contain:

1. Identification of the action being contested, including the permit number, application number, District file number or any other SFWMD identification number, if known.
2. The name, address and telephone number of the petitioner and petitioner's representative, if any.
3. An explanation of how the petitioner's substantial interests will be affected by the agency determination.
4. A statement of when and how the petitioner received notice of the SFWMD's decision.
5. A statement of all disputed issues of material fact. If there are none, the petition must so indicate.
6. A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the SFWMD's proposed action.
7. A statement of the specific rules or statutes the petitioner contends require reversal or modification of the SFWMD's proposed action.
8. If disputed issues of material fact exist, the statement must also include an explanation of how the alleged facts relate to the specific rules or statutes.
9. A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the SFWMD to take with respect to the SFWMD's proposed action.

A person may file a request for an extension of time for filing a petition. The SFWMD may, for good cause, grant the request. Requests for extension of time must be filed with the SFWMD prior to the deadline for filing a petition for hearing. Such requests for extension shall contain a certificate that the moving party has consulted with all other parties concerning the extension and that the SFWMD and any other parties agree to or oppose the extension. A timely request for extension of time shall toll the running of the time period for filing a petition until the request is acted upon.

If the District's Governing Board takes action with substantially different impacts on water resources from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law.

### **Mediation**

The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-405, Fla. Admin. Code. The SFWMD is not proposing mediation for this agency action under Section 120.573, Fla. Stat., at this time.

### **RIGHT TO SEEK JUDICIAL REVIEW**

Pursuant to Sections 120.60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.



17. **2009-400** A Resolution of the Governing Board of the South Florida Water Management District accepting the Lake Belt Mitigation Committee Annual Report for 2008; providing an effective date. (Terrie Bates, ext. 6952).

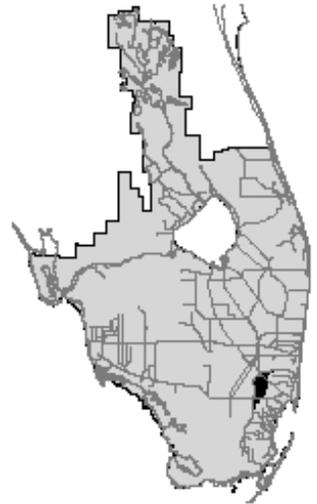
See supporting document: [ca\\_wr\\_106\\_sd1.pdf](#)

See supporting document: [ca\\_wr\\_106\\_sd.pdf](#)

See resolution document: [ca\\_wr\\_106\\_rd.pdf](#)

**LAKE BELT MITIGATION COMMITTEE**  
**ANNUAL REPORT FOR 2008**

Submitted to the  
GOVERNING BOARD  
of the  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
In Accordance with Section 373.41492(9)(a), Florida Statutes



Lake Belt Mitigation Committee  
2008 Annual Report

Table of Contents

	<b>Page</b>
I. Background .....	2
II. Legislative Guidance .....	2
III. Committee Representation	
Voting Members .....	3
Non-Voting Members .....	4
IV. Committee Administration	
Accounting .....	4
Mitigation Fee .....	5
Approved Expenditures .....	5
V. Committee Mitigation Activities	
Committee Activities .....	5
Mitigation Summary .....	6
VI. Appendices	
A - Florida Statutes	
B - Financial Statement	
C - Receipts / Approved Expenditures Summary	

## I. Background

In 1999, the Florida Legislature established a mitigation fee on each ton of limerock and sand sold from the Miami-Dade County Lake Belt Area. The purpose of this fee is to provide for the mitigation of wetland resources lost to mining activities within this area.

The Legislature found that the impact of rock mining could best be offset by the implementation of a comprehensive mitigation plan, as recommended in the 1998 Progress Report to the Florida Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee. Legislation was adopted in s. 373.4149(1), Florida Statutes (F.S.), authorizing the mitigation fee and governing its use.

The mitigation fee became effective on October 1, 1999 at the initial rate of 5.0 cents for each ton of limerock and sand sold. The Lake Belt legislation included an annual fee adjustment and the fee was 18 cents per ton in 2008. The fee applies to raw, processed, or manufactured limestone, cement, and concrete products. The mitigation fee is collected by the Florida Department of Revenue and deposited to a trust fund at the South Florida Water Management District (SFWMD). An interagency committee, referred to as the Lake Belt Mitigation Committee (Committee), must approve expenditures from the trust fund.

Section 373.41492(9)(a), F.S., states: “the interagency committee established in this section shall annually prepare and submit to the governing board of the South Florida Water Management District a report evaluating the mitigation costs and revenues generated by the mitigation fee.”

Additional information on the Miami-Dade County Lake Belt Plan Implementation Committee, including copies of the Plan, Annual Progress Reports and Technical Reports, and the Mitigation Committee is available at the SFWMD web site <http://www.sfwmd.gov>. (The Miami-Dade Co. Lake Belt is one of the projects listed in the Water Supply section of the SFWMD website.)

## II. Legislative Guidance

The proceeds of the mitigation fee must be used to conduct mitigation activities to offset the loss of value and functions of wetlands resulting from mining activities. The fees must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee and adopted under s. 373.4149, F.S.

The Lake Belt Phase I Plan, submitted to the Legislature in February 1997, states: *“Mitigation for rock mining in the Lake Belt Area should occur within the Pennsuco wetlands, the Northwest Bird Drive Basin, or other areas in the Lake Belt Area or Dade County, including in mitigation banks, as determined appropriate by the permitting agencies.”* (Page 21, “Northwest Dade County Freshwater Lake Belt Plan, Making a Whole, Not Just Holes”, 1997).

Mitigation fees may be used for the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation acres from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program, the Internal Improvement Trust Fund, SFWMD, and Miami-Dade County.

### **III. Committee Representation**

The Lake Belt Mitigation Committee is authorized under s. 373.4149, F.S. Meetings are held on an as needed basis at locations determined by the committee. All meetings are open to the general public and are held under requirements of Chapter 286.011, F.S.

The Lake Belt Mitigation Committee consists of following members:

#### **Voting Members:**

Florida Department of Environmental Protection (DEP)

Janet Llewellyn (Committee Chair)

Howard Hayes, Alternate

South Florida Water Management District (SFWMD)

Terrie Bates (Committee Vice Chair)

Anita Bain, Alternate

Miami-Dade County Department of Environmental Resources Management (DERM)

Carlos Espinosa

Matt Davis, Alternate

Florida Fish and Wildlife Conservation Commission (FWCC)

Timothy King

U.S. Army Corps of Engineers (USCOE)

Tori White

Leah Oberlin, Alternate

U.S. Environmental Protection Agency (USEPA)

Veronica Fasselt

Ron Miedema, Alternate

U.S. Fish and Wildlife Service (USFWS)

Spencer Simon

**Non-Voting Member:**

Miami-Dade Limestone Products Association  
Jeff Rosenfeld  
Bill Baker, Alternate

**IV. Committee Administration**

**Accounting** - The available balance in the trust fund as of December 31, 2007 was \$5,062,382. During 2008, \$4,899,784 was transferred to the trust fund from the Florida Department of Revenue and \$380,229 was earned as interest. During 2008, approved payments from the Trust Fund were \$3,727,447. On December 31, 2008, the available balance in the mitigation trust fund was \$6,614,948.

Table 1 summarizes the mitigation fee deposits and interest earned by the Lake Belt Trust Fund for the period between 2000 and 2008. The month-by-month financial statement for the Trust Fund is included in Appendix B. Appendix C shows the receipts/ approved expenditures summary developed for the Committee. This year’s summary includes expenditures/mitigation acres approved by the Committee during the last three years, as well as the overall receipts/expenditures summary through the end of 2008.

**Table 1. Summary - Lake Belt Mitigation Trust Fund Cash Receipts**

Calendar Year	Mitigation Fee (\$/ton)	Rock Mining Mitigation Fees	Interest Earned	Total Fees & Interest
2000 *	0.05	\$2,386,463	\$ 78,162	\$2,464,625
2001	0.0533	\$2,227,895	\$167,611	\$2,395,506
2002	0.056	\$2,436,950	\$174,384	\$2,611,334
2003	0.058	\$2,761,957	\$205,836	\$2,967,793
2004	0.062	\$3,109,122	\$132,434	\$3,241,556
2005	0.066	\$3,344,232	\$200,189	\$3,544,421
2006	0.071	\$3,808,079	\$521,348	\$4,329,427
2007	0.12	\$4,989,649	\$934,092	\$5,923,741
2008	0.18	\$4,899,784	\$380,229	\$5,280,013
<b>TOTAL</b>		\$29,964,131	\$2,794,284	\$32,758,416

\*Includes fees from mining as of Oct. 1, 1999. Initial receipt from Florida Department of Revenue to the SFWMD was in January 2000.

**Mitigation Fee** – The initial mitigation fee calculation was based on many factors (values and functions of wetlands in the Pennsuco and mining areas, mitigation ratios, estimated mining rates, and acquisition, restoration, and long-term management costs of land in the Pennsuco). During 1999, an interagency team of economists calculated the rate of the fee and determined the most appropriate method for annually adjusting the fee. This approach was codified in statute. Beginning January 1, 2001 and each January 1<sup>st</sup> thereafter, the per-ton mitigation fee is increased by 2.1 percent, plus a cost growth index specified in the statute. The annual mitigation fee rate calculated by the Florida Department of Revenue is shown in Table 1.

The Committee reviewed the mitigation fee calculations based on updated land acquisition costs in 2005. Based on the Committee's recommendation and approval by the Legislature in 2006, the mitigation fee increased to 12 cents per ton starting January 1, 2007. Pursuant to the updated statute, the fee will increase to 18 cents per ton in 2008 and 24 cents per ton in 2009. Beginning January 1, 2010 and each January 1<sup>st</sup> thereafter, the per-ton mitigation fee will again be increased by 2.1 percent, plus a cost growth index specified in the statute. The updated statute is included in Appendix A.

**Approved Expenditures** – Total expenditures approved in 2008 from the Lake Belt Mitigation Trust Fund were \$3,727,447. In April 2008, the SFWMD Governing Board approved the acquisition of 10.0 Pennsuco acres through the purchase listed in Appendix C. The Committee authorized the associated expenditures for acquisition costs, enhancement, and long-term management for the 10.0 acres (\$2,027/acre). In December 2008, the Mitigation Committee approved the 8.5 Square Mile Phase 1 restoration project (175.5 acres). The costs and Pennsuco equivalent mitigation acres for the project are listed in Appendix C. The 2008 expenditures also include a \$5,376 expenditure for administrative costs associated with the operation of the Lake Belt Mitigation Committee, Southern Glades restoration project expenditures of \$32,345 (\$15,000 for mowing/exotic treatment services and \$17,345 for a topographic survey) and a \$44 expenditure for a court filing fee for one of the land transfers.

## V. Committee Mitigation Activities

**Committee Activities** – In 2008, Committee activities included:

1. A continuing evaluation of mitigation options outside of Pennsuco. SFWMD staff developed a restoration project consisting of approximately 467 acres in the 8.5 Square Mile Area. The Committee approved implementation of Phase 1 (175.5 acres) in December 2008. Additional phases of the 8.5 SMA project will be considered by the Committee in 2009. SFWMD staff also developed a restoration project in the Southern Glades area, which will be further evaluated by the Committee in 2009.
2. A SFWMD willing seller program, in which all remaining private land owners in the Pennsuco were contacted in 2007. As a result of this program, an additional 145.1 mitigation acres (10.7 in 2006, 124.4 in 2007, and 10 acres in 2008) were approved for acquisition, enhancement, and long-term management of Pennsuco land by the SFWMD. Approximately 3,300 acres of privately-owned land remain in the Pennsuco out of a total of about 12,600 acres. Therefore, approximately 74% of the Pennsuco is currently under public ownership.

**Mitigation Summary** - Summaries of annual expenditures / mitigation acres approved by the Committee are included in Appendix C. The Committee has approved a total of 3121.6 mitigation acres, which has resulted in the public acquisition, enhancement, and long-term management of 1,213.3 acres in Pennsuco, the enhancement and long-term management of an additional 3,375.4 acres in Pennsuco, and the enhancement and long-term management of 175.5 acres in the 8.5 Square Mile Area.

**Table 2. Lake Belt Mitigation Activities**

Calendar Year	Pennsuco Acquisition, Enhancement, & Long-Term Management (Acres)	Pennsuco Enhancement, & Long-Term Management (Acres) <sup>1</sup>	Other (Acres)	Committee Approved Mitigation Acres
2002	455.6	1,240.6		1,075.9
2003	0	2,134.8		1,067.4
2004	160.0		-0.5 <sup>2</sup>	159.5
2005	320.9			320.9
2006	142.4			142.4
2007	124.4			124.4
2008	10.0		221.1 <sup>3</sup>	231.1
<b>TOTAL</b>	1,213.3	3,375.4	220.6	3,121.6

<sup>1</sup> The number of mitigation acres credited for enhancement / long-term management in 2002-2003 was equal to one-half the number credited for land acquisition, enhancement, and long-term management (per Committee decision).

<sup>2</sup> Mitigation for wetland impacts from monitoring well access construction required under the Lake Belt permits.

<sup>3</sup> Phase 1 of 8.5 Square Mile Area restoration project (Pennsuco equivalent mitigation acres – see Appendix C).

The Mining Industry submits an Annual Lake Belt Report to the U.S. Army Corps of Engineers, Florida Department of Environmental Protection, and Miami-Dade County Department of Environmental Resources Management. This report documents the changes in mining and wetland acreages, and summarizes the ecological balance between the wetland impacts and wetland mitigation funded through the Lake Belt Mitigation Committee. This information is summarized below in Table 3.

Pursuant to s. 373.41492(7), F.S., the mitigation fee established by the Legislature “satisfies the mitigation requirements imposed under ss. 373.403-373.439 and any applicable county ordinance for loss of the value and functions from mining of the wetlands identified as rock mining supported and allowable areas of the Miami-Dade County Lake Plan adopted by s. 373.4149(1).” The mitigation fee calculation was based on many factors (values and functions of wetlands in the mining area and Pennsuco, estimated mining rates, land acquisition,

restoration, and long-term management costs), and included the assumption that an estimated ratio of 2.5 mitigation acres : impact acres was needed to offset the loss of the values and functions of wetlands impacted in mining areas that were not permitted prior to the issuance of the Lake Belt permits in 2002. The wetland impact and offsetting mitigation information for the State and County permits are summarized below in Table 3 and show a large positive mitigation acreage balance due to the expedited mitigation being implemented by the Mitigation Committee. Through expedited mitigation, the Committee has been attempting to spend the mitigation fee on mitigation projects in the same year that the fee is collected, rather than at the slower rate anticipated in the permit tables.

**Table 3. Lake Belt Mitigation/Mining Summary**

Calendar Year	Committee Approved Mitigation Acres	Lake Belt Wetland Impacts In New Permit Areas (Acres)	Mitigation Needed to Offset Wetland Impacts (Acres) <sup>1</sup>	Annual Balance (Acres)
2002	1,075.9	34	85.0	990.9
2003	1,067.4	135	337.5	729.9
2004	159.5	87	217.5	-58.0
2005	320.9	87	217.5	103.4
2006	142.4	567	1,417.5	-1,275.1
2007	124.4	9	22.5	101.9
2008	231.1	Not yet available <sup>2</sup>		
<b>TOTAL</b>	<b>3,121.6</b>	<b>919</b>	<b>2,297.5</b>	<b>593.0</b>

<sup>1</sup> Assumes 2.5 ratio utilized in calculation of Lake Belt mitigation fee

<sup>2</sup> Pursuant to the permit conditions, impacts are reported in the following year's Lake Belt Annual Report due to the timing and availability of aerial photographs.

The U.S. Army Corps of Engineers Lake Belt permits issued in 2002 included a different methodology for calculating mitigation requirements. The ecological balance between the wetland mitigation and wetland impacts is calculated using the ecological value and present worth factors in Table E of the Corps' permits. The cumulative ecological units at the end of the 2008 Annual Report reporting period (through April 2008) were negative 327.5 present worth ecological units. By comparison, the estimated ecological balance in Table E for the same period was negative 478.7 present worth ecological units. Due to the expedited mitigation being implemented by the Mitigation Committee, the cumulative ecological balance at the end of 2008 Annual Report reporting period is 151 present worth ecological units greater than the estimates in the permit tables. Comparisons of the permit tables with the actual mitigation fee collections and mitigation funded during the first six years of the permit indicate that the amount of actual mitigation fees and approved mitigation are greater than were anticipated when the permits were issued in 2002.

## VI. Appendices

### APPENDIX A – Florida Statutes

#### **373.41492. Miami-Dade County Lake Belt Mitigation Plan; mitigation for mining activities within the Miami-Dade County Lake Belt.**

(1) The Legislature finds that the impact of mining within the rock mining supported and allowable areas of the Miami-Dade County Lake Plan adopted by s. 373.4149(1) can best be offset by the implementation of a comprehensive mitigation plan as recommended in the 1998 Progress Report to the Florida Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee. The Lake Belt Mitigation Plan consists of those provisions contained in subsections (2)-(9). The per-ton mitigation fee assessed on limestone sold from the Miami-Dade County Lake Belt Area and sections 10, 11, 13, 14, Township 52 South, Range 39 East, and sections 24, 25, 35, and 36, Township 53 South, Range 39 East, shall be used for acquiring environmentally sensitive lands and for restoration, maintenance, and other environmental purposes. It is the intent of the Legislature that the per-ton mitigation fee shall not be a revenue source for purposes other than enumerated herein. Further, the Legislature finds that the public benefit of a sustainable supply of limestone construction materials for public and private projects requires a coordinated approach to permitting activities on wetlands within Miami-Dade County in order to provide the certainty necessary to encourage substantial and continued investment in the limestone processing plant and equipment required to efficiently extract the limestone resource. It is the intent of the Legislature that the Lake Belt Mitigation Plan satisfy all local, state, and federal requirements for mining activity within the rock mining supported and allowable areas.

(2) To provide for the mitigation of wetland resources lost to mining activities within the Miami-Dade County Lake Belt Plan, effective October 1, 1999, a mitigation fee is imposed on each ton of limerock and sand extracted by any person who engages in the business of extracting limerock or sand from within the Miami-Dade County Lake Belt Area and the east one-half of sections 24 and 25 and all of sections 35 and 36, Township 53 South, Range 39 East. The mitigation fee is imposed for each ton of limerock and sand sold from within the properties where the fee applies in raw, processed, or manufactured form, including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. The mitigation fee imposed by this subsection for each ton of limerock and sand sold shall be 12 cents per ton beginning January 1, 2007; 18 cents per ton beginning January 1, 2008; and 24 cents per ton beginning January 1, 2009. To upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County, a water treatment plant upgrade fee is imposed within the same Lake Belt Area subject to the mitigation fee and upon the same kind of mined limerock and sand subject to the mitigation fee. The water treatment plant upgrade fee imposed by this subsection for each ton of limerock and sand sold shall be 15 cents per ton beginning on January 1, 2007, and the collection of this fee shall cease once the total amount of proceeds collected for this fee reaches the amount of the actual moneys necessary to design and construct the water treatment plant upgrade, as determined in an open, public solicitation process. Any limerock or sand that is used within the mine from which the limerock or sand is extracted is exempt from the fees. The amount of the mitigation fee and the water treatment plant

upgrade fee imposed under this section must be stated separately on the invoice provided to the purchaser of the limerock or sand product from the limerock or sand miner, or its subsidiary or affiliate, for which the fee or fees apply. The limerock or sand miner, or its subsidiary or affiliate, who sells the limerock or sand product shall collect the mitigation fee and the water treatment plant upgrade fee and forward the proceeds of the fees to the Department of Revenue on or before the 20th day of the month following the calendar month in which the sale occurs.

(3) The mitigation fee and the water treatment plant upgrade fee imposed by this section must be reported to the Department of Revenue. Payment of the mitigation and the water treatment plant upgrade fees must be accompanied by a form prescribed by the Department of Revenue. The proceeds of the mitigation fee, less administrative costs, must be transferred by the Department of Revenue to the South Florida Water Management District and deposited into the Lake Belt Mitigation Trust Fund. The proceeds of the treatment plant upgrade fee, less administrative costs, must be transferred by the Department of Revenue to a trust fund established by Miami-Dade County, for the sole purpose authorized by paragraph (6)(a). As used in this section, the term "proceeds of the fee" means all funds collected and received by the Department of Revenue under this section, including interest and penalties on delinquent fees. The amount deducted for administrative costs may not exceed 3 percent of the total revenues collected under this section and may equal only those administrative costs reasonably attributable to the fees.

(4)(a) The Department of Revenue shall administer, collect, and enforce the mitigation and treatment plant upgrade fees authorized under this section in accordance with the procedures used to administer, collect, and enforce the general sales tax imposed under chapter 212. The provisions of chapter 212 with respect to the authority of the Department of Revenue to audit and make assessments, the keeping of books and records, and the interest and penalties imposed on delinquent fees apply to this section. The fees may not be included in computing estimated taxes under s. 212.11, and the dealer's credit for collecting taxes or fees provided for in s. 212.12 does not apply to the fees imposed by this section.

(b) In administering this section, the Department of Revenue may employ persons and incur expenses for which funds are appropriated by the Legislature. The Department of Revenue shall adopt rules and prescribe and publish forms necessary to administer this section. The Department of Revenue shall establish audit procedures and may assess delinquent fees.

(5) Beginning January 1, 2010, and each January 1 thereafter, the per-ton mitigation fee shall be increased by 2.1 percentage points, plus a cost growth index. The cost growth index shall be the percentage change in the weighted average of the Employment Cost Index for All Civilian Workers (ecu 10001I), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, and the percentage change in the Producer Price Index for All Commodities (WPU 00000000), issued by the United States Department of Labor for the most recent 12-month period ending on September 30, compared to the weighted average of these indices for the previous year. The weighted average shall be calculated as 0.6 times the percentage change in the Employment Cost Index for All Civilian Workers (ecu 10001I), plus 0.4 times the percentage change in the Producer Price Index for All Commodities (WPU 00000000). If either index is discontinued, it shall be replaced by its successor index, as identified by the United States Department of Labor.

(6)(a) The proceeds of the mitigation fee must be used to conduct mitigation activities that are appropriate to offset the loss of the value and functions of wetlands as a result of mining activities and must be used in a manner consistent with the recommendations contained in the reports submitted to the Legislature by the Miami-Dade County Lake Belt Plan Implementation Committee and adopted under s. 373.4149. Such mitigation may include the purchase, enhancement, restoration, and management of wetlands and uplands, the purchase of mitigation credit from a permitted mitigation bank, and any structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County Lake Belt Area. Funds may also be used to reimburse other funding sources, including the Save Our Rivers Land Acquisition Program, the Internal Improvement Trust Fund, the South Florida Water Management District, and Miami-Dade County, for the purchase of lands that were acquired in areas appropriate for mitigation due to rock mining and to reimburse governmental agencies that exchanged land under s. 373.4149 for mitigation due to rock mining. The proceeds of the water treatment plant upgrade fee shall be used solely to upgrade a water treatment plant that treats water coming from the Northwest Wellfield in Miami-Dade County. As used in this section, the terms "upgrade a water treatment plant" or "treatment plant upgrade" means those works necessary to treat or filter a surface water source or supply or both.

(b) Expenditures of the mitigation fee must be approved by an interagency committee consisting of representatives from each of the following: the Miami-Dade County Department of Environmental Resource Management, the Department of Environmental Protection, the South Florida Water Management District, and the Fish and Wildlife Conservation Commission. In addition, the limerock mining industry shall select a representative to serve as a nonvoting member of the interagency committee. At the discretion of the committee, additional members may be added to represent federal regulatory, environmental, and fish and wildlife agencies.

(7) Payment of the mitigation fee imposed by this section satisfies the mitigation requirements imposed under ss. 373.403-373.439 and any applicable county ordinance for loss of the value and functions from mining of the wetlands identified as rock mining supported and allowable areas of the Miami-Dade County Lake Plan adopted by s. 373.4149(1). In addition, it is the intent of the Legislature that the payment of the mitigation fee imposed by this section satisfy all federal mitigation requirements for the wetlands mined.

(8) If a general permit by the United States Army Corps of Engineers, or an appropriate long-term permit for mining, consistent with the Miami-Dade County Lake Belt Plan, this section, and ss. 373.4149, 373.4415, and 378.4115 is not issued on or before September 30, 2000, the fee imposed by this section is suspended until revived by the Legislature.

(9)(a) The interagency committee established in this section shall annually prepare and submit to the governing board of the South Florida Water Management District a report evaluating the mitigation costs and revenues generated by the mitigation fee.

(b) No sooner than January 31, 2010, and no more frequently than every 5 years thereafter, the interagency committee shall submit to the Legislature a report recommending any needed adjustments to the mitigation fee to ensure that the revenue generated reflects the actual costs of the mitigation.

History.--s. 2, ch. 99-298; s. 23, ch. 2000-197; s. 2, ch. 2006-13.

**373.41495 Lake Belt Mitigation Trust Fund; bonds.--**

(1) The Lake Belt Mitigation Trust Fund is hereby created, to be administered by the South Florida Water Management District. Funds shall be credited to the trust fund as provided in s. 373.41492, to be used for the purposes set forth therein.

(2) The South Florida Water Management District may issue revenue bonds pursuant to s. 373.584, payable from revenues from the Lake Belt Mitigation fee imposed under s. 373.41492.

(3) Net proceeds from the Lake Belt Mitigation fee and any revenue bonds issued under subsection (2) shall be deposited into the trust fund and, together with any interest earned on such moneys, shall be applied to Lake Belt mitigation projects as provided in s. 373.41492.

(4) The Lake Belt Mitigation Trust Fund is a trust fund as described in s. 19(f)(3), Art. III of the State Constitution, and therefore is not subject to termination pursuant to s. 19(f)(2), Art. III of the State Constitution.

History.--ss. 1, 2, 3, 4, ch. 98-260; s. 1, ch. 99-297.

**APPENDIX B - Financial Statement**

(See Attachment)

**APPENDIX C – Receipts / Approved Expenditures Summary**

(See Attachment)

**APPENDIX B**

Lake Belt Mitigation Trust Fund  
Financial Statement  
Year Ending December 31, 2008

	Received from the Florida Dept of Revenue	Interest Earned	Total Fees Plus Earnings	Approved Payments	Available Balance
<b>Year 2000</b>					
January	\$ 276,674	\$ 181	\$ 276,855		\$ 276,855
February	247,990	1,474	249,464		526,319
March	167,699	3,037	170,736		697,055
April	159,867	3,813	163,680		860,735
May	195,853	4,898	200,751		1,061,486
June	168,562	5,929	174,491		1,235,977
July	263,244	7,373	270,617		1,506,594
August	*	8,598	8,598		1,515,192
September	302,087	9,359	311,446		1,826,638
October	257,732	9,484	267,216		2,093,854
November	173,573	10,297	183,870		2,277,724
December	173,182	13,719	186,901		2,464,625
	<u>2,386,463</u>	<u>78,162</u>	<u>2,464,625</u>		
<b>Year 2001</b>					
January	108,739	12,855	121,594		2,586,219
February	92,523	11,240	103,763		2,689,982
March	214,087	13,438	227,525		2,917,507
April	212,656	12,335	224,991		3,142,498
May	170,744	13,272	184,016		3,326,514
June	224,087	9,705	233,792		3,560,306
July	*	12,920	12,920		3,573,226
August (A)	389,503	42,457	431,960		4,005,186
September	205,108	11,438	216,546		4,221,732
October	220,698	9,935	230,633		4,452,365
November	168,616	8,946	177,562		4,629,927
December	221,134	9,070	230,204		4,860,131
	<u>2,227,895</u>	<u>167,611</u>	<u>2,395,506</u>		
<b>Year 2002</b>					
January	181,259	10,337	191,596		5,051,727
February	182,742	8,154	190,896		5,242,623
March	219,362	9,560	228,922		5,471,545
April	144,300	9,603	153,903		5,625,448
May	230,099	10,586	240,685		5,866,133
June	271,439	10,659	282,098		6,148,231
July	253,744	11,018	264,762		6,412,993
August	194,939	16,488	211,427		6,624,420
September (B)	200,472	34,012	234,484		6,858,904
October	212,938	18,444	231,382		7,090,286
November	210,808	17,529	228,337		7,318,623
December	134,848	17,994	152,842		7,471,465
	<u>2,436,950</u>	<u>174,384</u>	<u>2,611,334</u>		
<b>Year 2003</b>					
January	208,027	15,230	223,257		7,694,722
February	197,666	19,394	217,060		7,911,782
March	215,031	19,672	234,703		8,146,485
April	228,112	21,209	249,321		8,395,806
May	300,353	22,857	323,210		8,719,016
June	226,880	26,658	253,538	(129,464)	8,843,090
July	163,946	16,893	180,839		9,023,929
August	321,454	24,782	346,236		9,370,165
September (C)	184,487	(10,863)	173,624		9,543,789
October	296,066	24,144	320,210		9,863,999
November	182,957	16,452	199,409	(6,478,513)	3,584,895
December	236,978	9,408	246,386		3,831,281
	<u>2,761,957</u>	<u>205,836</u>	<u>2,967,793</u>	<u>(6,607,977)</u>	

**APPENDIX B**

Lake Belt Mitigation Trust Fund  
Financial Statement  
Year Ending December 31, 2008

	Received from the Florida Dept of Revenue	Interest Earned	Total Fees Plus Earnings	Approved Payments	Available Balance
<b>Year 2004</b>					
January	292,639	10,508	303,147		4,134,428
February	78,564	9,696	88,260		4,222,687
March	265,877	11,437	277,314		4,500,001
April	306,964	11,853	318,817		4,818,818
May	382,166	13,252	395,418	(807)	5,213,428
June	266,424	13,512	279,936		5,493,364
July	246,484	14,625	261,109		5,754,473
August	271,917	15,355	287,272		6,041,745
September	262,439	15,545	277,984		6,319,729
Adjustment (D)	-	(53,146)	(53,146)		6,266,583
October	277,685	29,552	307,237	(864,000)	5,709,820
November	200,441	17,291	217,732	(1,317)	5,926,235
December	257,522	22,956	280,478		6,206,713
	<u>3,109,122</u>	<u>132,434</u>	<u>3,241,556</u>	<u>(866,124)</u>	
<b>Year 2005</b>					
January	259,847	18,250	278,097		6,484,810
February	263,054	17,196	280,250	(3,995)	6,761,065
March	273,444	25,625	299,069		7,060,134
April	291,662	15,572	307,234		7,367,368
May	289,723	27,072	316,795		7,684,163
June	337,017	25,231	362,248		8,046,411
Adjustment (D)		(67,661)	(67,661)		7,978,750
July	287,218	24,592	311,810		8,290,560
August	284,984	27,975	312,959		8,603,519
September	279,133	32,050	311,183	(893)	8,913,809
Adjustment (D)		(52,881)	(52,881)		8,860,928
October	291,581	31,045	322,626		9,183,554
November	258,339	32,936	291,275	(1,296)	9,473,533
December	228,230	43,187	271,417		9,744,950
	<u>3,344,232</u>	<u>200,189</u>	<u>3,544,421</u>	<u>(6,184)</u>	
<b>Year 2006</b>					
Adjustment (D)		(44,413)	(44,413)		9,700,537
January	253,031	60,768	313,799		10,014,336
February	297,359	15,098	312,457		10,326,793
March	314,301	35,521	349,822		10,676,615
Adjustment (D)		(34,333)	(34,333)		10,642,282
April	310,279	41,802	352,081	(1,105)	10,993,258
May	344,944		344,944		11,338,202
June	341,412	110,696	452,108	(3,785,199)	8,005,111
Adjustment (D)		(25,449)	(25,449)		7,979,662
July	342,536	43,130	385,666		8,365,328
August	336,125	42,040	378,165		8,743,493
September	290,928	54,157	345,085		9,088,578
Adjustment (D)		40,976	40,976		9,129,554
October	333,653	58,000	391,653	(978)	9,520,230
November	311,616	63,032	374,648		9,894,878
December	331,895	60,322	392,217	(2,363,982)	7,923,112
	<u>3,808,079</u>	<u>521,348</u>	<u>4,329,427</u>	<u>(6,151,264)</u>	

**APPENDIX B**

Lake Belt Mitigation Trust Fund  
Financial Statement  
Year Ending December 31, 2008

	Received from the Florida Dept of Revenue	Interest Earned	Total Fees Plus Earnings	Approved Payments	Available Balance
<b>Year 2007</b>					
Adjustment (D)		66,080	66,080		7,989,193
January	281,203	(565)	280,638	(978)	8,268,852
February		62,215	62,215		8,331,068
March	362,224	71,510	433,733		8,764,801
Adjustment (D)	478,805	1,795	480,600		9,245,401
April		68,127	68,127		9,313,528
May	404,802	112,389	517,191	(27,620)	9,803,099
June	435,942	74,016	509,958	(8,496,899)	1,816,158
Adjustment (D)	430,485	(50,524)	379,961	(1,211)	2,194,908
July		78,255	78,255	(19,452)	2,253,711
August	489,031	81,943	570,974	(237,036)	2,587,649
September	442,271	89,764	532,035		3,119,684
Adjustment (D)	444,092	72,014	516,106		3,635,790
October		67,596	67,596		3,703,386
November	473,511	54,356	527,867		4,231,253
December	359,414	59,750	419,164	(1,275)	4,649,142
Adjustment (D)	387,870	25,370	413,240		5,062,382
	<u>4,989,649</u>	<u>934,092</u>	<u>5,923,741</u>	<u>(8,784,471)</u>	
<b>Year 2008</b>					
January	383,715	54,702	438,416		5,500,799
February	331,462	47,753	379,215	(1,743)	5,878,272
March	454,863	49,368	504,231		6,382,503
Adjustment (D)		22,587	22,587		6,405,090
April	467,788	46,783	514,571	(1,211)	6,918,450
May	443,635	69,437	513,072	(105,270)	7,326,252
June	431,890	28,062	459,952	(15,000)	7,771,203
Adjustment (D)		(38,341)	(38,341)		7,732,862
July	417,579	26,245	443,825	(1,065)	8,175,621
August	411,110	29,025	440,135		8,615,756
September	399,271	10,847	410,118	(17,345)	9,008,529
Adjustment (D)		(44,832)	(44,832)		8,963,697
October	345,680	32,587	378,268		9,341,965
November	420,913	36,485	457,398		9,799,363
December	391,877	26,802	418,679	(3,584,412)	6,633,630
Adjustment (D)		(17,280)	(17,280)	(1,401)	6,614,948
	<u>4,899,784</u>	<u>380,229</u>	<u>5,280,013</u>	<u>(3,727,447)</u>	
<b>TOTAL</b>	<u>\$ 29,964,131</u>	<u>\$ 2,794,284</u>	<u>\$ 32,758,416</u>	<u>\$ (26,143,467)</u>	

\* Payment for two months received in the next month.

(A) Includes monthly interest allocation of \$12,421 plus fair value adjustment (gain) of \$30,036

(B) Includes monthly interest allocation of \$13,463 plus fair value adjustment (gain) of \$20,549

(C) Includes monthly interest allocation of \$22,218 less fair value adjustment (loss) of \$33,081

(D) Represents Market Value Adjustments (unrealized gain (loss)).

**APPENDIX C**

**Receipts / Approved Expenditures Summary**

**Receipts / Approved Expenditures Through 2008**

Year	Permit Table Estimated Mitigation Fee Collections	Estimated Mitigation Fee Running Total	Department of Revenue Mitigation Fee Deposits <sup>1</sup>	Actual Mitigation Fee Running Total	Interest	Cash Receipts Running Total <sup>1</sup>	Approved Expenditures	End of Year Balance	Payment Summary	Mitigation Acres
1999	487,813	487,813	*	0	*	0	0	0		
2000	1,950,000	2,437,813	2,386,463	2,386,463	78,162	2,464,625	0	2,464,625		
2001	2,181,684	4,619,497	2,227,895	4,614,358	167,611	4,860,131	0	4,860,131		
2002	2,297,314	6,916,811	2,436,950	7,051,308	174,384	7,471,465	6,607,977	863,488		1075.9
2003	2,419,071	9,335,882	2,761,957	9,813,265	205,836	10,439,258	0	3,831,281	6,555,971	1067.4
2004	2,547,282	11,883,164	3,109,122	12,922,387	132,434	13,680,814	866,124	6,206,713	491,360	159.5
2005	2,682,288	14,565,452	3,344,232	16,266,619	200,189	17,225,235	6,184	9,744,950	3,732,067	320.9
2006	2,824,449	17,389,901	3,808,079	20,074,698	521,348	21,554,662	6,151,264	7,923,113	-3,785,199	142.4
2007	2,974,145	20,364,046	4,989,649	25,064,347	934,092	27,478,402	8,784,471	5,062,382	-6,994,199	124.4
2008	3,131,775	23,495,821	4,899,784	29,964,131	380,229	32,758,416	3,727,447	6,614,948		231.1
<b>TOTAL</b>						<b>\$29,964,131</b>	<b>\$2,794,284</b>	<b>\$26,143,467</b>	<b>\$0</b>	<b>3,121.6</b>

<sup>1</sup> Fee deposits in the SFWMD Trust Fund at the end of calendar year do not reflect Department of Revenue fee collections during December of each year. Therefore, the annual totals reflect Department of Revenue fee collections from the previous December through November.

\* 1999 & 2000 combined

**Summary of 2008 Expenditures/Mitigation Acres Approved by Committee**

<b>1. SFWMD - land acquisition plus enhancement and long-term management</b> Governing Board - April 2008	10.0 acres (Concepcion)	Acquisition cost plus \$2,027 / acre	<b>\$105,270</b>
<b>2. SFWMD - 8.5 Square Mile Area Phase I restoration project including long-term management</b> Mitigation Committee - December 2008	175.5 acres	\$20,424 / acre	<b>\$3,584,412</b>
	8.5 SMA WRAP score	0.315	(.45 WRAP x 30% discount <sup>1</sup> )
	Pennsoco WRAP score	0.25	
	Ratio	1.26	
	Pennsoco equivalent mitigation acres = 175.5 x 1.26 :		<b>221.1 acres</b>
<b>3. SFWMD - Southern Glades restoration project</b> Mitigation Committee - May 2008			<b>\$32,345</b>
	Mowing services and exotic treatment	\$15,000	
	Topographic survey	\$17,345	
<b>4. Mitigation Committee Administrative Expenses</b>			<b>\$5,376</b>
<b>5. Court filing fee for land transfer</b>			<b>\$44</b>
	<b>TOTAL</b>	<b>231.1 acres</b>	<b>\$3,727,447</b>

<sup>1</sup> Mitigation Committee decision - 30% discount of credits for restoration project on publicly-owned land in the 8.5 SMA

**Summary of 2007 Expenditures/Mitigation Acres Approved by Committee**

<b>1. Reimburse SFWMD for remaining Balance</b> Committee Motion - June 2007		<b>\$3,785,199</b>
<b>2. Reimburse DEP for remaining Balance</b> Committee Motion - June 2007		<b>\$3,209,000</b>
<b>3. SFWMD - land acquisition plus enhancement and long-term management</b> Governing Board - June 2007		
100.0 acres (Edelman, Samter)	Acquisition cost plus \$2,027 / acre	<b>\$1,502,700</b>
<b>4. SFWMD - land acquisition plus enhancement and long-term management</b> Governing Board - July 2007		
1.94 acres (Flowers, White Trust)	Acquisition cost plus \$2,027 / acre	<b>\$19,452</b>
<b>5. SFWMD - land acquisition plus enhancement and long-term management</b> Governing Board - August 2007		
22.5 acres (Royal Palm Acres, Abella)	Acquisition cost plus \$2,027 / acre	<b>\$237,036</b>
<b>6. Mitigation Committee Administrative Expenses</b>		<b>\$3,464</b>
<b>7. SFWMD Land Acquisition Support Contract</b>		<b>\$27,620</b>
<b>TOTAL</b>	<b>124.4 acres</b>	<b>\$8,784,471</b>



## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Chip Merriam, Deputy Executive Director, Water Resources 

**DATE:** March 19, 2009

**SUBJECT:** Approval of the Lake Belt Committee Annual Report for 2008

### **Background:**

The interagency Lake Belt Mitigation Committee is required to annually prepare and submit to the Governing Board of the South Florida Water Management District a report evaluating the mitigation costs and revenues generated by the mitigation fee in accordance with Florida Statute Section 373.41492(9)(a). The proceeds of the mitigation fee must be used to conduct mitigation activities that offset the loss of wetland functions and values resulting from mining activities.

### **How this helps meet the District's 10-year Strategic Plan:**

The Florida Legislature recognized the many important features of the Lake Belt area in providing water supply to the Everglades ecosystem and mandated that a mitigation plan be prepared to address the concerns critical to the State. This Annual Report summarizes the mitigation costs, revenues generated by the mitigation fee and activities provided as mitigation for impacts associated with Lake Belt mining activities in the South Dade Lake Belt area as administered by the interagency Lake Belt Mitigation Committee.

### **Funding Source:**

The expected funding requirements associated with preparing the report are limited to staff time. These items are paid with Lake Belt mitigation funds.

### **This Board item impacts what areas of the District, both resource areas and geography:**

This item will impact the Operations and Maintenance Department, the Water Resources staff and the Land Acquisition Department. It is an initiative of the interagency Lake Belt Mitigation Committee established by Statute and supported by the SFWMD Governing Board.

### **What concerns could this Board item raise?**

This is a routine initiative that is not reflected in the District's current work plan. Minimal staff are required to support the preparation of the Report.

### **Why should the Governing Board approve this item?**

The interagency Lake Belt Mitigation Committee established by Statute has provided and submitted to the Governing Board a report that evaluates the mitigation costs and revenues generated by the mitigation fee in accordance with Section 373.41492(9)(a), Florida Statutes. It is appropriate for the Governing Board to approve this Report.

1  
2  
3 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

4  
5 **RESOLUTION NO. 2009-\_\_\_\_**

6  
7  
8 **A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER**  
9 **MANAGEMENT DISTRICT ACCEPTING THE LAKE BELT MITIGATION COMMITTEE**  
10 **ANNUAL REPORT FOR 2008; PROVIDING AN EFFECTIVE DATE.**

11  
12 **WHEREAS**, the area known as the Lake Belt is a 77.5 square mile area of Miami-Dade County,  
13 and;

14 **WHEREAS**, the area offers one of the largest, if not the largest, deposits of accessible high  
15 quality lime rock material in the State of Florida; and

16 **WHEREAS**, the Lake Belt is also one of the primary sources of potable water supply for the  
17 residents of north Miami-Dade County; and

18 **WHEREAS**, the Lake Belt is also a planned and important feature in providing water supply to the  
19 Everglades Ecosystem; and

20 **WHEREAS**, the Florida Legislature, recognizing these many important features of the area,  
21 mandated that a plan be prepared to address the concerns critical to the State, and;

22 **WHEREAS**, the Florida Legislature also established a mitigation fee on each ton of lime rock and  
23 sand sold from the Lake Belt area to provide for the mitigation of lost wetland resources; and

24 **WHEREAS**, the interagency Lake Belt Mitigation Committee established by Statute is required to  
25 “annually prepare and submit to the Governing Board of the South Florida Water Management District a  
26 report evaluating the mitigation costs and revenues generated by the mitigation fee” in accordance with  
27 Section 373.41492(9)(a), Florida Statutes.

28 **NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water  
29 Management District:

- 30 (1) The Governing Board of the South Florida Water Management District hereby accepts  
31 the Lake Belt Mitigation Committee Annual Report for 2008;  
32 (2) This Resolution shall take effect immediately upon adoption.

33  
34 **PASSED** and **ADOPTED** this 9<sup>th</sup> day of April, 2009.

35  
36  
37 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT,**  
38 **BY ITS GOVERNING BOARD**

39  
40 By: \_\_\_\_\_  
41 Chair

42 **ATTEST:**

43  
44 By: \_\_\_\_\_  
45 District Clerk/Secretary

46 Approved as to form:

47 By: \_\_\_\_\_  
Office of Counsel



18. **2009-401** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 6-month contract with Aquent, Inc. under GSA Contract #GS-23F0102M for two on-site technical editors for the 2010 South Florida Environmental Report Project, in the not-to-exceed amount of \$184,320, for which ad valorem funds in the amount of \$74,880 are budgeted; and the remainder is subject to Governing Board approval of the FY2010 budget; providing an effective date. (Contract Number 4600001722) (Stacey Ollis, ext. 2039)

See supporting document: [ca\\_wr\\_124\\_sd.pdf](#)

See resolution document: [ca\\_wr\\_124\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Chip Merriam, Deputy Executive Director, Water Resources 

**DATE:** March 2, 2009

**SUBJECT:** Request for Authorization of GSA Contract with Aquent, Inc. for Technical Editing Support of the *2010 South Florida Environmental Report* (Contract Number 4600001722)

**Background:** The *South Florida Environmental Report* (SFER) is required to be prepared by the District and submitted annually to the Florida Legislature and Governor by March 1, in accordance with Chapter 2005-36, Laws of Florida, and Subsection 373.036(7), Florida Statutes. Fulfilling numerous legal and reporting requirements, the SFER consolidates over 50 legislatively mandated reports and plans, including reporting for the Everglades Forever Act, the Comprehensive Everglades Restoration Plan, the Northern Everglades and Estuaries Protection Program, and various other state and federal laws and permits.

**How this helps meet the District's 10-Year Strategic Plan:** Under the District's Strategic Plan, the submittal of the annual SFER deliverable by March 1 is a key success indicator of the Modeling & Scientific Support Program.

**Funding Source:** The not-to-exceed amount for the proposed GSA contract is \$184,320. FY2009 *ad valorem* funds of \$74,880 are budgeted, and the remainder is subject to Governing Board approval of the FY2010 budget.

**This Board item impacts what areas of the District, both resource areas and geography:** The Water Quality Assessment Division of the Environmental Resource Assessment Department will oversee this GSA contract, with the support of the District's Procurement Department. On-site contract support for this massive effort entails constant hands-on interaction and direct coordination with SFER production and project managers and the 200+-member project team from across the District and other collaborating agencies.

**What concerns could this Board item raise?** No concerns have been identified.

**Why should the Governing Board approve this item?** Technical editing and production support for the 2010 SFER is needed by contractors, as current agency staff is not sufficient to fulfill project deliverable requirements for this mandate. Two on-site contractors will be used for this work, which will be executed in accordance with General Services Administration (GSA) Contract #GS-23F-0102M with Aquent, Inc. over a six-month period from July 20, 2009–January 22, 2010.

CM/sjo  
Attachments –Resolution

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE ENTERING INTO A 6-MONTH CONTRACT WITH AQUENT, INC. UNDER GSA CONTRACT #GS-23F0102M FOR TWO ON-SITE TECHNICAL EDITORS FOR THE 2010 SOUTH FLORIDA ENVIRONMENTAL REPORT PROJECT, IN THE NOT-TO-EXCEED AMOUNT OF \$184,320, FOR WHICH AD VALOREM FUNDS IN THE AMOUNT OF \$74,880 ARE BUDGETED; AND THE REMAINDER IS SUBJECT TO GOVERNING BOARD APPROVAL OF THE FY2010 BUDGET; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001722) (STACEY OLLIS, EXT. 2039)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a 6-month contract with Aquent, Inc. under GSA Contract #GS-23F0102M for two on-site technical editors for the 2010 South Florida Environmental Report Project, in the not-to-exceed amount of \$184,320, for which ad valorem funds in the amount of \$74,880 are budgeted; and the remainder is subject to Governing Board approval of the FY2010 budget; providing an effective date. (Contract Number 4600001722) (Stacey Ollis, ext. 2039) and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of 4600001722 with Aquent Inc.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 9<sup>th</sup> day of April, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_

Chair

ATTEST:

Approved as to form:

By:

By:

\_\_\_\_\_

District Clerk/Secretary

\_\_\_\_\_



19. **2009-402** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001483 with the Florida Atlantic University for Florida Bay Seagrass Studies, and authorize a Waiver of Competition as an exception to the standards of competition, to extend the term by 36 months and to increase funding in the amount of \$295,000, for which \$95,000 in dedicated funds (Florida Bay Fund) is budgeted, and the remainder is subject to Governing Board approval of the FY10-FY12 budgets; providing an effective date. (Contract Number 4600001483-A02) (Chris Madden, ext. 4647)

See supporting document: [wr\\_ca\\_04018a\\_sd.pdf](#)

See supporting document: [wr\\_ca\\_04018\\_sd.pdf](#)

See resolution document: [wr\\_ca\\_04018\\_rd.pdf](#)

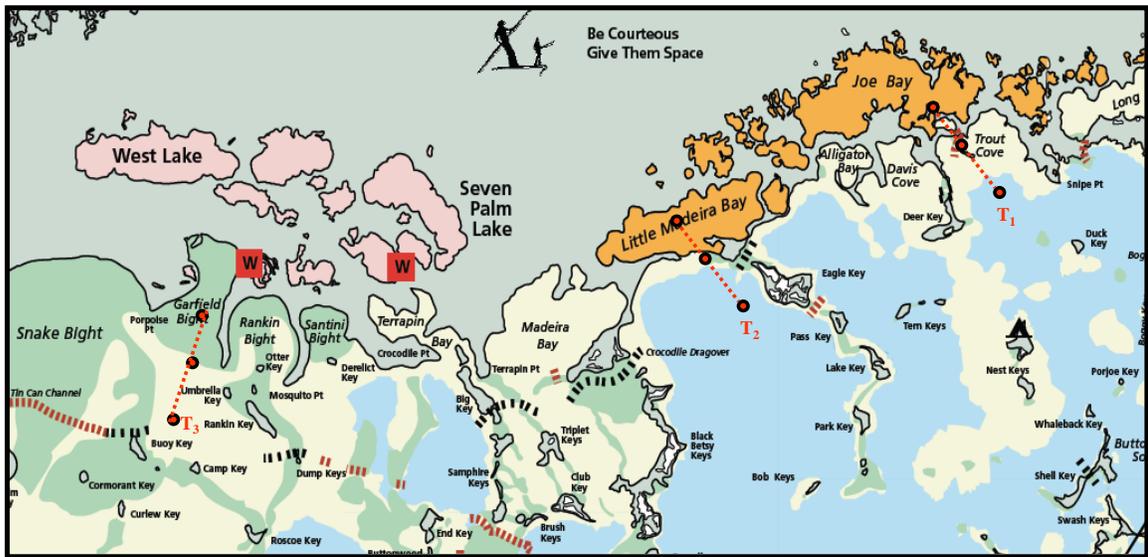


Figure 1. Florida Bay and mangrove ecotone seagrass stations.

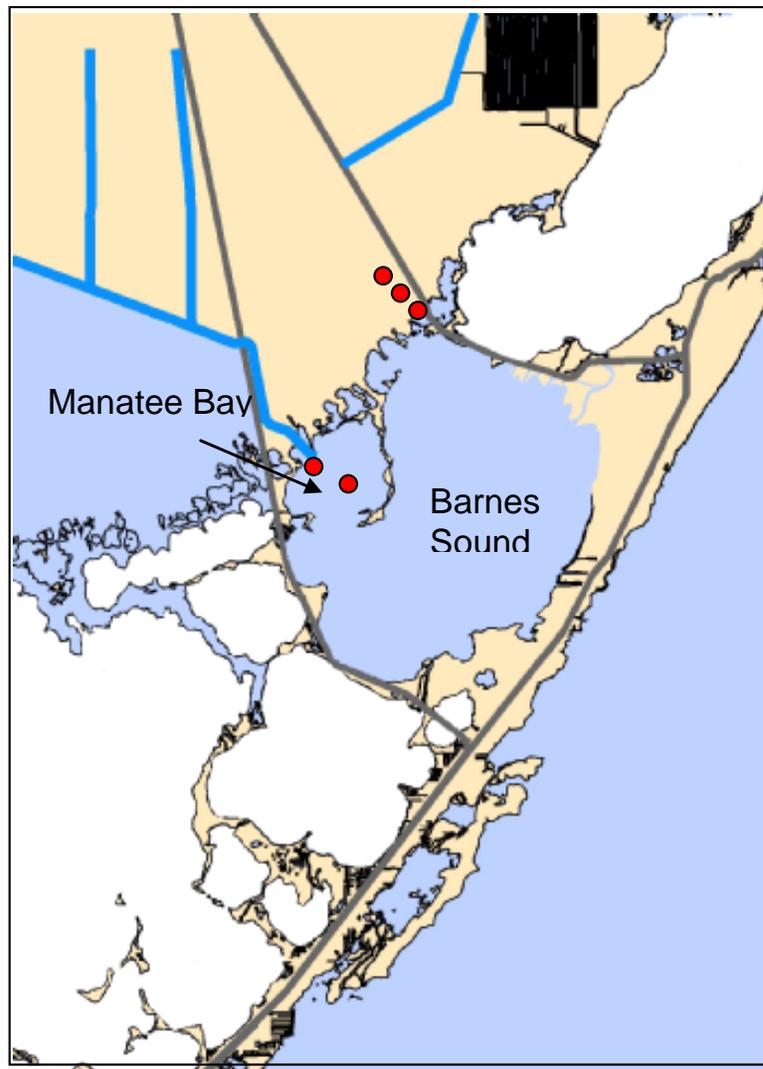


Figure 2. Barnes Sound and Manatee Bay seagrass stations.

## MEMORANDUM

**TO:** Governing Board Members  
**FROM:** Chip Merriam, Deputy Executive Director, Water Resources  
**DATE:** March 30, 2009  
**SUBJECT:** Florida Bay Seagrass Studies

**Background:** Seagrasses are keystone habitat for many of the prized environmentally and economically important wetland and estuarine fish and other fauna. Since 1994, the District has had an active research and monitoring program in the southern Everglades and Florida Bay. A key part of that research recently has been determining seagrass habitat response to management and restoration. In 2008, the District contracted with the Florida Atlantic University (FAU) for a six-month study that produced new and unexpected information indicating that salinity effects on seagrass reproduction may be the prime determinant of seagrass community success. This new information led to conclusions that are directly applicable to the review and 2011 update of Minimum Flows and Levels (MFL) for Florida Bay, which is required by the existing Florida Bay MFL rule.

This amendment provides a thirty-six month extension to the contract with the Florida Atlantic University to provide data to continue to develop a predictive ecological model of seagrass community dynamics. The model will be used for improving the technical basis for the 2011 update of the MFL rule. Data from this study will also improve evaluations for operations and restoration (notably CERP's C111 Spreader Canal Project and RECOVER).

**How this helps meet the District's 10-Year Strategic Plan:** The proposed study directly follows the deliverables and milestones outlined in the Strategic Plan to complete a technical report in 2011 in support of the mandated Florida Bay MFL rule update.

**Funding Source:** This is an amendment to contract 4600001483 with the Florida Atlantic University for Florida Bay Seagrass Studies, and a Waiver of Competition as an exception to the standards of competition, to extend the term by 36 months and to increase funding in the amount of \$295,000, for which \$95,000 in dedicated funds (Florida Bay Fund) is budgeted, and the remainder is subject to Governing Board approval of the FY10-FY12 budgets.

**This Board item impacts the following areas of the District:** The Everglades Division is responsible for this project. The studies include the southern Everglades mangrove ecotone, northern and eastern Florida Bay and Barnes Sound, and Manatee Bay. The item will support mandates and projects regarding the restoration and protection of Everglades and Florida Bay.

**What concerns could this Board item raise?** The Governing Board may be concerned over the waiver of competition. Upon repeatedly soliciting bids for similar work in the past, the District has received no responses from applicants except FAU. FAU has developed expertise and infrastructure, including a seagrass processes laboratory and a seagrass mesocosm facility specifically targeted to perform the kinds of work that the District is seeking with this contract. Contracting the continuation of this study to another entity would require the construction of a new mesocosm facility that would add hundreds of thousands of dollars to the cost of the contract. Further, public confidence is preserved by the selection of FAU because of their proven record of timeliness and high quality, evidenced by peer reviews and publications.

**Why should the Governing Board approve this item?** The District does not have the resources to complete this work without outside assistance. Data from this study will provide the District with the knowledge base required to update the Florida Bay MFL in 2011, as specified in the existing MFL rule. The proposed study will also provide a scientific basis for operational and structural management, and decisions required to maintain or restore the wetlands of Everglades National Park (ENP) and Florida Bay.

CM/cjm

Attachments: Resolution, Map

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2009-**

**RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE AN AMENDMENT TO CONTRACT 4600001483 WITH THE FLORIDA ATLANTIC UNIVERSITY FOR FLORIDA BAY SEAGRASS STUDIES, AND AUTHORIZE A WAIVER OF COMPETITION AS AN EXCEPTION TO THE STANDARDS OF COMPETITION, TO EXTEND THE TERM BY 36 MONTHS AND TO INCREASE FUNDING IN THE AMOUNT OF \$295,000, FOR WHICH \$95,000 IN DEDICATED FUNDS (FLORIDA BAY FUND) IS BUDGETED, AND THE REMAINDER IS SUBJECT TO GOVERNING BOARD APPROVAL OF THE FY10-FY12 BUDGETS; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001483-A02) (CHRIS MADDEN, EXT. 4647)**

**WHEREAS**, the Governing Board of the South Florida Management District deems it necessary, appropriate and in the public interest to authorize an amendment to contract 4600001483 with the Florida Atlantic University for Florida Bay Seagrass Studies, and authorize a Waiver of Competition as an exception to the standards of competition, to extend the term by 36 months and to increase funding in the amount of \$295,000, for which \$95,000 in dedicated funds (Florida Bay Fund) is budgeted, and the remainder is subject to Governing Board approval of the FY10-FY12 budgets; providing an effective date. (Contract Number 4600001483-A02) (Chris Madden, ext. 4647), and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of an amendment to contract 4600001483 with the Florida Atlantic University.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED** this 9<sup>th</sup> day of April, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

Approved as to form:

By:

ATTEST:

\_\_\_\_\_  
District Clerk



- 20. 2009-403** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract 4600001638 with the Loxahatchee River District for Water Quality and Biological Monitoring Restoration Project, to extend the term by six months and to increase funding in the amount of \$120,000, for which \$108,000 in dedicated funds (state appropriations) is budgeted, and the remainder is subject to Governing Board approval of the FY10 budget; providing an effective date. (Contract Number 4600001638-A01)(Bahram Charkhian, ext. 2284)

See supporting document: [wr\\_ca\\_04020\\_sd.pdf](#)

See supporting document: [wr\\_ca\\_04020a\\_sd.pdf](#)

See resolution document: [wr\\_ca\\_04020\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members  
**FROM:** Chip Merriam, Deputy Executive Director, Water Resources  
**DATE:** March 30, 2009  
**SUBJECT:** Loxahatchee River Water Quality/Biological Monitoring

**Background:** Long term monitoring has been conducted by the Loxahatchee River District (LRD) in the Loxahatchee Watershed for the past 25 years. There is a pressing need to monitor water quality and biological communities in the Loxahatchee River watershed to assess the effects of Loxahatchee River Preservation Initiative (LRPI) restoration projects. Data will be used to assess the affects of LRPI projects, understand perturbations to the health of valued ecosystem components such as seagrasses and oysters, and calibrate and validate water quality models.

In 2008, the District entered into a cost-share agreement with the LRD for water quality and biological monitoring. This amendment provides additional funding from the LRPI for continued monitoring through September 2009.

**How this helps meet the District's 10-Year Strategic Plan:** The project supports the Districts 10-Year Strategic Plan's Coastal Watershed program goal to restore coastal watersheds and estuaries through local initiatives and partnerships. This project has helped identify short and long term trends in the physical water quality conditions and the biological communities (oysters and seagrasses) within the Loxahatchee River watershed. The collected data has been valuable to the District in calibrating and validating the hydrologic and water quality modeling efforts.

**Funding Source:** This is an amendment to contract 4600001638 with the Loxahatchee River District for Water Quality and Biological Monitoring Restoration Project, to extend the term by six months and to increase funding in the amount of \$120,000, for which \$108,000 in dedicated funds (state appropriations) is budgeted, and the remainder is subject to Governing Board approval of the FY10 budget. The amended cost of this contract is \$240,000, for which the District's total contribution is \$180,000 (\$60,000 ad valorem and \$120,000 state appropriated funds), and 25 percent cost share coming from the LRD.

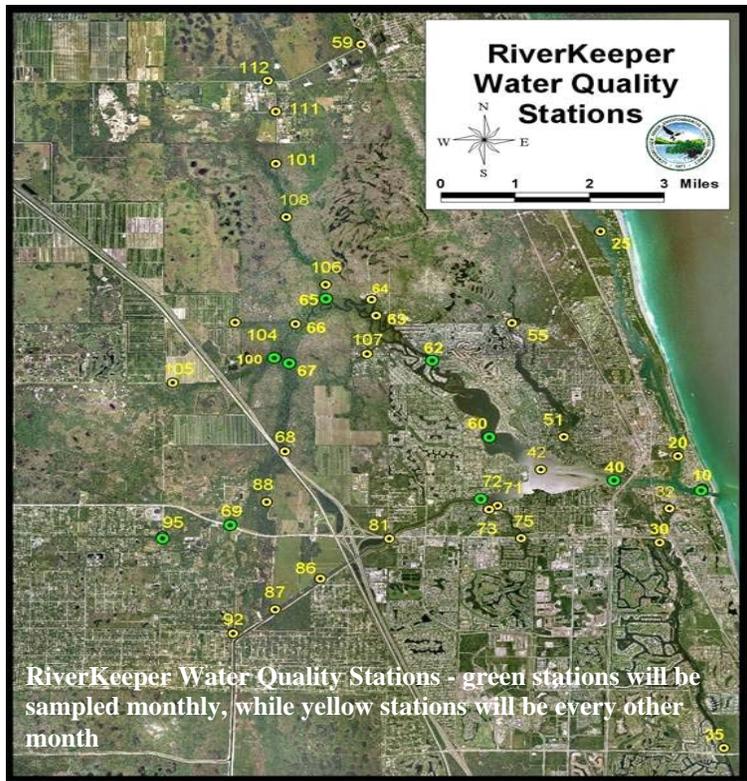
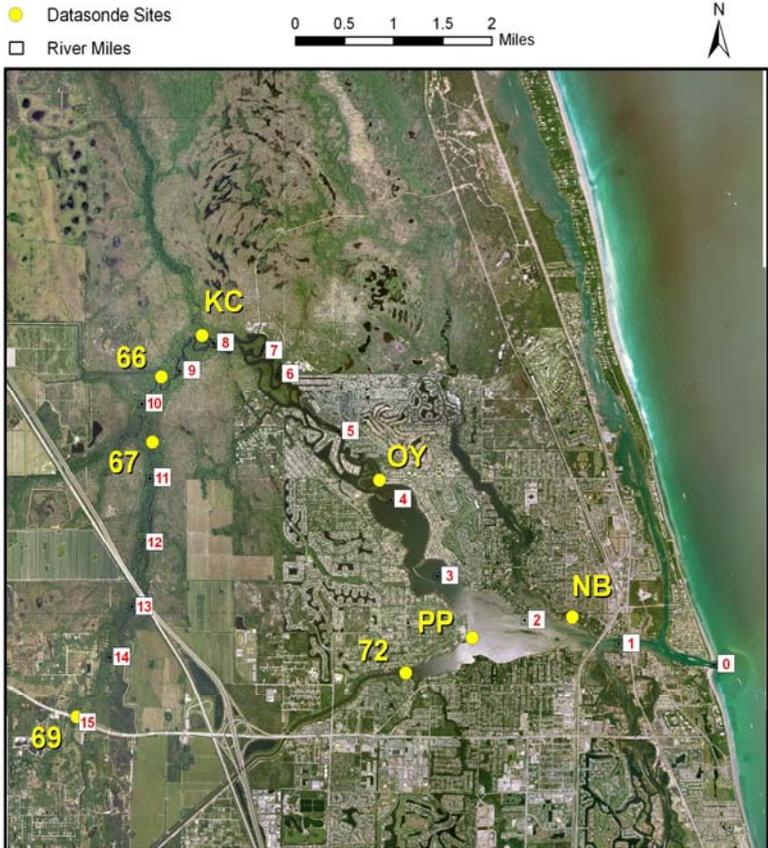
**This Board item impacts what areas of the District, both resource areas and geography:** The Coastal Ecosystems Division is responsible for management of LRPI funds for this project. This water quality and biological monitoring including oyster restoration is located in Loxahatchee River watershed within the three forks of the River.

**What concerns could this Board item raise?** The state appropriations are allocated based on the request of the LRPI for specific projects. Loxahatchee River District is active in this process and has used money for projects that monitor, restore and educate, ultimately protecting the Loxahatchee River and watershed. The Loxahatchee River District relies on the District for support and in the administration of these state appropriations so that proposed projects can progress expeditiously.

**Why should the Governing Board approve this item?** This project is important to the overall restoration, protection and understanding of the Loxahatchee River and its watershed. This project provides a comprehensive water quality and biological monitoring program that will allow water managers to make informed decisions impacting the health of this ecosystem. Furthermore, the resultant data will be used to calibrate and validate hydrologic and water quality modeling efforts.

CM/BHW  
Attachment – Resolution, Map

# Loxahatchee River District Datasonde Sites 2008



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE AN AMENDMENT TO CONTRACT 4600001638 WITH THE LOXAHATCHEE RIVER DISTRICT FOR WATER QUALITY AND BIOLOGICAL MONITORING RESTORATION PROJECT, TO EXTEND THE TERM BY SIX MONTHS AND TO INCREASE FUNDING IN THE AMOUNT OF \$120,000, FOR WHICH \$108,000 IN DEDICATED FUNDS (STATE APPROPRIATIONS) IS BUDGETED, AND THE REMAINDER IS SUBJECT TO GOVERNING BOARD APPROVAL OF THE FY10 BUDGET; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001638-A01)(BAHRAM CHARKHIAN, EXT. 2284)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize an amendment to contract 4600001638 with the Loxahatchee River District for Water Quality and Biological Monitoring Restoration Project, to extend the term by six months and to increase funding in the amount of \$120,000, for which \$108,000 in dedicated funds (state appropriations) is budgeted, and the remainder is subject to Governing Board approval of the FY10 budget; providing an effective date. (Contract Number 4600001638-A01)(Bahram Charkhian, ext. 2284) and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of an amendment to contract 4600001638 with the Loxahatchee River District.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 9<sup>th</sup> day of April, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

Approved as to form:

By:

By:  
\_\_\_\_\_

\_\_\_\_\_  
District Clerk/Secretary

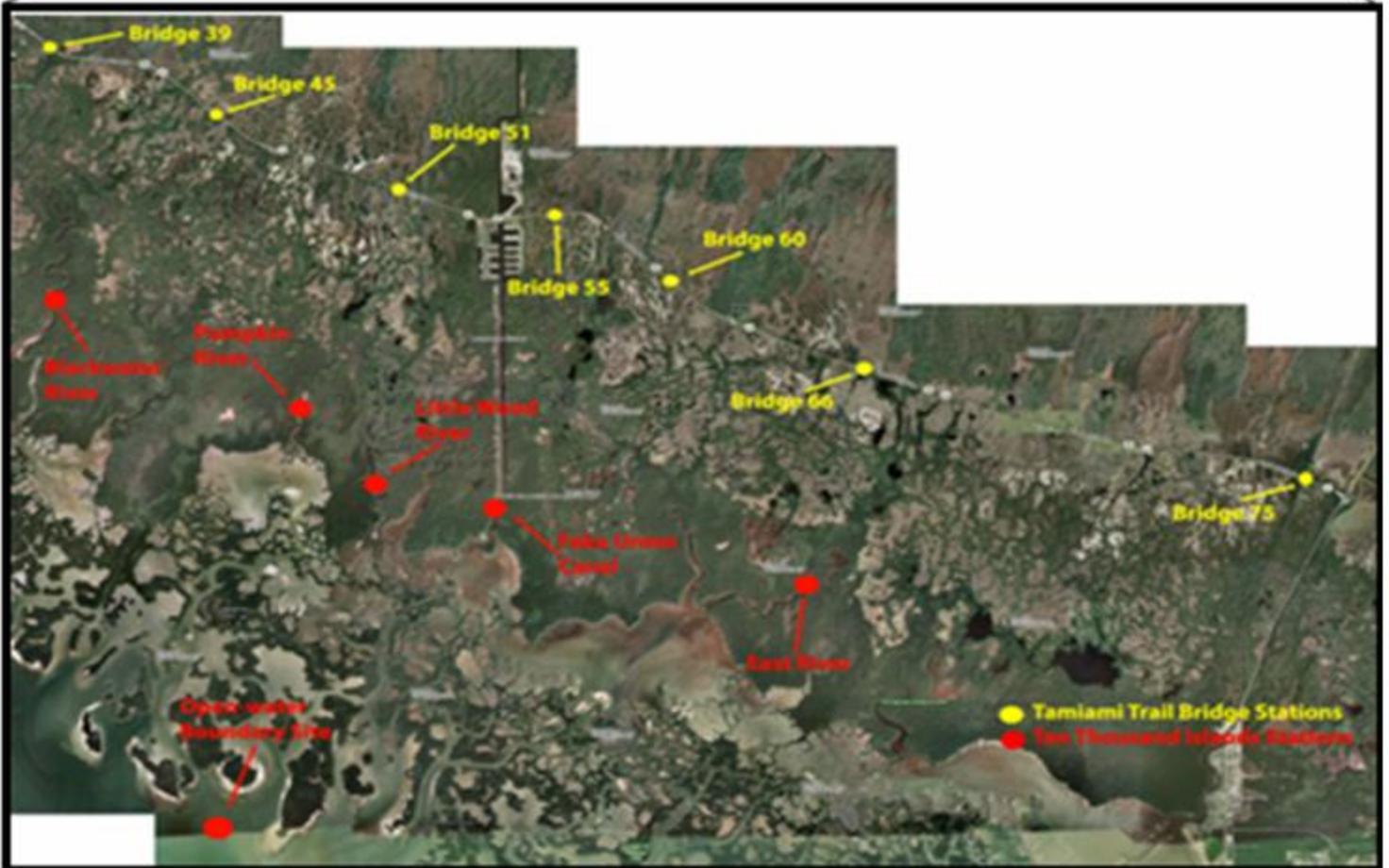


- 21. 2009-404** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a two-year cooperative agreement with the United States Geological Survey for Dynamic Simulation of Hydrologic Restoration in the Picayune Strand Coastal Area and Hydrodynamic and Salinity Characteristics of the Ten Thousand Islands, in the amount of \$547,633, of which the District's contribution is \$481,443, for which \$109,500 in dedicated funds (Comprehensive Everglades Restoration Plan Fund) and \$100,000 in ad valorem funds are budgeted in FY09, and the remainder is subject to Governing Board approval of the FY10 budget; providing an effective date. (Contract Number 4600001473) (Julio Fanjul, ext. 3711).

See supporting document: [wr\\_ca\\_04019a\\_sd.pdf](#)

See supporting document: [wr\\_ca\\_04019\\_sd.pdf](#)

See resolution document: [wr\\_ca\\_04019\\_rd.pdf](#)



## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Chip Merriam, Deputy Executive Director, Water Resources

**DATE:** March 30, 2009

**SUBJECT:** Dynamic Simulation of Hydrologic Restoration in the Picayune Strand Coastal Area & Hydrodynamic & Salinity Characteristics of the Ten Thousand Islands

**Background:** Freshwater diversion from natural flow-ways in the Ten Thousand Islands (TTI) by basin development and road construction has adversely impacted downstream estuaries by changing their salinity regimes and water quality. Restoration efforts, such as the Picayune Strand Hydrologic Restoration Project and the Tamiami Trail (US 41) Culvert Project, have altered the flow of freshwater and will change the water quality in the Ten Thousand Islands.

With continuing construction on The Picayune Strand Project imminent, additional salinity data and modeling capability is needed to understand effects on the local estuaries and to guide monitoring to capture ecological project effects. The objective of this cooperative effort with the United States Geological Survey (USGS) is to: (1) describe the hydrodynamic characteristics and the temporal and spatial salinity variability of creeks and estuaries within the Ten Thousand Islands area; and (2) help define circulation and salinity patterns related to prominent physical boundaries, which are generally composed of mud flats, ridges, and oyster beds. It is a goal of this project to collect data supportive of these objectives, which can also populate hydrodynamic/salinity models and statistical analyses. Although this agreement is limited to supporting the development of the TTI model, USGS will also provide the Time and Biscayne models, at no additional cost to the District.

**How this helps meet the District's 10-Year Strategic Plan:** RECOVER monitoring and assessment activities support the deliverables and milestones in the Strategic Plan to produce a Biennial System Status Report and to provide CERP project monitoring and adaptive management.

**Funding Source:** This is a two-year cooperative agreement with USGS for Dynamic Simulation of Hydrologic Restoration in the Picayune Strand Coastal Area and Hydrodynamic and Salinity Characteristics of the Ten Thousand Islands, in the amount of \$547,633, of which the District's contribution is \$481,443, for which \$109,500 in dedicated funds (Comprehensive Everglades Restoration Plan Fund) and \$100,000 in ad valorem funds are budgeted in FY09, and the remainder is subject to Governing Board approval of the FY10 budget. In addition to the \$66,190 of direct costs, the USGS would make an additional in-kind contribution of approximately \$420,000 over the life of the contract for other supporting efforts such as maintenance and collection of data from the inflow/upstream structures of the TTI Hydrology Monitoring Network and support of modeling efforts.

**This Board item impacts what areas of the District, both resource areas and geography:** The work will be managed by RECOVER staff. Data will be used by both RECOVER and Coastal Ecosystems. This project includes the estuarine area adjacent to Picayune Strand, in southwest Florida.

**What concerns could this Board item raise?** The Board might question whether this additional monitoring and modeling is necessary. Salinity monitoring and associated model development is needed to guide the establishment of an effective estuarine ecological monitoring program to capture and provide feedback on project effects of Picayune Strand.

**Why should the Governing Board approve this item?** This agreement is needed to establish the ecological monitoring network necessary to capture project effects and make informed decisions regarding the operations of the Picayune Strand Restoration Project, and the downstream ecosystem's response. This is the first opportunity RECOVER and CERP will have to assess the effects of a completed project.

CM/jaf  
Attachment – Resolution, Map

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE ENTERING INTO A TWO-YEAR COOPERATIVE AGREEMENT WITH THE UNITED STATES GEOLOGICAL SURVEY FOR DYNAMIC SIMULATION OF HYDROLOGIC RESTORATION IN THE PICAYUNE STRAND COASTAL AREA AND HYDRODYNAMIC AND SALINITY CHARACTERISTICS OF THE TEN THOUSAND ISLANDS, IN THE AMOUNT OF \$547,633, OF WHICH THE DISTRICT'S CONTRIBUTION IS \$481,443, FOR WHICH \$109,500 IN DEDICATED FUNDS (COMPREHENSIVE EVERGLADES RESTORATION PLAN FUND) AND \$100,000 IN AD VALOREM FUNDS ARE BUDGETED IN FY09, AND THE REMAINDER IS SUBJECT TO GOVERNING BOARD APPROVAL OF THE FY10 BUDGET; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001473) (JULIO FANJUL, EXT. 3711).**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a two-year cooperative agreement with the United States Geological Survey for Dynamic Simulation of Hydrologic Restoration in the Picayune Strand Coastal Area and Hydrodynamic and Salinity Characteristics of the Ten Thousand Islands, in the amount of \$547,633, of which the District's contribution is \$481,443, for which \$109,500 in dedicated funds (Comprehensive Everglades Restoration Plan Fund) and \$100,000 in ad valorem funds are budgeted in FY09, and the remainder is subject to Governing Board approval of the FY10 budget; providing an effective date. (Contract Number 4600001473) (Julio Fanjul, ext. 3711). and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of contract 4600001743 with the United States Geological Survey.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 9<sup>th</sup> day of April, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

Approved as to form:

By:

By:  
\_\_\_\_\_

\_\_\_\_\_  
District Clerk/Secretary



- 22. 2009-405** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a one year contract with the Palm Beach County for Delaware Scrub Restoration Project in the amount of \$225,000, for which dedicated funds (FY09 State Appropriations) are subject to Governing Board approval of the FY10 budget; providing an effective date. (Contract Number 4600001764) (Bahram Charkhian, ext. 2284)

See supporting document: [wr\\_ca\\_04017\\_sd.pdf](#)

See supporting document: [wr\\_ca\\_04017a\\_sd.pdf](#)

See resolution document: [wr\\_ca\\_04017\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members  
**FROM:** Chip Merriam, Deputy Executive Director, Water Resources  
**DATE:** March 30, 2009  
**SUBJECT:** Delaware Scrub Natural Area Restoration Project Phase II

**Background:** This is a Loxahatchee River Preservation Initiative (LRPI) project, which receives funding through state appropriations. Palm Beach County Department of Environmental Resources Management (ERM) in Partnership with the Town of Jupiter purchased the Delaware Scrub property for preservation and restoration. The site consists of approximately 13 acres of upland scrub and 2 acres of wetlands. The natural communities are mostly undisturbed except for the invasion of exotic vegetation. Phase I of the project included exotic removal for the restoration of the uplands, wetland and scrubby flatwoods communities of the site; Phase II will construct public and educational facilities on site.

**How this helps meet the District's 10-Year Strategic Plan:** This LRPI project for Delaware Scrub Natural Area Restoration supports the Coastal Watersheds Program strategy to assist local governments with implementation of coastal water body restoration projects. This project has helped remove exotics from the area and will now provide facilities for public use and educational purposes.

**Funding Source:** This is a one year contract with Palm Beach County for Delaware Scrub Restoration Project in the amount of \$550,000, of which the District's total contribution is \$225,000, for which dedicated funds (FY09 State Appropriations) are subject to Governing Board approval of the FY10 budget.

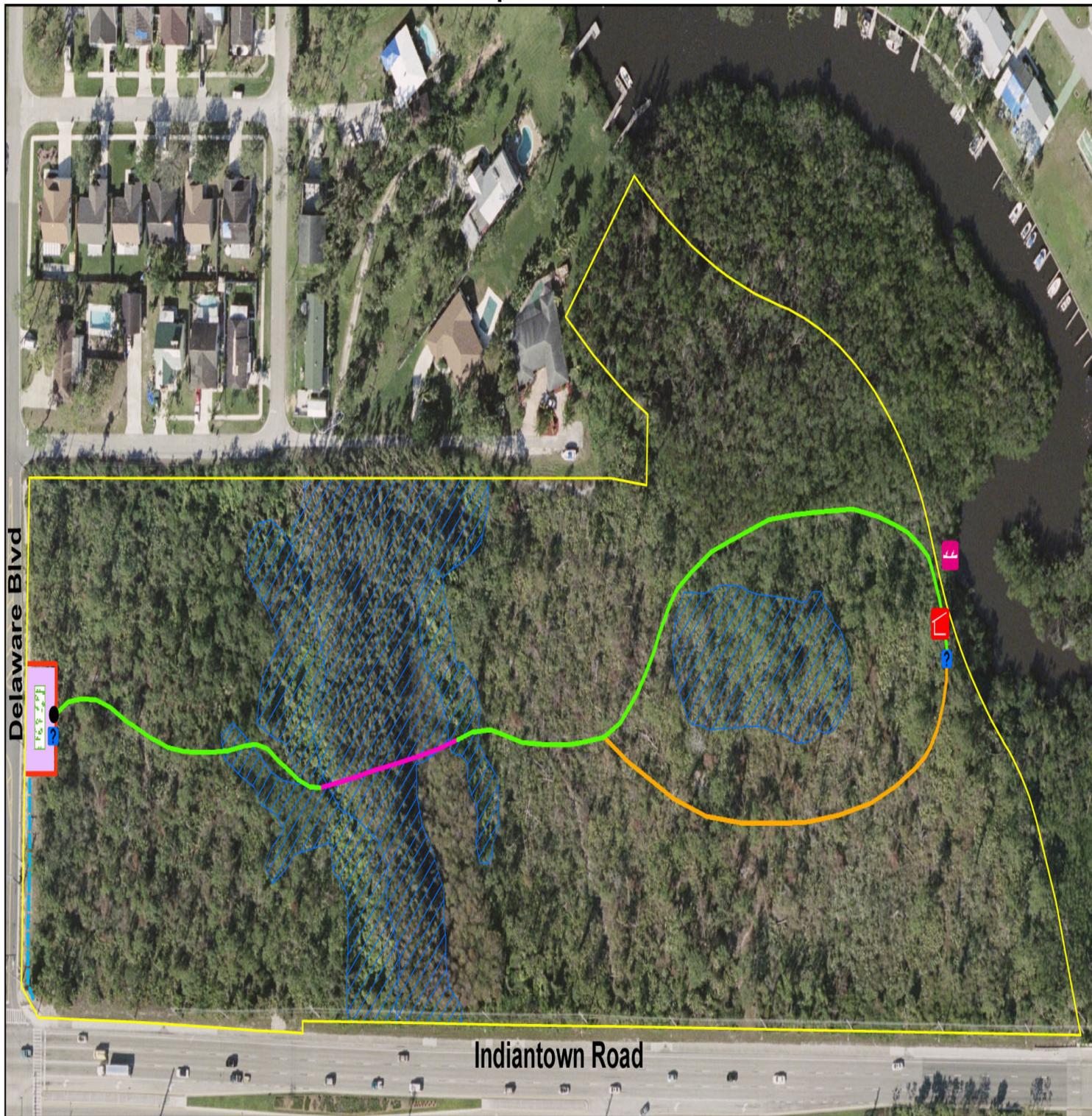
**This Board item impacts what areas of the District, both resource areas and geography:** Coastal Ecosystems Division staff is responsible for management of state appropriated funds for this project. The project is adjacent to the Loxahatchee River and Indiantown Road in Jupiter with the wetland area making up the shoreline to Jones Creek, a tributary of the Southwest Fork of the Loxahatchee River.

**What concerns could this Board item raise?** The state appropriations are allocated based on the request of the LRPI for specific projects. Palm Beach County is active in this process and has used money for projects that restore and protect the Loxahatchee River. Palm Beach County relies on the District for administration of these state appropriations so that proposed projects can progress expeditiously.

**Why should the Governing Board approve this item?** Projects like this one are important to the overall restoration and protection of the Loxahatchee River. This wetland is a remnant of the slough system that once supported the unique hydrological system of the river basin. The construction of the public use facilities will allow the site to be used as an outdoor classroom for local schools and students. Through educational brochures and kiosk signage visitors can learn about the different species and habitats that live and are supported by the river.

CM/bw  
Attachment – Resolution, Map

# Delaware Scrub Conceptual Site Plan



## Legend

- |                               |                           |                    |
|-------------------------------|---------------------------|--------------------|
| Proposed Observation Platform | Proposed Cutout Landscape | Proposed Boardwalk |
| Proposed Kiosk                | Proposed Parking Lot      | Proposed Sidewalk  |
| Proposed Public Entrance      | Proposed ADA Trail        | Restoration Area   |
| Proposed Canoe Tie Up         | Proposed Hiking Trail     | Proposed Landscape |
| Project Boundary              |                           |                    |

Palm Beach County  
Department of Environmental  
Resources Management  
March 2006:acs



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE ENTERING INTO A ONE YEAR CONTRACT WITH THE PALM BEACH COUNTY FOR DELAWARE SCRUB RESTORATION PROJECT IN THE AMOUNT OF \$225,000, FOR WHICH DEDICATED FUNDS (FY09 STATE APPROPRIATIONS) ARE SUBJECT TO GOVERNING BOARD APPROVAL OF THE FY10 BUDGET; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001764) (BAHRAM CHARKHIAN, EXT. 2284)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a one year contract with the Palm Beach County for Delaware Scrub Restoration Project in the amount of \$225,000, for which dedicated funds (FY09 State Appropriations) are subject to Governing Board approval of the FY10 budget; providing an effective date. (Contract Number 4600001764) (Bahram Charkhian, ext. 2284) and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of contract number 4600001764 with Palm Beach County.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 9<sup>th</sup> day of April, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

Approved as to form:

By:

By:

\_\_\_\_\_  
District Clerk/Secretary



- 23. 2009-406** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a three-year cooperative agreement with the Tohopekaliga Water Authority for construction and testing of a Lower Floridan Aquifer exploratory well in Southern Osceola County in an amount not-to-exceed \$200,000 for which ad valorem funds are budgeted; providing an effective date. (Contract number 4600001767) (Marjorie Craig, ext. 2987)

See supporting document: [ca\\_wr\\_004\\_sd.pdf](#)

See resolution document: [ca\\_wr\\_005\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Chip Merriam, Deputy Executive Director, Water Resources

**DATE:** April 9, 2009

**SUBJECT:** Cooperative Agreement with the Tohopekaliga Water Authority for Exploratory Well Construction and Testing in the Lower Floridan Aquifer at the Cypress Lake Wellfield, Osceola County, Florida

### **Background**

Traditional water supply sources – particularly groundwater from the Upper Floridan Aquifer have been determined to be very limited in the Central Florida area. This has resulted in the potential for competition for the remaining groundwater resources amongst the various water suppliers in the region, including the Tohopekaliga Water Authority. The Lower Floridan Aquifer is a potential alternative water supply source, but few wells have been completed into this deeper aquifer to date in the area. Preliminary information obtained by Tohopekaliga Water Authority indicates that the the Lower Floridan Aquifer has favorable water quality and productivity, but not enough data exists to confidently tap this resource in an environmentally responsible manner to meet increasing demands in the region.

SFWMD staff has determined that it is in our mutual best interests to conduct additional exploratory well drilling and testing of the Lower Floridan Aquifer in the area. This effort will provide Tohopekaliga Water Authority with information specific to their service area to support their pending water use permit application, but will also provide SFWMD with data that can enhance our understanding of the regional framework of the Lower Floridan Aquifer. This data can also be used to enhance the East Central Florida Transient Model, the primary tool that we will use to manage groundwater resources in the Central Florida Coordination Area.

### **How this helps meet the District's 10-year Strategic Plan:**

The 10-year Strategic Plan specifically recognizes the challenges of meeting water supply demands in the Central Florida region, and the data collected from this cooperative agreement will enhance our understanding of the Lower Floridan Aquifer as an alternative water supply source of water to meet demands as identified in the Water Supply Program of the Strategic Plan.

**Funding Source:** The District will contribute \$200,000.00 of budgeted ad valorem funds towards the construction and testing of the Lower Floridan Aquifer exploratory well. The funds were originally budgeted in support of the Central Florida utilities agreement, which is being rebudgeted in FY2010.

### **This Board item impacts what areas of the District, both resource areas and geography:**

This item will primarily impact the Water Supply Program, and to a lesser degree Water Use Permitting staff of the Regulation Program. Staff time will be required to review and analyze the data obtained to allow evaluation of the Lower Floridan Aquifer as an alternative water supply source in the Central Florida region, particularly in southern Osceola County of the upper Kissimmee Basin.

**What concerns could this Board item raise?**

This item was not vetted through the FY09 budget development process. Instead, staff hopes to capitalize on an unplanned opportunity to obtain additional information on the Lower Floridan Aquifer by cooperatively funding this exploratory well and testing with Tohopekaliga Water Authority to increase our understanding of the Lower Floridan Aquifer as an alternative water supply source.

**Why should the Governing Board approve this item?**

Limited groundwater resources from traditional sources (e.g., Upper Floridan Aquifer) result in the need for additional information from alternative sources such as the Lower Floridan Aquifer. This exploratory well and testing provides needed additional data to evaluate the Lower Floridan Aquifer as an alternative water supply source that assists not only Tohopekaliga Water Authority locally but SFWMD from a regional evaluation perspective.

If you have any questions, please do not hesitate to call me at ext. 6597.

CM/mc

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE ENTERING INTO A THREE-YEAR COOPERATIVE AGREEMENT WITH THE TOHOPEKALIGA WATER AUTHORITY FOR CONSTRUCTION AND TESTING OF A LOWER FLORIDAN AQUIFER EXPLORATORY WELL IN SOUTHERN OSCEOLA COUNTY IN AN AMOUNT NOT-TO-EXCEED \$200,000 FOR WHICH AD VALOREM FUNDS ARE BUDGETED; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001767)(MARJORIE CRAIG, EXT. 2987)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a three-year cooperative agreement with the Tohopekaliga Water Authority for construction and testing of a Lower Floridan Aquifer exploratory well in Southern Osceola County in an amount not-to-exceed \$200,000 for which ad valorem funds are budgeted; providing an effective date. (Contract number 4600001767)(Marjorie Craig, ext. 2987) and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of contract 4600001767 with Tohopekaliga Water Authority.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 9<sup>th</sup> day of April, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

Approved as to form:

By:

By:

\_\_\_\_\_  
District Clerk/Secretary



- 24. 2009-407** A Resolution of the Governing Board of the South Florida Water Management District approving Staff recommendations for releases of District canal, mineral and road reservations, releases of Trustees of the Internal Improvement Trust Fund (T.I.I.T.F.) canal reservations, and issuance of non-use commitments; providing an effective date. (Vinola Rada, ext. 6836)

See supporting document: [ca\\_lr\\_100\\_sd.pdf](#)

See resolution document: [ca\\_lr\\_100\\_rd.pdf](#)

See supporting document: [ca\\_lr\\_100\\_ExhA.pdf](#)

## RELEASE OF RESERVATION EXECUTIVE SUMMARY

### **BACKGROUND INFORMATION**

Canal reservations evolved from efforts to provide right-of-way, without cost to the taxpayers, to carry out drainage and reclamation projects.

Many, but not all, conveyances of land by the State of Florida through the Trustees of the Internal Improvement Trust Fund (TIITF) reserved rights to construct future water control works. The Everglades Drainage District (EDD), predecessor to the South Florida Water Management District, followed suit by reserving similar rights.

TIITF and EDD also reserved percentages of minerals and rights of exploration in their conveyances, plus reservations for road rights-of-way.

The District and TIITF routinely receive applications for releases of reservation from landowners, attorneys, title companies and lending institutions who consider such reservations to be title encumbrances. Applications for releases and non-use commitments are processed by the Land Support Division of the Land Acquisition and Management Department. The procedures include review of all applications by appropriate District personnel, development of a staff recommendation, and presentation to the Governing Board for final decision. Also, TIITF, through the Department of Environmental Protection (DEP), requires the District's concurrence prior to releasing TIITF canal reservations inasmuch as the District and its assignees (other governmental agencies only) are entitled to use canal reservations for project and secondary works.

### **AUTHORIZATION**

Section 373.096, Florida Statutes

### **TYPES OF RELEASES**

#### RELEASE OF CANAL RESERVATIONS

Canal reservations reserved by EDD Chapters 6456, 14717, and 20658, as well as TIIF Chapters 6456, 6957 and 7305, and TIITF Sec. 253.03 and Sec. 270-11, F.S., may be released. In cases of TIITF canal reservations, approval may be given to DEP, if the Governing Board determines that the District has no present or apparent future use for the reservation.

Prior to making a recommendation to the Governing Board concerning the release of a canal reservation or advising DEP on the release of TIITF canal reservations, staff seeks the concurrence of the agency concerned with local or secondary water control.

#### RELEASE OF MINERAL RESERVATIONS & NON-USE COMMITMENTS

In the event the District elects not to release a mineral reservation, it may issue a non-use commitment, by which the District agrees not to exercise its right of ingress and egress for the exploration of minerals, provided the landowner does not explore for the same. The District retains its interest in the mineral estate and is entitled to any future proceeds derived therefrom.

#### RELEASE OF ROAD RESERVATIONS

Road reservations reserved in EDD Deeds are only released upon the approval of the affected counties and the Florida Department of Transportation.

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2  
3 RESOLUTION NO. 2009-\_\_\_\_\_

4  
5  
6 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
7 MANAGEMENT DISTRICT APPROVING STAFF RECOMMENDATIONS FOR  
8 RELEASES OF DISTRICT CANAL, MINERAL AND ROAD RESERVATIONS,  
9 RELEASES OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND  
10 (T.I.I.T.F.) CANAL RESERVATIONS, AND ISSUANCE OF NON-USE COMMITMENTS;  
11 PROVIDING AN EFFECTIVE DATE.  
12

13 WHEREAS, certain underlying landowners have requested that the South Florida Water  
14 Management District (the "District") release certain canal, mineral and road reservations and certain  
15 Trustees of the Internal Improvement Trust Fund (T.I.I.T.F.) canal reservations, and issue non-use  
16 commitments;

17 WHEREAS, the District is empowered to grant such releases and non-use commitments  
18 pursuant to section 373.096, Florida Statutes;

19 NOW THEREFORE, BE IT RESOLVED by the Governing Board of the South Florida Water  
20 Management District:

21 **Section 1.** The Governing Board of the South Florida Water Management District hereby approves the  
22 release of District canal, mineral and road reservations and T.I.I.T.F. canal reservations, and the issuance  
23 of non-use commitments as follows:

24 See Attached Exhibit "A"

25 **Section 2.** This Resolution shall take effect immediately upon adoption.  
26

27 PASSED and ADOPTED this 9th day of April, 2009.  
28

29 Approved as to form:

30  
31 By: Holly Walter 3-18-09  
32 Office of Counsel

33 SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
34 BY ITS GOVERNING BOARD  
35

36  
37 (Corporate Seal)

38 By: \_\_\_\_\_  
39 Chair  
40

41  
42 ATTEST:

43  
44 By: \_\_\_\_\_  
45 District Clerk/Secretary



**LAND ACQUISITION DEPARTMENT**

**April 9, 2009**

**Non-Use Commitments for parcels larger than 1.25 acres in size.**

NUC 1574 POINCIANA HOMES OF BROWARD, INC.,  
a Florida corporation  
EDD Deed #2179 (Fee paid: \$325.00)  
Mineral Reservations  
3.0729 acres more or less  
A portion of Tract 56, in the Southeast quarter (SE ¼) of Section 29,  
Township 51 South, Range 40 East, FLORIDA FRUIT LANDS COMPANY  
SUBDIVISION NO.1, PB: 2-17.  
Location: On the West side of Dykes Road (SW 160<sup>th</sup> Ave), North of  
Bass Creek Road, Miramar, Florida.  
Zoning: CNS – Conservation District  
Land Use: Undeveloped. Proposed: Conservation Easement. No  
change in land use is indicated.  
Exception: None  
Broward County  
Note: Also See 18421 for further action.

**LAND ACQUISITION DEPARTMENT**

**April 9, 2009**

**Release of Rights in Reservations for Canal Reservations**

RR2009.1 ULISES AND MILEXYS FERNANDEZ

EDD #3575

(Fee paid: \$250.00)

Canal Reservations

0.1 acres more or less

The East 50 feet of Tract 50, in Section 13, Township 52 South, Range 39 East, FLORIDA FRUIT LANDS COMPANY SUBDIVISION NO.1, PB: 2-17.

Location: On Northwest 117<sup>th</sup> Ave and Northwest 159<sup>th</sup> Street, Miami, Florida.

Zoning: AG - Agricultural

Land Use: Undeveloped. Proposed Plant Nursery. No change in land use is indicated.

Exception: None

Miami-Dade County



- 25. 2009-408** A Resolution of the Governing Board of the South Florida Water Management District to approve declaring surplus land interests containing 0.18 acres, more or less, in fee, Section 17, Township 45 South, Range 25 East, Lee County, Six Mile Cypress Project; authorize the conveyance of said property to Lee County at appraised value; subject to certain conditions; providing an effective date. (Kathy Massey, ext. 6835)

See supporting document: [ca\\_lr\\_101\\_sd.pdf](#)

See resolution document: [ca\\_lr\\_101\\_rd.pdf](#)

## SURPLUS LANDS EXECUTIVE SUMMARY

**PROJECT:** Six Mile Cypress  
**COUNTY:** Lee  
**SIZE:** 0.18 acres, more or less  
**PURPOSE:** County Road Improvements  
**APPLICANT:** Lee County

**HIGHLIGHTS:** The applicant requests the District to convey fee title to a portion of Lot 31, SUBURBAN RANCHETTES (unrecorded), located in Section 17, Township 45 South, Range 25 East, Lee County, Florida.

**CONSIDERATIONS:** The applicant, Lee County, is requesting that the District surplus and convey a portion of said Lot 31 for needed road improvements and a future traffic signal at the intersection of Six Mile Cypress Parkway and Crystal Boulevard in Fort Myers.

**FISCAL IMPACT:** The applicant paid a \$1,000.00 application fee. In addition, all costs associated with this transaction are to be paid by the applicant, including but not limited to the appraisal. The applicant will pay appraised value for the interest to be released.

**AUTHORIZATION:** Pursuant to Section 373.056(4), Florida Statutes, the Governing Board has the authority to convey to any governmental entity land, or rights in land, owned by the District not required for its purposes, subject to terms and conditions approved by the Governing Board. In accordance with Section 373.089(6), Florida Statutes, all lands acquired by the District prior to July 1, 1999 shall be considered to have been acquired for conservation purposes, and the Governing Board shall be required to approve the surplus of any such lands by at least a two-thirds (2/3) majority; subject property was acquired in 1987.

**RECOMMENDATION:** A Resolution of the Governing Board of South Florida Water Management District to approve declaring surplus land interests containing 0.18 acres, more or less, in fee, Section 17, Township 45 South, Range 25 East, Lee County, Six Mile Cypress Project; authorize the conveyance of said property to Lee County at appraised value, subject to certain terms and conditions; providing an effective date.

Governing Board Members  
April 9, 2009  
Page Two

Prepared by: \_\_\_\_\_  
Kathleen A. Massey, Sr. Closing Specialist  
Title and Closing Section

Reviewed by: \_\_\_\_\_  
Marcy Zehnder, Section Manager  
Title and Closing Section

Reviewed by: \_\_\_\_\_  
Ruth Clements, Director  
Land Acquisition Department

Approved by: \_\_\_\_\_  
Kenneth G. Ammon, P.E.  
Deputy Executive Director  
Everglades Restoration Resource Area

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2  
3 RESOLUTION NO. 2009- \_\_\_\_\_

4  
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
6 MANAGEMENT DISTRICT TO APPROVE DECLARING SURPLUS LAND INTERESTS  
7 CONTAINING 0.18 ACRES, MORE OR LESS, IN FEE, SECTION 17, TOWNSHIP 45 SOUTH,  
8 RANGE 25 EAST, LEE COUNTY, SIX MILE CYPRESS PROJECT; AUTHORIZE THE  
9 CONVEYANCE OF SAID PROPERTY TO LEE COUNTY AT APPRAISED VALUE, SUBJECT  
10 TO CERTAIN TERMS AND CONDITIONS; PROVIDING AN EFFECTIVE DATE.

11  
12 WHEREAS, pursuant to a request from the applicant, Lee County, the District has  
13 determined that it is in the public interest to surplus and convey a parcel of land located in Section  
14 17, Township 45 South, Range 25 East, Lee County, containing 0.18 acres, more or less, in fee  
15 title, at appraised value; and

16 WHEREAS, the Governing Board has determined that the 0.18 acre, more or less, parcel  
17 is not required by the District for present or future use; and

18 WHEREAS, the Governing Board, pursuant to Section 373.056(4), Florida Statutes, has  
19 the authority to convey to any governmental entity land, or rights in land, owned by the District not  
20 required for its purposes; and

21 WHEREAS, the District acquired the subject property in 1987; and

22 WHEREAS, pursuant to Section 373.089(6), Florida Statutes, all lands acquired by the  
23 District prior to July 1, 1999 shall be considered to have been acquired for conservation  
24 purposes, and the Governing Board shall be required to approve the surplus of any such lands by  
25 at least a two-thirds (2/3) majority,

26 NOW THEREFORE, be it resolved by the Governing Board of the South Florida Water  
27 Management District:

28 **Section 1.** The Governing Board of the South Florida Water Management District hereby  
29 approves declaring surplus land interests containing 0.18 acres, more or less, in fee, Section 17,  
30 Township 45 South, Range 25 East, Lee County, Six Mile Cypress project, and authorizes the  
31 conveyance of said property to Lee County at appraised value.

32 **Section 2.** In accordance with Section 270.11, Florida Statutes, the District shall reserve for  
33 itself and its successor and assigns an undivided three-fourths interest in, and title in and to and  
34 to and undivided three-fourths interest in, all phosphate, mineral, and metals that are or may be  
35 in, on or under the subject property and an undivided one-half interest in all petroleum that is or  
36 may be in, on or under said land with the privilege to mine and develop same.

37 **Section 3.** The Governing Board of the South Florida Water Management District approved  
38 this Resolution by at least a two-thirds (2/3) majority.

39 **Section 4.** The Governing Board of the South Florida Water Management District hereby  
40 authorizes the Chair to execute the conveyance documents.

41 **Section 5.** This Resolution shall take effect immediately upon adoption.

42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57

**PASSED** and **ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

ATTEST:

\_\_\_\_\_  
District Clerk

By: \_\_\_\_\_  
Chair

Approved as to form:

By: \_\_\_\_\_  
Office of Counsel



- 26. 2009-409** A Resolution of the Governing Board of the South Florida Water Management District to approve declaring surplus and conveying approximately 555.52 square feet or 0.0128 +/- acres in exchange for approximately 362.76 square feet or 0.0083 +/- acres, located along Snapper Creek (C-2), in Section 5, Township 54 South, Range 40 East, Miami-Dade County, subject to satisfaction of certain terms, conditions and requirements; providing an effective date. (Kathy Massey, ext. 6835)

See supporting document: [ca\\_lr\\_102\\_sd.pdf](#)

See resolution document: [ca\\_lr\\_102\\_rd.pdf](#)

See supporting document: [ca\\_lr\\_102\\_map\\_AZ100-008.pdf](#)

See supporting document: [ca\\_lr\\_102\\_map\\_AZ100-009.pdf](#)

## EXECUTIVE SUMMARY FOR RELEASE OF CANAL EASEMENT

- PROJECT:** C-2 (Snapper Creek) Canal
- COUNTY:** Miami-Dade
- SIZE:** District parcel to be conveyed - 555.52 square feet or 0.0128+/- acres in fee  
Brackin parcel to be conveyed – 362.76 square feet or 0.0083+/- acres in fee
- PURPOSE:** Exchange of parcels
- APPLICANT:** Donald Wayne Brackin and Haydeh Shadia Brackin, his wife
- HIGHLIGHTS:** The applicant requests that the parcels be exchanged to create a linear lot line

**CONSIDERATIONS:** The applicant has a 362.76 square foot or 0.0083 +/- acre parcel of land and is requesting the District exchange its 555.52 square feet or 0.0128+/- parcel, both located in Section 5, Township 54 South, Range 40 East, Miami-Dade County. The property has been subdivided into a residential subdivision now known as Snapper Creek Groves (PB: 44-88). The Applicant's lot, Lot 6, has a "notch" that results in the eastern boundary of the lot being approximately 15 feet less in depth than the western boundary.

In order to create a linear lot line along the south property line, the Applicants request that an area of approximately 555.52 square feet (0.0128 +/- acre) be exchanged for 362.76 square feet (0.0083 +/- acre) along the District's right of way.

The exchange will be subject to the following terms, conditions and requirements:

- a. In exchange for the District's Parcel, the underlying fee owner shall convey by statutory warranty deed to the District the Applicants' Parcel, free and clear of all encumbrances, liens, and other objectionable matters.
- b. The Applicants shall provide to the District title assurance acceptable to the District confirming that the Applicants' Parcel is free and clear of all encumbrances, liens and other objectionable matters.
- c. The Applicants shall obtain from Miami-Dade County and any other applicable governmental entities, all required approvals of the proposed exchange of parcels, including but not limited to a waiver of plat.
- d. Applicants must provide a legal description and sketch for each instrument, subject to District review and approval.
- e. The Applicants shall pay to the District no less than appraised value for the District's Parcel, less and except the appraised value of the Applicants'

- Parcel. The appraiser, appraisal and appraised value must all be acceptable to and approved by the District. Under no circumstances shall the District be obligated to pay any amount to the Applicants, even if the appraised value Applicants' Parcel exceeds the appraised value of the District's Parcel. Applicants must pay all closing costs of the exchange.
- f. The Applicants shall obtain all necessary permits from the District, Miami-Dade County, and any other governmental entities, if any, and pay all associated fees. There is no representation, guaranty or assurance made by the District that the District's Governing Board will in fact approve the issuance of any required District permits, and there is no obligation on the part of the District's Governing Board to approve the issuance of any required District permits. The District's review process for any required permits will be done separate, independent and unfettered of the fact that the District has approved this Resolution and shall be in accordance with the District's applicable rules.
  - g. All of the foregoing terms, conditions, and requirements set forth in subparagraphs (a.) through (f.), inclusive, must be satisfied to the satisfaction of the District in its sole and absolute discretion no later than December 1, 2009.

**FISCAL IMPACT:** The District acquired this reach of the canal in January 1955 at a cost of \$840 for 0.04 acres of fee simple title.

The applicant has paid the \$1,000.00 non-refundable application fee. The applicant must pay to the District the appraised value of the exchange parcel. The District must approve all appraisals and appraisers. The cost of said appraisal is to be paid by the applicant. In no event shall the District be required to pay any compensation to the applicant/underlying fee owner.

No Release instrument shall be delivered to the applicant/underlying fee owner, or shall be effective, until all of the foregoing requirements have been fully completed and fulfilled to the District's satisfaction, and such release has been recorded in the Public Records of Miami-Dade County.

**AUTHORIZATION:** The Governing Board, pursuant to Section 373.089 of the Florida Statutes, may sale or exchange lands or interests in land under terms and conditions determined by the Governing Board.

**RECOMMENDATION:** A Resolution of the Governing Board of the South Florida Water Management District to approve declaring surplus and conveying approximately 555.52

square feet or 0.0128 +/- acres in fee in exchange for approximately 362.76 square feet or 0.0083 +/- acres in fee, located in the Snapper Creek (C-2) Project, in Section 5, Township 54 South, Range 40 East, Miami-Dade County, subject to satisfaction of certain terms, conditions and requirements; providing an effective date.

**Prepared by:** \_\_\_\_\_  
Kathleen A. Massey, Senior Closing Specialist  
Title & Closing Section  
Date \_\_\_\_\_

**Reviewed by:** \_\_\_\_\_  
Marcy Zehnder, Section Manager  
Title & Closing Section  
Date \_\_\_\_\_

**Reviewed by:** \_\_\_\_\_  
Ruth Clements, Director  
Land Acquisition Department  
Date \_\_\_\_\_

**Approved by:** \_\_\_\_\_  
Kenneth G. Ammon, P.E. Deputy Executive Director  
Everglades Restoration Resource Area  
Date \_\_\_\_\_

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2  
3 RESOLUTION NO. 2009-\_\_\_\_\_

4  
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
6 MANAGEMENT DISTRICT TO APPROVE DECLARING SURPLUS AND  
7 CONVEYING APPROXIMATELY 555.52 SQUARE FEET OR 0.0128 +/- ACRES IN  
8 FEE IN EXCHANGE FOR APPROXIMATELY 362.76 SQUARE FEET OR 0.0083 +/-  
9 ACRES IN FEE, LOCATED IN THE SNAPPER CREEK (C-2) PROJECT, IN  
10 SECTION 5, TOWNSHIP 54 SOUTH, RANGE 40 EAST, MIAMI-DADE COUNTY,  
11 SUBJECT TO SATISFACTION OF CERTAIN TERMS, CONDITIONS AND  
12 REQUIREMENTS; PROVIDING AN EFFECTIVE DATE.  
13

14 WHEREAS, pursuant to a request from the "Applicants", Donald Wayne  
15 Brackin and Haydeh Shadia Brackin, his wife, the District has determined that it is in  
16 the public interest to exchange its approximately 555.52 square foot or 0.0128 +/- acre  
17 parcel in fee ("District's Parcel") for the Applicants' approximately 362.76 square feet  
18 or 0.0083 +/- parcel of land in fee ("Applicants' Parcel") located in the Snapper Creek  
19 (C-2) Project in Section 5, Township 54 South, Range 40 East, Miami-Dade County;  
20 and

21 WHEREAS, upon the satisfaction of certain terms, conditions and  
22 requirements, the Governing Board has determined that the District's Parcel is not  
23 required by the District for present or apparent future use; and

24 WHEREAS, the Applicants have paid a \$1,000.00 non-refundable application  
25 fee, and shall pay all fees and costs associated with this transaction, including but not  
26 limited to the appraisal and the obtaining of all necessary permits. The Applicants will  
27 pay appraised value for the District's Parcel, less the appraised value of the  
28 Applicants' Parcel; and

29 WHEREAS, the Governing Board, pursuant to Section 373.089 of the Florida  
30 Statutes, may sell or exchange lands or interests in land under terms and conditions  
31 determined by the Governing Board.

32 NOW THEREFORE, BE IT RESOLVED by the Governing Board of the South  
33 Florida Water Management District:  
34

35 **Section 1:** The Governing Board of the South Florida Water Management District  
36 has determined that the District has no present or apparent future use for the District's  
37 Parcel and therefore hereby approves declaring surplus and conveying the District's  
38 Parcel to the Applicants in exchange for the Applicants conveying the Applicants'  
39 Parcel to the District, provided all of the following terms, conditions, and requirements  
40 are satisfied to the satisfaction of the District, in its sole and absolute discretion:

- 41 a. In exchange for the District's Parcel, the underlying fee owner shall  
42 convey by statutory warranty deed to the District the Applicants'  
43 Parcel, free and clear of all encumbrances, liens, and other  
44 objectionable matters.
- 45 b. The Applicants shall provide to the District title assurance acceptable  
46 to the District confirming that the Applicants' Parcel is free and clear of  
47 all encumbrances, liens and other objectionable matters.
- 48 c. The Applicants shall obtain from Miami-Dade County and any other  
49 applicable governmental entities, all required approvals of the  
50 proposed exchange of parcels, including but not limited to a waiver of  
51 plat.
- 52 d. Applicants must provide a legal description and sketch for each  
53 instrument, subject to District review and approval.
- 54 e. The Applicants shall pay to the District no less than appraised value for  
55 the District's Parcel, less and except the appraised value of the  
56 Applicants' Parcel. The appraiser, appraisal and appraised value must  
57 all be acceptable to and approved by the District. Under no  
58 circumstances shall the District be obligated to pay any amount to the  
59 Applicants, even if the appraised value Applicants' Parcel exceeds the  
60 appraised value of the District's Parcel. Applicants must pay all closing  
61 costs of the exchange.
- 62 f. The Applicants shall obtain all necessary permits from the District,  
63 Miami-Dade County, and any other governmental entities, if any, and  
64 pay all associated fees. There is no representation, guaranty or  
65 assurance made by the District that the District's Governing Board will  
66 in fact approve the issuance of any required District permits, and there  
67 is no obligation on the part of the District's Governing Board to approve  
68 the issuance of any required District permits. The District's review  
69 process for any required permits will be done separate, independent  
70 and unfettered of the fact that the District has approved this Resolution  
71 and shall be in accordance with the District's applicable rules.
- 72 g. All of the foregoing terms, conditions, and requirements set forth in  
73 subparagraphs (a.) through (f.), inclusive, must be satisfied to the  
74 satisfaction of the District in its sole and absolute discretion no later  
75 than December 1, 2009.

76

77 **Section 2:** The Governing Board of the South Florida Water Management District  
78 hereby authorizes the Chairman to execute the conveyance instrument. No  
79 conveyance instrument shall be delivered to the Applicants, or shall be effective, until  
80 all of the foregoing requirements have been fully completed and fulfilled to the  
81 District's satisfaction, and such conveyance has been recorded in the Public Records  
82 of Miami-Dade County.

83 **Section 3:** This Resolution shall take effect immediately upon adoption.

84  
85 **PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

86  
87  
88  
89 SOUTH FLORIDA WATER MANAGEMENT  
90 DISTRICT, BY ITS GOVERNING BOARD

91  
92  
93 BY: \_\_\_\_\_  
94 Eric Buermann, Chairman

95  
96  
97 ATTEST:

98  
99 By: \_\_\_\_\_  
100 District Clerk/Secretary

101  
102  
103 Legal form approved:

104  
105 By: \_\_\_\_\_  
106 Office of Counsel

# C-2 (Snapper Creek Canal)



-  **Acquired Lands**
-  **Project Lands**
-  **Proposed Disposition**

**DISCLAIMER**  
Any information, including but not limited to software and data, received from the South Florida Water Management District ("District") in fulfillment of a request is provided "AS IS" without warranty of any kind, and the District expressly disclaims all express and implied warranties, including but not limited to the implied warranties of merchantability and fitness for a particular purpose. The District does not warrant, guarantee, or make any representations regarding the use, or the results of the use, of the information provided to you by the District in terms of correctness, accuracy, reliability, timeliness or otherwise. The entire risk as to the results and performance of any information obtained from the District is entirely assumed by the recipient.

# C-2 (Snapper Creek Canal)



**AZ100-009**

- Acquired Lands**
- Project Lands**
- Proposed Acquisition**

**DISCLAIMER**  
 Any information, including but not limited to software and data, received from the South Florida Water Management District ("District") in fulfillment of a request is provided "AS IS" without warranty of any kind, and the District expressly disclaims all express and implied warranties, including but not limited to the implied warranties of merchantability and fitness for a particular purpose. The District does not warrant, guarantee, or make any representations regarding the use, or the results of the use, of the information provided to you by the District in terms of correctness, accuracy, reliability, timeliness or otherwise. The entire risk as to the results and performance of any information obtained from the District is entirely assumed by the recipient.

**SW 88TH ST**



- 27. 2009-410** A Resolution of the Governing Board of the South Florida Water Management District to approve releasing to the applicant, 42,686 +/- square feet or 0.98 +/- acres from the current access easement area and accepting in exchange a relocated access easement containing 58,381 +/- square feet or 1.34 +/- acres, C-9 Project, located in Section 34, Township 51 South, Range 41 East, Miami-Dade County, subject to satisfaction of certain terms, conditions and requirements; providing an effective date. (Kathy Massey, ext. 6835)

See supporting document: [ca\\_lr\\_105\\_sd.pdf](#)

See resolution document: [ca\\_lr\\_105\\_rd.pdf](#)

See supporting document: [ca\\_lr\\_105\\_map\\_ExhA.pdf](#)

## EXECUTIVE SUMMARY FOR RELEASE OF CANAL EASEMENT

**PROJECT:** C-9 Canal

**COUNTY:** Miami-Dade

**SIZE:** Easement to be Released = 42,686+/- square feet or 0.98 +/- acres  
New Easement Parcel = 58,381+/- square feet or 1.34+/- acres

**PURPOSE:** Relocation of Access Road Easement

**APPLICANT:** Calder Race Course

**HIGHLIGHTS:** The applicant requests that the current Access Road Easement be relocated.

**CONSIDERATIONS:** The applicant has requested that the District relocate its current access road easement to accommodate the proposed addition to the existing clubhouse building to provide an expanded gaming facility in exchange for a relocated access road easement. This action is not contrary to the District or the public's interest. The area of the current easement to be released is 42,686 +/- square feet or 0.98 +/- acres and the new easement area is 58,381 +/- square feet or 1.34 +/- acres.

The release will be subject to the following terms, conditions and requirements:

- a. The underlying fee owner shall convey to the District a perpetual access road easement with respect to the subject relocated access easement area containing 58,381 +/- square feet or 1.34+/- acre in form, content and substance acceptable to the District, free and clear of all encumbrances, liens, and other objectionable matters.
- b. The Applicant shall provide to the District title assurance acceptable to the District confirming that the relocated perpetual access road easement is free and clear of all encumbrances, liens and other objectionable matters.
- c. Applicant must provide a legal description and sketch for each instrument, subject to District review and approval.
- d. All costs associated with this transactions shall be paid for by the Applicant, including but not limited to all recording costs, and under no circumstances shall the District be obligated to pay any amount to the Applicant or otherwise in connection with this transaction.
- e. The applicant shall obtain all necessary permits from the District, Miami-Dade County, and any other governmental entities, if any, and pay all associated fees. There is no representation, guaranty or assurance made by the District that the District's Governing Board will in fact approve the issuance of any required District permits, and there is no obligation on the part of the District's Governing Board to approve the issuance of any required District permits. The District's review process for any required permits will be done separate, independent and unfettered of the fact that the District has approved this Resolution and shall be in accordance with the District's applicable rules.

- f. All of the foregoing terms, conditions, and requirements set forth in subparagraphs (a.) through (e.), inclusive, must be satisfied to the satisfaction of the District in its sole and absolute discretion no later than December 31, 2009.

**FISCAL IMPACT:** On June 10, 1970, Miami Beach Jockey Club, Inc. conveyed subject Access Road Easement to the District at no cost.

The applicant has paid the \$1,000.00 non-refundable application fee. This relocation of the Access Road Easement has been determined to be an even exchange and no appraisal will be completed and no fee paid for the relocation. In no event shall the District be required to pay any compensation to the applicant/underlying fee owner.

No instrument shall be delivered to the applicant/underlying fee owner, or shall be effective, until all of the foregoing requirements have been fully completed and fulfilled to the District's satisfaction, and such release has been recorded in the Public Records of Miami-Dade County.

**AUTHORIZATION:** The Governing Board, pursuant to Section 373.089 of the Florida Statutes, may exchange lands or interests in land under terms and conditions determined by the Governing Board, and pursuant to Section 373.096 of the Florida Statutes may release any easement for which the District has no present or apparent future use under terms and conditions determined by the Governing Board.

**RECOMMENDATION:** A Resolution of the Governing Board of the South Florida Water Management District to approve releasing to the applicant, 42,686 +/- square feet or 0.98 +/- acres from the current access easement area and accepting in exchange a relocated access easement containing 58,381 +/- square feet or 1.34 +/- acres, C-9 Project, located in Section 34, Township 51 South, Range 41 East, Miami-Dade County, subject to satisfaction of certain terms, conditions and requirements; providing an effective date.

**Prepared by:** \_\_\_\_\_  
Kathleen A. Massey, Senior Closing Specialist  
Title & Closing Section  
Date \_\_\_\_\_

**Reviewed by:** \_\_\_\_\_  
Marcy Zehnder, Section Manager  
Title & Closing Section  
Date \_\_\_\_\_

**Reviewed by:** \_\_\_\_\_  
Ruth Clements, Director  
Land Acquisition Department  
Date \_\_\_\_\_

**Approved by:** \_\_\_\_\_  
Kenneth G. Ammon, P.E., Deputy Executive Director  
Everglades Restoration Resource Area  
Date \_\_\_\_\_

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2  
3 RESOLUTION NO. 2009-\_\_\_\_\_

4  
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
6 MANAGEMENT DISTRICT TO APPROVE RELEASING TO THE APPLICANT, 42,686 +/-  
7 SQUARE FEET OR 0.98 +/- ACRES FROM THE CURRENT ACCESS EASEMENT AREA  
8 AND ACCEPTING IN EXCHANGE A RELOCATED ACCESS EASEMENT CONTAINING  
9 58,381 +/- SQUARE FEET OR 1.34 +/- ACRES, C-9 PROJECT, LOCATED IN SECTION 34,  
10 TOWNSHIP 51 SOUTH, RANGE 41 EAST, MIAMI-DADE COUNTY, SUBJECT TO  
11 SATISFACTION OF CERTAIN TERMS, CONDITIONS AND REQUIREMENTS; PROVIDING  
12 AN EFFECTIVE DATE.  
13

14 WHEREAS, pursuant to a request from the applicant, Calder Race Course, the District  
15 has been requested to relocate its current access road easement to accommodate the  
16 Applicant's proposed addition to the existing club house building to provide an expanded  
17 gaming facility, in exchange for a relocated access road easement. The area of the current  
18 easement to be released is 42,686 +/- square foot or 0.98 +/- acres and the new easement  
19 area is 58,381 +/- square feet or 1.34 +/- acres. This access road easement is in the C-9  
20 project, located in Section 34, Township 51 South, Range 41 East, Miami-Dade County; and

21 WHEREAS, upon the satisfaction of certain terms, conditions and requirements, the  
22 Governing Board has determined that the approximate 42,686 +/- square feet or 0.98 +/- acre  
23 portion of the access easement to be released is not required by the District for present or  
24 apparent future use; and

25 WHEREAS, the applicants have paid a \$1,000.00 non-refundable application fee, and  
26 shall pay all fees and costs associated with this transaction and the obtaining of all necessary  
27 permits; and

28 WHEREAS, the Governing Board, pursuant to Section 373.089 of the Florida Statutes,  
29 may sell or exchange lands or interests in land under terms and conditions determined by the  
30 Governing Board, and pursuant to Section 373.096 of the Florida Statutes may release any  
31 easement for which the District has no present or apparent future use under terms and  
32 conditions determined by the Governing Board.

33 NOW THEREFORE, BE IT RESOLVED by the Governing Board of the South Florida  
34 Water Management District:

35 **Section 1:** The Governing Board of the South Florida Water Management District has  
36 determined that the District has no present or apparent future use for the subject access  
37 easement area to be released and therefore hereby approves releasing the 42,686 +/- square

38 feet or 0.98 +/- acres, more or less, from the current access easement area, in exchange for  
39 accepting a relocated access road easement from the applicants comprising 58,381 +/-  
40 square feet or 1.34 +/- acre, located in Section 34, Township 51 South, Range 41 East,  
41 Miami-Dade County, C-9 Canal project, to the applicants, provided all of the following terms,  
42 conditions, and requirements are satisfied to the satisfaction of the District, in its sole and  
43 absolute discretion:

- 44 a. The underlying fee owner shall convey to the District a perpetual access road  
45 easement with respect to the subject relocated access easement area  
46 containing 58,381 +/- square feet or 1.34 +/- acre in form, content and  
47 substance acceptable to the District, free and clear of all encumbrances,  
48 liens, and other objectionable matters.
- 49 b. The Applicant shall provide to the District title assurance acceptable to the  
50 District confirming that the relocated perpetual access road easement is free  
51 and clear of all encumbrances, liens and other objectionable matters.
- 52 c. Applicant must provide a legal description and sketch for each instrument,  
53 subject to District review and approval.
- 54 d. All costs associated with this transactions shall be paid for by the Applicant,  
55 including but not limited to all recording costs, and under no circumstances  
56 shall the District be obligated to pay any amount to the Applicant or otherwise  
57 in connection with this transaction.
- 58 e. The applicant shall obtain all necessary permits from the District, Miami-Dade  
59 County, and any other governmental entities, if any, and pay all associated  
60 fees. There is no representation, guaranty or assurance made by the District  
61 that the District's Governing Board will in fact approve the issuance of any  
62 required District permits, and there is no obligation on the part of the District's  
63 Governing Board to approve the issuance of any required District permits.  
64 The District's review process for any required permits will be done separate,  
65 independent and unfettered of the fact that the District has approved this  
66 Resolution and shall be in accordance with the District's applicable rules.
- 67 f. All of the foregoing terms, conditions, and requirements set forth in  
68 subparagraphs (a.) through (e.), inclusive, must be satisfied to the  
69 satisfaction of the District in its sole and absolute discretion no later than  
70 December 31, 2009.

71  
72 **Section 2:** The Governing Board of the South Florida Water Management District hereby  
73 authorizes the Chairman to execute the release document. No release instrument shall be  
74 delivered to the applicant/underlying fee owner, or shall be effective, until all of the foregoing  
75 requirements have been fully completed and fulfilled to the District's satisfaction, and such  
76 release has been recorded in the Public Records of Miami-Dade County.

77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101

**Section 3:** This Resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

BY: \_\_\_\_\_  
Eric Buermann, Chairman

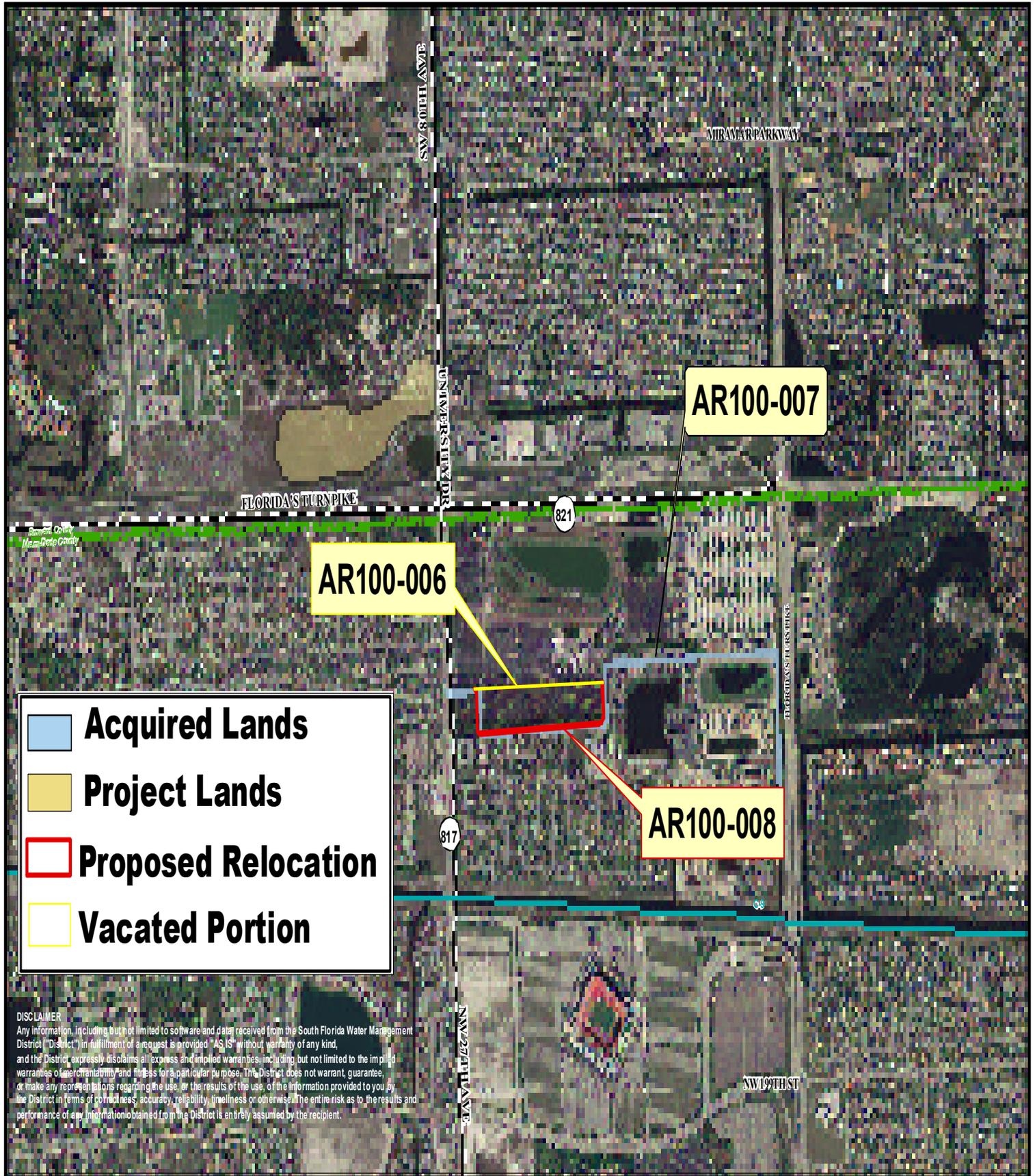
ATTEST:

By: \_\_\_\_\_  
District Clerk/Secretary

Legal form approved:

By: \_\_\_\_\_  
Office of Counsel

# C-9 - Calder Raceway





- 28. 2009-411** A Resolution of the Governing Board of the South Florida Water Management District to reapprove the acquisition of land interests, originally approved pursuant to Resolution No. 2007-1010, containing 153.64 acres, more or less, for the Biscayne Bay Coastal Wetlands Comprehensive Everglades Restoration Plan (CERP) Project, Cutler Flow Way Component, in Miami-Dade County, in accordance with updated circumstances and for purposes of superseding and replacing the approval contained in Resolution No. 2007-1010, to be conveyed at no cost to the District, subject to certain environmental conditions; providing an effective date. (Bob Schaeffer, ext. 2985)

See supporting document: [ca\\_lr\\_109\\_sd.pdf](#)

See resolution document: [ca\\_lr\\_109\\_rd.pdf](#)

See supporting document: [ca\\_lr\\_109\\_ExhA\\_legal\\_sketch.pdf](#)

See supporting document: [ca\\_lr\\_109\\_ExhAA\\_map.pdf](#)

## LAND ACQUISITION EXECUTIVE SUMMARY

**PROJECT:** Biscayne Bay Coastal Wetlands  
**COUNTY:** Miami-Dade  
**SIZE:** 153.64 acres  
**PURPOSE:** Acquisition in fee simple of lands in the Biscayne Bay Coastal Wetlands Comprehensive Everglades Restoration Plan (CERP) Project, Cutler Flow Way Component  
**OWNER:** Lennar Homes, LLC and Lakes By The Bay South Community Development District  
**TRACT:** TA500-062  
**APPRAISED VALUE:** N/A – No Cost  
**PURCHASE PRICE:** N/A – No Cost  
**CONFLICT CHECK:** Lennar Homes, LLC; Lennar; U.S. Home Corporation; Lennar Corporation; Lennar Homes, Inc. Lakes By The Bay South Community Development District

**REQUEST:** Reapproval of the acquisition of land interests, originally approved pursuant to Resolution No. 2007-1010, containing 153.64 acres, more or less, in Miami-Dade County for the Biscayne Bay Coastal Wetlands Comprehensive Everglades Restoration Plan (CERP) Project, Cutler Flow Way Component, in accordance with updated circumstances and for purposes of superseding and replacing the approval contained in Resolution No. 2007-1010, to be conveyed at no cost to the District subject to certain environmental conditions.

**HIGHLIGHTS/CONSIDERATIONS:** This fee acquisition is located in Miami-Dade County and required for the Biscayne Bay Coastal Wetlands Comprehensive Everglades Restoration Plan (CERP) Project. The land is part of the Cutler Flow Way component which will provide for redistribution of freshwater runoff from the watershed into Biscayne Bay, away from the canal discharges that exist today, and provide a more natural and historic overland flow through existing and or improved coastal wetlands. By rehydrating these coastal wetlands with freshwater runoff from the watershed, the project goals and objectives are met while providing for additional flood protection in the C-1 Basin.

The Tract TA500-062 lands are being conveyed at no cost to the District in connection with conditions contained in the May 15, 2003 Environmental Resource Permit issued by the District to Lennar Land Partners, Inc. for the Lakes By The Bay South Commons residential development (the "District Permit"). Lennar Homes, Inc. was the original owner of the property that became the Lakes By The Bay South Commons residential development (the "Residential Development"). In 1997, Lennar Land Partners, Inc. was formed and became the entity that owned and developed the Residential Development. As part of that, all of the lands within the Residential Development, including the Tract

TA500-062 lands, were conveyed by Lennar Homes, Inc. to Lennar Land Partners, Inc. At a certain point in time after the issuance of the District Permit, all of the common areas within the Residential Development, including the Tract TA500-062 lands, were conveyed to and continue to be owned by the Lakes By The Bay South Community Development District (the "CDD"). However, in connection with the record title work that was done for this proposed conveyance to the District of the Tract TA500-062 lands, it was discovered that a 1.80 acre portion of Tract TA500-062 had never been conveyed from Lennar Homes, Inc. Additionally, in 2006, the corporate entity of Lennar Homes, Inc. was converted to a limited liability company that is now Lennar Homes, LLC. Therefore, in addition to the conveyance from the CDD to the District of most of Tract TA500-062, Lennar Homes, LLC must also convey to the District the aforementioned 1.80 acres to which it still holds record title.

In 2007, Lennar Land Partners, Inc. merged into Landsource Holding Company, LLC. As the successor to Lennar Land Partners, Inc., the Landsource Holding Company, LLC entity ("Landsource") became both the owner of the assets of Lennar Land Partners, Inc. within the Residential Development and the party liable for the obligations of Lennar Land Partners, Inc. within the Residential Development, including with respect to the District Permit and the USACE Permit and DERM Plan identified below. In June of 2008, Landsource filed Chapter 11 bankruptcy, the proceedings relating to which are ongoing.

Pursuant to Resolution No. 2007-1010 passed and adopted October 11, 2007, the Governing Board approved the fee acquisition of the Tract TA500-062 lands, subject to the environmental condition of the lands being acceptable to the District and consistent with Project purposes. There are certain remaining environmental issues involving mitigation requirements that must be complied with pursuant to: (1) the U.S. Army Corps of Engineers permit number SAJ-2001-3245 (the "USACE Permit") and (2) the Miami-Dade County Environmental Resource Management Department ("DERM") Corrective Action Plan Letter (File Number 22241/SW1514) dated August 5, 2005 (the "DERM Plan"). Once the lands are acquired, as owner of the subject lands, the District will be responsible for compliance with the USACE Permit and the DERM Plan.

District staff has estimated that compliance with the USACE Permit may require maintenance costs of approximately \$40,000 - \$50,000 per year. However, in connection with and to offset the environmental impacts that will be caused by the construction of the Cutler Flow Way component, the District will be required by the USACE to perform other mitigation work. As the latter will likely include enhancements to other areas of the subject lands, District staff expects that those enhancements will significantly reduce the aforementioned yearly maintenance costs. Additionally, a one time payment of \$150,000, that was established as part of the District Permit to offset the USACE Permit mitigation maintenance costs, will be paid to the District by Landsource simultaneously with the District's acquisition of the lands. This \$150,000 amount had, fortunately, been segregated in a manner such that it will be available to be paid regardless of the bankruptcy.

Certain groundwater monitoring and sampling activities in connection with the DERM Plan are currently being conducted by Landsource on behalf of the current owner. These activities must be continued until DERM grants a site closure upon which no further actions will be required under the DERM Plan. Under the aforementioned October 11, 2007 Resolution No. 2007-2010, the current owner was obligated to cause the completion of the activities to comply with the DERM Plan and secure the site closure, and was to cause a \$250,000 letter of credit to be provided to the District as security for that obligation. Unfortunately, the owner has not complied with the DERM Plan and, due to the bankruptcy; Landsource is no longer able to provide the security. District staff did consider entering into an access and remediation agreement with the current owner whereby after the closing the current owner would cause the compliance activities associated with the DERM Plan to continue. However, there appears to be little incentive for the current owner to continue to spend money for the monitoring and sampling activities. Additionally, because of the difficulty that would occur with mingling of the District's flow way construction project and the current owner's activities, and the associated high probability of conflict between the District and the current owner, District staff recommends that once the District acquires fee title, the District should take complete control of the site. Therefore, the District would thereafter be responsible for compliance with the DERM Plan and securing the site closure from DERM. District staff has estimated that compliance with the DERM Plan may require a maximum total expenditure of between \$50,000 and \$100,000.

**FISCAL IMPACT:** The land interests are being conveyed at no cost to the District in connection with conditions contained in the February 13, 2003 Environmental Resource Permit issued by the District to Lennar Homes, Inc. whereby a real estate interest in certain lands must be granted to the District. As described in the above Highlights/Considerations section, the District will likely incur certain expenses to comply with the USACE Permit and the DERM Plan, said expenses estimated to be a maximum of \$100,000 total in connection with the DERM Plan and approximately \$50,000 per year in connection with the USACE Permit.

**RECOMMENDATION:** That the Governing Board of the South Florida Water Management District reapprove the acquisition of land interests, originally approved pursuant to Resolution No. 2007-1010, containing 153.64 acres, more or less, in Miami-Dade County for the Biscayne Bay Coastal Wetlands Comprehensive Everglades Restoration Plan (CERP) Project, Cutler Flow Way Component, in accordance with updated circumstances and for purposes of superseding and replacing the approval contained in Resolution No. 2007-1010, to be conveyed at no cost to the District in connection with certain permit conditions.

Owners	Tract No.	Interest	Acres	Appraised Value	Purchase Price
Lennar Homes, LLC and Lakes By The Bay South Community Development District	TA500-062	Fee	153.64	N/A	N/A
<b>Totals</b>			<b>153.64</b>	<b>N/A</b>	<b>N/A</b>

**Prepared by:** \_\_\_\_\_  
 Robert A. Schaeffer  
 Lead Professional-Acquisition  
 Land Acquisition Department

\_\_\_\_\_  
 Date

**Reviewed by:** \_\_\_\_\_  
 Ruth P. Clements  
 Director  
 Land Acquisition Department

\_\_\_\_\_  
 Date

**Approved by:** \_\_\_\_\_  
 Kenneth G. Ammon, P.E.  
 Deputy Executive Director  
 Everglades Restoration Resource Area

\_\_\_\_\_  
 Date

1  
2 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**  
3 **RESOLUTION NO. 2009- \_\_\_\_\_**  
4

5 **A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA**  
6 **WATER MANAGEMENT DISTRICT TO REAPPROVE THE ACQUISITION**  
7 **OF LAND INTERESTS, ORIGINALLY APPROVED PURSUANT TO**  
8 **RESOLUTION NO. 2007-1010, CONTAINING 153.64 ACRES, MORE OR**  
9 **LESS, FOR THE BISCAYNE BAY COASTAL WETLANDS**  
10 **COMPREHENSIVE EVERGLADES RESTORATION PLAN (CERP)**  
11 **PROJECT, CUTLER FLOW WAY COMPONENT, IN MIAMI-DADE COUNTY,**  
12 **IN ACCORDANCE WITH UPDATED CIRCUMSTANCES AND FOR**  
13 **PURPOSES OF SUPERSEDING AND REPLACING THE APPROVAL**  
14 **CONTAINED IN RESOLUTION NO. 2007-1010, TO BE CONVEYED AT NO**  
15 **COST TO THE DISTRICT, SUBJECT TO CERTAIN ENVIRONMENTAL**  
16 **CONDITIONS; PROVIDING AN EFFECTIVE DATE.**  
17

18 **WHEREAS**, the Biscayne Bay Coastal Wetlands Comprehensive Everglades  
19 Restoration Plan (CERP) Project, Cutler Flow Way Component (hereinafter "Project"), will  
20 provide for the redistribution of freshwater runoff from the watershed into Biscayne Bay,  
21 away from the harmful point discharges that exist today; and

22 **WHEREAS**, through the redistribution of freshwater, the Project will provide a more  
23 natural and historic overland flow restoring the quality and function of the Project's coastal  
24 wetlands; and

25 **WHEREAS**, by rehydrating these coastal wetlands with freshwater runoff from the  
26 watershed the Project's goals and objectives are met while providing for additional flood  
27 protection in the C-1 Basin; and

28 **WHEREAS**, the South Florida Water Management District is authorized to acquire  
29 land, or interests or rights in land, pursuant to Section 373.139, Florida Statutes;

30 **WHEREAS**, pursuant to the February 13, 2003 Environmental Resource Permit  
31 issued by the District to Lennar Homes, Inc. (the "Permit"), a real estate interest in certain  
32 lands must be granted to the District; and

33 **WHEREAS**, the South Florida Water Management District desires to acquire land  
34 interests containing 153.64 acres, more or less, for the Project, in Miami-Dade County, to be  
35 conveyed at no cost to the District in the connection with certain conditions contained in the  
36 Permit, said land interests (the "Premises") being more particularly described on Exhibit "A"  
37 and as shown on a location map Exhibit "AA", which are attached hereto and made a part  
38 hereof; and

39 **WHEREAS**, pursuant to Resolution No. 2007-1010 passed and adopted by the  
40 Governing Board of the South Florida Water Management District on October 11, 2007, the

41 Governing Board approved the acquisition of the Premises for no cost to the District, subject  
42 to the environmental condition of the Premises being acceptable to the District and  
43 consistent with Project purposes; and,

44 **WHEREAS**, with respect to the environmental condition of the Premises, there are  
45 certain mitigation requirements that must be complied with pursuant to: (1) the U.S. Army  
46 Corps of Engineers permit number SAJ-2001-3245 (the "USACE Permit") and (2) the Miami-  
47 Dade County Environmental Resource Management Department Corrective Action Plan  
48 Letter (File Number 22241/SW1514) dated August 5, 2005 (the "DERM Plan"); and

49 **WHEREAS**, District staff has estimated that compliance with the USACE Permit may  
50 require maintenance costs of approximately \$40,000 - \$50,000 per year; and

51 **WHEREAS**, a payment of \$150,000 to offset the USACE Permit mitigation  
52 maintenance costs will be paid to the District simultaneously with the District's acquisition of  
53 the Premises; and,

54 **WHEREAS**, under the October 11, 2007 Resolution No. 2007-1010, the land owner  
55 was obligated to conduct and complete the activities necessary to comply with the DERM  
56 Plan and was to provide the District with a \$250,000 letter of credit as security for that  
57 obligation; and,

58 **WHEREAS**, the land owner has not complied with the DERM Plan and is no longer  
59 able to provide the aforementioned security; and,

60 **WHEREAS**, District staff has estimated that compliance with the DERM Plan may  
61 require a maximum total expenditure of between \$50,000 and \$100,000; and,

62 **WHEREAS**, the Governing Board has determined that it is willing to acquire the  
63 Premises notwithstanding the requirements of the USACE Permit and the DERM Plan and  
64 the exposure to the potential costs of compliance; and,

65  
66 **NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida  
67 Water Management District:

68  
69 **Section 1.** The Governing Board of the South Florida Water Management District hereby  
70 reapproves the acquisition of land interests, originally approved pursuant to Resolution No.  
71 2007-1010, containing 153.64 acres, more or less, for the Biscayne Bay Coastal Wetlands  
72 Comprehensive Everglades Restoration Plan (CERP) Project, Cutler Flow Way Component,  
73 in Miami-Dade County, in accordance with updated circumstances and for purposes of  
74 superseding and replacing the approval contained in Resolution No. 2007-1010, to be

75 conveyed at no cost to the District subject to certain environmental conditions and subject to  
76 the conditions of title being acceptable to the District, as follows:

77  
78

Owners	Tract No.	Interest	Acres	Appraised Value	Purchase Price
Lennar Homes, LLC and Lakes By The Bay South Community Development District	TA500-062	Fee	153.64	N/A	N/A
<b>Totals</b>			<b>153.64</b>	<b>N/A</b>	<b>N/A</b>

79

80 **Section 2.** The Governing Board of the South Florida Water Management District hereby  
81 authorizes the Executive Director to execute all documents necessary to consummate this  
82 transaction.

83

84 **Section 3.** This Resolution shall take effect immediately upon adoption.

85

86 **PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

87

88 **ATTEST:**

89

90

91 By: \_\_\_\_\_  
92 District Clerk/Secretary

93

94

95

96

97

98 (Corporate Seal)

99

100

101

102

103

104

105

106

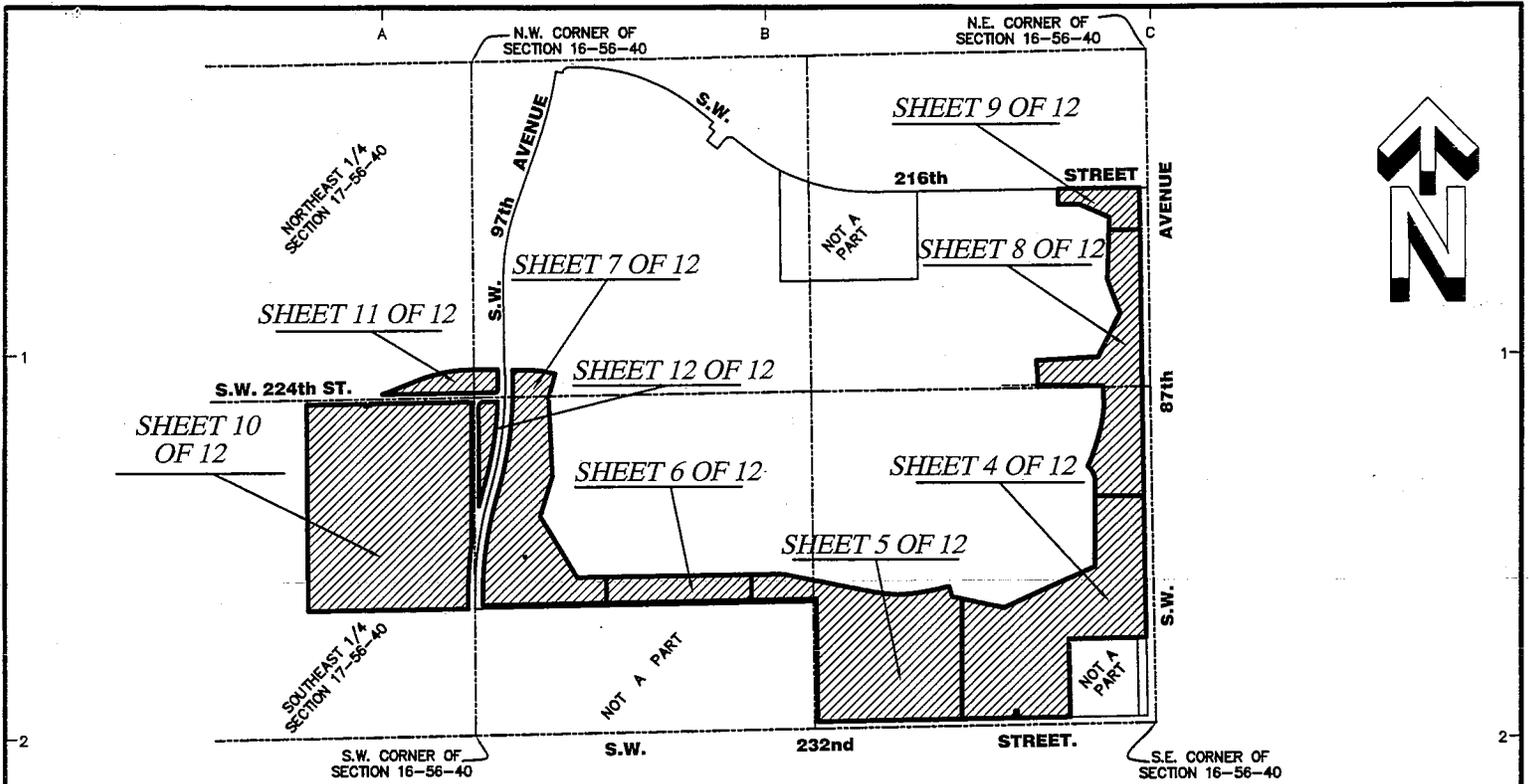
107

**SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD**

By: \_\_\_\_\_  
Chairman

**Approved as to form:**

By: \_\_\_\_\_  
Office of Counsel



**LOCATION MAP**

PORTION OF SECTION 17 AND SECTION 16, TOWNSHIP 56 SOUTH, RANGE 40 EAST  
 MIAMI-DADE COUNTY, FLORIDA  
 (NOT TO SCALE)

**SURVEYOR'S NOTES:**

- 1) -This is not a Boundary Survey, but only a GRAPHIC DEPICTION of the description shown hereon.
- 2) -Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper. Additions or deletions to survey maps or reports by other than the signing party or parties is prohibited without written consent of the signing party or parties.
- 3) -There may be additional Restrictions not shown on this Sketch & Legal that may be found in the Public Records of this County, Examination of ABSTRACT OF TITLE will be made to determine recorded instruments, if any affecting this property.
- 4) -North arrow direction and Bearings shown hereon are based on an assumed value S01°02'36"W along the East Line of Section 16-56S-40E, Miami-Dade County Florida.
- 5) -The Sketch and Legal Description shown herein is based on the information provided by the Client.
- 6) -No title research has been performed to determine if there are any conflict existing or arising out of the creation of the easements, Right of Ways, Parcel Descriptions, or any other type of encumbrances that the herein described legal may be utilizes for.

**SURVEYOR'S CERTIFICATE:**

I Hereby Certify to the best of my knowledge and belief that this drawing is a true and correct representation of the SKETCH AND LEGAL DESCRIPTION of the real property described hereon.  
 I further certify that this sketch was prepared in accordance with the applicable provisions of Chapter 61G17-6, Florida Administrative Code.

*Ford, Armenteros & Manucy, Inc. L.B. 6557*  
 Date: MAY 28, 2003  
 Revision: JUNE 11, 2003 (ADD 25' BUFFER)  
 Revision: JANUARY 29, 2007  
 Revision: MARCH 22, 2007  
 Revision: AUGUST 27, 2007  
 Revision: FEBRUARY 27, 2008

*[Signature]*  
 Edwin J. Fernandez, P.S.M.  
 Professional Surveyor and Mapper  
 State of Florida, Registration No.5676

**LAKES BY THE BAY SOUTH COMMONS - FLOWAGE EASEMENT**



FORD, ARMENTEROS & MANUCY, INC.  
 1950 N.W. 94th AVENUE, 2nd FLOOR  
 MIAMI, FLORIDA 33172  
 PH. (305) 477-6472  
 FAX (305) 470-2805

TYPE OF PROJECT: SKETCH AND LEGAL DESCRIPTION		SHEET: <b>1</b> OF 12 SHEETS
SHEET NAME: LOCATION MAP AND NOTES		
PREPARED FOR: LENNAR HOMES, INC.		
DRAWN BY: R.R/E.R	DATE: 5-28-03	
DWG. CHECKED BY:	SCALE: N/A	
CHECKED BY: 92	PROJECT No: 01-041-5826	

# LEGAL DESCRIPTION:

**Parcel 1:**

A portion of the Northwest Quarter of Section 16, and a portion of the Northeast Quarter of Section 17, Township 56 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the East Quarter Corner 17; thence N00deg35min10secW, along the East Line of the Northeast Quarter of said Section 17, for 37.26 feet to the Point of Beginning of the hereinafter described parcel of land; thence S89deg10min28secW, along a line 37.26 feet North of and parallel with North line of the Southeast Quarter of said Section 17 for 738.72 feet to a point on a circular curve the left, concave to the Northwest a radial line from said point bears N18deg18min38secW; thence Northeasterly along the arc of said curve having for its elements a radius of 1271.50 feet, through a central angle of 03deg11min24sec for an arc distance of 70.79 feet; thence N68deg29min58secE for 228.72 feet to a point of curvature of a circular curve to the right, concave to the Southeast; thence Northeasterly and Easterly along the arc of said curve having for its elements a radius of 1228.50 feet, through a central angle of 20deg35min33sec for an arc distance of 441.53 feet to a point of non-tangency; thence N89deg05min31secE along a line 76.50 feet South of and parallel with the South boundary line of LAKE BY THE BAY SECTION FIVE, according to the Plat thereof, as recorded in Plat Book 131, Page 75, of the Public Records of Miami-Dade County, Florida for 217.75 feet; thence S00deg54min29E for 158.04 feet to a point of curvature of a circular curve to the right concave to the Northwest; thence Southerly, Southwesterly and Westerly along the arc of said curve, having for its elements a radius of 25.00 feet; through a central angle of 89deg59min55sec for an arc distance of 39.27 feet to a point of tangency; thence S89deg05min26W, along a line 37.26 feet North of and parallel with the South line of the Northwest Quarter of said Section 16 for 167.15 feet to the Point of Beginning.

**Parcel 2:**

A portion of the Southeast Quarter of Section 17, Township 56 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the East Quarter Corner of said Section 17; thence S89deg10min28secW, along the North Line of the Southeast Quarter of said Section 17, for 23.00 feet; thence S00deg20min37secE for 35.00 feet to the Point of Beginning of the hereinafter described parcel of land; thence S89deg10min28secW; along a line 35.00 feet South of and parallel with the North line of the Southeast Quarter of said Section 17 for 1319.56 feet; thence S00deg34min08secE for 1639.11 feet; thence N89deg18min13secE for 1280.91 feet; thence N00deg20min42secW for a distance of 104.37 feet to a point of curvature of a circular curve to the right, concave to the Southeast; thence Northerly and Northeasterly along the arc of said curve having for its elements a radius of 2855.00 feet through a central angle of 08deg36min49sec for an arc distance of 429.21 feet to a point on a line 23.00 feet West of and parallel with the East line of the Southeast Quarter of said Section 17; thence N00deg20min37secW along said parallel line for a distance of 1110.35 feet to the Point of Beginning.

LESS that portion of a Sanitary Sewer LIFT STATION SITE, as described in Official Record Book 14026, Page 29 of the Public Records of Miami-Dade County. Being within the above described parcel, more particularly described as follows:

Commencing at the Northeast corner of the said Southeast 1/4 of Section 17; thence run S89deg10min28secW along the North line of the said Southeast 1/4 of Section 17 for 844.69 feet; thence S12deg22min33secE for 17.86 feet to a point on the South Right-of-Way line of S.W. 224th Street, said point being 17.50 feet South of, as measured at right angles to, the said North line of the Southeast 1/4 of Section 17, said point also being the POINT OF BEGINNING of the parcel herein described; thence from the above established Point of Beginning continue S12deg22min33secE for 30.01 feet; thence S77deg37min27secW for 40.00 feet; thence N12deg22min33secW for 38.23 feet to a point on the said South Right-of-Way line of S.W. 224th Street; thence N89deg10min28secE along the said South Right-of-Way line of S.W. 224th Street for 40.83 feet to the Point of Beginning.

**Parcel 3:**

A portion of the Southwest Quarter of Section 16, Township 56 South, Range 40 East, Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the West Quarter Corner of said Section 16; thence N89deg05min26secE, along the North Line of the Southwest Quarter of said Section 16, for a distance of 62.84 feet; thence S00deg20min37secE for a distance of 35.00 feet to the POINT OF BEGINNING of the hereinafter described Parcel of Land; thence N89deg05min26secE, along a line 35.00 feet South of and parallel with the North line of the Southwest Quarter of said Section 16, for a distance of 126.60 feet to a point on the arc of a circular curve to the right, concave to the Northwest, a radial line from said point bears S88deg04min44secE; thence Southwesterly along the arc of said curve, having for its elements a radius of 2745.00 feet, through a central angle of 13deg34min44sec for an arc distance of 650.56 feet to a point of tangency; thence S15deg30min00secW for a distance of 124.26 feet to a point of curvature of a circular curve to the left, concave to the Southeast; thence Southwesterly along the arc of said curve, having for its elements a radius of 2855.00 feet, through a central angle of 1deg20min50sec for an arc distance of 67.13 feet to a point of non-tangency; said point is on a line 35.80 feet East of and parallel with the West Line of the Southwest Quarter of said Section 16,

## LAKES BY THE BAY SOUTH COMMONS - FLOWAGE EASEMENT



FORD, ARMENTEROS & MANUCY, INC.  
 1950 N.W. 94th AVENUE, 2nd FLOOR  
 MIAMI, FLORIDA 33172  
 PH. (305) 477-6472  
 FAX (305) 470-2805

TYPE OF PROJECT:		SKETCH AND LEGAL DESCRIPTION	
SHEET NAME:		LEGAL DESCRIPTION TO ACCOMPANY SKETCH	
PREPARED FOR:		LENNAR HOMES, INC.	
DRAWN BY:	R.R./E.R.	DATE:	5-28-03
DWG. CHECKED BY:		SCALE:	N/A
CHECKED BY:	93	PROJECT No:	01-041-5826
			SHEET: 2
			OF 12 SHEETS

thence N00deg20min37secW along said parallel line for a distance of 776.66 feet to a point of curvature of a circular curve to the right, concave to the Southeast; thence Northeasterly along the arc of said curve, having for its elements a radius of 55.00 feet, through a central angle of 59deg26min38sec for an arc distance of 57.06 feet to the POINT OF BEGINNING.

**Parcel 4:**

Tract B of "LAKES BY THE BAY FAYE" according to the Plat thereof as recorded in Plat Book 165, Page 69 of the Public Records of Miami-Dade County, Florida, less that portion of said Tract "B", more particularly described as follows:

Begin at the Most Southwesterly corner of said Tract "B"; thence N07deg01min15secE, along the Most Westerly line of said Tract "B" for 25.24 feet to a point on a line 25.00 feet North of and parallel with the North Line of the South 3/8 of the Southwest Quarter of Section 16, Township 56 South, Range 40 East, Miami-Dade County, Florida; thence N89deg03min11secE, along said parallel line for 1145.88 feet to a point on a line 25.00 feet East of and parallel with the West line of the Southeast Quarter of said Section 16, thence S00deg44min12secE, along said parallel line for 975.34 feet to its intersection with the Most Southerly line of said Tract "B"; thence S89deg01min48secW, along said Southerly line for 25.00 feet to its intersection with the West line of the Southeast Quarter of said Section 16, thence N00deg44min12secW, along said West line for 950.35 feet; thence S89deg03min11secW, along the North line of the South 3/8 of the Southwest Quarter of said Section 16, for 1124.28 feet to the POINT OF BEGINNING.

**LESS**

Commence at the Southeast corner of Section 16, Township 56 South, Range 40 East, Miami-Dade County, Florida, thence N01deg02min22secW for 55.00 feet; thence S89deg01min48secW for 63.00 feet to the POINT OF BEGINNING; thence N01deg02min22secW for 620.46 feet; thence S88deg57min38secW for 69.78 feet; thence S01deg02min22secE for 620.38 feet; thence N89deg01min48secE for 69.78 feet to the POINT OF BEGINNING.

**2 AND LESS:**

Commencing at the Southeast corner of said Section 16; thence S89deg01min48secW, (S89deg01min59secW by Deed) a distance of 1078.00 feet to the POINT OF BEGINNING; thence continue along said South line Westerly a distance of 20.00 feet; thence North a distance of 110.00 feet; thence easterly a distance of 20.00 feet parallel to the South line of said Section 16; thence South to the POINT OF BEGINNING, less road dedication of Record.

**Parcel 5:**

A portion of Tract G of "LAKES BY THE BAY DAY" according to the Plat thereof as recorded in Plat Book 163, at Page 72 of the Public Records of Miami-Dade County, Florida, being more particularly described as follows:

COMMENCE at the West Quarter Corner of Section 16, Township 56 South, Range 40 East, Miami-Dade County, Florida; thence N89deg05min26secE, along the North line of the Southwest Quarter of said Section 16, for 247.53 feet to its intersection with the centerline of S.W. 97th Avenue, as shown on said "LAKES BY THE BAY DAY"; thence N00deg54min29secW along said centerline of S.W. 97th Avenue for 210.80 feet to its intersection with the Westerly projection of the Most Northerly boundary line of said Tract "G"; thence N89deg05min31secE for 64.81 feet to the POINT OF BEGINNING; the next two (2) courses and distances being along the boundary line of said tract "G"; 1) thence N89deg05min31secE for 85.69 feet to the point of curvature of a circular curve to the right, concave to the Southwest; 2) thence Southeasterly along the arc of said curve, having for its elements a radius of 960.00 feet, through a central angle of 13deg37min23sec for an arc distance of 228.26 feet to its intersection with a non-tangent line; thence S15deg44min43secW for 195.74 feet; thence S02deg50min06secE for 626.54 feet; thence S16deg45min44secW for 338.75 feet; thence S30deg57min50secE for 596.88 feet; thence N89deg11min01secE for 783.03 feet; thence S07deg01min15secW for 182.20 feet to a point on a line 25.00 feet North of and parallel with the North Line of the South 3/8 of the Southwest 1/4 of said Section 16, thence S89deg03min11secW, along said parallel line for 1494.69 feet; thence N00deg20min42secW for 78.35 feet to a point of curvature of a circular curve to the right, concave to the Southeast; thence Northerly and Northeasterly along the arc of said curve, having for its elements a radius of 2735.00 feet, through a central angle of 15deg50min42sec for an arc distance of 756.36 feet to a point of tangency; thence N15deg30min00secE for 124.26 feet to a point of curvature of a circular curve to the left, concave to the Northwest; thence Northeasterly and Northerly along the arc of said curve, having for its elements a radius of 2865.00 feet, through a central angle of 16deg24min29sec for an arc distance of 820.46 feet to a point of tangency; thence N00deg54min29secW for 110.31 feet to the POINT OF BEGINNING.

All of the above described land situated, being and lying in Miami-Dade County, Florida, and containing 6,692,403.63 Square Feet and/or 153.64 Acres more or less.

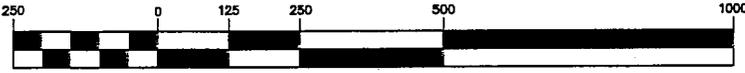
## LAKES BY THE BAY SOUTH COMMONS - FLOWAGE EASEMENT



FORD, ARMENTEROS & MANUCY, INC.  
 1950 N.W. 94th AVENUE, 2nd FLOOR  
 MIAMI, FLORIDA 33172  
 PH. (305) 477-6472  
 FAX (305) 470-2805

TYPE OF PROJECT: SKETCH AND LEGAL DESCRIPTION		
SHEET NAME: LEGAL DESCRIPTION TO ACCOMPANY SKETCH		
PREPARED FOR: LENNAR HOMES, INC.		
DRAWN BY: R./R.E.R.	DATE: 5-28-03	SHEET:  <b>3</b>  OF 13 SHEETS
DWG. CHECKED BY:	SCALE: N/A	
CHECKED BY: 94	PROJECT No: 01-041-5826	

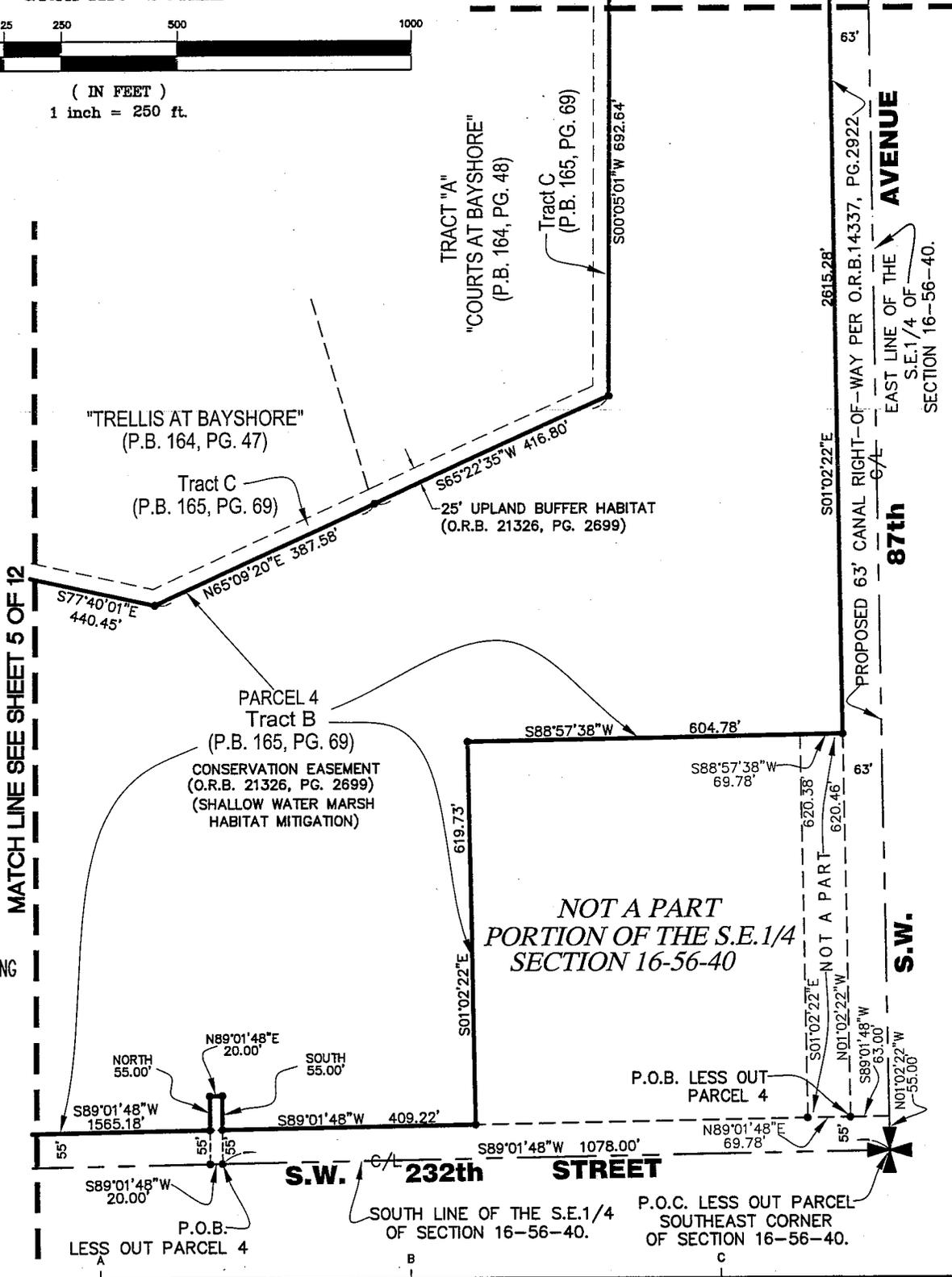
GRAPHIC SCALE



( IN FEET )  
1 inch = 250 ft.



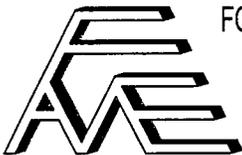
MATCH LINE SEE SHEET 8 OF 12



LEGEND

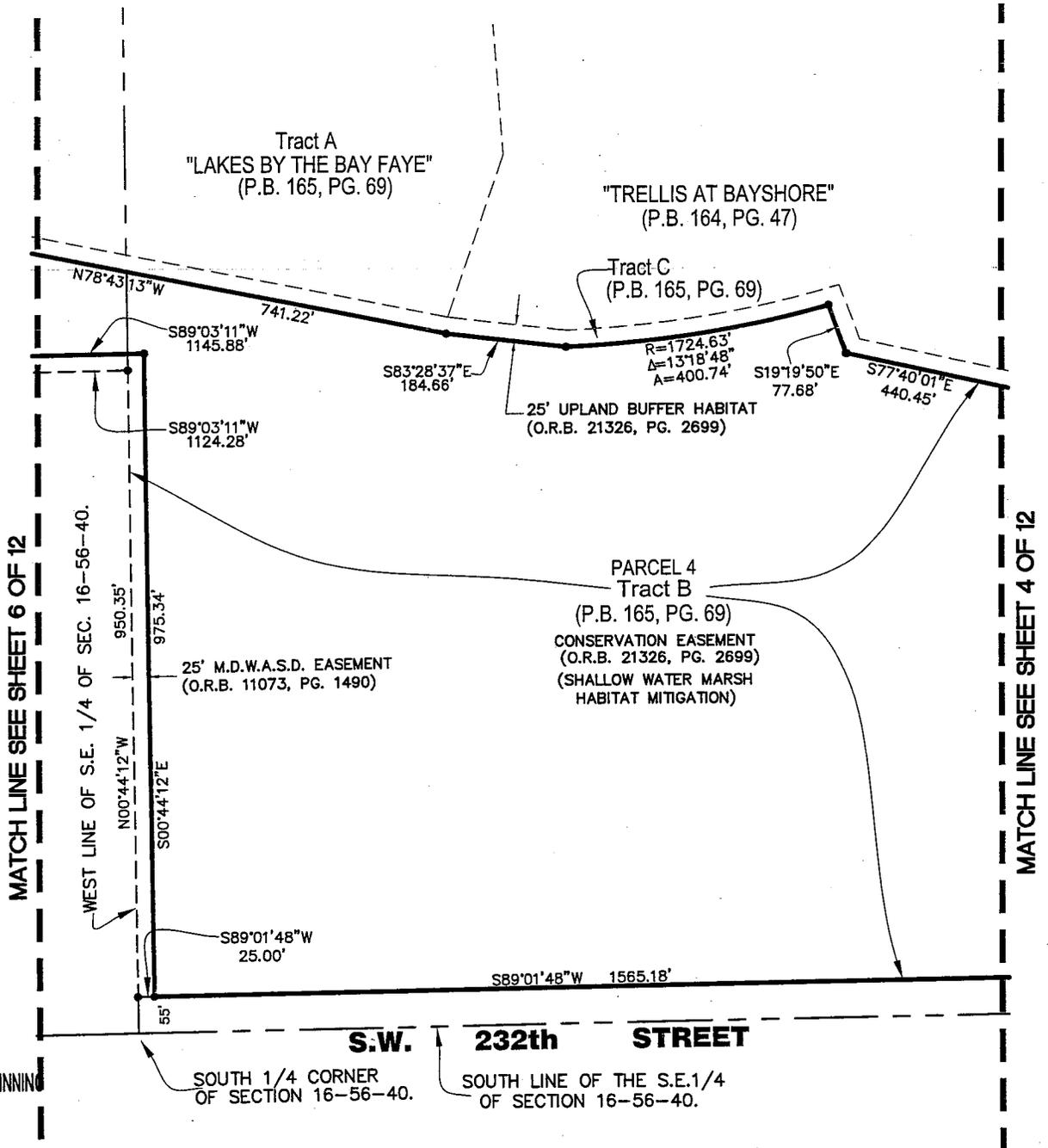
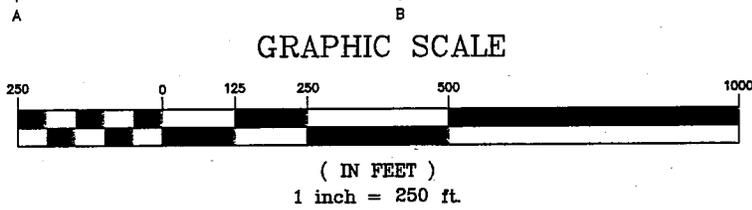
- P.O.B. - POINT OF BEGINNING
- P.B. - PLAT BOOK
- PG. - PAGE
- C/L - CENTER LINE

LAKES BY THE BAY SOUTH COMMONS - FLOWAGE EASEMENT



FORD, ARMENTEROS & MANUCY, INC.  
1950 N.W. 94th AVENUE, 2nd FLOOR  
MIAMI, FLORIDA 33172  
PH. (305) 477-6472  
FAX (305) 470-2805

TYPE OF PROJECT:		SKETCH AND LEGAL DESCRIPTION	
SHEET NAME:		SKETCH TO ACCOMPANY LEGAL DESCRIPTION	
PREPARED FOR:		LENNAR HOMES, INC.	
DRAWN BY:	R./E./R	DATE:	5-28-03
DWG. CHECKED BY:		SCALE:	1" = 250'
CHECKED BY:		PROJECT No:	01-041-5826
			SHEET: <b>4</b> OF 12 SHEETS



- LEGEND**
- P.O.B. - POINT OF BEGINNING
  - P.B. - PLAT BOOK
  - PG. - PAGE
  - C/L - CENTER LINE

## LAKES BY THE BAY SOUTH COMMONS - FLOWAGE EASEMENT

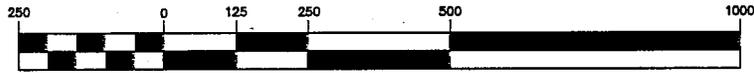


**FORD, ARMENTEROS & MANUCY, INC.**  
1950 N.W. 94th AVENUE, 2nd FLOOR  
MIAMI, FLORIDA 33172  
PH. (305) 477-6472  
FAX (305) 470-2805

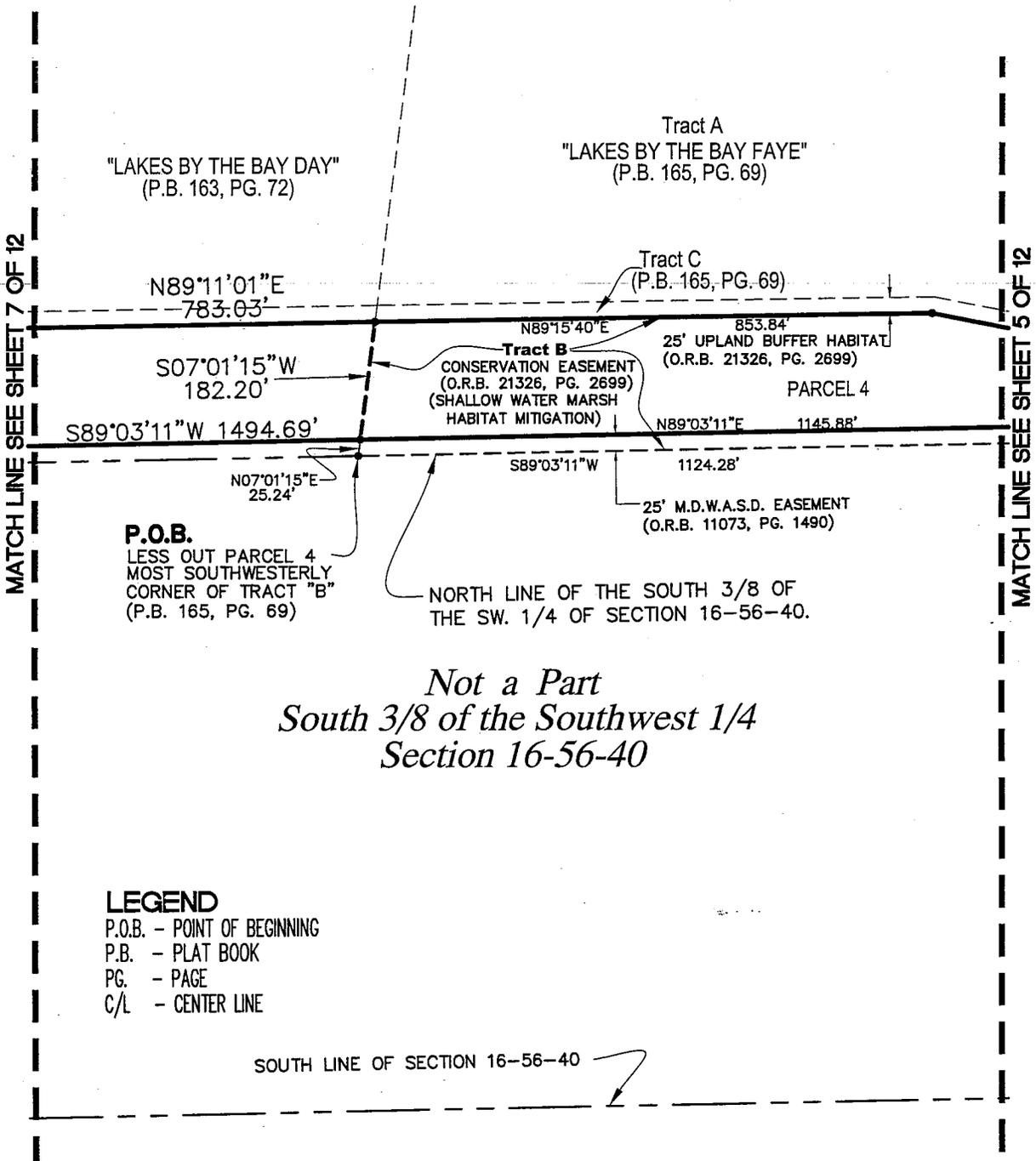
TYPE OF PROJECT: SKETCH AND LEGAL DESCRIPTION		<b>5</b> OF 12 SHEETS
SHEET NAME: SKETCH TO ACCOMPANY LEGAL DESCRIPTION		
PREPARED FOR: LENNAR HOMES, INC.		
DRAWN BY: R.R/E.R	DATE: 5-28-03	
DWG. CHECKED BY:	SCALE: 1" = 250'	
CHECKED BY:	PROJECT No: 01-041-5826	

A B C

GRAPHIC SCALE



( IN FEET )  
1 inch = 250 ft.



LAKES BY THE BAY SOUTH COMMONS - FLOWAGE EASEMENT



FORD, ARMENTEROS & MANUCY, INC.  
1950 N.W. 94th AVENUE, 2nd FLOOR  
MIAMI, FLORIDA 33172  
PH. (305) 477-6472  
FAX (305) 470-2805

TYPE OF PROJECT:		SKETCH AND LEGAL DESCRIPTION	
SHEET NAME:		SKETCH TO ACCOMPANY LEGAL DESCRIPTION	
PREPARED FOR:		LENNAR HOMES, INC.	
DRAWN BY:	R.R/E.R	DATE:	5-28-03
DWG. CHECKED BY:		SCALE:	1" = 250'
CHECKED BY:		PROJECT No:	01-041-5826
			SHEET: <b>6</b> OF 12 SHEETS



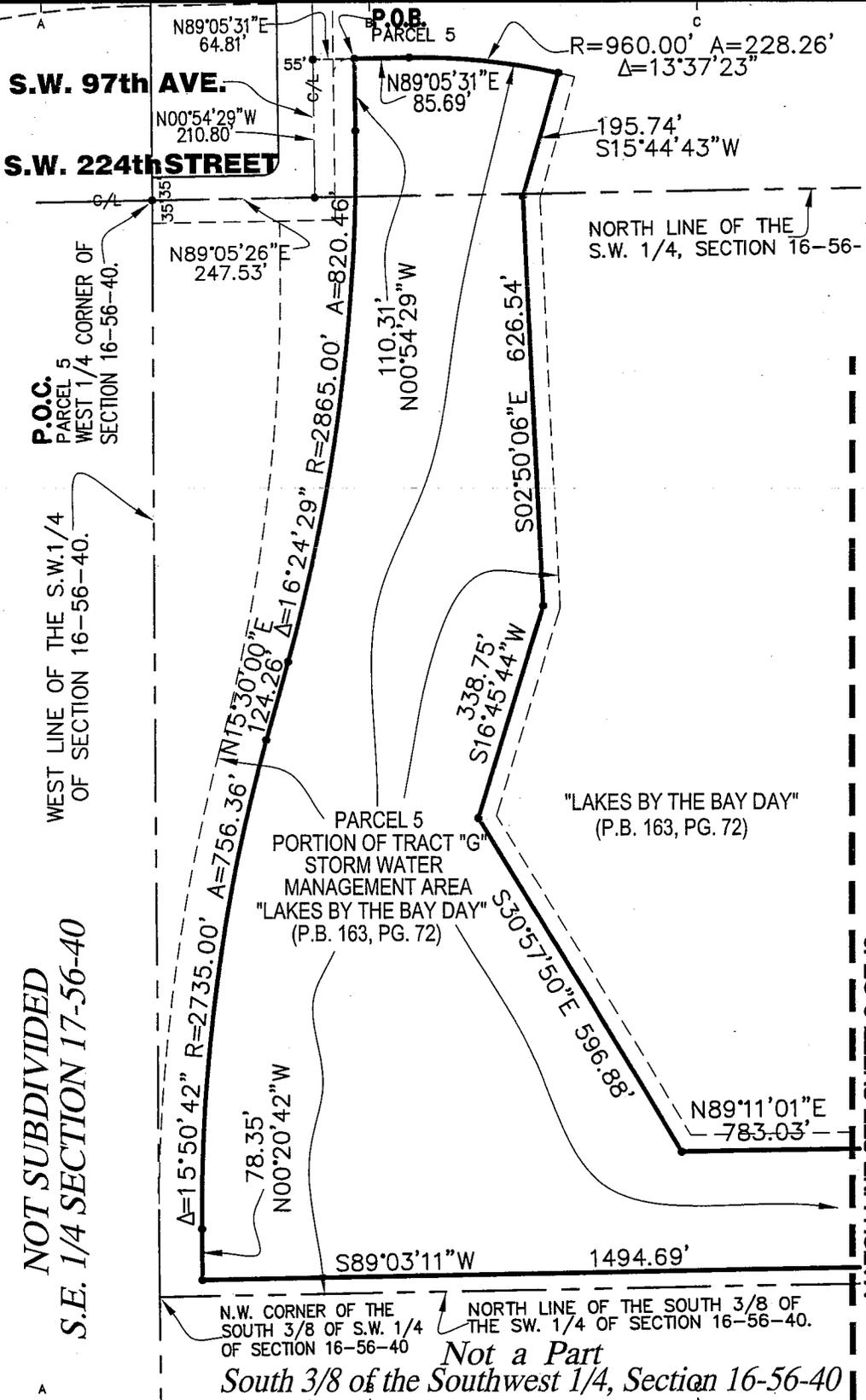
GRAPHIC SCALE



( IN FEET )  
1 inch = 250 ft.

**LEGEND**

- P.O.B. - POINT OF BEGINNING
- P.B. - PLAT BOOK
- PG. - PAGE
- C/L - CENTER LINE



**LAKES BY THE BAY SOUTH COMMONS - FLOWAGE EASEMENT**



**FORD, ARMENTEROS & MANUCY, INC.**  
 1950 N.W. 94th AVENUE, 2nd FLOOR  
 MIAMI, FLORIDA 33172  
 PH. (305) 477-6472  
 FAX (305) 470-2805

TYPE OF PROJECT:		SKETCH AND LEGAL DESCRIPTION	
SHEET NAME:		SKETCH TO ACCOMPANY LEGAL DESCRIPTION	
PREPARED FOR:		LENNAR HOMES, INC.	
DRAWN BY:	R./R./E.R	DATE:	5-28-03
DWG. CHECKED BY:		SCALE:	1" = 250'
CHECKED BY:		PROJECT No:	01-041-5826
			<b>7</b> OF 12 SHEETS

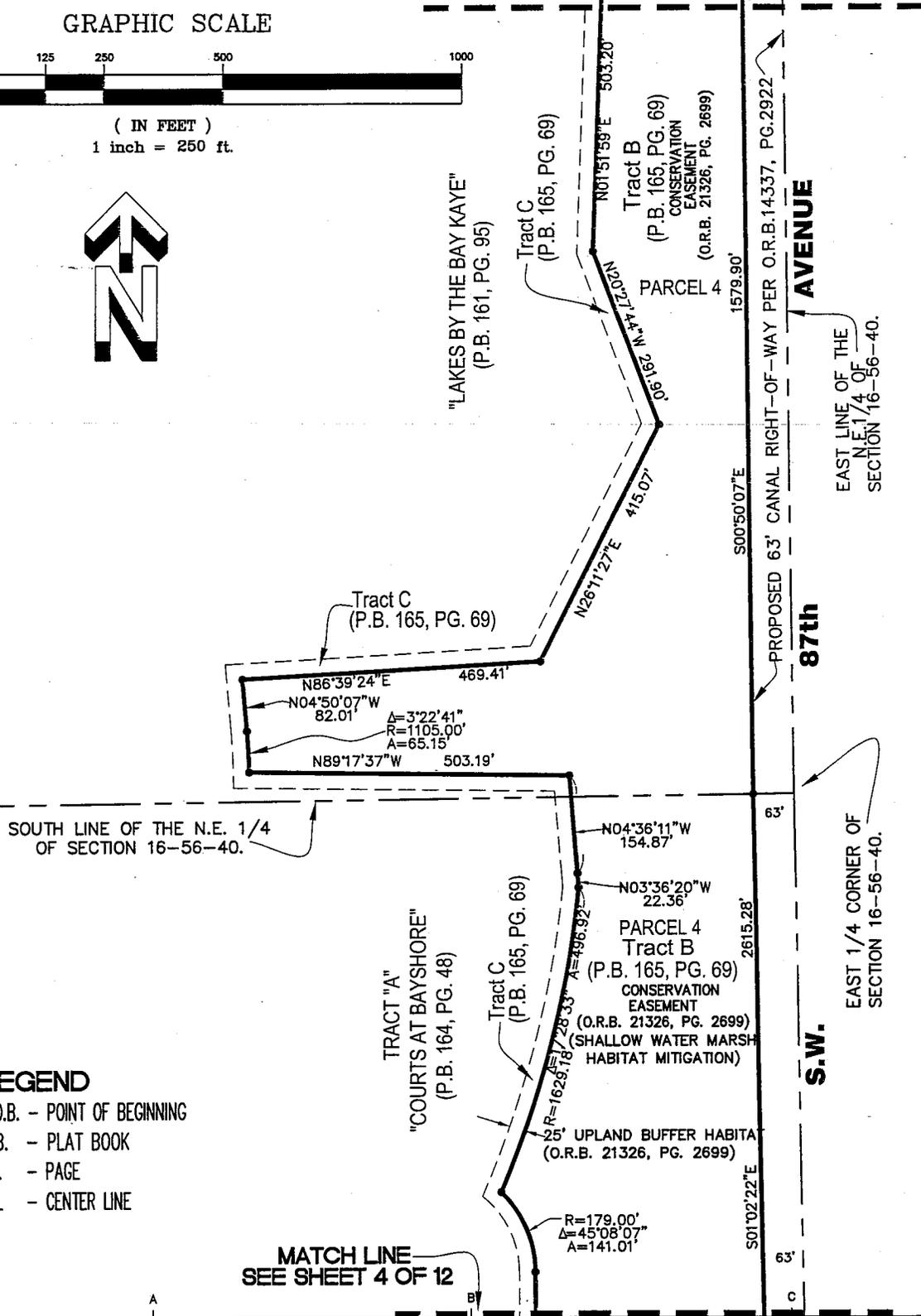
GRAPHIC SCALE



( IN FEET )  
1 inch = 250 ft.



MATCH LINE SEE SHEET 9 OF 12



LEGEND

- P.O.B. - POINT OF BEGINNING
- P.B. - PLAT BOOK
- PG. - PAGE
- C/L - CENTER LINE

MATCH LINE  
SEE SHEET 4 OF 12

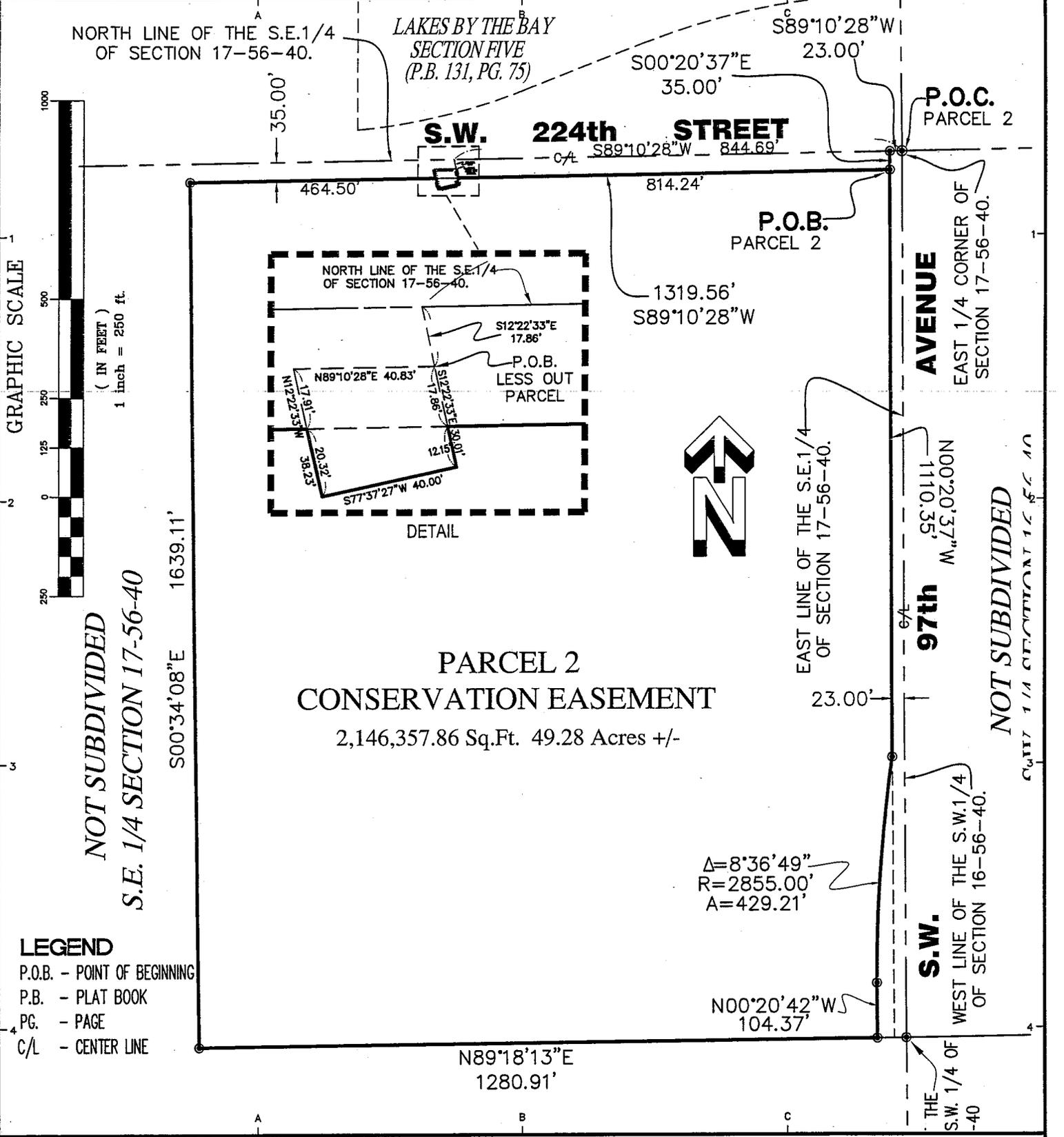
LAKES BY THE BAY SOUTH COMMONS - FLOWAGE EASEMENT



FORD, ARMENTEROS & MANUCY, INC.  
1950 N.W. 94th AVENUE, 2nd FLOOR  
MIAMI, FLORIDA 33172  
PH. (305) 477-6472  
FAX (305) 470-2805

TYPE OF PROJECT: SKETCH AND LEGAL DESCRIPTION		
SHEET NAME: SKETCH TO ACCOMPANY LEGAL DESCRIPTION		
PREPARED FOR: LENNAR HOMES, INC.		
DRAWN BY: R.R./E.R.	DATE: 5-28-03	SHEET: <b>8</b> OF 12 SHEETS
DWG. CHECKED BY:	SCALE: 1" = 250'	
CHECKED BY:	PROJECT No: 01-041-5826	
199		





**LAKES BY THE BAY SOUTH COMMONS - FLOWAGE EASEMENT**



FORD, ARMENTEROS & MANUCY, INC.  
1950 N.W. 94th AVENUE, 2nd FLOOR  
MIAMI, FLORIDA 33172  
PH. (305) 477-6472  
FAX (305) 470-2805

TYPE OF PROJECT: SKETCH AND LEGAL DESCRIPTION		SHEET: <b>10</b> OF 12 SHEETS
SHEET NAME: SKETCH TO ACCOMPANY LEGAL DESCRIPTION		
PREPARED FOR: LENNAR HOMES, INC.		
DRAWN BY: R./R./E.R.	DATE: 5-28-03	
DWG. CHECKED BY:	SCALE: 1" = 250'	
CHECKED BY:	PROJECT No: 01-041-5826	

NOT SUBDIVIDED  
N.W. 1/4 SECTION 16-56-40

NOT SUBDIVIDED  
S.W. 1/4 SECTION 16-56-40

S.W. 97th AVENUE

$\Delta=89^{\circ}59'55''$   
 $R=25.00'$   
 $A=39.27'$

$S00^{\circ}54'29''E$   
158.04'  
 $N89^{\circ}05'31''E$   
217.75'

SOUTH LINE OF THE N.W.1/4  
OF SECTION 16-56-40.

P.O.C.  
PARCEL 1  
EAST 1/4 CORNER OF  
SECTION 17-56-40.

EAST LINE OF THE S.E.1/4  
OF SECTION 17-56-40.

EAST LINE OF THE N.E.1/4  
OF SECTION 17-56-40.

P.O.B.  
PARCEL 1

$37.26'$   
 $N00^{\circ}35'10''W$

LAKES BY THE BAY  
SECTION FIVE  
(P.B. 131, PG. 75)

SOUTHERLY BOUNDARY LINE  
OF "LAKES BY THE BAY SECTION  
FIVE" (P.B.131, PG.75)

CONSERVATION EASEMENT  
121,856.81 Sq.Ft. 2.80 Acres +/-

S.W. 224th STREET

NORTH LINE OF THE S.E.1/4  
OF SECTION 17-56-40.

NOT SUBDIVIDED  
S.E. 1/4 SECTION 17-56-40

$S89^{\circ}05'26''W$   
167.15'  
 $\Delta=20^{\circ}35'33''$   
 $R=1228.50'$   
 $A=441.53'$   
 $S89^{\circ}10'28''W$  738.72'  
 $N68^{\circ}29'58''E$   
228.12'  
 $N18^{\circ}18'38''W$   
(RADIAL)

$\Delta=311'24''$   
 $R=1271.50'$   
 $A=70.79'$



( IN FEET )  
1 inch = 200 ft.

LEGEND

- P.O.B. - POINT OF BEGINNING
- P.B. - PLAT BOOK
- PG. - PAGE
- C/L - CENTER LINE

NOT SUBDIVIDED  
N.E. 1/4 SECTION 17-56-40



LAKES BY THE BAY SOUTH COMMONS - FLOWAGE EASEMENT



FORD, ARMENTEROS & MANUCY, INC.  
1950 N.W. 94th AVENUE, 2nd FLOOR  
MIAMI, FLORIDA 33172  
PH. (305) 477-6472  
FAX (305) 470-2805

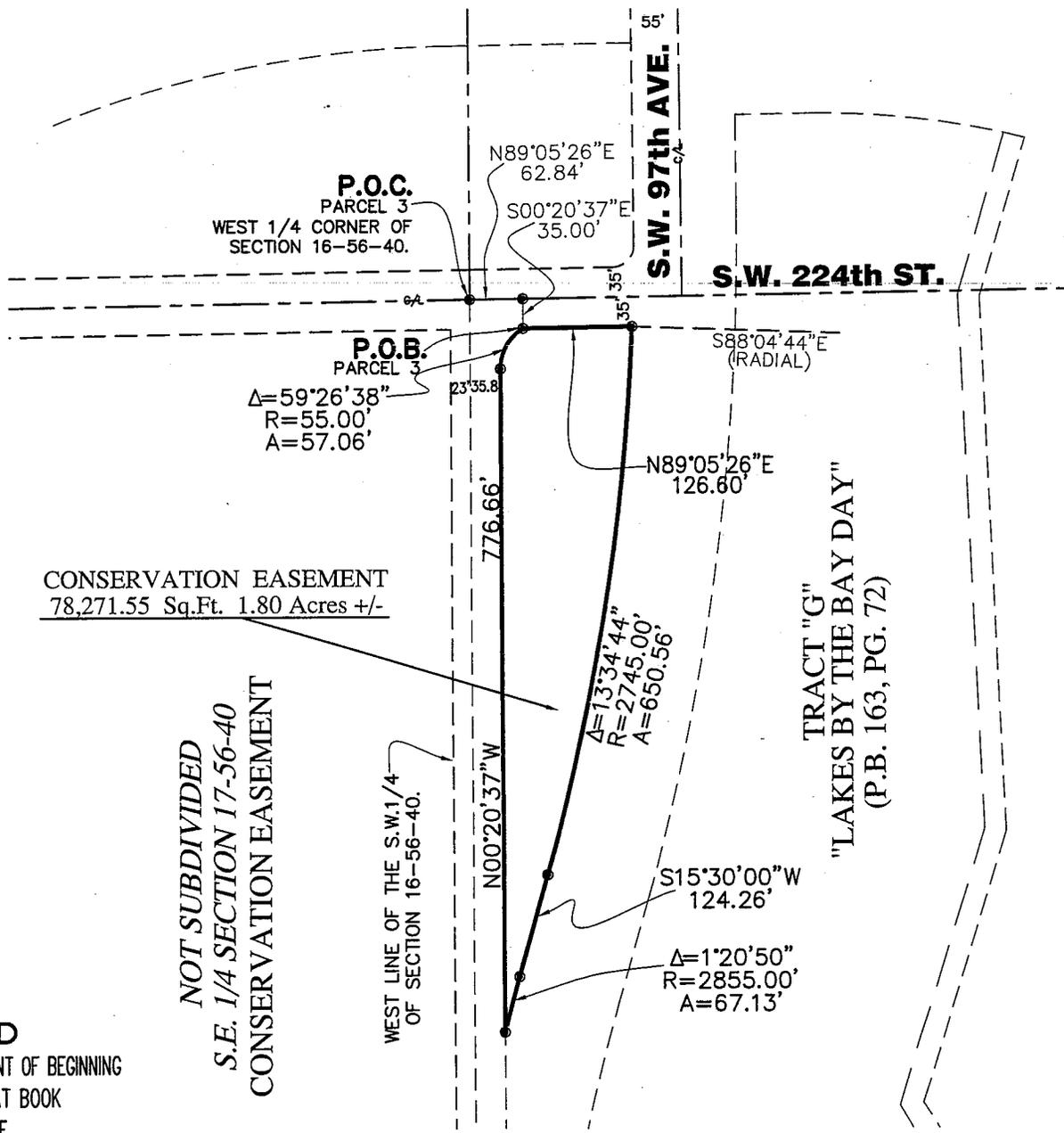
TYPE OF PROJECT:	SKETCH AND LEGAL DESCRIPTION		
SHEET NAME:	SKETCH TO ACCOMPANY LEGAL DESCRIPTION		
PREPARED FOR:	LENNAR HOMES, INC.		
DRAWN BY:	R.R/E.R.	DATE:	5-28-03
DWG. CHECKED BY:		SCALE:	1" = 200'
CHECKED BY:		PROJECT No:	01-041-5826
			SHEET: <b>11</b> OF 12 SHEETS

A B C

GRAPHIC SCALE



( IN FEET )  
1 inch = 200 ft.



CONSERVATION EASEMENT  
78,271.55 Sq.Ft. 1.80 Acres +/-

NOT SUBDIVIDED  
S.E. 1/4 SECTION 17-56-40  
CONSERVATION EASEMENT

TRACT "G"  
"LAKES BY THE BAY DAY"  
(P.B. 163, PG. 72)

LEGEND

- P.O.B. - POINT OF BEGINNING
- P.B. - PLAT BOOK
- PG. - PAGE
- C/L - CENTER LINE

A B C

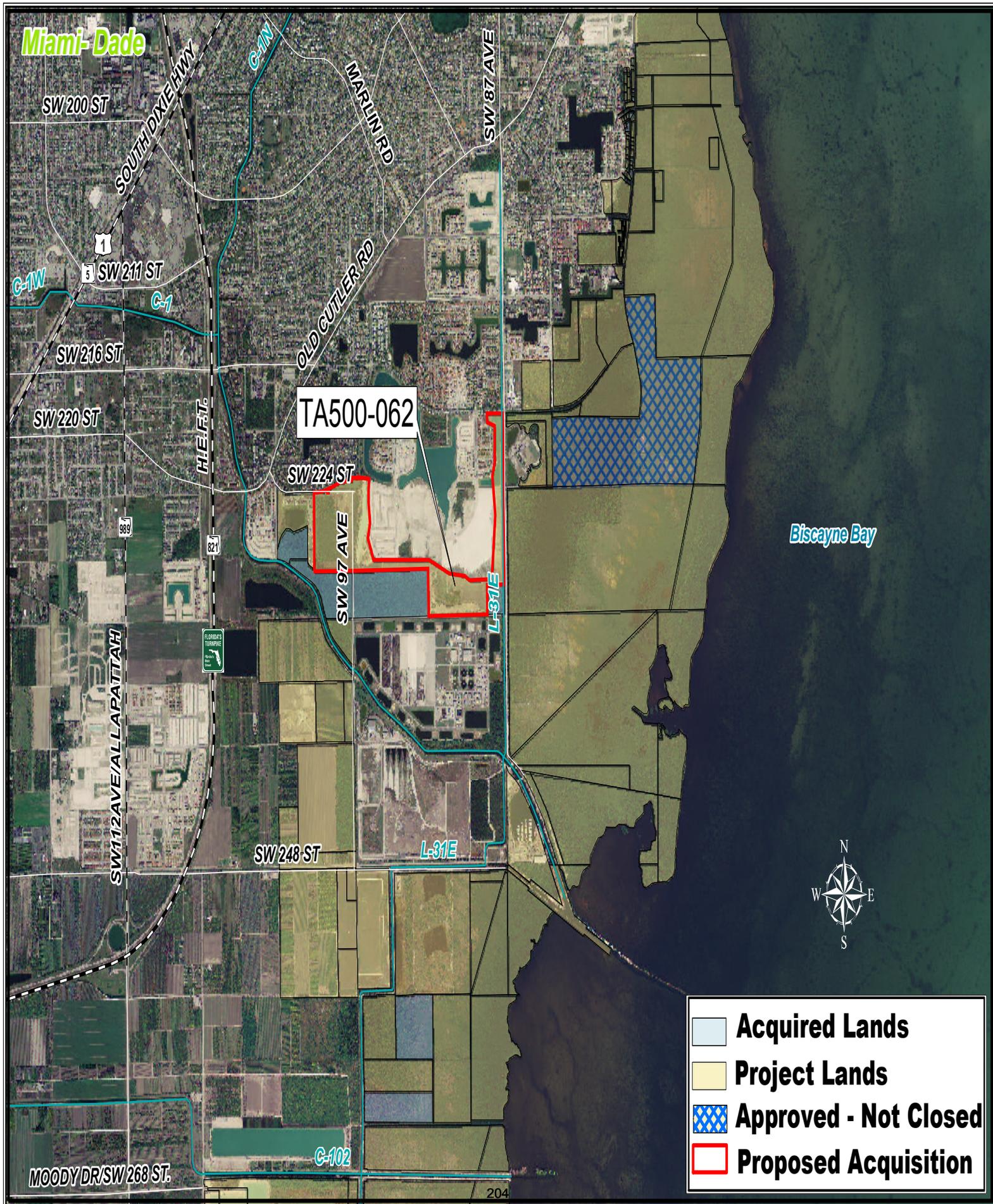
LAKES BY THE BAY SOUTH COMMONS - FLOWAGE EASEMENT



FORD, ARMENTEROS & MANUCY, INC.  
1950 N.W. 94th AVENUE, 2nd FLOOR  
MIAMI, FLORIDA 33172  
PH. (305) 477-6472  
FAX (305) 470-2805

TYPE OF PROJECT:		SKETCH AND LEGAL DESCRIPTION	
SHEET NAME:		SKETCH TO ACCOMPANY LEGAL DESCRIPTION	
PREPARED FOR:		LENNAR HOMES, INC.	
DRAWN BY:	R.R./E.R.	DATE:	5-28-03
DWG. CHECKED BY:		SCALE:	1" = 200'
CHECKED BY:		PROJECT No:	01-041-5826
			SHEET:
			12
			OF 12 SHEETS

# BISCAYNE BAY COASTAL WETLANDS - LENNAR PROPERTY





- 29. 2009-412** A Resolution of the Governing Board of the South Florida Water Management District authorizing the release of a portion of the Hillsboro Canal Right of Way containing 0.12 acres, more or less, within portions of Lots 8A, 9A and 10A, Block 8, Hillsboro Pines Section "A", Plat Book 42, Page 33, Public Records of Broward County, Florida, in exchange for a perpetual canal easement containing 0.138 acres, more or less, over the North 80 feet of said Lot 8A; providing an effective date. (Kathy Massey, ext. 6835)

See supporting document: [ca\\_lr\\_104\\_sd.pdf](#)

See resolution document: [ca\\_lr\\_104\\_rd.pdf](#)

See supporting document: [ca\\_lr\\_104\\_map\\_ExhA.pdf](#)

## LAND ACQUISITION EXECUTIVE SUMMARY

**PROJECT:** Hillsboro Canal

**COUNTY:** Broward

**SIZE:** District parcel = 0.12 acres, more or less  
Gale parcel = 0.138 acres, more or less

**PARTIES:** Steven Gale and Marilyn Gale and the South Florida Water Management District

**HIGHLIGHTS:** This exchange is consistent with exchanges along the Hillsboro Canal the District has approved in the past, including exchanges of right of way interests with the Applicants along this reach of the canal. The Applicants have requested the District to release a portion of the perpetual canal easement located in Lots 8A, 9A and 10A, Block 8, Hillsboro Pines Section "A", Plat Book 42, page 33, Public Records of Broward County Florida, in exchange for a perpetual canal easement over portions of Lot 8A as follows:

1. Lot 8A - the District will release the southerly 50 feet of Lot 8A within the Hillsboro Canal right of way in exchange for a perpetual canal easement over the northerly 80 feet of Lot 8A to the centerline of the Hillsboro Canal, including approximately 30 feet of right way landward of the top of bank.
2. Lot 9A - the District will release the northerly 10 feet of Lot 9A within the Hillsboro Canal right of way, leaving approximately 29 feet of right of way landward of the top of bank.
3. Lot 10A - the District will release the northerly 10 feet of Lot 10A within the Hillsboro Canal right of way, leaving approximately 29 feet of right of way landward of the top of bank.

**CONSIDERATIONS:** The exchange will resolve a longstanding dispute between the Applicants and the District regarding the quality of title along the right of way. Staff is agreeable to this exchange. Staff has determined that the new easement area will provide sufficient interest to allow the District to continue the operation and maintenance of the Hillsboro Canal.

Releasing the District's interest in the manner outlined above will straighten the right of way line along the Hillsboro Canal.

The exchange will be subject to the following terms, conditions and requirements:

- a. The Applicants are to provide a survey that meets the required Minimum Technical Standards provided to the Applicants via e-mail on February 24, 2009. This survey will include the legal description for the easement parcel the Applicants will convey to the District, as well as the legal descriptions of the easement areas to be released by the District.
- b. The Applicants will pay for all costs of the closing and provide the District with a title insurance policy insuring the District's interest in the easement.
- c. The Applicants shall obtain all necessary permits from the District, Broward County, and any other governmental agencies, if any, and pay all associated fees. There is no representation, guaranty or assurance made by the District that the District's Governing Board will in fact approve the issuance of any required District permits, and there is no obligation on the part of the District's Governing

Board to approve the issuance of any required District permits. The District's review process for any required permits will be done separate, independent and unfettered of the fact that the District has approved this Resolution and shall be in accordance with the District's applicable rules.

- d. All of the foregoing terms, conditions, and requirements set forth in subparagraphs (a.) through (c.), inclusive, must be satisfied to the satisfaction of the District in its sole and absolute discretion no later than December 1, 2009.

**FISCAL IMPACT:** This will be an even exchange with the Applicant paying for all expenses.

**RECOMMENDATION:** That the Governing Board of the South Florida Water Management District authorizes the release of a portion of the Hillsboro Canal right of way containing 0.12 acres, more or less, within portions of Lots 8A, 9A and 10 A, Block 8, Hillsboro Pines Section "A", Plat Book 42, page 33, Public Records of Broward County, Florida, in exchange for a perpetual canal easement containing 0.138 acres, more or less, over the north 80 feet of said Lot 8A.

**Prepared by:** \_\_\_\_\_

Kathleen A. Massey  
Sr. Closing Specialist  
Land Acquisition Department

\_\_\_\_\_  
Date

**Reviewed by:** \_\_\_\_\_

Ruth P. Clements, Director  
Land Acquisition Department

\_\_\_\_\_  
Date

**Approved by:** \_\_\_\_\_

Kenneth G. Ammon, P.E.  
Deputy Executive Director  
Everglades Restoration Resource Area

\_\_\_\_\_  
Date

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2  
3 RESOLUTION NO. 2009-\_\_\_\_\_

4  
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
6 MANAGEMENT DISTRICT AUTHORIZING THE RELEASE OF A PORTION OF THE  
7 HILLSBORO CANAL RIGHT OF WAY CONTAINING 0.12 ACRES, MORE OR LESS,  
8 WITHIN PORTIONS OF LOTS 8A, 9A AND 10A, BLOCK 8, HILLSBORO PINES SECTION  
9 "A", PLAT BOOK 42, PAGE 33, PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA,  
10 IN EXCHANGE FOR A PERPETUAL CANAL EASEMENT CONTAINING 0.138 ACRES,  
11 MORE OR LESS, OVER THE NORTH 80 FEET OF SAID LOT 8A; PROVIDING AN  
12 EFFECTIVE DATE.  
13

14 WHEREAS, pursuant to a request from the applicants, Steven Gale and Marilyn Gale,  
15 his wife, the District has determined that it is in the public interest to exchange the District's  
16 interest in a 0.12 acre, more or less, parcel of land for a perpetual canal easement over the  
17 north 80 feet of a portion of the applicants' property located along the Hillsboro Canal in  
18 Hillsboro Pines Section "A", Plat Book 42, page 33, Public Records of Broward County,  
19 containing 0.138 acres, more or less; and

20 WHEREAS, upon the satisfaction of certain terms, conditions and requirements, the  
21 Governing Board has determined that the approximately 0.12 acre parcel within this portion of  
22 the Hillsboro Canal right of way is not required by the District for present or apparent future  
23 use; and

24 WHEREAS, the applicants have paid a \$1,000.00 non-refundable application fee, and  
25 shall pay all fees and costs associated with this transaction, including but not limited to the  
26 appraisal and the obtaining of all necessary permits; and

27 WHEREAS, the Governing Board, pursuant to Section 373.089 of the Florida Statutes,  
28 may sell or exchange lands or interests in land under terms and conditions determined by the  
29 Governing Board.

30 NOW THEREFORE, BE IT RESOLVED by the Governing Board of the South Florida  
31 Water Management District:

32 **Section 1:** The Governing Board of the South Florida Water Management District has  
33 determined that the District has no present or apparent future use for the subject property and,  
34 therefore, hereby authorizes the release of a portion of the Hillsboro Canal right of way  
35 containing 0.12 acres, more or less, within portions of Lots 8A, 9A and 10 A, Block 8, Hillsboro  
36 Pines Section "A", Plat Book 42, page 33, Public Records of Broward County, Florida, in  
37 exchange for a perpetual canal easement containing 0.138 acres, more or less, over the north

38 80 feet of said Lot 8A, provided all of the following terms, conditions, and requirements are  
39 satisfied to the satisfaction of the District, in its sole and absolute discretion:

- 40 a. The applicants are to provide a survey that meets the required Minimum  
41 Technical Standards provided to the applicants via e-mail on February 24,  
42 2009. This survey will include the legal description for the easement parcel  
43 the applicants will convey to the District, as well as the legal descriptions of  
44 the easement areas to be released by the District.
- 45 b. The applicants will pay for all costs of the closing and provide the District with  
46 a title insurance policy insuring the District's interest in the easement.
- 47 c. The applicants shall obtain all necessary permits from the District, Broward  
48 County, and any other governmental agencies, if any, and pay all associated  
49 fees. There is no representation, guaranty or assurance made by the District  
50 that the District's Governing Board will in fact approve the issuance of any  
51 required District permits, and there is no obligation on the part of the District's  
52 Governing Board to approve the issuance of any required District permits.  
53 The District's review process for any required permits will be done separate,  
54 independent and unfettered of the fact that the District has approved this  
55 Resolution and shall be in accordance with the District's applicable rules.
- 56 d. All of the foregoing terms, conditions, and requirements set forth in  
57 subparagraphs (a.) through (c.), inclusive, must be satisfied to the satisfaction  
58 of the District in its sole and absolute discretion no later than December 1,  
59 2009

60 **Section 2:** The Governing Board of the South Florida Water Management District hereby  
61 authorizes the Chairman to execute the release document. No release instrument shall be  
62 delivered to the applicant/underlying fee owner, or shall be effective, until all of the foregoing  
63 requirements have been fully completed and fulfilled to the District's satisfaction, and such  
64 release has been recorded in the Public Records of Broward County.

65 **Section 3:** This Resolution shall take effect immediately upon adoption.

66

67 **PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

68

69

70

71

72

73

74

75

76

77

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

BY: \_\_\_\_\_  
Eric Buermann, Chairman

78

ATTEST:

79

80

By: \_\_\_\_\_  
District Clerk/Secretary

81

82

83

84

Legal form approved:

85

86

By: \_\_\_\_\_  
Office of Counsel

87

# Hillsboro Canal- Steve Gale Exchange



**DISCLAIMER**  
Any information, including but not limited to software and data, received from the South Florida Water Management District ("District") in fulfillment of a request is provided "AS IS" without warranty of any kind, and the District expressly disclaims all express and implied warranties, including but not limited to the implied warranties of merchantability and fitness for a particular purpose. The District does not warrant, guarantee, or make any representations regarding the use, or the results of the use, of the information provided to you by the District in terms of correctness, accuracy, reliability, timeliness or otherwise. The entire risk as to the results and performance of any information obtained from the District is entirely assumed by the recipient.



- 30. 2009-413** A Resolution of the Governing Board of the South Florida Water Management District to authorize an amendment to contract CP060614/3600000543 with the City of West Palm Beach and Palm Beach County for the C-51 Canal Sediment Management Project to increase the contract amount by \$1,100,000 of which dedicated funds (State Appropriations) in the amount of \$250,000 are budgeted and the remaining \$850,000 are Palm Beach County funds; providing an effective date. (Contract Number CP060614-A02/3600000543-A02) (Beth Kacvinsky, ext. 3721)

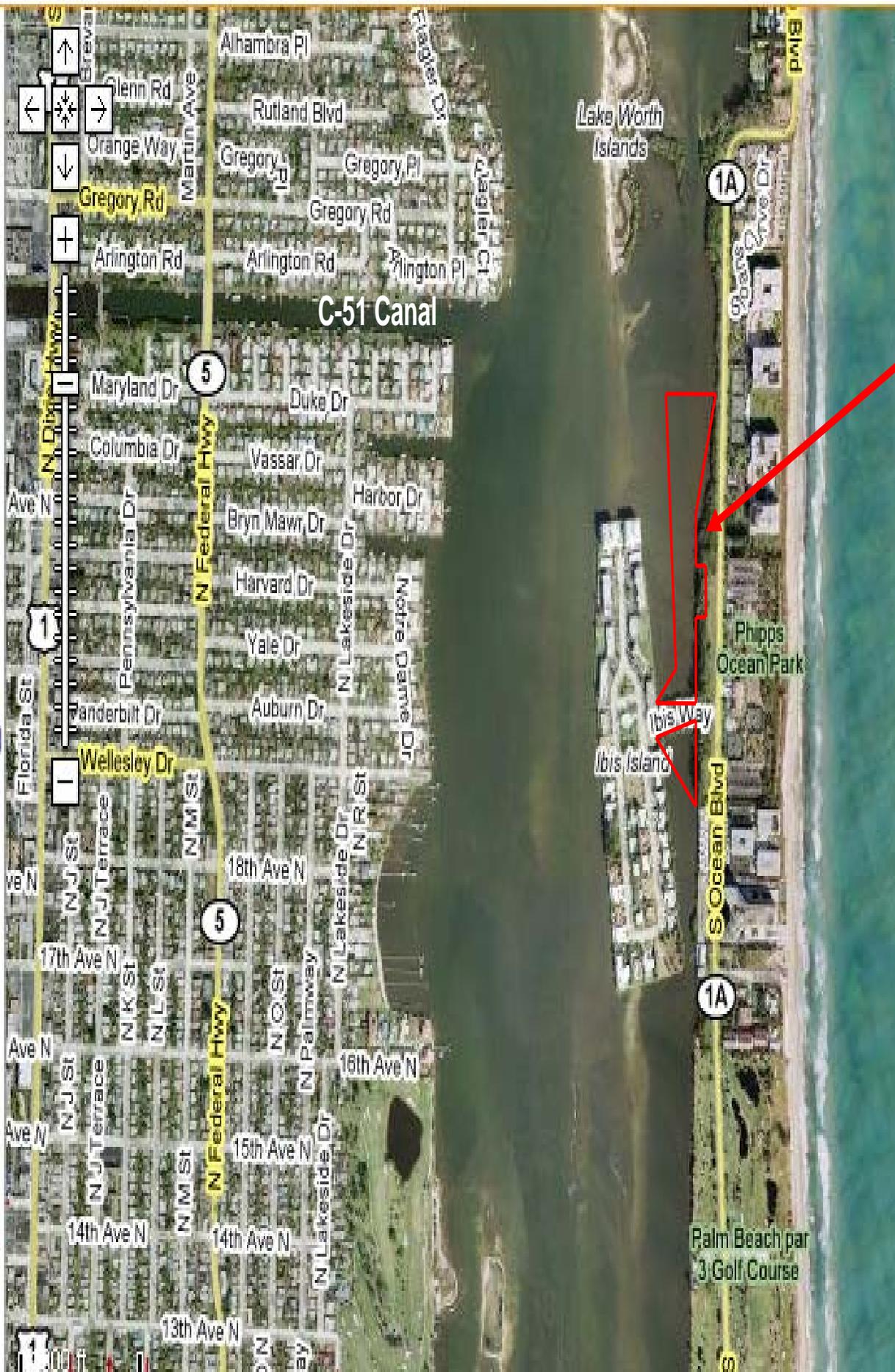
See supporting document: [da\\_er\\_004\\_Map2\\_sd2.pdf](#)

See supporting document: [da\\_er\\_004\\_Map1\\_sd1.pdf](#)

See supporting document: [da\\_er\\_004\\_Memo\\_sd.pdf](#)

See resolution document: [ca\\_cp\\_rd\\_13063\\_BFLD.pdf](#)





Project Location

## Ibis Restoration: Project Location Map

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Kenneth G. Ammon, P.E., Deputy Executive Director,  
Everglades Restoration Resource Area 

**DATE:** March 11, 2009

**SUBJECT:** C-51 Canal Sediment Management Project – Contract Number  
CP060614-A02 / 3600000543-A02

**Background:** In 2006, the District entered into an Interlocal Agreement with Palm Beach County and the City of West Palm Beach. The agreement allowed the District to cost share the construction and monitoring of a sediment trap in the C-51 canal, upstream of the S-155 structure. The District's contribution to the project was originally \$1,000,000, and it remains unchanged. Following execution of the original agreement, Palm Beach County applied for and received \$500,000 in legislative pass-through funding, which was added to the contract under amendment one in September 2007. The County has continued with design and construction of the project that to date has removed approximately 101,500 cubic yards of muck along a 3,500 foot section of the C-51 canal and created a sediment trap approximately 1,300 feet long by 300 feet wide and 26 feet deep. Additionally, the County has developed a monitoring plan, in compliance with the contract, that will allow for the collection of post-construction bathymetric surveys and analysis of accumulation and erosion rates along sections of the survey area. The survey results will help evaluate deposition rates and provide information relative to developing a maintenance dredging schedule of the sediment trap.

Subsequent to the 2007 amendment one, the County received an additional \$250,000 from the legislature for this project. The funding is included in the District's FY09 budget. This amendment two under contract CP060614 / 3600000543 incorporates these additional funds as well as Palm Beach County's added commitment of \$850,000 into the contract and modifies the scope of work to include sediment capping within Lake Worth Lagoon.

The total cost of the project will increase from \$3,000,000 (the initial \$1,000,000 from the District, \$500,000 from the legislature and \$1,500,000 from the County) to \$4,100,000. The additional funding includes \$850,000 from the County's budget or in-kind services plus the \$250,000 received from the legislature. The \$250,000 is included in the District's budget as State Appropriation or Community Interest Budget Request (CIBR) funds. No additional District funds are being added to the contract as a result of this amendment two.

**How this helps meet the District's 10-Year Strategic Plan:**

The North Palm Beach County (NPBC) Part 1 CERP planning effort includes recommendations and alternatives for improvements to the Lake Worth Lagoon. In addition to providing for methodologies to reduce discharges through the S-155 structure, several projects involving the capping of muck sediments have been identified in the NPBC – Part 1 Lake Worth Lagoon Memorandum and Alternative Formulations report (12/31/2007). This project will aid in evaluating the feasibility of additional sediment capping efforts and their benefits to the Lake Worth Lagoon.

**Funding Source:** This is amendment two to contract CP060614 / 3600000543 with the City of West Palm Beach and Palm Beach County for the C-51 Canal Sediment Management Project to increase the contract amount by \$1,100,000 of which dedicated funds (State Appropriations) in the amount of \$250,000 are budgeted and the remaining \$850,000 are Palm Beach County funds and in-kind services.

**This Board item impacts what areas of the District, both resource areas and geography:** This project will have impacts in the Lake Worth Lagoon, immediately downstream of the S-155 discharge structure. It is expected to provide water quality benefits to the lagoon by capping sediments with clean sand, thus minimizing or eliminating the resuspension of fine sediments into the water column. The District's Everglades Restoration Planning Department staff will be assigned to review reports, project recommendations and project invoicing to ensure reimbursements are consistent with the legislative grant.

**What concerns could this Board item raise?**

This amendment two will provide an evaluation and assessment of sediment removal and capping methodologies. These evaluations could result in recommendations and requests from project partners to expand the project in the future for additional benefits, subject to additional funding approvals.

**Why should the Governing Board approve this item?**

This contract amendment two should be approved to allow for the additional expenditure of monies designated by the legislature for improvements to the Lake Worth Lagoon. Approving this item also will continue to foster a good working relationship between Palm Beach County, the City of West Palm Beach and the District.

Attachments – Resolution, Map  
KGA/meb

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE AN AMENDMENT TO CONTRACT CP060614/3600000543 WITH THE CITY OF WEST PALM BEACH AND PALM BEACH COUNTY FOR THE C-51 CANAL SEDIMENT MANAGEMENT PROJECT TO INCREASE THE CONTRACT AMOUNT BY \$1,100,000 OF WHICH DEDICATED FUNDS (STATE APPROPRIATIONS) IN THE AMOUNT OF \$250,000 ARE BUDGETED AND THE REMAINING \$850,000 ARE PALM BEACH COUNTY FUNDS; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER CP060614-A02/3600000543-A02) (BETH KACVINSKY, EXT. 3721)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize an amendment to contract CP060614/3600000543 with the City of West Palm Beach and Palm Beach County for the C-51 Canal Sediment Management Project to increase the contract amount by \$1,100,000 of which dedicated funds (State Appropriations) in the amount of \$250,000 are budgeted and the remaining \$850,000 are Palm Beach County funds; providing an effective date. (Contract Number CP060614-A02/3600000543-A02) (Beth Kacvinsky, ext. 3721) and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of 3600000543 with PALM BEACH CNTY BOARD OF CNTY COMM.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

Approved as to form:

By:

By:

\_\_\_\_\_  
District Clerk/Secretary



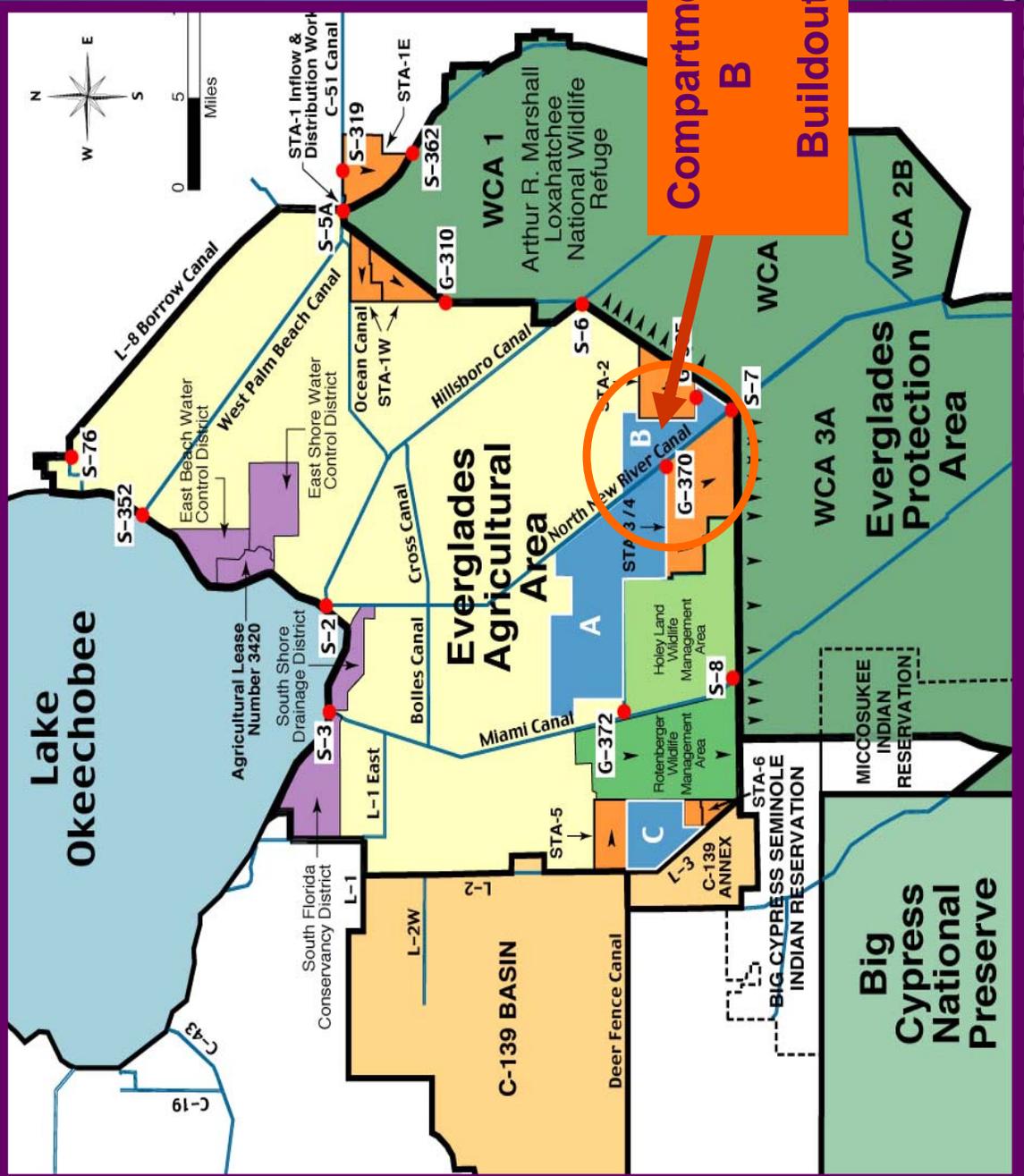
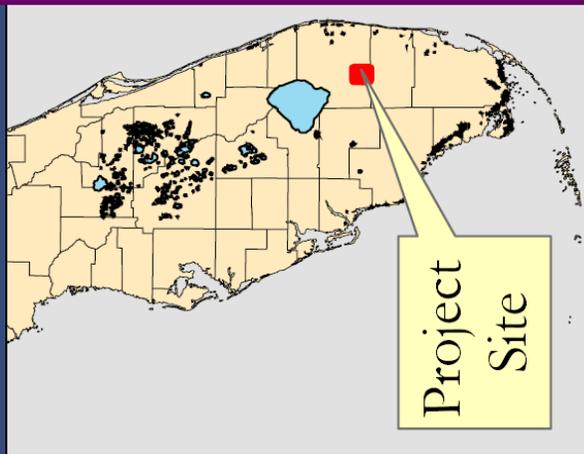
- 31. 2009-414** A Resolution of the Governing Board of the South Florida Water Management District to declare as surplus, lands interests in Palm Beach County, Florida, consisting of (1) fee title to approximately 45 acres of land, together with the Districts interest in and privilege to mine and develop all phosphate, mineral, metals, and petroleum in, on, or under said property, and (2) an access easement over approximately 6 acres of land; and to authorize entering into a Land Exchange and Cooperation Agreement with Florida Power and Light (FPL) with respect to the Compartment B Stormwater Treatment Area Project, Palm Beach County, Florida, that includes the exchange of such surplus land interests for certain real property interests owned by FPL on approximately 103 acres of land in Palm Beach County, Florida; and to pay actual costs, not-to-exceed \$250,000, for FPLs monitoring and consulting fees with respect to District blasting activities adjacent to FPL facilities, and to pay actual costs, not-to-exceed \$480,000, for bird discourager equipment on FPL facilities to reduce the occurrence of bird-related outages, for which dedicated funds (Everglades Trust Fund) are budgeted in reserves; and approve a budget transfer(s) of dedicated funds (Everglades Trust Fund) from Acceler8 Program Support reserves to the EAA Compartment B STA for such blast monitoring and consulting fees in the not-to-exceed amount of \$250,000 and for such bird discourager equipment in the not-to-exceed amount of \$480,000; providing an effective date. (Contract Number 4600001736) (Octavio Castillo, ext. 4035)

See supporting document: [ca\\_er\\_009\\_Map\\_sd.pdf](#)

See supporting document: [ca\\_er\\_009\\_Memo\\_sd.pdf](#)

See resolution document: [ca\\_er\\_009\\_Resolution\\_rd.pdf](#)

# Compartment B Buildout Stormwater Treatment Area



**Compartment B Buildout**

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Kenneth G. Ammon, P.E., Deputy Executive Director,  
Everglades Restoration Resource Area

**DATE:** March 31, 2009

**SUBJECT:** Compartment B Buildout Land Exchange and Cooperation Agreement –  
Contract Number 4600001736

### **Background:**

Under the proposed Land Exchange and Cooperation Agreement with Florida Power & Light (FPL), the District will convey 45 acres of District land to FPL for a switching station in exchange for obtaining flowage and canal easements on FPL land and a release of an FPL easement on District land within the Compartment B (South Buildout) Stormwater Treatment Area. The District will provide a replacement access easement to FPL's transmission towers within the project area. FPL will allow the excavation of a discharge canal for the future G-436 Pump Station through its easement area. FPL will also raise the elevation of the 45 acres of land to an elevation of 12 ft NAVD in order for the Stormwater Treatment Area levee to be classified "low hazard." The raising of three transmission towers within the project area due to future raised water levels anticipated from the operation of the expanded Stormwater Treatment Area will be the subject of a separate agreement with FPL to be presented to the Governing Board at a future date.

### **How this helps meet the District's 10-Year Strategic Plan:**

Compartment B STA is a component of the Everglades Protection Area Tributary Basins Long-Term Plan for Achieving Water Quality Goals, Revised Part 2 (LTP) which is included in the 10-Year Strategic Plan and the current Annual Plan. Compartment B STA enables the District to achieve Everglades water quality standards as part of the implementation of the Long-Term Plan to ensure that all waters discharging into the Everglades Protection Area are in compliance with state water quality standards.

The Land Exchange and Cooperation Agreement will allow the District to construct and operate the Compartment B STA, as designed, and for the parties to cooperate in their operations within the Project area.

### **Funding Source:**

This Land Exchange Agreement includes a budget transfer(s) of dedicated funds (Everglades Trust Fund) from Acceler8 Program Support reserves to the EAA Compartment B STA project in an amount not to exceed \$480,000 for bird discourager improvements to the towers and in an amount not to exceed \$250,000 for blast monitoring and consultation that may be required for the Project.

**This Board item impacts what areas of the District, both resource areas and geography:** The Compartment B South Buildout Stormwater Treatment Area Project location is in southwestern Palm Beach County within the Everglades Agricultural Area (EAA) approximately three miles north of the Palm Beach and Broward county line on the east side of U.S. 27. Staff from the Everglades Restoration Resource Area will manage the project.

**What concerns could this Board item raise?**

Prior to transferring 45 acres of land within Compartment B to FPL, the U.S. Fish & Wildlife Service must provide approval of a change of land use of the Talisman lands acquired with the 1996 Farm Bill funding. The approval of this land use change will be provided once the 404 Clean Water Act permit is issued.

**Why should the Governing Board approve this item?**

The Land Exchange Agreement will allow the District to construct and operate the Compartment B project as designed.

Attachments – Resolution, Map  
KGA/ma

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2009- \_\_\_\_\_**

**A Resolution of the Governing Board of the South Florida Water Management District:**

**To Declare as surplus, lands interests in Palm Beach County, Florida, consisting of (1) fee title to approximately 45 acres of land, together with the District's interest in and privilege to mine and develop all phosphate, mineral, metals, and petroleum in, on, or under said property, and (2) an access easement over approximately 6 acres of land; and**

**To Authorize entering into a Land Exchange and Cooperation Agreement with Florida Power and Light (FPL) with respect to the Compartment B Stormwater Treatment Area Project, Palm Beach County, Florida, that includes the exchange of such surplus land interests for certain real property interests owned by FPL on approximately 103 acres of land in Palm Beach County, Florida; and to pay actual costs, not-to-exceed \$250,000, for FPL's monitoring and consulting fees with respect to District blasting activities adjacent to FPL facilities, and to pay actual costs, not-to-exceed \$480,000, for bird discourager equipment on FPL facilities to reduce the occurrence of bird-related outages, for which dedicated funds (Everglades Trust Fund) are budgeted in reserves; and approve a budget transfer(s) of dedicated funds (Everglades Trust Fund) from Acceler8 Program Support reserves to the EAA Compartment B STA for such blast monitoring and consulting fees in the not-to-exceed amount of \$250,000 and for such bird discourager equipment in the not-to-exceed amount of \$480,000; providing an effective date. (Contract Number 4600001736)**

**WHEREAS**, the South Florida Water Management District (District) plans to implement the Compartment B Stormwater Treatment Area Project (Project), in Palm Beach County; and

**WHEREAS**, Florida Power and Light Company (FPL) is responsible for supplying electrical power and operates and maintains major power transmission line corridors within the Project area; and

**WHEREAS**, pursuant Section 373.089, Florida Statutes, the Governing Board, has the authority to exchange land interests owned by the South Florida Water Management District not required for its purposes under terms and conditions approved by the Board; and

**WHEREAS**, pursuant to Section 270.11, Florida Statutes, the Governing Board may choose not to reserve its interest in certain mineral rights; and

**WHEREAS**, pursuant to Section 373.089((6), Florida Statutes, all lands acquired by the District prior to July 1, 1999 shall be considered to have been acquired for conservation purposes, and the Governing Board shall be required to approve the surplus of any such lands by at least a two-thirds (2/3) majority; and

**WHEREAS**, the District desires to convey to FPL: (1) approximately 45 acres of District land adjacent to the Project for FPL's construction and operation of a future electric power distribution substation, and (2) access easements on approximately 6 acres of District land; and

**WHEREAS**, in exchange, FPL desires to convey to the District: (1) perpetual flowage and canal easements over approximately 103 acres of FPL land for Project purposes and (2) FPL's release of its existing easements within the Project area impacted by Project construction; and

**WHEREAS**, the land interests are generally shown on the attached Exhibit A; and

**WHEREAS**, the parties are presently completing a Land Exchange and Cooperation Agreement addressing the exchange of such land interests; and

**WHEREAS**, the Land Exchange and Cooperation Agreement also will address coordination and cooperation with respect each party's construction and operational activities within their project areas; and

**WHEREAS**, the Land Exchange and Cooperation Agreement provides for contingency funding in the not to exceed amount of \$480,000, for necessary improvements to the transmission lines within the Project area to reduce the occurrence of bird-related outages if such outages increase after commencement of Project operations; and

**WHEREAS**, the Land Exchange and Cooperation Agreement provides for contingency funding in the not to exceed amount of \$250,000, in the event blasting will be used by the District adjacent to FPL transmission lines or other FPL facilities for the actual costs incurred by FPL in hiring a consulting firm to review blasting plans and monitor blasting activities; and

**WHEREAS**, the Land Exchange And Cooperation Agreement will also provide, subject to future agreements, for FPL to provide temporary and permanent power for the District's EAA Reservoir Project, EAA Conveyance and Regional Treatment Project, and Compartment C Stormwater Treatment Area Project; and

**WHEREAS**, the parties will enter into a separate agreement to be brought to the Governing Board for approval in the future concerning the District's paying for the elevation of certain FPL transmission towers within the Project area to be impacted by the Project.

**NOW THEREFORE, BE IT RESOLVED** BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:

**Section 1.** The Governing Board of the South Florida Water Management District hereby declares as surplus and no longer needed for any purposes, including conservation purposes: (i) fee title to approximately 45 acres of land, together with South Florida Water Management District's interest in and privilege to mine and develop all phosphate, minerals, metals, and petroleum in, on, or under said property, and (ii) easements for access over approximately 6 acres, all as generally described in attached Exhibit "A".

**Section 2.** The Governing Board of the South Florida Water Management District hereby authorizes entering into the Land Exchange and Cooperation Agreement (Contract Number 4600001736) with FPL for the purposes as set forth in the above Recitals.

**Section 3.** The Governing Board of the South Florida Water Management District hereby approves a budget transfer(s) of dedicated funds (Everglades Trust Fund) from Acceler8 Program Support reserves to the EAA Compartment B STA project in an amount not-to-exceed \$250,000 for actual costs incurred by FPL for hiring a blasting consultant to review blasting plans and monitor blasting activities, and in an amount not-to-exceed \$480,000 for actual costs incurred by FPL for installing bird discourager equipment on the FPL facilities.

**Section 4.** The Governing Board of the South Florida Water Management District approved this resolution by at least a two-thirds (2/3) majority.

**Section 5.** This Resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of April, 2009.

**SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD**

By: \_\_\_\_\_  
Chair

**ATTEST:**

\_\_\_\_\_  
District Clerk/Secretary

Approved as to form:

BY: \_\_\_\_\_  
Office of Counsel

## **EXHIBIT A**

### **TRACT LEGAL DESCRIPTIONS**

[THE DESCRIPTIONS BELOW ARE PRELIMINARY AND WILL BE FINALIZED PRIOR TO THE EXCHANGE CLOSING]

#### **SFWMD Fee Parcel**

The South 44.78 Acres of that portion of Sections 21 and 22, Township 47 South, Range 38 East, Palm Beach County, Florida, lying westerly of the westerly line of that certain parcel of land as described in Official Records Book 2228, Page 510, Public Records of said Palm Beach County and lying northeasterly of the southwesterly line, and its southeasterly projection, of that certain Florida Power and Light easement described as parcel 97.1 per Official Records Book 7393, Page 1811, Public Records of said Palm Beach County.

Containing 44.78 Acres More or Less.

#### **SFWMD Access Easement Parcel**

A parcel of land situate in Sections 10, 15, and 16, Township 47 South, Range 38 East, Palm Beach County, Florida, being more particularly described as follow:

A strip of land 50 feet in width lying parallel with, adjacent to and westerly of the west line and its southwesterly prolongation of that certain Florida Power and Light Easement, further identified as parcels 97.1 and 98 as described in Official Records Book 7393, Page 1811, of the Public records of Palm Beach County, Florida,. Said 50 foot wide strip being bounded on the north by the north line of said Section 10 and bounded on the south by the northeasterly right of way line of South Florida Water Management District's L-18 Levee.

Together with parcels of land which encompass the perimeter of each of the following identified Florida Power and Light Transmission Tower concrete bases, each parcel then extending northwesterly, perpendicular to and bounded on the northwest by the 50 foot strip of land described above:  
Transmission Towers identified as: Z105, Z106, Z107, Z108, Z109, Z110, Z111, Z112, and Z113.

Together with parcels of land which encompass the perimeter of each of the following identified Florida Power and Light Transmission Tower concrete bases, each parcel then extending southwesterly perpendicular to and bounded on the southwest by the northeasterly Right of Way line of South Florida Water Management District's L-18 Levee.  
Transmission Towers identified as: Z103, and Z104



- 32. 2009-415** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District FY2008-2009 budget as shown on the attachment hereto; providing an effective date. (Doug Bergstrom, x6214)

See supporting document: [ca\\_eo\\_001\\_sd.pdf](#)

See supporting document: [ca\\_eo\\_001\\_sd1.pdf](#)

See resolution document: [ca\\_eo\\_001\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members  
**FROM:** Paul E. Dumars, Chief Financial Officer, Executive Office  
**DATE:** April 9, 2009  
**SUBJECT:** April Governing Board – Budget Transfers

### Background

A series of budget transfers totaling \$14,552,162 are proposed to support the following:

- 1) **\$10,697,090** – Transferring restricted funds from managerial reserves into the Comprehensive Everglades Restoration Plan program to redirect funding from the C-111 spreader canal project that is not expected to be completed this year towards the last three installment payments plus interest due on the acquisition of the Bills property in Northern Palm Beach County.
- 2) **\$1,737,942** – Transferring restricted funds from contract balances and disencumbrances in the Comprehensive Everglades Restoration Plan program because a decline in revenue collection from Water Management Lands Trust Fund doc stamp tax has resulted in a reduction of funding to the District from the State. These funds will be used for security, exotics removal, fencing, mowing, and other land management activities on CERP lands.
- 3) **\$1,030,000** – Transferring restricted funds between departments within the District Everglades program for design modification for the Compartment B outfall structure, as required by DEP permit.
- 4) **\$762,603** – Transferring restricted funds between resource areas and program elements within the District Everglades program to continue the rehabilitation of Stormwater Treatment Area 5 through June 1, 2009. Funding became available as bids for existing contracts were submitted below the budgeted amount.
- 5) **\$308,191** – Transferring ad valorem funds between resource areas and programs into the Kissimmee Watershed program to conduct hydrologic modeling required to determine target water volumes for establishing water reservations. The funding sources include funds returned at mid-year from Kissimmee, Water Supply, and Lake Okeechobee programs.
- 6) **\$16,336** – Transferring restricted funds between resource areas and program elements within the Comprehensive Everglades Restoration Plan program in order to fund travel expenses for Water Resource Advisory Commission members attending River of Grass workshops.

**How this helps meet the District’s 10 Year Strategic Plan?**

Budget transfers will redirect budget authority to support the completion of projects listed in the District’s Annual Work Plan that are linked to the 10 Year Strategic Plan.

**Funding Sources Impacted:** District Ad Valorem Funds, Okeechobee Basin Ad Valorem Funds, Everglades Trust Fund, Save Our Everglades Trust Fund and Comprehensive Everglades Restoration Plan Ad Valorem Funds.

**This Board item impacts what areas of the District, both resource areas and geography:**

The Resource Areas impacted by these transfers are Everglades Restoration, Water Resources, Operations and Maintenance Resources, and Government and Public Affairs.

**What concerns could this Board item raise?** Transactions will not alter the overall budget amount.

**Why should the Governing Board approve this item?**

In accordance with the District’s budgetary and financial control policy, any transfer of budget authority between resource areas and/or between programs and between departments or program elements that exceed the non-capital threshold of \$150,000 and the capital threshold of \$500,000 requires Governing Board approval.

If you have any questions, please do not hesitate to call me at ext. 6212.

PED/db  
Attachment – Resolution

FY2008-2009 BUDGET TRANSFERS - GOVERNING BOARD MATRIX

TRANSFER FROM			TRANSFER TO				
FUND	RESOURCE AREA	PROGRAM / ELEMENT	AMOUNT	FUND	RESOURCE AREA	PROGRAM / ELEMENT	AMOUNT
FUND 101000	<u>WATER RESOURCES</u>	Water Supply Program		FUND 101000	<u>WATER RESOURCES</u>	Kissimmee Watershed Program	
		Implementation Projects	\$ 37,310			Kissimmee Watershed Projects	\$ 37,310
		<b>FUND 101000 TOTAL</b>	<b>\$ 37,310</b>			<b>FUND 101000 TOTAL</b>	<b>\$ 37,310</b>
FUND 202000	<u>OPERATIONS AND MAINTENANCE</u>	Kissimmee Watershed Program		FUND 202000	<u>WATER RESOURCES</u>	Kissimmee Watershed Program	
		Kissimmee River Program Support	\$ 6,000			Kissimmee Watershed Projects	\$ 270,881
		<b>FUND 202000 TOTAL</b>	<b>\$ 6,000</b>			<b>FUND 202000 TOTAL</b>	<b>\$ 270,881</b>
FUND 101000	<u>WATER RESOURCES</u>	Kissimmee Watershed Program		FUND 101000	<u>WATER RESOURCES</u>	Kissimmee Watershed Program	
		Kissimmee River Restoration and Headwaters Revitalization	\$ 64,881			Kissimmee Watershed Projects	\$ 37,310
		<b>FUND 101000 TOTAL</b>	<b>\$ 64,881</b>			<b>FUND 101000 TOTAL</b>	<b>\$ 72,191</b>
FUND 202000	<u>EVERGLADES RESTORATION RESOURCES</u>	Lake Okeechobee Program		FUND 202000	<u>EVERGLADES RESTORATION RESOURCES</u>	Lake Okeechobee Program	
		Lake Okeechobee Watershed Protection Plan Construction Projects	\$ 200,000			Lake Okeechobee Watershed Protection Plan Construction Projects	\$ 200,000
		<b>FUND 202000 TOTAL</b>	<b>\$ 200,000</b>			<b>FUND 202000 TOTAL</b>	<b>\$ 200,000</b>

(5)

(5)

(5)



**FY2008-2009 BUDGET TRANSFERS - GOVERNING BOARD MATRIX**

<i>TRANSFER FROM</i>		<i>TRANSFER TO</i>	
FUND	RESOURCE AREA	RESOURCE AREA	PROGRAM / ELEMENT
FUND 410000	<u>WATER RESOURCES</u>	FUND 410000	<u>GOVERNMENT AND PUBLIC AFFAIRS</u>
AMOUNT	AMOUNT		
(6)	Comprehensive Everglades Restoration Plan Program CERP Program Elements		Comprehensive Everglades Restoration Plan Program River of Grass
	\$ 16,336		\$ 16,336
(2)	<u>MANAGERIAL RESERVES</u> Comprehensive Everglades Restoration Plan Program		<u>EVERGLADES RESTORATION RESOURCES</u> Comprehensive Everglades Restoration Plan Program
	\$ 1,276,000		\$ 587,239
(2)	Critical Restoration Projects		
	\$ 98,100		
(2)	Accelerated CERP Projects		
	\$ 363,842		
(2)			
	<b>FUND 410000 TOTAL</b>		<b>FUND 410000 TOTAL</b>
	<b>\$ 1,754,278</b>		<b>\$ 1,754,278</b>
(1)	<u>MANAGERIAL RESERVES</u> Comprehensive Everglades Restoration Plan Program		<u>EVERGLADES RESTORATION RESOURCES</u> Comprehensive Everglades Restoration Plan Program
	Accelerated CERP Projects		CERP Projects
	\$ 10,697,090		\$ 10,697,090
	<b>FUND 412000 TOTAL</b>		<b>FUND 412000 TOTAL</b>
	<b>\$ 10,697,090</b>		<b>\$ 10,697,090</b>
	<b>BUDGET TRANSFER TOTAL</b>		<b>BUDGET TRANSFER TOTAL</b>
	<b>\$ 14,552,162</b>		<b>\$ 14,552,162</b>

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2  
3 RESOLUTION NO. 2009-

4  
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
6 MANAGEMENT DISTRICT AUTHORIZING THE TRANSFER OF FUNDS WITHIN THE  
7 DISTRICT FY2008-2009 BUDGET AS SHOWN ON THE ATTACHMENT HERETO;  
8 PROVIDING AN EFFECTIVE DATE  
9

10 WHEREAS, Section 373.536 (4) (a), Florida Statutes, provides that transfers of funds may be made within the  
11 budget by action of the Governing Board at a public meeting of the governing board; and

12 WHEREAS, a request is being brought to the Governing Board for the transfer of funds and a copy of the  
13 proposed transfer is attached to this resolution; and

14 WHEREAS the Executive Director recommends that this transfer be approved in order to facilitate the  
15 operations of the District; now therefore

16 BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
17 MANAGEMENT DISTRICT:

18 Section 1. The Governing Board of the South Florida Water Management District hereby approves the FY2008-  
19 2009 budget transfers in the amount of \$14,552,162 as reflected in the attached spreadsheet.

20 Section 2. This resolution shall take effect immediately upon adoption.  
21

22 PASSED and ADOPTED this 9<sup>th</sup> day of April, 2009.

23 SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY  
24 ITS GOVERNING BOARD

25  
26 By: \_\_\_\_\_  
27 Chairman

28 ATTEST:

29 \_\_\_\_\_  
30  
31 Assistant Secretary

Approved as to form:

32  
33 BY: \_\_\_\_\_  
34 Office of Counsel



- 33. 2009-416** A Resolution of the Governing Board of the South Florida Water Management District amending the Fiscal Year 2008-2009 Budget; providing an effective date. (Doug Bergstrom, x6214)  
See supporting document: [ca\\_eo\\_002\\_sd.pdf](#)  
See resolution document: [ca\\_eo\\_002\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members  
**THROUGH:** Paul Dumars, Chief Financial Officer  
**FROM:** Doug Bergstrom, Director, Budget Office  
**DATE:** April 9, 2009  
**SUBJECT:** FY2009 Budget Amendment

### **Background**

The District amends its budget during the fiscal year for a variety of reasons. These reasons range from the reflection of more accurate information since budget adoption; modified operating requirements (e.g. additional revenues received or expected revenues not received); and/or year-end accounting adjustments. Budget amendments increase or decrease – by fund type – the adopted or previously amended budget. This amendment includes a series of adjustments to align budget authority with updated revenue and expenditure projections.

### **How this helps meet the District's 10-year Strategic Plan:**

Amending the current budget by recognizing new revenue and fund balance will allow the District to fund the acquisition and restoration of mitigation lands, refurbish a capital asset and control exotic plant species within the Districts' boundaries.

**Funding Sources:** Increase in revenues from settlements, external partnerships and mitigation balances.

### **This Board item impacts what areas of the District, both resource areas and geography:**

This item will modify the Resource Area budgets of Water Resources, Operations and Maintenance and Reserves. Corporate Resources will process the transactions.

### **What concerns could this Board item raise?**

The District is statutorily required to notice and receive Governing Board approval to increase or decrease its overall budget. This is the first proposed budget amendment for FY2009. This proposed amendment is comprised of four items; increases and a decrease to multiple funds, resource areas and programs. If approved, this amendment will decrease the District's FY2009 adopted budget from \$2,972,040,107 to \$2,980,193,859 an **increase** of \$8,153,752.

### **Why should the Governing Board approve this item?**

By approving this item, the Governing Board will enable staff to update the FY2009 budget with the most current expenditure obligations and revenue sources.

If you have any questions, please do not hesitate to call me at ext. 6214.

DB/mw  
Attachment

**Budget Amendment Item – Governing Board Memo Attachment  
April 9, 2009**

**1. Mitigation Funds: \$6,973,752**

Recognize Lake Belt mitigation funds for land acquisitions, restoration and long term maintenance for transactions already approved by the Lake Belt Committee.

- \$2,283,607 to support costs of long-term management.
- \$58,820 for the associated costs and restoration of 145 acres in Pennsuco.
- \$1,516,200 for land acquisition and restoration of 100 acres in Southern Glades.
- \$3,115,125 for restoration of 175.5 acres in the 8.5 Square Mile Area.

**2. Everglades Trust Fund: \$130,000**

Recognize revenue from a contractor to repair a faulty roof at Pump Station S-319 due to improper flashing being used at building joints between pump bays during installation.

**3. External Agreements: \$1,050,000**

\$1,000,000 – recognize revenue from the Florida Fish and Wildlife Conservation Commission for exotic plant control operations projects in Southern Glades and Model Lands, East Coast Buffer, Strazulla, Water Conservation Area 3, Cypress Creek and Lake Wales.

\$50,000 – recognize revenue from the Wal-Mart mitigation grant for water conservation/education in South Florida in order to expand our existing elementary computer-based curriculum, the Great Water Odyssey.

South Florida Water Management District

Resolution No. 2009 -

A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT AMENDING THE FISCAL YEAR 2008 - 2009 BUDGET;  
PROVIDING AN EFFECTIVE DATE

WHEREAS, the Governing Board of the South Florida Water Management District on September 23, 2008 adopted Resolution No. 2008-992B "Adoption of Budget for Fiscal Year 2008-09", and

WHEREAS, the Governing Board of the South Florida Water Management District on January 15, 2009 adopted Resolution No. 2009-107 "Amendment of Budget for Fiscal Year 2008-09", and

WHEREAS, the Governing Board of the South Florida Water Management District on February 12, 2009 adopted Resolution No. 2009-209 "Amendment of Budget for Fiscal Year 2008-09", and

WHEREAS, the notice of intention to amend was published in the notice of the Governing Board meeting at which the Budget Amendment will be considered pursuant to Section 373.536 (4) F.S.

NOW, THEREFORE, be it resolved by the Governing Board of the South Florida Water Management District that the Fiscal Year 2008-09 Budget be amended as follows:

	General Fund	Special Revenue Funds	Capital Projects Funds	Internal Service Fund	Permanent Fund	Total
<b>FY2008-09 Amended Revenues and Balances</b>	<b>\$186,500,095</b>	<b>\$229,950,966</b>	<b>\$2,550,502,707</b>	<b>\$5,086,339</b>	<b>\$0</b>	<b>\$2,972,040,107</b>
<i>Amendments:</i>						
Intergovernmental		1,000,000				\$1,000,000
Sale/Disposition - Real Property						\$0
Other Revenue-Miscellaneous		50,000	130,000			\$180,000
Undesignated Fund Balance						\$0
Operating Transfers In		4,690,145			2,283,607	\$6,973,752
Operating Transfers Out		(6,973,752)				(\$6,973,752)
Designated Fund Balance		6,973,752				\$6,973,752
<b>Total Amended Revenues and Balances</b>	<b>\$186,500,095</b>	<b>\$235,691,111</b>	<b>\$2,550,632,707</b>	<b>\$5,086,339</b>	<b>\$2,283,607</b>	<b>\$2,980,193,859</b>
Encumbrances Funded by Fund Balance	9,275,233	36,044,634	24,019,958	21,502		\$69,361,327
Encumbrances Funded by Future Revenue		3,108,846	10,976,988			\$14,085,834
<b>Total Amended Sources</b>	<b>\$195,775,328</b>	<b>\$274,844,591</b>	<b>\$2,585,629,653</b>	<b>\$5,107,841</b>	<b>\$2,283,607</b>	<b>\$3,063,641,020</b>
<b>FY2008-09 Amended Appropriations</b>	<b>\$186,500,095</b>	<b>\$229,950,966</b>	<b>\$2,550,502,707</b>	<b>\$5,086,339</b>	<b>\$0</b>	<b>\$2,972,040,107</b>
<i>Amendments:</i>						
Operations and Maintenance						
Operations and Maintenance		1,000,000				\$1,000,000
District Everglades			130,000			\$130,000
Land Stewardship						\$0
Water Resources						\$0
Water Supply		50,000				\$50,000
Res/Debt/Fees/Charges						\$0
Land Stewardship		4,690,145			2,283,607	\$6,973,752
<b>Total Amended Appropriations</b>	<b>\$186,500,095</b>	<b>\$235,691,111</b>	<b>\$2,550,632,707</b>	<b>\$5,086,339</b>	<b>\$2,283,607</b>	<b>\$2,980,193,859</b>
Reserved for Encumbrances	9,275,233	39,153,480	34,996,946	21,502	0	\$83,447,161
<b>Total Amended Appropriations &amp; Encumbrances</b>	<b>\$195,775,328</b>	<b>\$274,844,591</b>	<b>\$2,585,629,653</b>	<b>\$5,107,841</b>	<b>\$2,283,607</b>	<b>\$3,063,641,020</b>

This resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED this 9<sup>th</sup> day of April, 2009**

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY  
ITS GOVERNING BOARD

BY \_\_\_\_\_  
Chair

ATTEST:

BY \_\_\_\_\_  
District Clerk / Secretary

APPROVED:

BY \_\_\_\_\_  
Office Of Counsel



- 34. 2009-417** A Resolution of the Governing Board of the South Florida Water Management District authorizing a settlement agreement for \$532,000.00, plus \$111,750.00 for statutory attorneys fees, and \$13,258.92 for experts fees and costs, and approve a budget transfer of Florida Forever Trust Funds from Managerial Reserves within the Biscayne Bay Coastal Wetlands CERP Project to S. CREW/Imperial River Floway CERP Project, for a condemnation action involving acquisition of approximately 10 acres (Tract Nos. 003-782 and 003-783 Kent Manley, Trustee, et al.), improvements, and mobile homes, within the designated boundaries of the Critical CREW (Southern Corkscrew Regional Ecosystem Watershed) Project, styled South Florida Water Management District v. Richard J. Capen, Jr., et al., filed in the 20th Circuit Court for Lee County, Florida, Case No. 04-CA-1657; providing an effective date. (Ed Artau, Ext. 6431)
- See supporting document: [ca\\_oc\\_001\\_sd.pdf](#)
- See resolution document: [ca\\_oc\\_001\\_rd1.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Sheryl G. Wood, General Counsel

**DATE:** March 24, 2009

**SUBJECT:** Settlement of Condemnation Action – Tract Nos. 003-782 and 003-783  
KENT MANLEY, TRUSTEE, et al.

### **Background:**

- Case Name: SFWMD v. RICHARD H. CAPEN, JR., et al., Case No.: 04-CA-1657; Tract Nos. 003-782 and 783 (10 acres); Lee County
- Type of Case: Eminent Domain
- District Project Name: Critical CREW (Corkscrew Regional Ecosystem Watershed) Project

### **History:**

Since April of 2001 the District has been involved in numerous condemnation actions to carry out the Critical CREW Project. With regard to Tract Nos. 003-782 and 003-783, owned by Kent Manley, Trustee, the District obtained an Order of Taking on June 24, 2004, and took ownership of the tracts upon making its good faith deposit on January 14, 2005 as part of its quick take proceeding. District staff continued to pursue an amicable resolution of this matter, and as a result, an agreement was entered into addressing full settlement of all claims for compensation from the District and a jury trial will no longer be needed. Additionally, by virtue of an amicable settlement, the District avoids the expenditure of additional taxpayer dollars to not only pay the District's costs associated with litigation, but also any costs of the property owner and interested parties.

### **How this helps meet the District's 10 Year Strategic Plan:**

Acquisition and payment is necessary to further the completion of the Critical CREW Project.

### **Funding Source:**

This settlement is funded through the Florida Forever Trust Fund requiring a budget transfer in the amount of \$216,849 from Managerial Reserves within the Biscayne Bay Coastal Wetlands – CERP Project to S. CREW/Imperial River Flowway – CERP Project. A total of \$125,760 in Florida Forever Trust funds was previously encumbered following the quick take proceeding.

**This Board item impacts what areas of the District, both resource areas and geography:**

The proposed settlement would complete acquisition of 10 acres needed for the CREW Project at a cost of \$532,000.00 (29.95% over the District's appraised value of \$409,400 [consisting of \$380,000 for land and improvements plus \$29,400 for mobile homes]). In addition, as part of this acquisition, the District is required to pay statutory attorney's fees in the amount of \$111,750.00, and expert fees and costs in the amount of \$13,258.92, for a total of \$657,008.92. The District previously deposited \$314,400.00 on January 14, 2005 as part of its quick take proceeding. The District would therefore need to make an additional deposit of \$342,608.92 upon approval.

**What concerns could this Board item raise?**

Terms of the settlement are consistent with previous settlements for parcels within the project and within the guidelines provided by the Governing Board.

**Why should the Governing Board approve this item?**

This settlement resolves all claims for compensation from the District, avoiding uncertainties associated with trial and the District's expenditure of additional funds to pay both the District's and property owner's or interested parties' additional legal costs associated with litigation.

If you have any questions, please do not hesitate to call me at Ext. 6976. (General Counsel - Sheryl G. Wood)

SGW/jrt



1 al., filed in the 20<sup>th</sup> Circuit Court for Lee County, Florida, Case No. 04-CA-  
2 1657.

3  
4 **Section 2.** A copy of the settlement agreement is attached hereto and made a part  
5 hereof.

6 **Section 3.** Approve a budget transfer of Florida Forever Trust Funds from Managerial  
7 Reserves within the Biscayne Bay Coastal Wetlands – CERP Project to S.  
8 CREW/Imperial River Flowway – CERP Project.  
9

10 **Section 4.** This resolution shall take effect immediately upon adoption.

11  
12 **PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.  
13

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair Person

ATTEST:

\_\_\_\_\_  
District Clerk

Approved as to legal form:

By:

\_\_\_\_\_  
Office of Counsel

14  
15  
16 **TRANSFER FROM**

<u>Dollars</u>	<u>Fund</u>	<u>Funds Center</u>	<u>Funded Program</u>	<u>Commitment Item</u>
\$216,849	404000	999999899	P128	590020

19  
20 **TRANSFER TO**

<u>Dollars</u>	<u>Fund</u>	<u>Funds Center</u>	<u>Funded Program</u>	<u>Commitment Item</u>
\$91,840	404000	3514144000	PB04	580020
\$111,750	404000	3514144000	PB04	580022
\$13,259	404000	3514144000	PB04	580027

25  
26  
27  
28  
\_\_\_\_\_  
Budget Approval

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
IN AND FOR LEE COUNTY, FLORIDA

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT,

Petitioner

RICHARD H. CAPEN, JR., et al.,

Respondents.

---

CASE NO.: 04-CA-1657

TRACT NOS.: 003-782  
003-783

**STIPULATION FOR FINAL JUDGMENT AND ATTACHED STIPULATED  
FINAL JUDGMENT FOR TRACT NOS. 003-782 and 003-783**

The Petitioner, **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**, (hereinafter "SFWMD" or "District" or "Petitioner"), by and through its undersigned attorney, and the Respondents, **KENT MANLEY, TRUSTEE, FERNANDO CARDENAS, INNOCENCIO DELOS REYES, WALLACE RAMIREZ and MIGUEL CHAVEZ** (hereinafter "Respondents"), by and through their undersigned attorney, hereby stipulate and agree as follows, subject to the approval of the Governing Board of the District at its meeting scheduled to take place on or about April 9, 2009, or as soon thereafter as the Governing Board can consider the matter, wherein the undersigned will recommend approval by the Governing Board:

1. On or about June 24, 2004, an Order of Taking was entered in the above referenced case pertaining to numerous tracts, including Tract Nos. 003-782 and 003-783.
2. On or about January 14, 2005, the District filed its Notice of Deposit and in fact deposited on said date the total sum of Three Hundred Fourteen Thousand Four

Hundred Dollars (\$314,400.00), (consisting of Sixty Five Thousand Four Hundred Dollars (\$65,400.00) for the interests in Tract No. 003-782 and Two Hundred Forty Nine Thousand Dollars (\$249,000.00) for the interests in Tract No. 003-783), whereby fee simple title and all interests in Respondents' properties vested in the District. Respondents have already partially withdrawn some of said funds less taxes owed the Tax Collector and/or any applicable liens.

3. The District and Respondents hereby stipulate and agree that a valuation trial with respect to Respondents' tracts and property interests is no longer necessary. Respondents waive any and all rights to a valuation trial/hearing by way of the parties full, complete and final settlement of this matter, and this agreement by Respondents for the Court to enter the Stipulated Final Judgment set forth below. The District and Respondents further agree that the total compensation paid by the District is full, just, and reasonable for all parties concerned, including Kent Manley, Trustee, the trust for which he is trustee, and the mobile home owners, or those claiming any interest in mobile homes and/or any improvements and/or personal property located on or at the subject property known as tract nos. 003-782 and 003-783, including Fernando Cardenas, Innocencio Delos Reyes, Wallace Ramirez and Miguel Chavez. The parties agree that this Stipulation may be executed in counterparts.

4. The District and Respondents agree to a total settlement amount of FIVE HUNDRED THIRTY TWO THOUSAND DOLLARS (\$532,000.00) for all of the Respondents' land, structures, improvements, mobile homes, prejudgment or other interest claims, real or personal property of any kind, other property interests or claims of any type, including, but not limited to, mining interests, fill dirt, aggregate, minerals, earth materials,

mining business claims, and/or any other damages and/or claims involving Tract Nos. 003-782 and 003-783. Accordingly, the District shall pay the Respondents the additional sum of TWO HUNDRED SEVENTEEN THOUSAND SIX HUNDRED DOLLARS (\$217,600.00) (after deducting the \$314,400.00 previously paid into the Court Registry after the entry of the Order of Taking from the agreed total settlement amount of \$532,000.00).

5. In addition, Respondents and undersigned Counsel agree that the District shall pay Respondents' statutory attorneys' fees in the amount of ONE HUNDRED ELEVEN THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$111,750.00) as full and final payment of any and all attorneys' fees and THIRTEEN THOUSAND TWO HUNDRED FIFTY EIGHT AND 92/100 DOLLARS (\$13,258.92) as full and final payment of any and all of Respondent's experts' fees and costs in this matter.

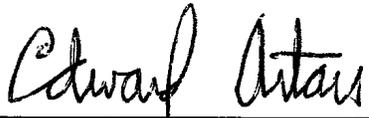
6. The District shall deposit the balance due in the total sum of THREE HUNDRED FORTY TWO THOUSAND SIX HUNDRED EIGHT AND 92/100 DOLLARS (\$342,608.92) which is inclusive of all claims for land, improvements, structures, mobile homes, prejudgment or other interest claims, real or personal property of any kind, other property interests or claims of any type, including, but not limited to, mining interests, fill dirt, aggregate, minerals, earth materials, mining business claims, and/or any other damages and/or claims involving Tract Nos. 003-782 and 003-783, as well as any claims for attorneys' fees, experts' fees and costs, or any other claims, pursuant to paragraph four(4) and five (5) above, with the Court Registry within twenty (20) days of the entry of the attached Stipulated Final Judgment as and for full and final payment as set forth above. The Respondents, by and through their counsel, shall thereafter withdraw said funds, less taxes owed the tax collector and/or any applicable liens, for proper payment and

disbursement by Respondents' attorney, Kenneth R. Johnson, to Respondents and Respondents' attorneys according to their remaining respective interests.

7. The Respondents, by and through their undersigned counsel, stipulate and represent as a material condition of this stipulation that they have not assigned any rights concerning the property and/or compensation for their property interest, other than to each other, and that there are no claims and/or liens by, because, or resulting from them against tract nos. 003-782 and 003-783, and that they are the only parties having any interest or claim in or to the property known as Tract Nos. 003-782 and 003-783, and the improvements and mobile homes or other property interests located thereupon, and that Respondents' remaining respective interests in the settlement proceeds pursuant to this stipulation have been resolved among Respondents to each Respondents' satisfaction. The Respondents, by and through their undersigned counsel, waive any and all claims against the District as to Tract Nos. 003-782 and 003-783 , (including the State of Florida, the U.S. Department of Interior, the U.S. Army Corps of Engineers, and any of their and the District's employees, agents, legal representatives, attorneys, Governing Board Members, and their successor and assigns), including but not limited to claims for land, improvements, structures, mobile homes, prejudgment or other interest claims, real or personal property of any kind, other property interests or claims of any type, including, but not limited to, mining interests, fill dirt, aggregate, minerals, earth materials, mining business claims, and/or any other damages and/or claims involving Tract Nos. 003-782 and 003-783, as well as any claims for attorneys' fees, experts' fees and costs, or any other claims, and any claims by any of the Respondents or any other individuals or entities for apportionment, including any claims for attorneys' fees, expert witness fees, or costs

attributable or related to apportionment, and fully hold harmless, release, and indemnify the District and the above-referenced included governmental parties from any and all such claims. The parties agree to submit the attached Stipulated Final Judgment for entry by the Court after approval by the District's Governing Board.

Agreed to this 30<sup>th</sup> day of March, 2009.



Edward Artau  
Florida Bar No.: 764353  
SOUTH FLORIDA WATER  
MANAGEMENT DISTRICT  
Office of Counsel  
3301 Gun Club Road, MSC 1410  
West Palm Beach, FL 33406  
(561) 682-6431 / Fax (561) 682-6276



Kenneth R. Johnson  
Florida Bar No.: 0833451  
Goodlette Coleman & Johnson  
As Counsel for and on behalf of Respondents  
Kent Manley, Trustee, Fernando Cardenas,  
Innocencio Delos Reyes, Wallace Ramirez and  
Miguel Chavez  
4001 Tamiami Trail, Suite 300  
Naples, FL 34103  
(239) 435-3535/ Fax (239) 435-1218

**STIPULATED FINAL JUDGMENT FOR TRACT NOS. 003-782 and 003-783**

This matter having come before the Court upon the foregoing Stipulation for Final Judgment for Tract Nos.: 003-782 and 003-783 entered between the Petitioner, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, (hereinafter "SFWMD" or "District" or "Petitioner"), and the Respondents, KENT MANLEY, TRUSTEE, FERNANDO CARDENAS, INNOCENCIO DELOS REYES, WALLACE RAMIREZ and MIGUEL CHAVEZ (hereinafter "Respondents"), by and through their duly authorized attorneys, and this Court otherwise being fully advised of the premises therein and finding that the compensation to be paid by District is full, just and reasonable for all parties concerned, it is hereby:

1. CONSIDERED, ORDERED and ADJUDGED, that the Stipulation for Final Judgment for Tract Nos.: 003-782 and 003-783 has been entered into freely and voluntarily by the District and all Respondents and necessary parties, and is adopted and approved by this Court in its entirety and the parties are ordered to comply with the terms therein.

2. The Respondents, shall recover from Petitioner the total sum of FIVE HUNDRED THIRTY TWO THOUSAND DOLLARS (\$532,000.00), \$314,400.00 of which has been previously paid into the Court Registry by the District and partially withdrawn from the Court Registry by the Respondents, less any taxes owed the tax collector, and/or any applicable liens, leaving a balance due, as payable pursuant to paragraph 3, below, of \$217,600.00 in full and final compensation for Tract Nos.: 003-782 and 003-783 (See Composite Exhibits "A" for legal descriptions), and for damages resulting to the remainder, if any, if less than the entire property taken, and for all damages and claims of any nature as set forth in paragraph 3, below, including, but not limited to, prejudgment or other

interest claims, improvements, mobile homes, and any other property claims, and shall recover, as payable pursuant to paragraph 4, below, the amount of ONE HUNDRED TWENTY FIVE THOUSAND EIGHT AND 92/100 DOLLARS (\$125,008.92), which constitutes the combined total amount of statutory attorney's fees in the amount of ONE HUNDRED ELEVEN THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$111,750.00), and expert fees and costs in the amount of THIRTEEN THOUSAND TWO HUNDRED FIFTY EIGHT AND 92/100 DOLLARS (\$13,258.92), as full and final compensation for all of the Respondents' and Respondents' attorneys' claims for attorneys' fees, expert fees and costs of any kind.

3. ORDERED that within twenty (20) days from receipt of this stipulated Final Judgment, the Petitioner, SOUTH FLORIDA WATER MANAGEMENT DISTRICT, as set forth above, shall deposit into the Registry of the Court, for proper payment and disbursement by Respondents' attorney, Kenneth R. Johnson, to Respondents according to Respondents' remaining respective interests, Two Hundred Seventeen Thousand Six Hundred Dollars (\$217,600.00), in full payment of the balance (after deducting the \$314,400.00 previously paid into the Court Registry by the District from the \$532,000.00 settlement amount), for all land, improvements, structures, mobile homes, prejudgment or other interest claims, real or personal property of any kind, other property interests or claims of any type, including, but not limited to, mining interests, fill dirt, aggregate, minerals, earth materials, mining business claims, and/or any other damages and/or claims involving tract nos. 003-782 and 003-783, or any other claims, in this matter, without which let execution issue.

4. ORDERED that Petitioner, SOUTH WATER MANAGEMENT DISTRICT, as set forth above, shall also deposit into the Registry of the Court, within twenty (20) days from receipt of this Stipulated Final Judgment, One Hundred Twenty Five Thousand Eight and 92/100 Dollars (\$125,008.92), in full payment of all of Respondents' and Respondents' attorneys' claims for attorney fees, expert witness fees and costs of any kind, without which let execution issue.

5. The Clerk of the Circuit Court/Registry is hereby directed to mail a check payable to "GOODLETTE COLEMAN & JOHNSON", c/o Kenneth R. Johnson, Goodlette Coleman & Johnson, 4001 Tamiami Trail, suite 300, Naples, FL 34103, for the total sum ordered pursuant to paragraphs 3 and 4, above, in the amount of Three Hundred Forty Two Thousand Six Hundred Eight and 92/100 Dollars (\$342,608.92), less taxes owed the tax collector pursuant to the Court's prior Order on the Lee County Tax Collector's Motion for Payment of Taxes entered on June 24, 2004 in this case, or any taxes otherwise due and payable, and /or any applicable liens, if any, without further motion or order of the Court, for proper payment and disbursement by Respondents' attorney, Kenneth R. Johnson, to Respondents and Respondents' attorneys, according to their remaining respective interests.

The Clerk of the Circuit Court/Registry is hereby also directed to mail a check payable to "GOODLETTE COLEMAN & JOHNSON", c/o Kenneth R. Johnson, Goodlette Coleman & Johnson, 4001 Tamiami Trail, suite 300, Naples, FL 34103, for any previously existing balance from the deposits made for Tract Nos. 003-782 and 003-783 on or about January 14, 2005, less any unpaid taxes owed the tax collector, pursuant to the Court's prior Order on the Lee County Tax Collector's Motion for Payment of Taxes entered on

June 24, 2004 in this case, or any taxes otherwise due and payable, and /or any applicable liens, if any, without further motion or order of the Court, for proper payment and disbursement by Respondents' attorney, Kenneth R. Johnson, to Respondents and Respondents' attorneys, according to their remaining respective interests.

It is further ORDERED and ADJUDGED that the District's fee simple title and ownership interest, including but not limited to all previous right, title and interest of the Respondents specified in the Petition in Eminent Domain and the Amended Petition in Eminent Domain, to the properties (Tract Nos. 003-782 and 003-783), more fully described in the attached and incorporated Composite Exhibits "A", as well as to any improvements, mobile homes, personal property and other property interests thereupon, all of which vested in the District pursuant to the Order of Taking and deposit of money heretofore made, is hereby granted, approved, ratified and confirmed.

Done and Ordered in Chambers in Lee County, Fort Myers, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Circuit Court Judge

**Copies furnished to:**

**Edward Artau, South Florida Water Management District, 3301 Gun Club Road – MSC 1410, West Palm Beach, FL 33406**

**Kenneth R. Johnson, counsel for Respondents, Goodlette Coleman & Johnson, 4001 Tamiami Trail, suite 300, Naples, FL 34103**

**Cathy Curtis – Tax Collector, Lee County, 2480 Thompson Street, Fort Myers, FL 33901**

**First Union National Bank, n/k/a Wachovia, 5801 Pelican Bay Blvd, Naples, FL 33940**

**Anne Dalton, Esq., counsel for Lee County Tax Collector, P.O. Box 850, Fort Myers, FL 33902-0850**

**Iris G. Hernandez, Esq., counsel for Bank of America, c/o/ Spear & Hoffman, P.A., 708 South Dixie Highway, Coral Gables, FL 33146**

**TIIF, c/o Dept. of Environmental Protection, Gary L. Heiser, Asst. General Counsel, Office of General Counsel – Mail Stat. 35, 3900 Commonwealth Blvd., Room 628, Tallahassee, FL 32399-3000**

**Bob Duncan, Collier Resources Co., 2600 Golden Gate Parkway, Suite 112, Naples, FL 34105-3227**

**U.S. Capital Energy Inc., c/o CT Corporation System, Registered Agent, 1200 S. Pine Island Road, Plantation, FL 33324**

**Exhibit "A"**  
**Tract No. 09-003-782**

The West half of the Southwest quarter of the Southwest quarter of the Southeast quarter, excepting the West 20 feet thereof reserved for canal easement, and the North and South 25 reserved for county road right of way. All lying and being in Section 35, Township 47 South, Range 26 East, Lee County, Florida.

Containing 5.0 acres per Lee County Tax Rolls.

CREWManley  
ORB 1254, Pg 88

R:\Legals\crew\003-782.lgl  
February 13, 1997

**Exhibit "A"**  
**Tract No. 09-003-783**

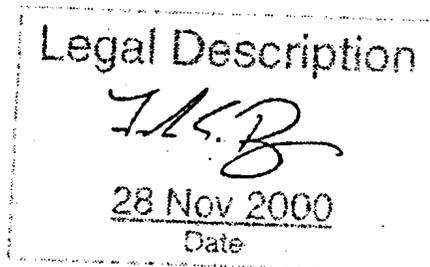
The East half of the Southeast quarter of the Southeast quarter of the Southwest quarter,  
Section 35, Township 47 South, Range 26 East, Lee County, Florida.

LESS the East 20.00 feet thereof, reserved for canal easement AND the North and South  
25.00 reserved for county road right of way.

Containing 5.00 acres, more or less, per Lee County Tax Rolls.

CREWManley  
Folio 4726350000001008  
ORB 1170, Pg 697

R:\Legals\crew\003-783.lgl  
February 13, 1997  
Revised: November 28, 2000





- 35. 2009-418** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit, pursue any appropriate damages and remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against Wilco Land Development, Inc., Brian Wilson, Jerry Wilson and any other appropriate or necessary parties, in the 15th Judicial Circuit court in and for Palm Beach County for violations of Chapter 373 of the Florida Statutes and Chapters 40E-4 and 40E-40 of the Florida Administrative Code for noncompliance with the Districts Consent Order No. SFWMD 2007 005 CO ERP, with effective date of January 18, 2007, and any other violations of District rules, concerning the property known as the Highlands Equestrian Estates, located west of Graham Dairy Road on the South Side of Lott Grade, where the road turns from shell rock to dirt, Section 23, Township 39 South, Range 28 East, Highlands County, Florida, providing an effective date. (Cathy Linton, Ext. 6322)

See supporting document: [ca\\_oc\\_002\\_sd.pdf](#)

See resolution document: [ca\\_oc\\_002\\_rd.pdf](#)

See supporting document: [ca\\_oc\\_002\\_Exh CA.pdf](#)

See supporting document: [ca\\_oc\\_002\\_Exh Map.pdf](#)

See supporting document: [ca\\_oc\\_002\\_Exh Ltr.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Sheryl G. Wood, General Counsel

**DATE:** March 24, 2009

**SUBJECT: Action Required**

Authorization to file suit — Non-Compliance with Consent Order No. SFWMD 2007 005 CO ERP on property owned by Wilco Land Development, Inc. located in Highlands County, Florida, Section 23, T 39 S, R 28 E, a/k/a Highlands Equestrian Estates

### **Background**

In 2005, District staff conducted a site inspection of the Highlands Equestrian Estates and noted construction of roads, swales, lakes, house pads and alteration of wetlands without a permit. On September 14, 2005 a Notice of Violation was issued to Brian Wilson and Wilco Land Development, Inc. ("WILCO") regarding the unauthorized construction of works and impacts to wetlands. After several phone conferences and a meeting with District staff with no resolution reached, a Pre-Litigation Demand Letter was mailed on June 29, 2006. On August 15, 2006 WILCO applied for an Environmental Resource Permit and on October 17, 2006 an Environmental Restoration Plan was received from the Respondents' consultant.

On October 17, 2006 WILCO entered into a Consent Agreement with the District in return for the District not initiating judicial or enforcement action against WILCO for the alleged unpermitted activities. On January 11, 2007 the District entered its Order No. SFWMD 2007 005 CO ERP with an effective date of January 18, 2007. This Consent Order required WILCO to: (1) no later than by May 18, 2007 obtain an Environmental Resource Permit (ERP) and a Works of the District (WOD) Permit for its proposed project; (2) no later than by September 1, 2007 make all of its installment payments for the assessed penalties and costs; and (3) be in compliance with the required Environmental Restoration Plan.

WILCO originally submitted its ERP application on August 15, 2006 (Application No. 060815-16). The last of the Requests for Additional Information were sent to WILCO on July 18, 2007 to which District has not received any response. Consequently, Notices of Non-Compliance with Consent Order were sent by registered mail to WILCO with the last notice finally claimed on March 13, 2008. Subsequent communication attempts by District staff went unanswered.

At the present time, the project property remains unpermitted, the Environmental Restoration Plan has not been fully implemented nor complied with, and only partial payments have been received from WILCO towards the District assessed civil penalty (\$18,720.00), investigative costs, and attorneys' fees (\$2,000.00) in the total sum of \$20,720.00.

The District Staff requests the Governing Board authorizes the District Staff to file suit, pursue any appropriate damages or remedies, and take all appropriate action, including the authority to settle the matter, against Wilco Land Development, Inc., Brian Wilson and Jerry Wilson and any other appropriate or necessary parties, for violation of the District's Consent Order No. SFWMD 2007 005 CO ERP, and any other violations of District rules, on said property.

**How this helps meet the District's 10 year Strategic Plan**

This effort directly supports the District's land resources mission.

**Funding Source**

This litigation will be handled by the District's Office of Counsel. Any costs associated with this litigation will be paid from budgeted ad valorem funds.

**This Board item impacts what areas of the District, both resource areas and geography?**

The subject property is located in Highlands County and impacts the District's water resources by adversely impacting wetland functions, including wetland habitat and flood storage capacity.

**What concerns could this Board item raise?**

This matter should not raise any concerns other than concerns from the violators.

**Why should the Governing Board approve this item?**

The Governing Board should approve this item to address clear violations of the District's environmental resource permitting requirements. The actions of the violators have adversely impacted wetland habitat and have potentially increased flooding on adjacent properties. The violators have not agreed to resolve the matter and therefore must be brought before the courts to address the matter fairly and promptly.



1           **WHEREAS**, WILCO originally submitted its ERP Application on August 15, 2006  
2 (Application No. 060815-16). However, the District never received any responses to its  
3 Requests for Additional Information with the last one sent to WILCO dated on July 18,  
4 2007;

5           **WHEREAS**, consequently, a Notice of Non-Compliance with the Consent Order  
6 was hand delivered to Jerry Wilson on February 5, 2008 and several Notices of Non-  
7 Compliance with the Consent Order were issued, via registered mail, to WILCO, the last  
8 which was finally claimed on March 13, 2008. All subsequent communication attempts  
9 by the District staff went unanswered;

10           **WHEREAS**, WILCO has failed to comply with the terms of said Consent  
11 Agreement and Consent Order by its failure to: (1) obtain the required ERP and WOD  
12 permits; (2) pay, in full, the ordered penalties and costs; and (3) comply with the ordered  
13 Environmental Restoration Plan;

14  
15           **NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BOARD OF THE**  
16 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

17  
18           **Section 1**   The Governing Board of the South Florida Water Management  
19 District hereby authorizes District Staff to file suit, pursue any appropriate damages or  
20 remedies, and take all appropriate action, including the authority to settle the matter,  
21 subject to the approval of the Executive Director, against Wilco Land Development, Inc.,  
22 Brian Wilson, Jerry Wilson and any other appropriate or necessary parties, in the Palm  
23 Beach County Circuit Court or other appropriate forum, for violations of Chapter 373 of  
24 the Florida Statutes and Chapters 40E-4 and 40-E-40 of the Florida Administrative  
25 Code for violation of the District's Consent Order No. SFWMD 2007 005 CO ERP, and  
26  
27  
28  
29

1 any other violations of District rules, on the Highlands Country Estates property located  
2 in Section 23, Township 39 South, Range 28 East, Highlands County, Florida.

3

4 **Section 2** This resolution shall take effect immediately upon adoption.

5

6 **PASSED** and **ADOPTED** this \_\_\_ day of April, 2009.

7

8 Approved as to form: SOUTH FLORIDA WATER MANAGEMENT  
9 DISTRICT, BY ITS GOVERNING BOARD

10 BY: \_\_\_\_\_

11 Office of Counsel

12

By: \_\_\_\_\_

Chairperson

13

14 ATTEST:

15

16

17

\_\_\_\_\_

18

District Clerk

BEFORE THE GOVERNING BOARD OF THE  
SOUTH FLORIDA WATER MANAGEMENT DISTRICT

RECEIVED  
DISTRICT CLERK'S OFFICE  
JUN 18 2007 2:03 PM  
SOUTH FLORIDA  
WATER MANAGEMENT DISTRICT

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, a public corporation,

Complainant,

vs.

ORDER NO.

Wilco Land Development, Inc.,  
Respondent

SFWMD 2007 005 CO ERP

---

**CONSENT AGREEMENT**

This Consent Agreement is entered into between the Complainant, **SOUTH FLORIDA WATER MANAGEMENT DISTRICT** ("District") and the Respondent, Wilco Land Development, Inc. ("Respondent") by mutual consent, without trial or adjudication of any issue of fact or law.

**FINDINGS OF FACT**

The District and Respondent stipulate to the following Findings of Fact:

1. The District is a public corporation of the State of Florida existing by virtue of Chapter 25270, Laws of Florida, 1949, and operating pursuant to Chapter 373, Fla. Stat., and Title 40E, Fla. Admin. Code, as a multipurpose water management district with its principal office at 3301 Gun Club Road, West Palm Beach, FL 33406.

2. Respondent, Wilco Land Development, Inc., is a Florida Corporation, whose mailing address for the purpose of this consent agreement is 2200 N. Federal Hwy, Suite 201, Boca Raton, Florida 33431.

3. Respondent has asserted responsibility for construction of the project on the Property, known as Highlands Equestrian Estates, located west of Graham Dairy Road on the south side of Lott Grade, just before the road turns from shell rock to dirt, (Section 23, Township 39 South, Range 28 East), Highlands County, Florida ("Property"). The Property is more particularly depicted on the location map attached hereto as Exhibit A and incorporated herein by reference.

4. On August 24, 2005, District staff conducted a site inspection of the Property. During this inspection, District staff noted construction of roads, swales, lakes, house pads and alteration of wetlands without a permit.

5. On September 14, 2005, a Notice of Violation (see attached Exhibit B) was issued to the Respondent, regarding the unauthorized construction of works and impacts to wetlands.

6. On December 21, 2005 a Settlement Letter (see attached Exhibit C) was sent to the Respondent. However, the Respondent did not agree to the terms.

7. After several phone conferences and meetings with District staff with no resolution, a Pre-Litigation Demand Letter (see attached Exhibit D) was sent on June 29, 2006.

8. On August 15, 2006, the Respondent applied for an Environmental Resource Permit.

9. On September 26, 2006, a revised Settlement Letter (see attached Exhibit E) was forwarded to the Respondent.

10. On October 4, 2006, an Environmental Restoration Plan (see attached Exhibit F) was received from the Respondent's consultant.

11. On October 17, 2006, written correspondence (see attached Exhibit G) was received that agreed upon the settlement terms outlined in the September 26, 2006 Settlement Letter, with the exception of a lump sum payment of penalties and costs. In lieu of a lump sum payment the Respondent has agreed to pay penalties and cost in installments. Payments shall be made in installments with a payment of five thousand seven hundred (\$5,720.00) due on or before March 1, 2007 and subsequent payments of five thousand dollars (\$5,000.00) due on or before May 1, 2007, July 1, 2007 and September 1, 2007.

### **ULTIMATE FACTS AND CONCLUSIONS OF LAW**

12. The District alleges that the Respondent violated the District's rules by performing activities on the Property without prior issuance of an environmental resource permit pursuant to Chapter 373, Fla. Stat. and Chapters 40E-4 and 40E-40, Fla. Admin. Code., which prohibit the construction and operation of any works without first satisfying the criteria of the District through the permitting process.

13. Pursuant to Sections 373.413, 373.414 Fla. Stat., and the implementing regulations found in Titles 40E-4, Fla. Admin. Code, the District is authorized to require permits for construction, alteration and/or operation of surface water management systems, including activities which impact wetlands. In the issuance of such permits, the

District is authorized to impose reasonable conditions necessary to assure the activities will not be harmful to the water resources of the District.

14. The District may enforce its permits and orders pursuant to Chapters 373 and 120, Fla. Stat., by maintenance of appropriate actions and may recover a civil penalty for each offense in an amount not to exceed Ten Thousand Dollars (\$10,000.00) per offense, with each date during which such violation occurs constituting a separate offense. The District may further recover investigative costs, court costs and reasonable attorney's fees.

15. Without admitting liability, the Respondent has provided the District with reasonable assurances of good faith by entering into a Consent Agreement with the District in return for the District not initiating judicial or enforcement action for the alleged unpermitted activities described above. The Respondent agrees that all factual and legal matters, alleged herein and/or agreed to herein and/or which provide the basis for this Consent Agreement, (including all terms, provisions and matters referred to in the "Findings of Fact" and/or "Ultimate Facts" and "Conclusions of Law" sections), shall not be contested in any subsequent legal proceeding(s) which may be brought to enforce the terms of this Consent Agreement.

16. The District is authorized to enter into agreements pursuant to Section 373.083, Fla. Stat.

17. The Governing Board has authorized the Executive Director, or her designee, or the General Counsel, to execute this Consent Agreement.

**THEREFORE**, having reached a resolution of this matter, the District and the Respondent mutually agree and it is ordered that:

## ORDER

18. Respondent shall obtain an Environmental Resource Permit (ERP) and a Works of the District (WOD) permit for the proposed project within one hundred and twenty (120) days of the effective date of this consent agreement. Additionally, any requests for additional information by the District shall be replied to within thirty (30) days of receipt.

19. Respondent shall within thirty (30) days of the effective date of this consent agreement implement the restoration plan as shown in Exhibit F. When the restoration has been completed, the Respondent shall notify District staff of its completion, in order for an inspection to be performed.

20. Respondent shall, in settlement of the allegations alleged in this Consent Agreement, pay eighteen thousand , seven hundred twenty dollars (\$18,720.00) in civil penalty and the District's reasonable investigative costs and attorneys' fees in the amount of two thousand (\$2,000.00), which total the amount twenty thousand, seven hundred twenty (\$20,720.00) dollars shall be paid by cashier's check or money order and tendered to the District via U.S. Mail or hand-delivery at the following address: **South Florida Water Management District, 3301 Gun Club Road, Post Office Box 24680, West Palm Beach, FL 33416-4680, Attn: Lisandra Jones, Environmental Resource Regulation Division, Environmental Resource Compliance Department.** Payments shall be made in installments with a payment of five thousand seven hundred (\$5,720.00) due on or before March 1, 2007 and subsequent payments of five thousand dollars (\$5,000.00) due on or before May 1, 2007, July 1, 2007 and September 1, 2007. Respondent agrees that

these amounts are reasonable and shall not contest them in any subsequent action regarding this Consent Agreement.

21. This Consent Agreement shall not constitute an admission of liability on the Respondent's behalf.

### **GENERAL PROVISIONS**

22. The District hereby expressly reserves the right to petition for judicial enforcement of the terms of this Consent Agreement. In such event, the Respondent and its successors and/or assigns in interest shall not contest or deny any fact, legal conclusion, or any other matter or fact set forth in this Consent Agreement, including the Findings of Fact, Ultimate Facts and Conclusions of Law set forth herein. If the District successfully petitions or sues for enforcement of this Consent Agreement, the Respondent, its heirs, successors and/or assigns hereby agree to and shall pay all attorneys' fees, (including, but not limited to, the fair market value of in house counsel fees, as if performed by outside or private counsel, court costs and any other damages sustained by the District). In addition, the District hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit the future violation of applicable statutes or the rules promulgated thereunder, or to alleviate an immediate serious danger to the public health, safety or welfare.

23. Failure to comply with this Consent Agreement shall constitute a violation of Chapter 373, Fla. Stat., and enforcement proceedings may be brought in any appropriate administrative or judicial forum.

24. This Consent Agreement shall take effect after adoption by and execution on behalf of the Governing Board of the District, when the Consent Agreement is filed with and acknowledged by the Clerk of the District immediately thereafter, and shall remain in full force and effect until its terms and conditions are completed to the satisfaction of the District. The requirements of this Consent Agreement shall bind and inure to the benefit of the successors and assigns of the Respondent, except as modified by the parties hereto. In addition, prior to any sale, transfer, conveyance or lease of the Property, the Respondent shall provide a copy of this Consent Agreement to any prospective successor in interest. Additionally, the Respondent shall provide notification to the District of the sale, transfer or conveyance of the Property.

25. Respondent hereby waives the right to request an administrative hearing on the terms of this Consent Agreement under Sections 120.569 and 120.57, Fla. Stat., and its right to appeal this Consent Agreement pursuant to Section 120.68 Fla. Stat.

26. Entry of this Consent Agreement does not relieve the Respondent of the need to comply with all applicable federal, state or local laws, regulation or ordinances, including any District permitting requirements. Also, the Consent Agreement does not give the Respondent the authority to conduct any activities on the Property which are under District jurisdiction without first obtaining District authority.

27. Respondent is fully aware that a violation of the terms of this Consent Agreement may subject the Respondent to judicial imposition of damages, civil penalties up to Ten Thousand Dollars (\$10,000.00) per offense per day, costs and criminal penalties.

28. Persons who are not parties to this Consent Agreement, but whose substantial interests maybe affected by this Consent Agreement, may have a right to petition this Consent Agreement. A notice of rights is attached and incorporated as Exhibit H.

29. This Consent Agreement is a final order from the District, pursuant to Section 120.52(7), F.S., and is final and effective on the date filed with the Clerk of the District unless a petition for administrative hearing is filed in accordance with Chapter 120, F.S., or any other applicable state law. Upon the timely filing of a petition, the Consent Agreement will not be effective until further order from the District.

30. If any event occurs which causes delay or reasonable likelihood of delay, in complying with the requirements or deadlines of this Consent Agreement, the Respondent shall have the burden of proving that the delay was or will be caused by circumstances beyond the control of the Respondent, nor shall the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as contractor) to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, the Respondent shall notify the District orally within 24 hours or by the next working day and shall, within seven days of oral notification to the District, notify the District in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which the Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstance beyond the reasonable control of the Respondent, the time for performance hereunder shall be extended for a

period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of the Respondent to comply with the notice requirements of this paragraph in a timely manner shall constitute a waiver of the Respondent's right to request an extension of time for compliance with the requirements or deadlines in this Consent Agreement.

31. In the event it is necessary for either party to initiate legal action regarding this Consent Agreement, venue shall be in the Fifteenth Judicial Circuit for Claims under state law and in the Southern District of Florida, West Palm Beach Division, for any claims which are justiciable in federal court.

**DONE AND SO ORDERED** at West Palm Beach, Palm Beach County, Florida, this

11TH day of JANUARY, 2007.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
BY ITS GOVERNING BOARD**

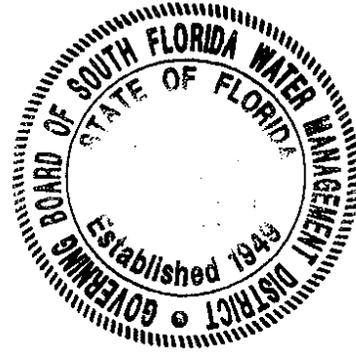
BY: *Terrie Bates*

Terrie Bates, Assistant Deputy Executive Director of Water Resources

DM

ATTEST:

BY: *Sachi McGorty*  
Assistant Secretary



**RESPONDENT**

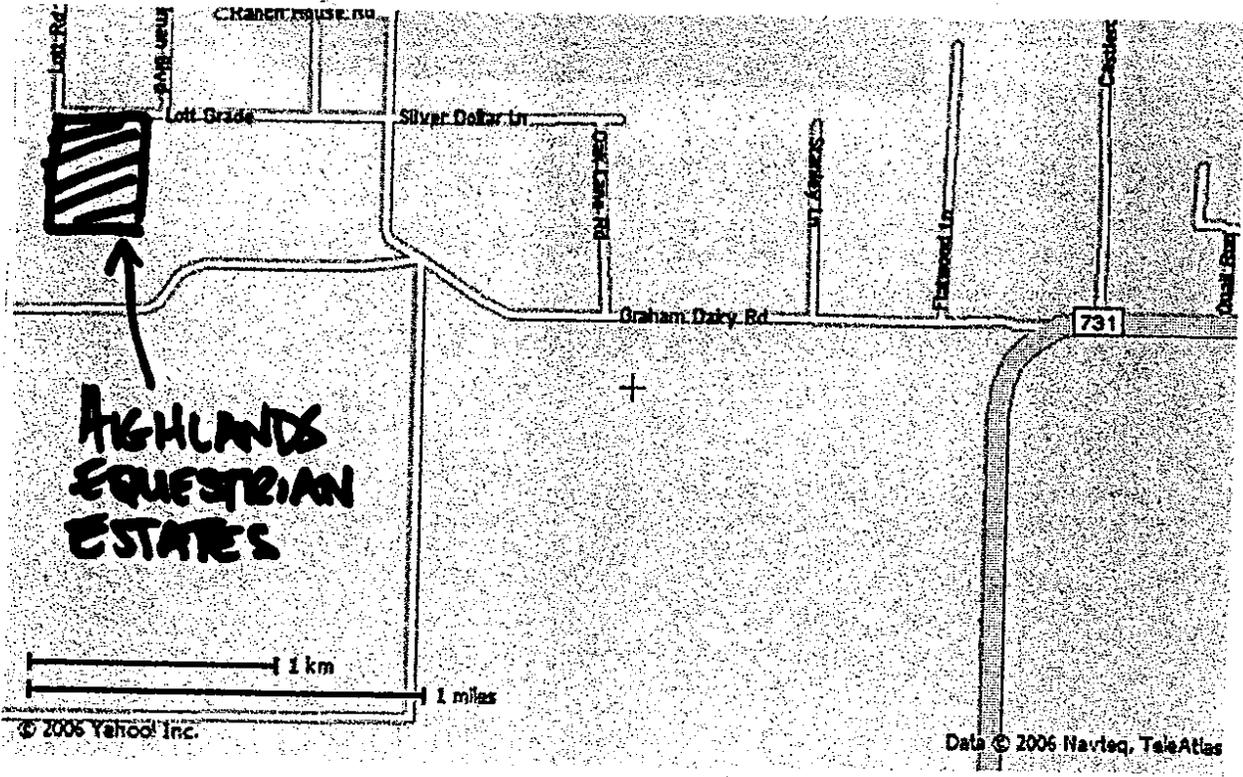
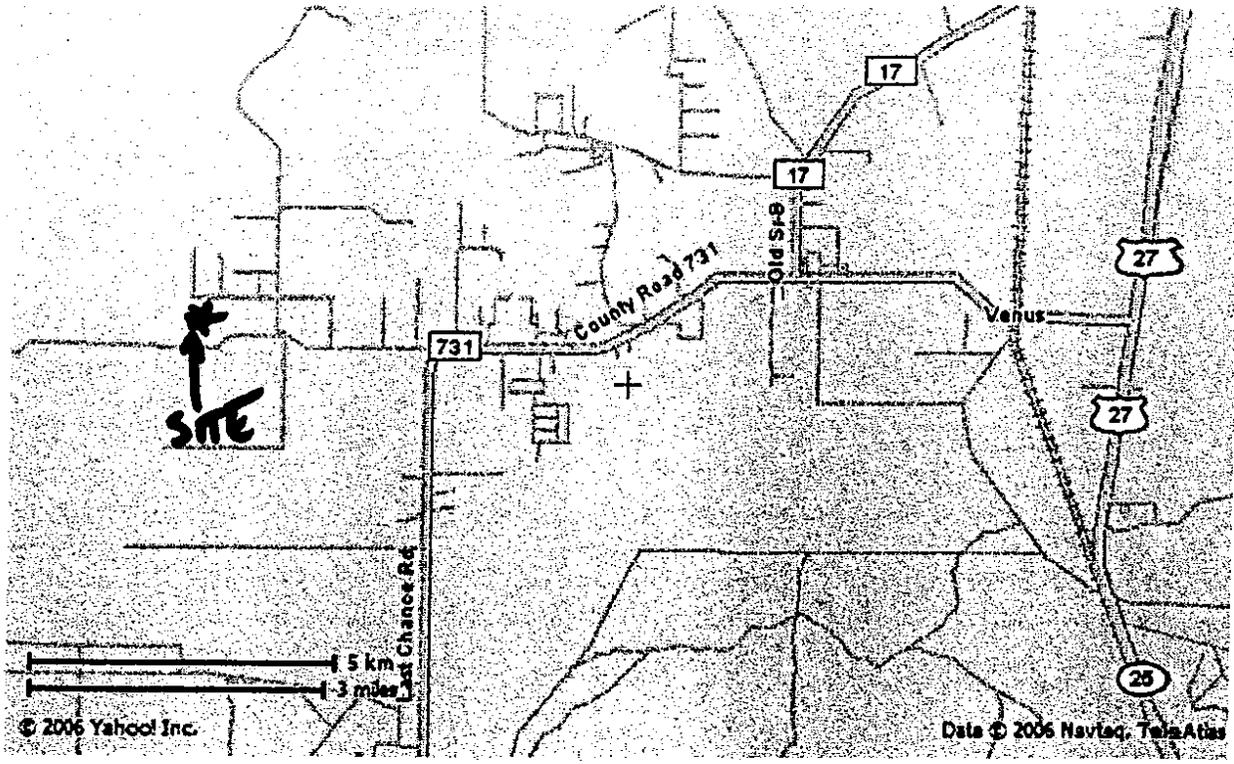
BY: *[Signature]*

Authorized Representative  
Wilco Development, Inc.

ATTEST:

BY: *[Signature]*

**EXHIBIT A  
LOCATION MAP**



**EXHIBIT B**  
**NOTICE OF VIOLATION**



CON 24-06-04  
Cost Code: 5161

September 14, 2005

Benjamin Burke  
Wilco Land Development, Inc.  
7515 W. Oakland Park Blvd.  
Suite 103  
Sunrise, FL 33319

Dear Mr. Burke,

**NOTICE OF VIOLATION/CEASE AND DESIST**

**Subject: Construction and Operation without a Permit  
Wilco Land Development, Inc.  
Highlands Equestrian Estates  
Highlands County Sec. 23/ Township 39 S / Range 28 E**

Recent field inspections by District staff indicate that activities in violation of Sections 373.413 and 373.414, Florida Statutes and Rule 40E-4, Florida Administrative Code are taking place on the aforementioned property. The violations include but are not limited to ditching, grading, lake excavation, road construction and culvert placement without the required permit authorization from the South Florida Water Management District. **You must immediately cease these activities.**

As a result of these violations the District will require the site be appropriately permitted or else restored to its original condition. The District will also seek payment of civil penalties of up to \$10,000 per violation per day, and recovery of staff costs. Specific terms for settlement of this violation will be forwarded to you under separate cover. If the violations continue to take place the District will take immediate legal action to mandate compliance.

**GOVERNING BOARD**

Kevin McCarty, *Chair*  
Irela M. Bague, *Vice-Chair*  
Pamela Brooks-Thomas

Alice J. Carlson  
Michael Collins  
Nicolás J. Gutiérrez, Jr., *Esq.*

Lennart E. Lindahl, *P.E.*  
Harkley R. Thornton  
Malcolm S. Wade, Jr.

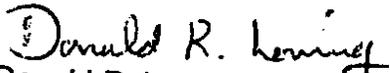
**EXECUTIVE OFFICE**

Carol Ann Wehle, *Executive Director*

**DISTRICT HEADQUARTERS:** 3301 Gun Club Road, P.O. Box 24680, West Palm Beach, FL 33416-4680 • (561) 686-8800 • FL WATS 1-800-432-2045

You are requested to contact Ms. Angela Hendrichsen at (800) 250-4200, Ext. 3008, within ten (10) days of receipt of this letter to schedule a meeting to discuss the subject of this Notice. Your attention and cooperation in this matter is appreciated.

Sincerely,

  
Donald R. Loving, Senior Regulatory Supervisor  
Environmental Resource Compliance Division  
Okeechobee Service Center

**CERTIFIED MAIL NO. 7002 0510 0004 2937 3852**

c: Ramon Gavarrete, Highlands County Engineer  
Department of Environmental Protection – Ft. Myers

**EXHIBIT C**  
**SETTLEMENT LETTER – December 21, 2005**



Environmental Resource Regulation  
Cost Code: 5161

December 21, 2005

Benjamin Burke  
Wilco Land Development, Inc.  
7515 W. Oakland Park Blvd.  
Suite 103  
Sunrise, FL 33319

**Subject: In Aid of Settlement:  
Notice of Violation,  
Works without a Permit/Alteration of Wetlands  
Highland Equestrian Estates,  
Highlands County,  
Sec. 23/ Township 39 S / Range 28 E**

Dear Mr. Burke:

This correspondence is being sent to you in reference to your Notice of Violation dated September 14, 2005 for construction of works without a permit and alteration of wetlands in violation of Sections 373.413 and 373.414, Florida Statutes. In the Notice of Violation, you were informed that specific terms for resolution of this violation would be forwarded to you upon completion of staff's investigation.

The following four (4) items are the terms to resolve the violation:

1. Within thirty (30) days of the date of this letter, provide the names of all landowners as well as documentation that demonstrates you represent all landowners within this development for the purpose of settling this violation and obtaining District permits.
2. Restore the site to pre-construction condition, or obtain an Environmental Resource Permit and a Works of the District Permit for activities completed to date and for those proposed on the subject property within one hundred eighty (180) days of the effective date of a consent agreement resolving this violation. Please note that the 10-acre parcel, not owned or represented by your company, may be required to be addressed in the permit as a common drainage plan due to their link not only through the subdivision but through natural drainage.

**GOVERNING BOARD**

Kevin McCarty, *Chair*  
Irela M. Bagué, *Vice-Chair*  
Pamela Brooks-Thomas

Alice J. Carlson  
Michael Collins  
Nicolás J. Gutiérrez, Jr., Esq.

Lennart E. Lindahl, P.E.  
Harkley R. Thornton  
Malcolm S. Wade, Jr.

**EXECUTIVE OFFICE**

Carol Ann Wehle, *Executive Director*

3. Within thirty (30) days of the effective date of a consent agreement, payment of Two Thousand Dollars (\$2,000.00) in staff investigative costs.
4. Within thirty (30) days of the effective date of a consent agreement, payment of Thirty Three Thousand, Six Hundred Ninety-Six Dollars (\$33,696.00) in civil penalties.

If you chose to restore the site, you will be required to establish a District approved restoration plan and schedule in a consent agreement. If you chose to try to keep any works on the site and seek an ERP, the proposed project must meet all pertinent District requirements. An ERP application and Works of the District application are enclosed, and further information regarding ERP permitting requirements is available on the internet at [www.sfwmd.gov/org/reg](http://www.sfwmd.gov/org/reg). Note that all engineering-related planning must be prepared and certified by a professional engineer. You will be required to apply for this permit within 30 days of the consent agreement resolving this case, and you will be required to obtain the permit within 180 days of the agreement. If the application is denied or no permit is obtained within 180 days, the case will be referred back to enforcement. Complete restoration will be required, and additional penalties will be assessed to address the delay in restoration.

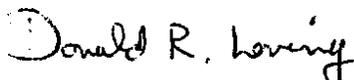
The District is authorized under Section 373.129 of the Florida Statutes to seek civil penalties and recover costs. The United States Environmental Protection Agency's (E.P.A.) Penalty Matrix was used as guidance to establish the civil penalty amount in this case. Be advised the \$33,696.00 civil penalty and \$2,000 District cost is a proposed settlement of this violation. Should you choose not to accept this proposal, the District will pursue the resolution of this violation through the judicial process with an increase in civil penalties and accumulated costs.

You are directed to respond to this letter, in writing, within fourteen (14) days of receipt with your acceptance or rejection of these terms of this proposed settlement. Should you accept the settlement, the District will document resolution through a Consent Agreement. This document will be forwarded to you within thirty (30) days of our receipt of your written acceptance. Upon your signature on the Consent Agreement and returning it to the District, the Consent Agreement will be presented to the District's Governing Board with a recommendation for approval. Once the Board has approved the Consent Agreement, you will be responsible to fulfill your obligations, including payment of penalties and costs within the time frames detailed in the Order section of the Agreement.

**PLEASE NOTE THE MATTERS DESCRIBED IN THIS CORRESPONDENCE MAY NOT REPRESENT ALL NECESSARY CORRECTIVE ACTION REGARDING THIS SITE, AS FURTHER INVESTIGATION MAY DISCLOSE ADDITIONAL INFORMATION. THIS CORRESPONDENCE IS NOT THE FINAL SETTLEMENT DOCUMENT. ANY TERMS AND CONDITIONS AGREED TO BY THE PARTIES WILL NOT BE A FINAL RESOLUTION OF THIS ACTION UNTIL SUCH TIME AS THEY ARE COMMITTED IN A CONSENT AGREEMENT EXECUTED BY THE RESPONSIBLE PARTY AND THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT.**

If you have any questions please contact Angela Hendrichsen at 863-462-5260 ext. 3008. Your attention and cooperation in that matter is appreciated.

Sincerely,



Donald R. Loving, Regulatory Section Leader  
Environmental Resource Regulation Department  
Okeechobee Service Center  
South Florida Water Management District

DRL/anh

**CERTIFIED MAIL NO.: 7005 1820 0005 6704 3387**

c: Highlands County Engineer  
John Cook

**EXHIBIT D**  
**PRE-LITIGATION DEMAND LETTER**



# SOUTH FLORIDA WATER MANAGEMENT DISTRICT

3301 Gun Club Road, West Palm Beach, Florida 33406 • (561) 686-8800 • FL WATS 1-800-432-2045 • TDD (561) 697-2574  
Mailing Address: P.O. Box 24680, West Palm Beach, FL 33416-4680 • www.sfwmd.gov

Cost Code: 5161

June 29, 2006

Brian Wilson  
Wilco Land Development, Inc.  
2200 N Federal Hwy  
Suite 201  
Boca Raton, FL 33431

Dear Mr. Wilson:

**Subject: Pre-Litigation Demand Letter:  
Highlands Equestrian Estates  
Highlands County Sec. 23 /Twp. 39 /Rge. 28**

The purpose of this letter is to advise you that the above referenced case has been transferred to the South Florida Water Management District's ("District") Office of Counsel. This transfer is deemed necessary due to your failure to respond or accept the District's settlement offer as set forth by the proposed settlement letter dated December 21, 2005. Consequently, your case will be assigned to a staff attorney within fourteen (14) days of the date of this letter.

The District is authorized to seek civil penalties up to \$10,000 per day, per offense, and recover our costs, including attorney fees, staff investigative time and surveillance expense under Section 373.129, Fla. Stat. District procedures allow you the opportunity to settle this violation under the conditions previously offered by the Enforcement Section of the Environmental Resource Compliance Division. You are urged to consider this settlement before it is withdrawn and necessary legal action is taken. Please be advised that once a staff attorney is assigned, any previous settlement offers may be withdrawn and the District may pursue additional civil penalties authorized by Chapter 373, Fla. Stat., as well as increased staff investigative costs.

*GOVERNING BOARD*

Kevin McCarty, *Chair*  
Irela M. Bagué, *Vice-Chair*  
Pamela Brooks-Thomas

Alice J. Carlson  
Michael Collins  
Nicolás J. Gutiérrez, Jr., Esq.

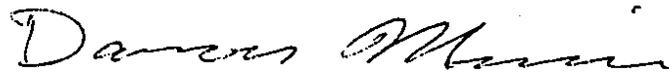
Lennart E. Lindahl, P.E.  
Harkley R. Thornton  
Colm S. Wade, Jr.

*EXECUTIVE OFFICE*

Henry Dean, *Executive Director*

Should you have any questions or wish to avoid legal action, please contact or write to Angela N. Hendrichsen, P.E., Senior Regulatory Professional.

Sincerely,



Damon Meiers, P.E.  
Deputy Department Director  
Environmental Resource Regulation Department

DM/ah

c: Highlands County Engineer

**EXHIBIT E**  
**SETTLEMENT LETTER - September 26, 2006**



Environmental Resource Regulation  
Cost Code: 5161

September 26, 2006

Brian Wilson  
Wilco Land Development, Inc.  
7515 W. Oakland Park Blvd.  
Suite 103  
Sunrise, FL 33319

**Subject: In Aid of Settlement:  
Notice of Violation,  
Works without a Permit/Alteration of Wetlands  
Highland Equestrian Estates,  
Highlands County,  
Sec. 23/ Township 39 S / Range 28 E**

Dear Mr. Wilson:

This correspondence is being sent to you in reference to the additional information submitted on March 17, 2006 and the permit application received on August 15, 2006. In consideration of your efforts to comply, we are forwarding the following revised settlement terms to resolve the Notice of Violation dated September 14, 2005 for construction of works without a permit and alteration of wetlands in violation Sections 373.413 and 373.414 of the Florida Statutes.

The following five (5) items are the terms to resolve the violation:

1. Within thirty (30) days of receipt of this letter, submit a wetland restoration plan to the District for review and approval. The approved restoration plan will be incorporated into a consent agreement resolving these violations.
2. Restore the site to pre-construction condition, or obtain an Environmental Resource Permit and a Works of the District Permit for activities completed to date and for those proposed on the subject property within one hundred twenty (120) days of the effective date of a consent agreement resolving this violation. Please note that the 10-acre parcel, not owned or represented by your company, may be required to be addressed in the permit as a common drainage plan due to their link not only thru subdivision by thru natural drainage. Additionally, you will also be required to reply to any requests for

GOVERNING BOARD

Kevin McCarty, *Chair*  
Irela M. Bague, *Vice-Chair*  
Miya Burt-Stewart

Alice J. Carlson  
Michael Collins  
Nicolás J. Gutiérrez, Jr., Esq.

Lennart E. Lindahl, P.E.  
Harkley R. Thornton  
Malcolm S. Wade, Jr.

EXECUTIVE OFFICE

Carol Ann Wehle, *Executive Director*

additional information within thirty (30) days of receipt.

3. Within thirty (30) days of the effective date of a consent agreement, payment of Two Thousand Dollars (\$2,000.00) in staff investigative costs.
4. Within thirty (30) days of the effective date of a consent agreement, payment of Eighteen Thousand, Seven Hundred twenty Dollars (\$18,720.00) in civil penalties.

If you chose to restore the site, you will be required to establish a District approved restoration plan and schedule in a consent agreement. If you chose to try to keep any works on the site and seek an ERP, the proposed project must meet all pertinent District requirements. An ERP application and Works of the District application are enclosed, and further information regarding ERP permitting requirements is available on the internet at [www.sfwmd.gov/org/reg](http://www.sfwmd.gov/org/reg). Note that all engineering-related planning must be prepared and certified by a professional engineer. You will be required to obtain the permit within 120 days of the agreement. If the application is denied or no permit is obtained within 120 days, the case will be referred back to enforcement. Complete restoration will be required, and additional penalties will be assessed to address the delay in restoration.

The District is authorized under Section 373.129 of the Florida Statutes to seek civil penalties and recover costs. The United States Environmental Protection Agency's (E.P.A.) Penalty Matrix was used as guidance to establish the civil penalty amount in this case. Be advised the \$18,720.00 civil penalty and \$2,000 District cost is a proposed settlement of this violation. Should you choose not to accept this proposal, the District will pursue the resolution of this violation through the judicial process with an increase in civil penalties and accumulated costs.

You are directed to respond to this letter, in writing, within seven (7) days of receipt with your acceptance or rejection of these terms of this proposed settlement. Should you accept the settlement, the District will document resolution through a Consent Agreement. This document will be forwarded to you within thirty (30) days of our receipt of your written acceptance. Upon your signature on the Consent Agreement and returning it to the District, the Consent Agreement will be presented to the District's Governing Board with a recommendation for approval. Once the Board has approved the Consent Agreement, you will be responsible to fulfill your obligations, including payment of penalties and costs within the time frames detailed in the Order section of the Agreement.

PLEASE NOTE THE MATTERS DESCRIBED IN THIS CORRESPONDENCE MAY NOT REPRESENT ALL NECESSARY CORRECTIVE ACTION REGARDING THIS SITE, AS FURTHER INVESTIGATION MAY DISCLOSE ADDITIONAL INFORMATION. THIS CORRESPONDENCE IS NOT THE FINAL SETTLEMENT DOCUMENT. ANY TERMS AND CONDITIONS AGREED TO BY THE PARTIES WILL NOT BE A FINAL RESOLUTION OF THIS ACTION UNTIL SUCH TIME AS THEY ARE COMMITTED IN A CONSENT AGREEMENT EXECUTED BY THE RESPONSIBLE PARTY AND THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT.

If you have any questions please contact Angela Hendrichsen at 863-462-5260 ext. 3008. Your attention and cooperation in that matter is appreciated.

Sincerely,

*Donald R. Loving*

Donald R. Loving, Section Leader  
Environmental Resource Regulation Department  
Okeechobee Service Center  
South Florida Water Management District

DRL/anh

**CERTIFIED MAIL NO.: 7005 2510 0001 8403 1115**

c: Highlands County Engineer  
John Cook

**EXHIBIT F**  
**RESTORATION PLAN**

# Restoration Plan for Equestrian Estates

## Objective

The project site, Equestrian Estates, lays South of Lott Road, Highlands County, Florida (Sections 23, Range 28 East, Township 39 South). The purpose of this Restoration Plan is to restore wetlands impacted by non-permitted activities.

## Existing Wetlands

The existing herbaceous wetlands are typical of those found on agricultural lands. They are impacted by the added nutrients of livestock and by drainage ditches. Torpedo grass was found in most of the wetlands.

## Restoration Plan

### Restoration

Table 1. Wetland Restoration Summary

FLUCFCS <sup>1</sup>	WETLAND ID	HABITAT TYPE	PRESERVED (ACRES)	WETLAND RESTORATION
641	641-1	Freshwater Marsh	3.25	0.5
<b>TOTAL</b>			<b>3.25</b>	<b>0.5</b>

## Wetland Restoration

Approximately 0.5 acres restored.

Planting Plan						
ZONES	ACREAGE	PLANT	SPECIES	SCHEDULE	SIZE	TOTAL NUMBER
Zone A	0.20 8712 sf	Cordgrass	<i>Spartina bakerii</i>	4' O.C.	4"	200
		Canna Lilly	<i>Canna flaccida</i>	3' O.C.	B.R.	400
		Bulrush	<i>Scirpus validus</i>	3' O.C.	B.R.	250
Zone B	0.3 13068 sf	Spike Rush	<i>Eleocharis cellulosa</i>	3' O.C.	B.R.	700
		Bog Rush	<i>Juncus effusus</i>	3' O.C.	B.R.	700
		Buttonbush	<i>Cephalanthus occidentalis</i>	4' O.C.	1 gal.	100
Planted	0.77	Live Oak	<i>Quercus virginiana</i>	Scattered	5' tall	10
Buffers	33541 sf	Blueberry	<i>Vaccinium myrsinites</i>	15' O.C.	1 gal.	80
		Fire Bush*	<i>Hamelia patens</i>	10' O.C.	1 gal.	70
		Florida Anise*	<i>Illicium floridanum</i>	10' O.C.	1 gal.	70
		Devil's Walking Stick*	<i>Aralia spinosa</i>	10' O.C.	1 gal.	70
		Love Grass	<i>Eragrostis spp.</i>	5' O.C.	Liner	700
		Native Wildflowers	Mixed	5' O.C.	Liner	700

\*or equivalent Native Shrubs

B.R. = Bare Root

## Wetland Enhancement

The nuisance species and pasture grasses in the existing wetlands will be treated or burned, depending on weather. The initial treatment will be aggressive in order to expedite the success of the wetland enhancement and creation areas. Large bare spots will be planted from the list of herbaceous wetland species above.

<sup>1</sup> Florida Land Use, Cover and Forms Classification System, Department of Transportation Handbook January 1999 edition.

The maintenance program will encourage the recruitment of native species in the upland buffers (mowing and disking will cease). Buffers around the created wetlands will be planted as outlined above. A rigorous maintenance schedule is proposed to ensure successful re-planting.

### ***Responsible Entity***

Wilco Land Development, Inc. will be responsible for the maintenance and monitoring of the restored areas on the property for the required monitoring period. They will be responsible for enforcing the requirements set forth in this document.

### ***Preserve Area Boundary Markers and Signs***

The wetland and upland buffer will be placed within a recorded Conservation Easement. The Preserve Area will be posted with permanent signs and boundary markers. Boundary Markers will be placed at the corners of lots abutting Preserve Areas. Signs will be at least 11 x 14 inches in size and will be posted in conspicuous locations along the Preserve Area boundary, at a frequency of no less than one (1) sign per 100 feet. All boundary markers will be in place prior to construction on the site. The sign will read as follows:

<b>PRESERVATION AREA</b> NO VEHICLE TRAFFIC, CLEARING, TRIMMING, MOWING, DUMPING OR VEGETATION REMOVAL IS PERMITTED WITHIN THE CONSERVATION AREA BY ORDER OF EQUESTRIAN ESTATES.	<b>2.5" Letters (minimum)</b>  <b>1.5" Letters (minimum)</b>
---	--

### ***Monitoring Plan***

#### **Vegetation Survey**

Transects and Photo Stations will be established in the preserved wetlands and upland buffers. Major vegetative zones will be "sampled" twenty-five feet on either side of each transect. The percent cover for each plant species present will be recorded for each zone.

The preserved wetlands will be monitored quarterly for the first 2 years and annually for the rest of the 5 years. Monitoring will include the following:

- Percent Cover of Vegetation
- Percent Survival of Planted Species
- Maintenance problems & recommendations
- Water Elevation and Monthly Rainfall

#### **Fixed Point Panoramic Photographs**

A photo station will be established for each preserved wetland. Overlapping photographs of the wetlands and uplands will be taken to establish physical proof of the condition of each habitat. These photos will be included in the monitoring reports.

#### **Staff Gauge**

A staff gauge will be located in prominent areas. Water levels will be recorded during the monitoring and included in the monitoring reports.

#### **Wildlife Utilization**

Observations of wildlife utilization will be recorded during the surveys.

**Estimated Costs**

The estimate cost of the restoration exceeds \$25,000, therefore a letter of credit or performance bond will be required in the amount of 110% of the estimate (\$34,600 X 110% = \$38,060).

Excavation .....	\$3,000
Initial Nuisance Species Eradication.....	\$1,000
Planting .....	\$11,000
Monitoring (\$1200/report).....	\$9,600
<u>Maintenance (\$2000/year).....</u>	<u>\$10,000</u>
Total .....	\$34,600

**Schedules**

TASK	SCHEDULE
Maintenance Schedule	Monthly
Report Submittal:	
Time Zero Monitoring Report <sup>1</sup>	October 2006 <sup>1</sup>
1 <sup>st</sup> Monitoring Report	April 2007
2 <sup>nd</sup> Monitoring Report	October 2007
3 <sup>rd</sup> Monitoring Report	April 2008
4 <sup>th</sup> Monitoring Report	October 2008
5 <sup>th</sup> Monitoring Report	October 2009
6 <sup>th</sup> Monitoring Report	October 2010
7 <sup>th</sup> Monitoring Report	October 2011

<sup>1</sup>Upon completion of construction.

***Success Criteria***

At the end of the first annual monitoring period, the restoration area shall have a minimum of 50% survival. The target survival rate at the end of the second annual monitoring period is a minimum of 80%. If the success criteria are not met then replanting will be required.

Success will be achieved when 80% of all the wetlands are covered by desirable wetland species and there is less than 5% cover by exotic or nuisance species.

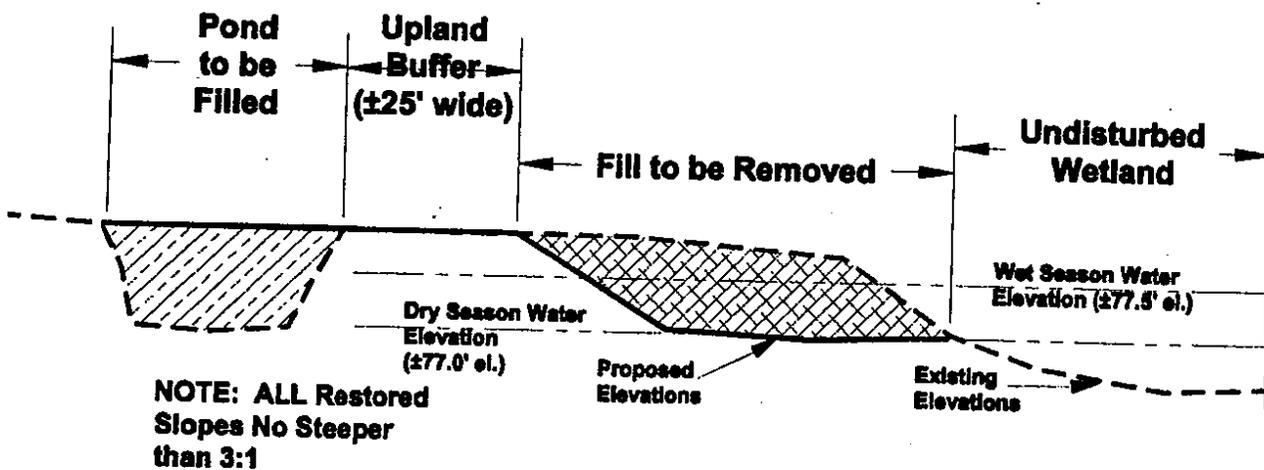
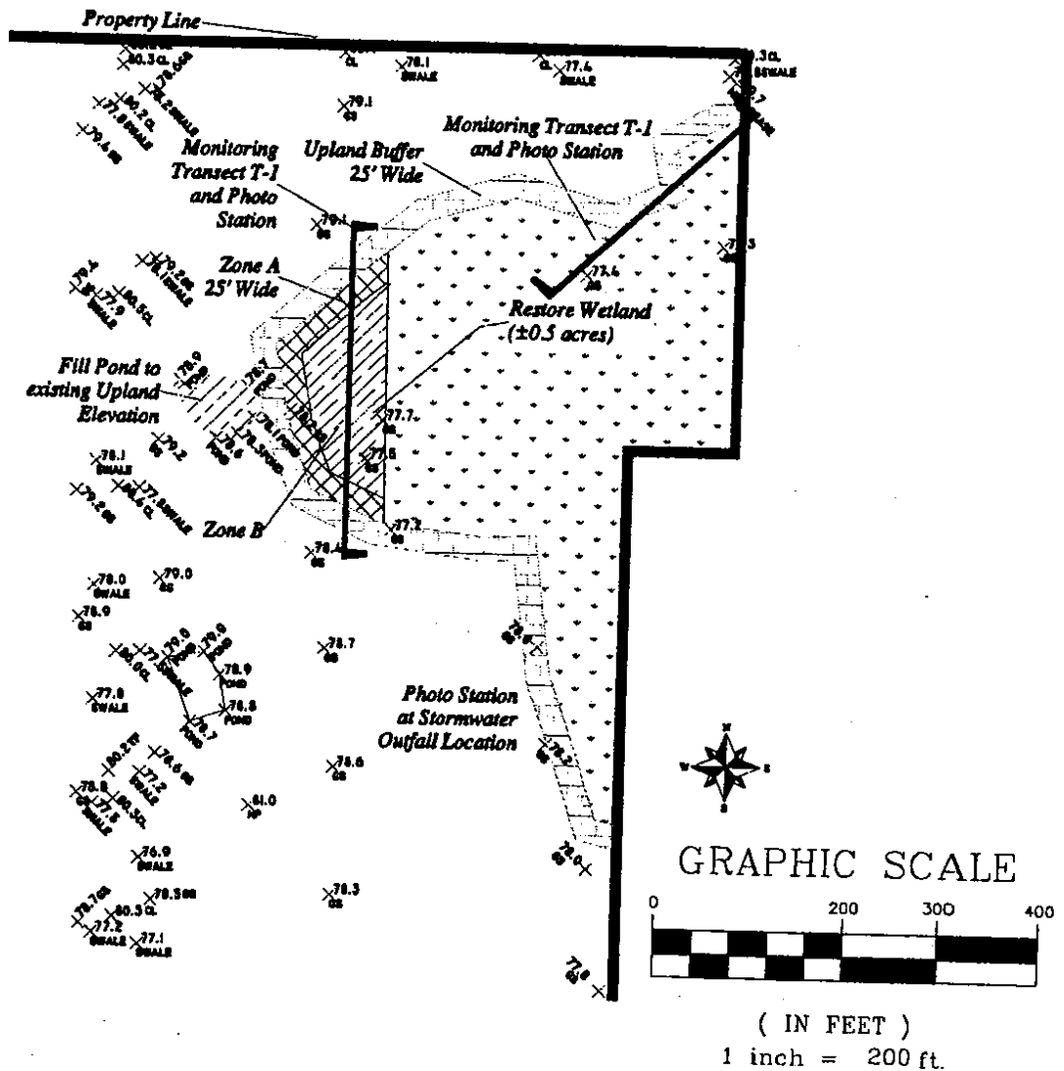
***Maintenance Plan***

Maintenance will be conducted in perpetuity to insure that the preserved areas are maintained free of exotic vegetation (those species currently identified by the Florida Pest Plant Council's current list of most invasive plant species and incorporated herein by reference) and that other nuisance plant species will constitute no more than 5% of total cover. This will be achieved through physical removal of undesirable plants or application of appropriate herbicides EPA approved for aquatic use. Repeated applications will be made during the initial eradication effort and subsequent periodic maintenance events until exotic and nuisance coverage is within District guidelines. Should the wetland grasses be of a desirable species (i.e. maidencane) then burning is an acceptable activity to promote nutrient release and new growth.

***Qualifications***

A qualified professional with knowledge of wetland ecology, hydrology and wildlife will conduct monitoring. A resume will be included with the monitoring reports to ensure this.

# Venus Wilco Equestrian Estates



## Wetland Restoration Plan

Job# JL06-03109  
 Revision Date: 10/3/06

**Southeast Soils & Environmental Services, Inc.**  
 4511 S Indian River Dr., Ft. Pierce, Florida 34982  
 Phone: 772-461-1092 Fax: 772-264-8074

**JL Environmental**  
 463 Crescent Drive, Melbourne, Florida 32901  
 Phone: 321-733-0812 Fax: 321-733-2931

**EXHIBIT G**  
**ACCEPTANCE LETTER**

**Wilco Land Development, Inc.**  
**2200 North Federal Highway Suite 201**  
**Boca Raton, FL 33431**  
**Tel.: (561) 417-3460 Fax: (954) 206-0308**

RECEIVED  
OCT 17 2006  
OKEECHOBEE  
SERVICE CENTER

October 11, 2006

Donald R. Loving, Section Leader  
Environmental Resource Regulation Dept.  
South Florida Water Management District  
205 North Parrot Avenue Suite 201  
Okeechobee, FL 34972-2916

RE: In Aid of Settlement:  
Notice of Violation,  
Works without a Permit/Alteration of Wetlands  
Highlands Equestrian Estates  
Highlands County,  
Sec. 23/ Township 39 S/ Range 28 E

Dear Mr. Loving:

Due to your correspondence being directed to an old address, we are in receipt of it as of October 5, 2006 and wish to reply within the seven (7) days required.

Per your correspondence dated September 26, 2006, we are in agreement and accept the terms as listed in number (1) and number (2) as to the restoration plan and the Environmental Resource Permit.

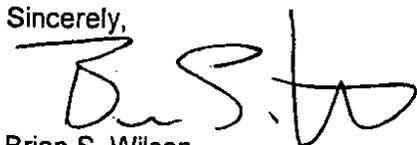
As to the terms listed in number (3) and number (4) regarding staff investigative costs and civil penalties, we ask that you consider one of two options.

Option 1: We will go forward to secure a loan payable in thirty (30) days to South Florida Water Management District in the amount of \$12,500.00 as payment in full with regard to this notice of violation.

Option 2. We would submit a payment of five thousand (\$5,000.00) dollars payable on the 1<sup>st</sup> of the month, every other month until paid in full.

We appreciate your help and consideration in this matter, and will look forward to hearing from you.

Sincerely,



Brian S. Wilson  
Vice President

BSW/am

**EXHIBIT H**  
**NOTICE OF RIGHTS**

## NOTICE OF RIGHTS

As required by Sections 120.569(1), and 120.60(3), Fla. Stat., following is notice of the opportunities which may be available for administrative hearing and/or judicial review when the substantial interests of a party are determined by an agency. Please note that this Notice of Rights is not intended to provide legal advice. Not all the legal proceedings detailed below may be an applicable or appropriate remedy. You may wish to consult an attorney regarding your legal rights.

### **Right to Request Administrative Hearing**

A person whose substantial interests are or may be affected by the South Florida Water Management District's (SFWMD or District) action has the right to request an administrative hearing on that action pursuant to Sections 120.569, 120.57, and 120.60(3), Fla. Stat. Persons seeking a hearing on a District decision which does or may determine their substantial interests shall file a petition for hearing with the District Clerk within 21 days of receipt of written notice of the decision in accordance with Rule 28-106.111, Fla. Admin. Code. Any person who receives written notice of a District decision and fails to file a written request for hearing within 21 days waives the right to request a hearing on that decision as provided by Subsection 28-106.111(4), Fla. Admin. Code.

The Petition must be filed at the Office of the District Clerk of the SFWMD, 3301 Gun Club Road, P.O. Box 24680, West Palm Beach, Florida, 33416, and must comply with the requirements of Rule 28-106.104, Fla. Admin. Code. Filings with the District Clerk may be made by mail, hand-delivery or facsimile. **Filings by e-mail will not be accepted.** A petition for administrative hearing is deemed filed upon receipt during normal business hours by the District Clerk at SFWMD headquarters in West Palm Beach, Florida. Pursuant to Rule 28-106.104, Fla. Admin. Code, any document received by the office of the District Clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day.

- Filings made by mail must include the original and one copy and must be addressed to the Office of the District Clerk, P.O. Box 24680, West Palm Beach, Florida 33416.
- Filings by hand-delivery must also include the original and one copy of the petition. **Delivery of a petition to the District's security desk does not constitute filing. To ensure proper filing, it will be necessary to request the District's security officer to contact the Clerk's office.** An employee of the District's Clerk's office will file the petition and return the extra copy reflecting the date and time of filing.
- Filings by facsimile must be transmitted to the District Clerk's Office at (561) 682-6010. Pursuant to Subsections 28-106.104(7), (8) and (9), Fla. Admin. Code, a party who files a document by facsimile represents that the original physically signed document will be retained by that party for the duration of that proceeding and of any subsequent appeal or subsequent proceeding in that cause. Any party who elects to file any document by facsimile shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the clerk as a result. The filing date for a document filed by facsimile shall be the date the District Clerk receives the complete document.

The following provisions may be applicable to SFWMD actions in combination with the applicable Uniform Rules of Procedure (Subsections 40E-0.109(1)(a) and 40E-1.511(1)(a), Fla. Admin. Code):

- (1)(a) "Receipt of written notice of agency decision" as set forth in Rule 28-106.111, Fla. Admin. Code, means receipt of either written notice through mail or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action.
- (b) If notice is published pursuant to Chapter 40E-1, F.A.C., publication shall constitute constructive notice to all persons. Until notice is published, the point of entry to request a formal or informal administrative proceeding shall remain open unless actual notice is received.
- (2) If the District's Governing Board takes action which substantially differs from the notice of intended agency decision, the persons who may be substantially affected shall have an additional point of entry pursuant to Rule 28-106.111, Fla. Admin. Code, unless otherwise provided by law. The District Governing Board's action is considered to substantially differ from the notice of intended agency decision when the potential impact on water resources has changed.
- (3) Notwithstanding the timeline in Rule 28-106.111, Fla. Admin. Code, intended agency decisions or agency decisions regarding consolidated applications for Environmental Resource Permits and Use of Sovereign Submerged Lands pursuant to Section 373.427, Fla. Stat., shall provide a 14 day point of entry to file petitions for administrative hearing.

#### **Hearings Involving Disputed Issues of Material Fact**

The procedure for hearings involving disputed issues of material fact is set forth in Subsection 120.57(1), Fla. Stat., and Rules 28-106.201-217, Fla. Admin. Code. Petitions involving disputed issues of material fact shall be filed in accordance with Rule 28-106.104, Fla. Admin. Code, and must comply with the requirements set forth in Rule 28-106.201, Fla. Admin. Code.

#### **Hearings Not Involving Disputed Issues of Material Fact**

The procedure for hearings not involving disputed issues of material fact is set forth in Subsection 120.57(2), Fla. Stat., and Rules 28-106.301-307, Fla. Admin. Code. Petitions not involving disputed issues of material fact shall be filed in accordance with Rule 28-106.104, Fla. Admin. Code, and must comply with the requirements set forth in Rule 28-106.301, Fla. Admin. Code.

#### **Mediation**

As an alternative remedy under Sections 120.569 and 120.57, Fla. Stat., any person whose substantial interests are or may be affected by the SFWMD's action may choose to pursue mediation. The procedures for pursuing mediation are set forth in Section 120.573, Fla. Stat., and Rules 28-106.111 and 28-106.401-405, Fla. Admin. Code. Choosing mediation will not adversely affect the rights to a hearing if mediation does not result in a settlement.

#### **DISTRICT COURT OF APPEAL**

Pursuant to Sections 120/60(3) and 120.68, Fla. Stat., a party who is adversely affected by final SFWMD action may seek judicial review of the SFWMD's final decision by filing a notice of appeal pursuant to Florida Rule of Appellate Procedure 9.110 in the Fourth District Court of Appeal or in the appellate district where a party resides and filing a second copy of the notice with the SFWMD Clerk within 30 days of rendering of the final SFWMD action.



Highlands County Aerial Mapping Highlands County Estates & Highlands Equestrian Estates				<b>SOUTH FLORIDA          WATER MANAGEMENT DISTRICT</b> 3301 GUN CLUB ROAD WEST PALM BEACH, FL 33416-4680		DRAWN BY: S. MAROP FIELD NO.: 0000 DATE: 01/01/09 PAGES: 00 - 00 OF: 0000		DATE: _____ DRAWN: _____ REV: _____ REVISION DESCRIPTION: _____	
--	--	---	--	---	--	---	--	--	--

\* (PAPER SPACE)



# SOUTH FLORIDA WATER MANAGEMENT DISTRICT

OKEECHOBEE SERVICE CENTER 205 North Parrott Avenue, Suite 201, Okeechobee, FL 34972-2916  
(863) 462-5260 • FL WATS 1-800-250-4200 • Suncom 761-5260 • Fax (863) 462-5269 www.sfwmd.gov/okee/

Environmental Resource Regulation Department

December 18, 2007

Brian Wilson  
Wilco Land Development, Inc.  
2200 N Federal Hwy  
Suite 201  
Boca Raton, FL 33431

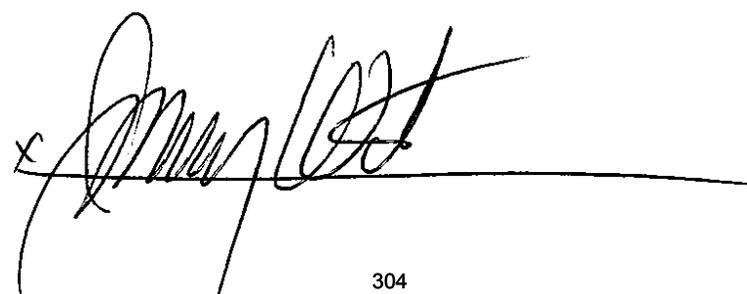
*Resent 1/28/08  
under certified  
No. # 7155 5474 4100 4816 6806*

Dear Mr. Wilson:

**Subject: Non-compliance of Order No. SFWMD 2007-005 CO-ERP  
Highlands Equestrian Estates,  
Application No. 060815-16  
Highlands County,  
Sec. 23/Twp. 39 S/Rge. 28 E.**

The purpose of this correspondence is to provide notification that you are in non-compliance with Order No. 2007-005 CO-ERP executed by the South Florida Water Management District Governing Board on January 18, 2007. Specifically, you have failed to pay the remaining ten thousand dollars in civil penalties. The payment installments were due on July 1, 2007 and September 1, 2007. In addition, you are in non-compliance of the subject Order by failing to obtain the required Environmental Resource Permit by May 18, 2007.

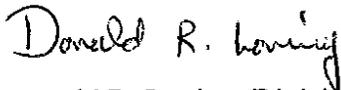
Be advised that failure to comply with the subject Order is a violation of Chapter 373, Fla. Stat., and enforcement proceedings may be brought in any appropriate administrative or judicial forum. Should the District be required to enforce the terms of this Order, the District may recover a civil penalty for each offense in an amount not to exceed Ten Thousand Dollars (\$10,000.00) per offense, with each date during which such violation occurs constituting a separate offense. The District may further recover investigative costs, court costs and reasonable attorney's fees.

Rec'd 2/5/08 x 

Highlands Equestrian Estates  
Wilco Land Development, Inc.  
December 18, 2007  
Page 2 of 2

You are directed to contact Ms. Angela Hendrichsen-Sandoval at (800) 250-4200, Ext. 3008, within five (5) days of receipt of this letter to discuss your intentions on resolving this non-compliance issue. Your attention and cooperation in this matter is appreciated.

Sincerely,



Donald R. Loving, Division Director  
Okeechobee/ Martin St. Lucie Regulatory Division  
Environmental Resource Regulation Department  
South Florida Water Management District

**CERTIFIED MAIL NO. 7005 0390 0005 9814 0717**

c: Keith Rizzardi, SFWMD, Office of Counsel



- 36. 2009-419** A Resolution of the Governing Board of the South Florida Water Management District to authorize District staff to file suit, pursue any appropriate damages and remedies, and take all appropriate action, including the authority to settle the matter, subject to the approval of the Executive Director, against Wilco Land Development, Inc., Brian Wilson, Jerry Wilson and any other appropriate or necessary parties, in the 15th Judicial Circuit Court in and for Palm Beach County for violations of Chapter 373 of the Florida Statutes and Chapters 40E-4 and 40E-40 of the Florida Administrative Code for Noncompliance with the Districts Consent Order No. SFWMD 2007 004 CO ERP, with effective date of January 18, 2007, and any other violations of District rules, concerning the property known as the Highlands Country Estates, located West of Graham Dairy Road on the North Side of Lott Grade, where the road turns from shell to rock, Section 22, Township 39 South, Range 28 East, Highlands County, Florida, providing an effective date. (Keith Williams, Ext. 2791)

See supporting document: [ca\\_oc\\_003\\_sd.pdf](#)

See resolution document: [ca\\_oc\\_003\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Sheryl G. Wood, General Counsel

**DATE:** March 24, 2009

**SUBJECT: Action Required**

Authorization to file suit — Non-Compliance with Consent Order No. SFWMD 2007 004 CO ERP on property owned by Wilco Land Development, Inc. located in Highlands County, Florida, Section 22, T 39 S, R 28 E, a/k/a Highlands Country Estates

**Background**

In 2005, District staff conducted a site inspection of the Highlands Country Estates and noted construction of roads, swales, lakes, house pads and alteration of wetlands without a permit. On September 14, 2005 a Notice of Violation was issued to Brian Wilson and Wilco Land Development, Inc. (“WILCO”) regarding the unauthorized construction of works and impacts to wetlands. After several phone conferences and a meeting with District staff and with no resolution reached, a Pre-Litigation Demand Letter was mailed on June 29, 2006. On August 15, 2006 WILCO applied for an Environmental Resource Permit and on October 17, 2006 an Environmental Restoration Plan was received from the Respondents’ consultant.

On October 17, 2006 WILCO entered into a Consent Agreement with the District in return for the District not initiating judicial or enforcement action against WILCO for the alleged unpermitted activities in 2005. On January 11, 2007 the District entered its Order No. SFWMD 2007 004 CO ERP with an effective date of January 18, 2007. This Consent Order required WILCO to: (1) no later than by May 18, 2007 obtain an Environmental Resource Permit (ERP) for its proposed project; (2) no later than by August 1, 2007 make all of its installment payments for the assessed penalties and costs; and (3) be in compliance with the required Environmental Restoration Plan.

WILCO originally submitted its ERP application on August 15, 2006 (Application No. 060815-17). The last of the Requests for Additional Information were sent to WILCO on July 18, 2007 to which District has not received any response. Consequently, Notice of Non-Compliance with Consent Agreement was hand delivered to Jerry Wilson on February 5, 2008 for which he signed a receipt. Subsequent communication attempts by District staff went unanswered.

At the present time, the project property remains unpermitted, the Environmental Restoration Plan has not been fully implemented nor complied with, and only

partial payments have been received from WILCO towards the District assessed civil penalty (\$18,720.00) and investigative costs and attorneys' fees (\$2,000.00) in the total sum of \$20,720.00.

The District Staff requests the Governing Board authorizes the District Staff to file suit, pursue any appropriate damages or remedies, and take all appropriate action, including the authority to settle the matter, against Wilco Land Development, Inc., Brian Wilson, Jerry Wilson and any other appropriate or necessary parties, for violation of the District's Consent Order No. SFWMD 2007 004 CO ERP, and any other violations of District rules, on said property.

**How this helps meet the District's 10 year Strategic Plan**

This effort directly supports the District's land resources mission.

**Funding Source**

This litigation will be handled by the District's Office of Counsel. Any costs associated with this litigation will be paid from budgeted ad valorem funds.

**This Board item impacts what areas of the District, both resource areas and geography?**

The subject property is located in Highlands County and impacts the District's water resources by adversely impacting wetland functions, including wetland habitat and flood storage capacity.

**What concerns could this Board item raise?**

This matter should not raise any concerns other than concerns from the violators.

**Why should the Governing Board approve this item?**

The Governing Board should approve this item to address clear violations of the District's environmental resource permitting requirements. The actions of the violators have adversely impacted wetland habitat and have potentially increased flooding on adjacent properties. The violators have not agreed to resolve the matter and therefore must be brought before the courts to address the matter fairly and promptly.



1           **WHEREAS**, said Consent Order required WILCO to: (1) obtain an Environmental  
2 Resource Permit (ERP) for its proposed project no later than by May 18, 2007; (2) make  
3 all of its installment payments for the assessed penalties and costs no later than by  
4 August 1, 2007; and (3) be in compliance with the required Environmental Restoration  
5 Plan;

6           **WHEREAS**, WILCO originally submitted its ERP Application on August 15, 2006  
7 (Application No. 060815-17). However, the District never received any responses to its  
8 Requests for Additional Information with the last one sent to WILCO dated July 18,  
9 2007;

10           **WHEREAS**, consequently Notice of Non-Compliance with the Consent Order  
11 was issued, via registered mail, to WILCO, on January 23, 2008 and which was  
12 returned unclaimed. A Notice of Non-Compliance with the Consent Order was hand  
13 delivered to Jerry Wilson on February 5, 2008 for which he signed a receipt. All  
14 subsequent communication attempts by the District staff went unanswered.

15           **WHEREAS**, WILCO has failed to comply with the terms of said Consent Order  
16 by its failure to: (1) obtain the required ERP Permit; (2) pay, in full, the ordered penalties  
17 and costs; and (3) comply with the ordered Environmental Restoration Plan;

18  
19           **NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BOARD OF THE**  
20 **SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

21  
22           **Section 1** The Governing Board of the South Florida Water Management  
23 District hereby authorizes District Staff to file suit, pursue any appropriate damages or  
24 remedies, and take all appropriate action, including the authority to settle the matter,  
25 subject to the approval of the Executive Director, against Wilco Land Development, Inc.,  
26 Brian Wilson , Jerry Wilson and any other appropriate or necessary parties, in the Palm  
27 Beach County Circuit Court or other appropriate forum, for violations of Chapter 373 of  
28 the Florida Statutes and Chapters 40E-4 and 40-E-40 of the Florida Administrative  
29 Code for violation of the District's Consent Order No. SFWMD 2007 004 CO ERP, and

1 any other violations of District rules, on the Highlands Country Estates property located  
2 in Section 22, Township 39 South, Range 28 East, Highlands County, Florida.

3  
4 **Section 2** This resolution shall take effect immediately upon adoption.

5  
6 **PASSED** and **ADOPTED** this \_\_\_\_\_ day of April, 2009.

7  
8 Approved as to form: SOUTH FLORIDA WATER MANAGEMENT  
9 DISTRICT, BY ITS GOVERNING BOARD

10 BY: \_\_\_\_\_  
11 Office of Counsel

By: \_\_\_\_\_  
Chairperson

12  
13  
14 ATTEST:  
15  
16 \_\_\_\_\_  
17 District Clerk



- 37. 2009-420** A Resolution of the Governing Board of the South Florida Water Management District to amend a contract with Bryant, Miller, & Olive, P.A., for legal services regarding bond counsel, public finance other financial and taxation matters and real estate issues for an additional amount of \$450,000.00 for a total not-to-exceed amount of \$1,090,000.00 for which ad valorem funds are budgeted. (Frank Bartolone, x2884)

See supporting document: [da\\_eo\\_sd\\_001.doc](#)

See resolution document: [ca\\_eo\\_rd\\_13105\\_BFLD.pdf](#)

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AMEND A CONTRACT WITH BRYANT, MILLER, & OLIVE, P.A., FOR LEGAL SERVICES REGARDING BOND COUNSEL, PUBLIC FINANCE OTHER FINANCIAL AND TAXATION MATTERS AND REAL ESTATE ISSUES FOR AN ADDITIONAL AMOUNT OF \$450,000.00 FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$1,090,000.00 FOR WHICH AD VALOREM FUNDS ARE BUDGETED. (FRANK BARTOLONE, X2884)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize ontract with Bryant, Miller, & Olive, P.A., for legal services regarding bond counsel, public finance other financial and taxation matters and real estate issues for an additional amount of \$450,000.00 for a total not-to-exceed amount of \$1,090,000.00 for which ad valorem funds are budgeted. (Frank Bartolone, x2884) and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of 4600001347 with BRYANT MILLER OLIVE PA .

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this 9<sup>th</sup> day of April, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

Approved as to form:

By:

By:

\_\_\_\_\_  
District Clerk/Secretary



- 38. 2009-421** A Resolution of the Governing Board of the South Florida Water Management District to approve \$150,000 in FY2009 ad valorem funds in support of economic diversification activities in Hendry County and to assist in transition issues related to the District's acquisition of lands from the United States Sugar Corporation; providing an effective date. (Deena Reppen, ext. 6232)

See supporting document: [ca\\_gp\\_001\\_sd.pdf](#)

See supporting document: [ca\\_gp\\_002\\_sd.pdf](#)

See resolution document: [ca\\_gp\\_001\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Deena Reppen, Deputy Executive Director, Government and Public Affairs

**DATE:** April 9, 2009

**SUBJECT:** Governing Board Resolution on Hendry County Economic Development Support

**Background:** The Governing Board identified ad valorem funds in the amount of \$250,000 for FY 2009 to support the development and implementation of economic diversification plans of communities that may be affected by the South Florida Water Management District's acquisition of lands from the United States Sugar Corporation. Hendry County will be substantially affected by the acquisition, given that more than 40 percent (72,225 acres) of the proposed minimum 180,000 acres to be purchased reside within Hendry County. In addition, U.S. Sugar's facilities, located in Clewiston, support more than 1,400 direct jobs within the region.

On March 2, 2009, Hendry County requested support from the District in developing an economic diversification program. Specifically, the County asked that such assistance be provided in the form of funding to the Hendry Economic Development Council (EDC). Hendry County's EDC will facilitate community and regional coordination with Glades and Palm Beach counties to promote an effective transition of the regional economy. The EDC's program will also develop strategies in coordination with the Governor's Office of Tourism, Trade and Economic Development, state and federal entities and will seek opportunities for private-public partnerships and grants; as well as identify short and long-term strategies for economic expansion in the region.

Funding for FY09 will total \$150,000 in District ad valorem funds. Program funding for fiscal years 2010 & 2011 would be provided from ad valorem in the amount of \$75,000 each year with an equal cost share of \$75,000 provided by Hendry County in partnership with the cities of Clewiston and Labelle. The District's contribution in FY10 and FY11 will depend on funding availability and Governing Board approval.

**How this helps meet the District's 10-year Strategic Plan:** This resolution would support the District's efforts to work collaboratively with the Glades communities as it acquires land from the U.S. Sugar Corporation for Everglades restoration.

**Funding Source:** Funding would come from ad valorem funds, previously approved by the Governing Board to support economic diversification and transition plans by the communities most affected by the acquisition.

**This Board item impacts what areas of the District:** This item has broad reaching impact, as the U.S. Sugar land acquisition is a District-wide restoration effort. Approving this item will support the acquisition of lands for Everglades restoration and the associated economic transition of the communities most affected by the transaction.

**What concerns could this Board item raise?** Concerns could be raised as to why the Board would fund a local partnership for economic development and whether such support is related to the District's mission. However, it is important to view the relationship this item has to the preminent restoration goals sought by the District.

**Why should the Governing Board approve this item?** Approval of this item will further the goals stated by the Governing Board to participate and support in a successful economic transition by the communities most be affected by the acquisition.

If you have any questions, please do not hesitate to call me at ext. 6232.



**HENDRY COUNTY**  
**Board of County Commissioners**  
**P.O. Box 2340**  
**LaBelle, Florida 33975-2340**

Judi Kennington-Korf  
County  
Administrator

Mark F. Lapp  
County  
Attorney

Barbara Butler  
Clerk  
of the Courts

March 2, 2009  
2009-059

Ms. Carol Ann Wehle, Executive Director  
South Florida Water Management District  
P.O. Box 24680  
West Palm Beach, FL 33416-4680

Dear Ms. Wehle:

As the South Florida Water Management District continues forward with its efforts to acquire 180,000 acres of land in and around the Everglades Agricultural Area from the United States Sugar Corporation, Hendry County and its municipalities remain focused on establishing a viable and achievable economic transition plan. Agriculture and U.S. Sugar have long provided the economic foundation for our communities. It is our goal to ensure that, if completed, the transaction results in positive outcomes for our region.

Last year, as due diligence for the acquisition began, the District's Governing Board set aside up to \$250,000 to support a economic transition strategy for our region. As the county most affected by the transaction, and in an effort to begin these activities in earnest, Hendry County requests the District's financial support for attracting and retaining an economic development director that would bring necessary economic expertise in-house to facilitate economic diversification before the terms of the lease-back with U.S. Sugar expire.

On behalf of Hendry County and the cities of Clewiston and LaBelle, we are requesting a first year commitment of \$150,000 to underwrite an economic development director, followed by a \$75,000 commitment in years two and three, which will be matched with funds from the communities of Hendry County.

It is our expectation that an economic development director would work directly for the Hendry Economic Development Council and represent the entire community. The successful applicant will have extensive experience in developing economic development initiatives and programs. Job requirements will include:

- Lead coordinator with the Governor's Office of Tourism, Trade and Economic Development (OTTED) on the development of an economic transition, diversification and development strategy;

Janet B. Taylor  
District 1

Darrell R. Harris  
District 2

Tristan Chapman  
District 3

Kevin S. McCarthy  
District 4

Karson Turner  
District 5

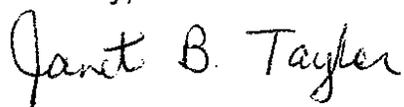
Page Two  
March 2, 2009  
2009-059

- Coordinating with OTTED and the District an accurate study on the effect of the acquisition on the local workforce and the local economy;
- Facilitating community coordination and communication between the municipalities within Hendry County and the surrounding areas of Glades and western Palm Beach counties on economic development and diversification opportunities;
- Working with public and private partners to secure economic enhancement grants, expand regional small businesses and attract new industry, including green energy production;
- Identifying short- and long-term strategies for economic expansion in and around Hendry County;
- Identifying available local expertise and resources to assist with workforce retention and workforce training;
- Working with local, state and federal agencies to accomplish the infrastructure improvements necessary for economic development;
- Working with the District to secure the lands needed to support economic development, as expressed in the resolutions passed by Hendry County and the City of Clewiston.

Hendry County and its communities appreciate the efforts of the South Florida Water Management District to support a successful economic transition for the Glades area. Should you have any questions regarding this request please contact County Administrator Judi Kennington-Korf: 863-675-5220.

Thank you in advance for your commitment of support.

Sincerely,



Janet B. Taylor, Chairwoman  
Hendry County Board of County Commissioners

///jkk

Copy: Mayor Mali Chamness, City of Clewiston  
Mayor Paul Puletti, City of LaBelle  
Ms. Tuesday Tritt, EDC Chairwoman

C:\Documents and Settings\cajudi\My Documents\SFWMD ED Mar2009.doc

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2009- \_\_\_\_\_**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO APPROVE \$150,000 IN FY 2009 AD VALOREM FUNDS IN SUPPORT OF ECONOMIC DIVERSIFICATION ACTIVITIES IN HENDRY COUNTY AND TO ASSIST IN TRANSITION ISSUES RELATED TO THE DISTRICT'S ACQUISITION OF LANDS FROM THE UNITED STATES SUGAR CORPORATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Governing Board of the South Florida Water Management District identified ad valorem funds in the FY 2009 budget to support economic diversification by those communities most affected by the acquisition of large swathes of agricultural land from the United States Sugar Corporation; and

**WHEREAS**, Hendry County will be substantially affected by the acquisition of U.S. Sugar lands, given that more than 40 percent -- or more than 72,225 acres -- of the proposed minimum 180,000 acres to be purchased reside within Hendry County; and

**WHEREAS**, the facilities of the United States Sugar Corporation located in Hendry County support close to 1,400 direct jobs and thousands of indirect jobs in Hendry, Glades and Palm Beach counties; and

**WHEREAS**, the Hendry County Economic Development Council is developing for immediate implementation a multi-year economic development program to diversify the county's economy toward the long-term sustainability of the community; and

**WHEREAS**, Hendry County's multi-year economic development program will be coordinated with Glades County and the Tri-Cities area of Palm Beach County for the economic success of the entire Glades region; and

**WHEREAS**, the South Florida Water Management District desires to assist Hendry County and the region in supporting the successful development of economic transition and diversification plans in response to the acquisition of lands from the United States Sugar Corporation.

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby approves \$150,000 in ad valorem funds from the FY 2009 budget, and \$75,000 in ad valorem funds from the FY 2010 and 2011 budgets pending funding availability and Governing Board approval, for the Hendry County Economic Development Council, to be used for the purposes and in support of the programs described in this resolution.

**Section 2.** The Governing Board of the South Florida Water Management District hereby authorizes the transfer of such funds as appropriate to effectuate the funding of the item set forth in this resolution.

**Section 3.** This Resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By: \_\_\_\_\_  
Chairman

ATTEST: Approved as to form:

By: \_\_\_\_\_

\_\_\_\_\_  
District Clerk/Secretary

\_\_\_\_\_



- 39. 2009-422** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 3 year work order contract with A Quality Bushog Services Incorporated, the lowest responsive and responsible bidder, for Flat Mowing Services within the Homestead Field Station region in the amount of \$532,431.12 for which ad valorem funds of \$121,762.03 are budgeted; and the remainder is subject to Governing Board approval of the FY10-FY12 budgets; providing an effective date. (Contract Number 4600001755)(Ron Zasloff, ext. 3420)

See supporting document: [ca\\_om\\_001\\_sd.pdf](#)

See resolution document: [ca\\_om\\_rd\\_12958\\_BFLD.pdf](#)

See supporting CJSS: [ca\\_om\\_cj\\_12959\\_BFLD.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** George L. Horne, Deputy Executive Director, Operations and Maintenance

**DATE:** April 01, 2009

**SUBJECT:** 4600001755 – Homestead Field Station Flat Mowing Services

### **Background:**

Maintenance of the Right of Ways is required to ensure that vegetation is controlled at a manageable height and will uphold the operational integrity of the District's flood control system. This project for the Homestead Field Station will contract approximately 9887.30 acres to be mowed on an annual basis. The low responsive / responsible bidder is A Quality Bushog Services Incorporated, at \$17.95 / acre. The current contract which expired on March 8, 2009, has a per acre rate of \$18.85. Since this is a work order contract, the amount of acres to be mowed will fluctuate, based on the weather and construction projects in these areas.

### **How this helps meet the 10- year Strategic Plan?**

Mowing the District's Right of ways will reduce and control vegetative growth along canal banks which can impede operations, inspections and access to the District's water control facility.

### **Funding Source:**

This is a 3 year work order contract in the amount of \$532,431.12 of which, \$121,762.03 is budgeted using ad valorem funds within Operations and Maintenance. The remainder is subject to Governing Board approval of the FY10-FY12 budgets.

### **This Board item impacts what areas of the District, both resource areas and geography:**

This Board item will impact the Operations and Maintenance of canal and right of ways in the Miami Field Station area of responsibility.

### **What concerns could this Board item raise?**

If not mowed and maintained, these areas would become a potential hazard to the public as well as District employees.

### **Why should the Governing Board approve this item?**

This item supports continual operations and maintenance of the District canal system.

GLH/rtz

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE ENTERING INTO A 3 YEAR WORK ORDER CONTRACT WITH A QUALITY BUSHOG SERVICES INCORPORATED, THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, FOR FLAT MOWING SERVICES WITHIN THE HOMESTEAD FIELD STATION REGION IN THE AMOUNT OF \$532,431.12 FOR WHICH AD VALOREM FUNDS OF \$121,762.03 ARE BUDGETED; AND THE REMAINDER IS SUBJECT TO GOVERNING BOARD APPROVAL OF THE FY10-FY12 BUDGETS; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001755)(RON ZASLOFF, EXT. 3420)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a 3 year work order contract with A Quality Bushog Services Incorporated, the lowest responsive and responsible bidder, for Flat Mowing Services within the Homestead Field Station region in the amount of \$532,431.12 for which ad valorem funds of \$121,762.03 are budgeted; and the remainder is subject to Governing Board approval of the FY10-FY12 budgets; providing an effective date.(Contract Number 4600001755)(Ron Zasloff, ext. 3420) and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of 4600001755 with A QUALITY BUSHOG SERVICES, INCORPORATED.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_

Approved as to form:

By:

\_\_\_\_\_

ATTEST:

By:

\_\_\_\_\_

District Clerk/Secretary

This awards results from a Request for Bid(RFB) under standard of competition. The RFB was advertised in the MIAMI HERALD THE, MIAMI TIMES, SUN SENTINEL CO on January 26, 2009.

Bids were evaluated and evaluated in the following order:

<u>Contractor Name</u>	<u>Bid Amount</u>
M&B LAWN MNTNC SVC INC	\$10.00
INSHAPE MAINTENANCE INC	\$11.00
KNIGHT PROPERTY MGMT SVC INC	\$16.24
DAVID BEYER GENERAL REPAIRS IN	\$16.74
PROSCAPE SOUTHEAST INC	\$17.85
A QUALITY BUSHOG SVCS INC	\$17.95
BOONE IMPROVEMENTS INC	\$17.99
D&D TREE FARMS INC	\$18.25
FLORIDA GARDEN CENTER CORP	\$19.92
MAIA LAWN & LANDSCAPE SVCS	\$21.70
GREEN SCAPES INC OF SOUTH FLOR	\$27.83

No. Total Planholders: 39	No. No-bids Recvd: 0
No. RFBs Mailed to SBEs: 11	No. No-Answers: 28
No. Total Proposals Recvd: 11	
No. SBE Proposals Recvd: 10	

An \* behind the Contractor Name denotes Non-Responsive or Non-Responsible



- 40. 2009-423** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 120 day contract with Bergeron Land Development Incorporated, the lowest responsible and responsive bidder, for the L-33 Levee Bench Maintenance Project, in the amount of \$812,336 for which ad valorem funds are budgeted; providing an effective date. (Contract Number 4600001775) (Lucine Dadrian, ext. 2060)

See supporting document: [ca\\_om\\_002\\_sd.pdf](#)

See resolution document: [ca\\_om\\_rd\\_13131\\_BFLD.pdf](#)

See supporting CJSS: [ca\\_om\\_cj\\_13132\\_BFLD.pdf](#)

## M E M O R A N D U M

**TO:** Governing Board Members

**FROM:** George L. Horne, Deputy Executive Director, Operations & Maintenance

**DATE:** April 01, 2009

**SUBJECT:** **4600001775 - L-33 Levee Bench Maintenance Project, Broward & Miami-Dade County**

### **Background:**

The South Florida Water Management District operates the L-33 levee located in Broward and Dade County, Florida. The levee forms a portion of the eastern boundary of the Water Conservation Area 3 and is an integral component of the East Coast Protective Levee. The overall objective of this project is to provide for a dry levee bench, which will allow for toe inspections and maintenance. The project consists of rehabilitating the levee bench on the downstream side of an approximate two (2) mile reach of the L-33 levee, beginning just north of the S32A Culvert at the C-6 Canal. The downstream side of the levee is defined as the side opposite the Water Conservation Area 3, which forms a part of the Everglades. A seepage canal running parallel to the levee lies to the east.

### **How this helps meet the District's 10-Year Strategic Plan:**

Restore the District's ability to maintain the East Coast Protective Levee by providing a drivable area to inspect the toe of the levee.

### **Funding Source:**

The lowest responsive and responsible bidder is Bergeron Land Development, Incorporated with a total amount of \$812,336, using ad valorem funds within the Operations and Maintenance budget.

### **This Board item impacts what areas of the District, both resource areas and geography:**

The identified project is located between Broward and Dade County within the jurisdiction of the Fort Lauderdale Field Station and impacts the Operations and Maintenance Resource Area.

### **What concerns could this Board item raise?**

The work is the result of US Army Corps inspection criteria.

### **Why should the Governing Board approve this item?**

This project will provide a stable levee bench with safe entry ramps to complete the required US Army Corps inspections.

GLH/ld

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE ENTERING INTO A 120 DAY CONTRACT WITH BERGERON LAND DEVELOPMENT INCORPORATED, THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER, FOR THE L-33 LEVEE BENCH MAINTENANCE PROJECT, IN THE AMOUNT OF \$812,336 FOR WHICH AD VALOREM FUNDS ARE BUDGETED; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001775) (LUCINE DADRIAN, EXT. 2060)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a 120 day contract with Bergeron Land Development Incorporated, the lowest responsible and responsive bidder, for the L-33 Levee Bench Maintenance Project, in the amount of \$812,336 for which ad valorem funds are budgeted; providing an effective date. (Contract Number 4600001775) (Lucine Dadrian, ext. 2060) and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of 4600001775 with BERGERON LAND DEVELOPMENT, INCORPORATED.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

Approved as to form:

By:

By:

\_\_\_\_\_  
District Clerk/Secretary

This awards results from a Request for Bid(RFB) under standard of competition. The RFB was advertised in the on .

Bids were evaluated and evaluated in the following order:

<u>Contractor Name</u>	<u>Bid Amount</u>
BERGERON LAND DEV INC	\$812,336.00
GLOBETEC CONSTRCTN LLC	\$965,000.00
CLOSE CONSTRCTN INC	\$971,959.00
ARBOR TREE & LAND INC	\$1,056,909.00
AMERCN EARTH MOVERS INC	\$1,101,685.00
METRO EQUIP SVC INC	\$1,140,519.00
EARTH TECH ENTERPRISES INC	\$1,158,141.00

No. Total Planholders: 55	No. No-bids Recvd: 3
No. RFBs Mailed to SBEs: 15	No. No-Answers: 45
No. Total Proposals Recvd: 10	
No. SBE Proposals Recvd: 6	

An \* behind the Contractor Name denotes Non-Responsive or Non-Responsible



**41. Board Vote on Consent Agenda**



42. **Central Florida Utilities Update and Issues** - Cecelia Weaver, Director,  
Orlando Service Center (Ext. 3838)



43. **Update on the Kissimmee River Restoration** - Lawrence Glenn, Director, Kissimmee Division (Ext. 6499)



44. **Status Update on Kissimmee Basin Water Reservations** - Chip Merriam, Deputy Executive Director, Water Resources (Ext. 6597)



**45. 'River of Grass' Project Update**



- 46. Formulation of Strategic Planning and Budgetary Guidance (continued) - Tom Olliff, Assistant Executive Director (Ext. 2132)**



47. **Biscayne Bay Coastal Wetlands Project and Cutler Properties Overview -**  
Ken Ammon, Deputy Executive Director, Everglades Restoration  
Resources (Ext. 6502)



- 48. 2009-424** A Resolution of the Governing Board of the South Florida Water Management District supporting the Florida Cabinet resolution declaring April as Water Conservation Month in Florida; providing an effective date. (Marjorie Craig, ext. 2987)

See supporting document: [da\\_wr\\_001.sd.pdf](#)

See supporting document: [da\\_wr\\_002.rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Chip Merriam, Deputy Executive Director, Water Resources Management

**DATE:** April 9, 2009

**SUBJECT:** Request the Governing Board's Approval to Authorize a Resolution in Support of the Governor and Cabinet designating April as Water Conservation Month in Florida.

**Background:** For the past 11 years, the Governor and Cabinet of the State of Florida have designated April as Water Conservation Month in Florida. Since April is normally the last month of Florida's dry season when water needs are most acute, much attention is paid to the importance of conserving water. Substantial awareness has been and continues to be generated this year in particular, as much of the state remains in severe drought or water shortage conditions.

**How this helps meet the District's 10 Year Strategic Plan:** Water conservation supports the efficient use of water.

**Funding Source:** This action is at no cost to the District.

**This Board item impacts what areas of the District, both resource areas and geography:** All users of water benefit from water conservation. This item impacts the Water Supply Department within Water Resources Management, and the Department of Public Information within Government and Public Affairs.

**What concerns could this Board item raise?** This item, along with the District's overall Water Conservation initiative, will further expand the awareness of the District's commitment to efficient water use.

**Why should the Governing Board approve this item?** Approval of this resolution will demonstrate the District's continued support of water conservation and will serve as an example to local governments and non-governmental organizations, which are adopting similar proclamations throughout Florida.

CM/mc  
Attachment



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

**WHEREAS**, for the past 11 years, the month of April has been proclaimed as Water Conservation Month in Florida to increase awareness of and promote efficient use of our state’s diverse water resources, the South Florida Water Management District is continuing this tradition with a renewed spirit and enthusiasm; and

**WHEREAS**, recent droughts and water shortages serve as a reminder that Florida’s water resources, no matter how diverse, are precious and finite; and

**WHEREAS**, all water users including commercial, industrial, agricultural, institutional, hospitality, private citizens and others can make positive contributions to reduce water use and protect Florida’s vital water resources; now therefore

**BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby supports the Resolution of the Governor and Cabinet of the State of Florida designating April 2009 as **WATER CONSERVATION MONTH** in the State of Florida and

**Section 2.** The Governing Board of the South Florida Water Management District urges every citizen and visitor to become more aware of the need to save our precious water supply and to take appropriate measures to conserve and protect this vital natural resource.

**PASSED and ADOPTED** this 9th day of April, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

By: \_\_\_\_\_

Chair

ATTEST:

\_\_\_\_\_

District Clerk

Approved as to form:

BY: \_\_\_\_\_

Office of Counsel



- 49. 2009-425** A Resolution of the Governing Board of the South Florida Water Management District approving a second amendment to the interlocal agreement with Osceola County and the City of Kissimmee to include additional lands within the Shingle Creek Project, increase the District's commitment by an additional \$2,000,000, revise the form of the conservation easement to be recorded by the County and the City in favor of the District over said lands, require the land to be managed in accordance with the Cooperative Agreement, dated August 26, 2008, between the parties, and the Shingle Creek Regional Park Management Plan, dated August 31, 2007, and extend the term of the agreement, Shingle Creek Project, Osceola County; providing an effective date. (Ruth Clements, ext. 6271)

See supporting document: [da\\_lr\\_106\\_sd.pdf](#)

See resolution document: [da\\_lr\\_106\\_rd.pdf](#)

See supporting document: [da\\_lr\\_106\\_ExhA\\_map.pdf](#)

## LAND ACQUISITION EXECUTIVE SUMMARY

**PROJECT:** Shingle Creek

**COUNTY:** Osceola County

**PURPOSE:** Amend the Interlocal Agreement with Osceola County and City of Kissimmee

**FUNDING:** \$2,000,000 – Mitigation Funds

**HIGHLIGHTS:** Amendment to include additional lands, increase District's commitment by \$2,000,000, revise conservation easement to be recorded in favor of District, require land to be managed in accordance with Cooperative Agreement, dated August 26, 2008, and the Shingle Creek Regional Park Management Plan, dated August 31, 2007, and extend the term of the Interlocal Agreement

**CONSIDERATION:** On October 11, 2001, the Governing Board of the District approved the Central Florida Beltway Conceptual Mitigation Plan, which identified the Shingle Creek Project (Project) as a priority project due to its proximity to the Beltway impacts.

On February 2, 2006, the District, Osceola County (County) and the City of Kissimmee (City) entered into an Interlocal Agreement (the "Agreement"), as acquisition partners in the Project. The Agreement committed District funds up to Five Hundred Thousand Dollars (\$500,000.00) for the acquisition of approximately eleven acres (11) acres within the project area. The County and City would acquire fee title, manage the lands and record a conservation easement upon the land in favor of the District. On February 27, 2008, the Agreement was amended to include a funding availability provision.

The parties desire to amend the Agreement again to (1) include the acquisition of any additional parcels in the Project area, as identified on Exhibit "A" attached, (2) increase the District's funding commitment by Two Million Dollars (\$2,000,000), (3) revise the form of the conservation easement to be recorded by the County and the City in favor of the District over the additional lands, (4) require the parcels to be managed in accordance with the Cooperative Agreement, dated August 26, 2008, between the District, the County and the City, in addition to the Shingle Creek Regional Park Management Plan, dated August 31, 2007, and (5) extend the term of the Agreement until the earlier of May 1, 2011 or the date by which (i) the District has contributed \$2,000,000 towards the purchase of the additional parcels and (ii) the County and the City have recorded conservation easements in favor of the District over said lands in the public records of Osceola County, Florida.

**FISCAL IMPACT:** The District proposes to commit additional wetland mitigation funds from the Central Florida Beltway Trust Fund, in an amount not to exceed \$2,000,000. The District's financial participation in the purchase of any Project parcel shall not exceed the appraised value of the parcel.

**RECOMMENDATION:** That the Governing Board of the South Florida Water Management District approve the Second Amendment to the Interlocal Agreement with Osceola County and the City of Kissimmee to (1) include additional lands, (2) commit an additional \$2,000,000 in mitigation funds for the acquisition of lands in the Shingle Creek Project, (3) revise the form of the conservation easement to be recorded by the County and the City in favor of the District over the additional lands, (4) require the land to be managed in accordance with Cooperative Agreement, dated August 26, 2008, in addition to the Shingle Creek Regional Park Management Plan, dated August 31, 2007, and (5) extend the term of the Interlocal Agreement; and authorize the Governing Board chairman to execute the amendment.

Governing Board Members

April 09, 2009

Page Two

Prepared by:

\_\_\_\_\_  
Barbara Katz  
Senior Professional - Acquisition  
Land Acquisition Department

\_\_\_\_\_  
Date

Reviewed by:

\_\_\_\_\_  
Ruth P. Clements, Director  
Land Acquisition Department

\_\_\_\_\_  
Date

Approved by:

\_\_\_\_\_  
Kenneth G. Ammon, P.E.  
Deputy Executive Director  
Everglades Restoration Resource Area

\_\_\_\_\_  
Date

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2  
3 RESOLUTION NO. 2009- \_\_\_\_\_  
4

5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER  
6 MANAGEMENT DISTRICT APPROVING A SECOND AMENDMENT TO THE INTERLOCAL  
7 AGREEMENT WITH OSCEOLA COUNTY AND THE CITY OF KISSIMMEE TO INCLUDE  
8 ADDITIONAL LANDS WITHIN THE SHINGLE CREEK PROJECT, INCREASE THE  
9 DISTRICT'S COMMITMENT BY AN ADDITIONAL \$2,000,000, REVISE THE FORM OF THE  
10 CONSERVATION EASEMENT TO BE RECORDED BY THE COUNTY AND THE CITY IN  
11 FAVOR OF THE DISTRICT OVER SAID LANDS, REQUIRE THE LAND TO BE MANAGED  
12 IN ACCORDANCE WITH THE COOPERATIVE AGREEMENT, DATED AUGUST 26, 2008,  
13 BETWEEN THE PARTIES, AND THE SHINGLE CREEK REGIONAL PARK MANAGEMENT  
14 PLAN, DATED AUGUST 31, 2007, AND EXTEND THE TERM OF THE AGREEMENT,  
15 SHINGLE CREEK PROJECT, OSCEOLA COUNTY; PROVIDING AN EFFECTIVE DATE.

16  
17 WHEREAS, on October 11, 2001, the Governing Board of the District approved the Central  
18 Florida Beltway Conceptual Mitigation Plan, which identified the Shingle Creek Project (Project) as a  
19 priority project due to its proximity to the Beltway impacts; and

20 WHEREAS, the District, Osceola County ("County"), and the City of Kissimmee ("City"),  
21 entered into an Interlocal Agreement ("Agreement"), dated February 2, 2006, for the acquisition of land  
22 within the Project; and

23 WHEREAS, on February 27, 2008, the parties amended the Agreement to make their  
24 obligations subject to availability of funding and not obligate future appropriations; and

25 WHEREAS, the parties desire to further amend the Agreement to 1) include additional Project  
26 lands, as identified on Exhibit "A" attached hereto, 2) increase the District's commitment by  
27 \$2,000,000, 3) revise the form of the conservation easement to be recorded by the County and the  
28 City in favor of the District over such lands, 4) require the land to be managed in accordance with the  
29 Cooperative Agreement, dated August 26, 2008 between the District, the County and the City, in  
30 addition to the Shingle Creek Regional Park Management Plan, dated August 31, 2007, and 5) extend  
31 the term of the Agreement to the earlier of May 1, 2011 or the date by which (i) the District's  
32 contribution towards the purchase of the additional Project lands equals \$2,000,000, and (ii) the  
33 County and the City have recorded conservation easements in favor of the District over said lands in  
34 the public records of Osceola County, Florida; and

35 WHEREAS, the District proposes to commit additional wetland mitigation funds from the  
36 Central Florida Beltway Trust Fund, in an amount not to exceed \$2,000,000; and

37 WHEREAS, the District is an independent taxing authority, created by the Florida Legislature  
38 and given those powers and responsibilities enumerated in Chapter 373, Florida Statutes; and

39 WHEREAS, the District is empowered to enter into contractual arrangements with public  
40 agencies, private corporations or other persons pursuant to Section 373.083, Florida Statutes.



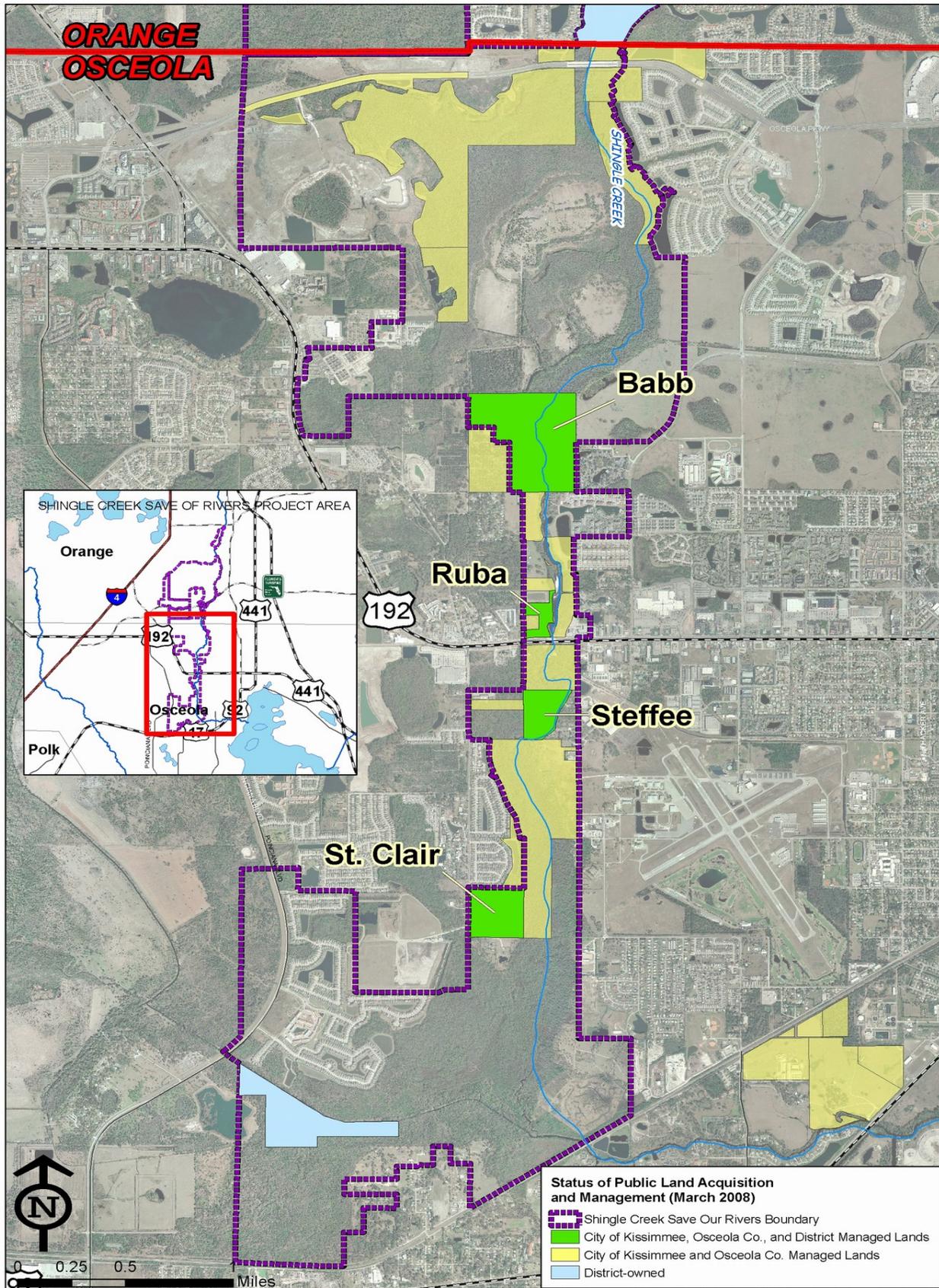


Exhibit A - Shingle Creek Save Our Rivers Project Area  
Osceola County, Florida





- 50. 2009-426** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a cooperative agreement with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, at no cost, for dedication and certification of approximately 55,000 acres of land owned by the Board of Trustees to the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan; providing an effective date. (Contract Number 4600001758) (Paul Warner, ext. 6512)

See supporting document: [da\\_er\\_008\\_FDEP Memo\\_sd.pdf](#)

See resolution document: [da\\_er\\_008\\_Resolution\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Kenneth G. Ammon, P.E., Deputy Executive Director,  
Everglades Restoration Resource Area

**DATE:** April 9, 2009

**SUBJECT:** Dedication and Certification of Lands for the Picayune Strand Restoration Project – Contract Number 4600001758

**Background:** Staff requests Governing Board approval to enter into a Cooperative Agreement with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (Board of Trustees), at no cost to the SFWMD, for the dedication and certification of lands owned by the Board of Trustees to the Picayune Strand Restoration Project. The Agreement commits the Board of Trustees to the following:

- Continued acquisition of lands needed for the Picayune Strand Restoration Project;
- Dedication of lands in the Board of Trustees ownership to the Picayune Strand Restoration Project for as long as the Project remains authorized as a federal project;
- Commitment to provide timely certifications of land ownership to the SFWMD based on the U.S. Army Corps of Engineers (Corps) construction schedule, as well as certification that land acquisition was performed in accordance with Federal Uniform Relocation and Real Property Policies Act, Public Law 91-646, as amended;
- Authorization for the SFWMD to enter the Board of Trustees' lands for construction, operation and maintenance purposes and for the SFWMD to allow the Corps to enter the lands for project implementation purposes;
- Approval for the SFWMD to receive credit for the Board of Trustees' land acquisition costs toward the SFWMD's 50 percent share of project construction costs under the Project Partnership Agreement with the U.S. Department of the Army for the Picayune Strand Restoration Project (Contract No. 4600001760).

This Cooperative Agreement commits the SFWMD to enter into dispute resolution with the U.S. Army Corps of Engineers if the Board of Trustees determines that the Corps is not fulfilling its obligations under the Picayune Strand Project Partnership Agreement.

**How this helps meet the District's 10-Year Strategic Plan:** This Agreement provides lands, at no cost to the SFWMD, that are needed for implementation of the Picayune Strand Restoration Project, a component of CERP, which is a major component of the 10-year Strategic Plan.

**Funding Source:** At this time, no SFWMD funds are needed for implementation of this Agreement.

**This Board item impacts what areas of the District, both resource areas and geography:** The restoration benefits of this project will accrue to Southwest Florida, including the Picayune Strand State Forest, the Ten Thousand Island National Wildlife Refuge and Fakahatchee Strand State Preserve. Staff from the Everglades Restoration Resource Area will manage this contract.

**What concerns could this Board item raise?** SFWMD staff will need to work closely with the Florida Department of Environmental Protection and the Florida Division of Forestry to ensure that the Picayune Strand State Forest lands continue to be managed in a manner that is consistent with the federal project purposes, and that the State of Florida continues to receive the necessary funding for acquisition of the necessary lands. The SFWMD will be fully accountable under the Project Partnership Agreement with the U.S. Department of the Army for acquisition and provision of the necessary lands, and for ensuring that the lands are maintained in a manner that is compatible with federal project purposes.

**Why should the Governing Board approve this item?** Governing Board approval of this Agreement will allow the SFWMD to receive credit for over \$160 million in the State's expenditures toward fulfilling the SFWMD's 50 percent cost-share obligation under the Picayune Strand Project Partnership Agreement with the U.S. Department of the Army.

Attachment – Resolution  
KGA/pw

# **SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

## **RESOLUTION NO. 2009- \_\_\_\_\_**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT AUTHORIZING ENTERING INTO A COOPERATIVE AGREEMENT WITH THE BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA, AT NO COST, FOR DEDICATION AND CERTIFICATION OF APPROXIMATELY 55,000 ACRES OF LAND OWNED BY THE BOARD OF TRUSTEES TO THE PICAYUNE STRAND RESTORATION PROJECT, A COMPONENT OF THE COMPREHENSIVE EVERGLADES RESTORATION PLAN; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001758)**

**WHEREAS**, the South Florida Water Management District (SFWMD) and the U.S. Department of the Army anticipate entering into a Project Partnership Agreement for the construction, operation, maintenance, repair, replacement and rehabilitation of the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan (Contract No. 4600001760); and

**WHEREAS**, as Non-Federal Sponsor under the Project Partnership Agreement with the U.S. Department of the Army, the SFWMD will be responsible for providing all necessary lands, easements and rights-of-way needed for the Picayune Strand Restoration Project and will receive credit for the costs of acquiring these lands toward the SFWMD's 50 percent share of project costs; and

**WHEREAS**, the Florida Department of Environmental Protection (FDEP) has acquired, on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (Board of Trustees), over 55,000 acres of land, and is committed to acquiring additional lands in the Picayune Strand State Forest and the Fakahatchee State Preserve that are needed for the Picayune Strand Restoration Project; and

**WHEREAS**, the FDEP, on behalf of the Board of Trustees, and the SFWMD have determined that it is in their best interests to enter into a Cooperative Agreement whereby the Board of Trustees allows the SFWMD to receive credit for the Board of Trustees' costs of acquiring lands for the Picayune Strand Restoration Project and for the SFWMD to represent the State of Florida as the Non-Federal Sponsor in the Picayune Strand Project Partnership Agreement with the U.S. Department of the Army.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of Contract No. 4600001758 with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, at no cost to the SFWMD, for the dedication and certification of lands owned by the Board of Trustees to the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan.

**Section 2.** The Executive Director is authorized to execute the Cooperative Agreement on behalf of the South Florida Water Management District.

**Section 3.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
District Clerk/Secretary

Approved as to form:

By:

\_\_\_\_\_  
Office of Counsel



- 51. 2009-427** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a master agreement with the U.S. Department of the Army, at no cost, for the purpose of establishing uniform terms and conditions for future project partnership agreements covering cooperation and cost-share in the construction, operation, maintenance, repair, replacement and rehabilitation of projects in the Comprehensive Everglades Restoration Plan; providing an effective date. (Contract Number 4600001759) (Paul Warner, ext. 6512)

See supporting document: [da\\_er\\_005\\_Master Agreement Memo\\_sd.pdf](#)

See supporting document: [da\\_er\\_005\\_Attachment 1\\_sd1 .pdf](#)

See resolution document: [da\\_er\\_005\\_Resolution\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Kenneth G. Ammon, P.E., Deputy Executive Director,  
Everglades Restoration Resource Area

**DATE:** April 9, 2009

**SUBJECT:** Master Agreement for the Comprehensive Everglades Restoration Plan –  
Contract Number 4600001759

**Background:** Staff requests Governing Board approval to enter into the Master Agreement for the Comprehensive Everglades Restoration Plan (CERP) with the U.S. Department of the Army, at no cost to the SFWMD, to establish uniform terms and conditions for future Project Partnership Agreements covering cooperation and cost-share in the construction, operation, maintenance, repair, replacement and rehabilitation of projects in the CERP.

On May 12, 2000, the SFWMD and the U.S. Department of the Army entered into a Design Agreement that provides uniform terms and conditions for all phases of planning and design for projects in the CERP. The Design Agreement covers all activities associated with the development of Project Implementation Reports, detailed design, construction plans and specifications, engineering during construction, adaptive assessment and monitoring, Restoration Evaluation and Verification (RECOVER), and several other programmatic activities.

The Master Agreement for CERP provides uniform terms and conditions, responsibilities and cost-share associated with project construction (including land acquisition), operations, maintenance, repair, replacement and rehabilitation of projects. Attachment 1 provides a summary of major elements in the Master Agreement for CERP.

**How this helps meet the District's 10-Year Strategic Plan:** This Agreement sets the groundwork for a long-term partnership between the U.S. Department of the Army and the SFWMD for construction, operation, maintenance, repair, replacement and rehabilitation of the CERP, which is a major component of the 10-year Strategic Plan.

**Funding Source:** There are no financial obligations associated with execution of this Master Agreement. This Agreement establishes agreement on the terms and conditions for future Project Partnership Agreements. Financial obligations will result from execution of individual Project Partnership Agreements.

**This Board item impacts what areas of the District, both resource areas and geography:** This Agreement influences all projects in the CERP for which the SFWMD and Army agree to execute Project Partnership Agreements. Since projects in the CERP are wide-spread from the Lake Okeechobee watershed to the Florida Keys and from the Caloosahatchee Estuary to the Indian River Lagoon, this Agreement impacts the entire geographic boundary of the SFWMD. Staff from the Everglades Restoration Resource Area will manage this contract.

**What concerns could this Board item raise?** A question could be raised as to whether use of a Master Agreement reduces the District's flexibility in negotiating the terms and conditions for individual Project Partnership Agreements in the future. However, the Master Agreement specifically recognizes that there may be circumstances where terms and conditions may need to be modified for a specific project and that such modifications would be included in the specific Project Partnership Agreement. The Master Agreement specifies that if there is a difference between the Master Agreement and the Project Partnership Agreement, the Project Partnership Agreement would prevail.

**Why should the Governing Board approve this item?** Governing Board approval of this Agreement is a necessary step in authorizing the U.S. Department of the Army to begin construction of projects in the CERP.

Attachments – Resolution, Attachment 1  
KGA/pw

**ATTACHMENT 1**  
**Summary of Major Elements of the Master Agreement for the  
Comprehensive Everglades Restoration Plan**

1. **Intent**: The Master Agreement establishes a framework of uniform terms and conditions that will be incorporated by reference into future Project Partnership Agreements for construction, operation, maintenance, repair, replacement and rehabilitation of projects in the Comprehensive Everglades Restoration Plan (CERP). The SFWMD and the U.S. Army Corps of Engineers (Corps) mutually agreed that establishment of uniform terms and conditions and a template for future Project Partnership Agreements will expedite development and ensure programmatic consistency of future Project Partnership Agreements.
  - a) The Master Agreement provides for modifications of the uniform terms and conditions for a particular project, as necessary, and specifies that these modifications will be incorporated into the specific Project Partnership Agreement.
  
2. **Mutuality**: The Master Agreement departs significantly from the Corps' traditional project cooperation agreements in that it reflects much more of a partnership between the signatory parties. For example, contrary to the Corps' typical agreements which specify that project decisions and determinations will be made unilaterally by the Corps, the Master Agreement specifies that the Corps and SFWMD will jointly develop and approve CERP documents and schedules, and make joint decisions on key issues. Examples of joint SFWMD-Corps decisions or approvals in the Master Agreement include:
  - a) Determination that a project is "operational" before transfer to the SFWMD for operations and maintenance. This means that construction must be complete, and that the project has been operated and monitored for an interim period to demonstrate that it is operating as designed, meets design and construction standards, and achieves the operational criteria set forth in the applicable operating manuals.
  - b) Determination of what constitutes a "functional portion of an authorized CERP project" for the purposes of transferring a completed portion of a project to the SFWMD for long-term operations, maintenance, repair, replacement and rehabilitation (OMRR&R).
  - c) Determination on the appropriate adjustments to work and/or schedules that are necessary to maintain the 50-50 cost-share balance.
  - d) Determination of the land interests, improvements and relocations that are necessary for required for construction, operation and maintenance of a project
  - e) Development and approval of a 5-year OMRR&R Plan for CERP that will be used by the Corps and SFWMD for development of future fiscal year budgets.

- f) Development and approval of Project Operating Manuals, System Operating Manuals and Project Maintenance, Repair, Replacement and Rehabilitation Manuals for each project.
3. **Dispute Resolution**: If disputes arise during implementation of a CERP project, including any of the collaborative decisions listed in #2 above and any dispute with one of the Parties' performance, the Parties agree to employ the Dispute Resolution Agreement signed by the Department of the Army, the State of Florida and SFWMD, dated September 9, 2002 for resolution of the dispute, which elevates disputes within the Department of the Army and the State of Florida on a parallel level, if necessary, up to the Secretary of the Army and Governor of Florida. Once dispute resolution is completed, the parties may avail themselves of any remedies.
4. **Transfer of a Project or a Functional Portion of a Project to the SFWMD for Long-Term OMRR&R**: Before being turned over to the SFWMD for OMRR&R:
- a) Each project or functional portion of a project must successfully complete an "Operational Testing and Monitoring Period" to demonstrate that the project is operating as designed. The Master Agreement requires that the duration of the Operational Testing and Monitoring Period for future projects be specified in the Project Implementation Report.
  - b) Before transfer of the features to the SFWMD for OMRR&R:
    - i. The Corps and SFWMD must agree that construction is complete and the project is operational, and
    - ii. Approved Operating Manual, MRR&R Manual, System Operating Manual and as-built drawings must all be provided to SFWMD.
5. **Cost-sharable Expenses for Project Construction Costs**: In addition to SFWMD's expenditures for real estate, construction and construction management activities, cost-sharable project construction cost expenditures under future Project Partnership Agreements will include:
- a) Environmental site assessments to identify existence and extent of hazardous substances on project lands
  - b) Interim operation and maintenance during the Operational Testing and Monitoring Period
  - c) Preparation and processing applications for any federal, state or local permits required for operations and maintenance, as well as activities necessary to comply with such permits to the extent that such fees would apply if the Corps was the applicant
  - d) Incidental costs associated with land acquisition (surveys, appraisals, title insurance, etc.)
  - e) The costs of monitoring and vegetation management during the period of construction that the SFWMD and Corps agree in writing is necessary to achieve project benefits

6. **Cost-sharable Expenses for Project Operations, Maintenance, Repair, Replacement and Rehabilitation Costs:** In addition to routine equipment operations and maintenance costs, cost-sharable project OMRR&R costs include:
- a) The costs of monitoring after construction that the SFWMD and Corps agree in writing is necessary and is included in the Maintenance, Repair, Replacement and Rehabilitation Manual
  - b) The costs of vegetative management after construction that the SFWMD and Corps agree in writing is necessary to maintain project benefits and is included in the Maintenance, Repair, Replacement and Rehabilitation Manual
7. **Land Valuation and Crediting:** Valuation and crediting of real estate interests provided by the SFWMD for CERP will be the same whether the real estate interests are acquired directly by the SFWMD or are acquired by the State of Florida or another Florida governmental entity and provided through a Cooperative Agreement:
- a) For Indian River Lagoon, Picayune Strand and Site 1 Impoundment Projects, real estate interests will be valued and credited as defined in the Project Implementation Report and/or Chief of Engineers' Report. While the Picayune Strand Restoration Project has some variations, the crediting for these projects will be as follows:
    - i) If real estate was acquired before signing a Project Partnership Agreement, the SFWMD will receive credit for the actual acquisition costs of the real estate interest, plus the incidental costs of acquisition (e.g., surveys, appraisals, title searches, attorney fees, etc.).
    - ii) If acquired after signing a Project Partnership Agreement, the SFWMD will receive credit for the fair market value of the real estate on the date of acquisition, plus the incidental costs of acquisition.
  - b) For all other future CERP Projects, real estate interests will be valued and credited in accordance with the Corps national policy:
    - i) If real estate was acquired before signing a Project Partnership Agreement, the SFWMD will receive credit for the fair market value of the real estate on the date that the lands are certified to the Corps for construction, plus the incidental costs of acquisition.
    - ii) If acquired after signing a Project Partnership Agreement, the SFWMD will receive credit for the fair market value of the real estate on the date of acquisition, plus the incidental costs of acquisition.
8. **Limitations on Credit:** Credit afforded by the Corps for SFWMD expenditures will be subject to the following limitations:
- a) Corps must certify that the SFWMD's construction:
    - (i) Is integral to the authorized CERP Project
    - (ii) Was implemented in accordance with Federal standards and applicable Federal and State laws

- (iii) Costs are necessary, reasonable, allowable, allocable and auditable
- b) The amount of credit afforded to the SFWMD will not include interest payments and will not be adjusted to reflect changes in price levels between the time the work is completed and the time credit is afforded.

**9. Monitoring and Managing the 50-50 Cost-Share Balance:**

- a. Master Agreement establishes the basis for “programmatic” management of the 50-50 cost-share between Corps and SFWMD to monitor and manage the 50-50 cost-share balance for all CERP Projects with executed Project Partnership Agreements rather than balancing the cost-share for each individual Project Partnership Agreement.
- b) Programmatic cost-share monitoring and management approach will provide greater ease in cost accounting, limit the necessity for cash payments and provide greater flexibility for sharing project construction responsibilities. For example, this will allow SFWMD to purchase lands and perform construction on one project (thereby funding a large percentage of project cost) and carry over excess credits to another project where the Corps performs construction.
- c) In an effort to maintain cost-share balance at 50-50, the Corps and SFWMD will develop quarterly financial reports and will conduct yearly reviews of actual expenditures through the previous year and projected contributions for the current and next fiscal years. When necessary, adjustments will be made for future years to balance the cost-share through reassignment of construction work; cash payments; provision of federal funding for real estate acquisition; re-scheduling of construction activities; or re-scheduling of Project Partnership Agreement executions.
- d) At the time of executing a project-specific PCA, the SFWMD will receive a projected contribution credit toward its 50% cost-share contribution equal to:
  - (i) The estimated cost of all real estate requirements for the project, including those not yet purchased;
  - (ii) the amount of funds expended by SFWMD on early construction completed under a Pre-Partnership Credit Agreement; and
  - (iii) the amount of funding obligated by SFWMD under a construction for work identified an executed Project Partnership Agreement, even if the work will be completed over a multiyear timeframe.

The Corps’ recognition of the SFWMD’s projected contributions will help to minimize chances of SFWMD being required to make cash contributions to maintain the 50-50 cost-share balance for CERP.

- e) The SFWMD will not be required to provide a cash contribution until the total of all the Federal government’s expenditures for construction and lands for all CERP projects with executed Project Partnership Agreements exceeds the total of the SFWMD’s actual expenditures, plus projected contributions.

**10. Operations, Maintenance, Repair, Replacement and Rehabilitation (OMRR&R) Responsibilities:**

- a) SFWMD will be responsible for performing all OMRR&R work.
- b) Corps will provide 50% of the annual funding after reviewing invoices provided by the SFWMD.
- c) Cost share must be maintained at 50-50 in each fiscal year because Corps does not have authority to carry over excess SFWMD expenditures as credit to a subsequent year. Consequently, the annual OMRR&R budget will be limited by the amount of funds Congress appropriates to the Corps each year.
- d) SFWMD and Corps will develop 5-Year OMRR&R Plan, as well as Annual OMRR&R Work Plans to reflect available funding.
- e) SFWMD will provide Corps an opportunity to review and comment in writing on solicitations for all CERP O&M contracts prior to issuance of contract solicitation, and will provide Corps with opportunity to participate on contractor selection teams.

**11. Collaboration on Contract Solicitations for Construction Services:**

- a) During contract solicitations for construction services, Corps and SFWMD agree to allow each other the opportunity to review Scopes of Work before release.
- b) Parties agree to provide opportunity for joint participation on technical evaluation teams for contractor selection.
- c) Parties agree to provide opportunity to review contracts and contract modifications prior to execution.

**12. Quality Control and Quality Assurance:** The SFWMD and Corps will establish a Project Coordination and Delivery Team for each project whose primary responsibility will be to jointly oversee quality assurance and quality control during construction. The Master Agreement limits this effort to a maximum of 5 full-time-equivalents total for each party for the duration of construction.

**13. Assessment and Remediation of Hazardous Materials:** Costs for investigations necessary to identify existence and extent of hazardous substances regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) will be cost-shared. However, if CERCLA-regulated substances are found on lands needed for project construction or operation, parties will determine whether to initiate or proceed with construction. If parties agree to proceed, the SFWMD will be responsible for 100% of the costs of cleanup and response to contamination.

**14. Responsibility for Warranty Management and Correction of Design or Construction Defects:** The party responsible for construction is responsible for addressing all contractor-related design, construction or warranty issues.

- 15. Termination or Suspension:** Once dispute resolution is exhausted, the Corps may terminate a Project Partnership Agreement if the SFWMD does not fulfill its obligations under the Agreement. In the event that the Corps notifies the SFWMD of an insufficiency of Corps funds for either the current fiscal year or upcoming fiscal year to meet the Federal share of project construction costs, the Corps is required to suspend performance once available funds are exhausted. Both the Corps and the SFWMD have the right to terminate a Project Partnership Agreement in the event of a suspension of the project due to lack of Federal funding.
- 16. Indemnification:** As required by Federal law, the SFWMD agrees to indemnify the Corps with respect to damages during project construction and OMRR&R except for damages that are due to the negligence or fault of Corps or its contractors.
- 17. Obligations of Future Appropriations:** Financial commitments of the parties to be made under Project Partnership Agreements are subject to future year appropriations by each party. Each party commits to use best efforts to obtain appropriations to pay its share of project construction and OMRR&R costs, consistent with applicable laws and rules.

**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2009- \_\_\_\_\_**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT AUTHORIZING ENTERING INTO A MASTER AGREEMENT WITH THE U.S. DEPARTMENT OF THE ARMY, AT NO COST, FOR THE PURPOSE OF ESTABLISHING UNIFORM TERMS AND CONDITIONS FOR FUTURE PROJECT PARTNERSHIP AGREEMENTS COVERING COOPERATION AND COST-SHARE IN THE CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR, REPLACEMENT AND REHABILITATION OF PROJECTS IN THE COMPREHENSIVE EVERGLADES RESTORATION PLAN; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001759)**

**WHEREAS**, the Comprehensive Everglades Restoration Plan (CERP) contained in the Final Integrated Feasibility Report and Programmatic Environmental Impact Statement, dated April 1, 1999, was approved with modifications as a framework for making modifications and changes to the Central and Southern Florida Project by the Congress in Section 601 of the Water Resources Development Act of 2000; and

**WHEREAS**, the U.S. Department of the Army and the South Florida Water Management District (SFWMD) entered into a Design Agreement providing uniform terms and conditions for all phases of planning and design for projects in the CERP, dated May 12, 2000; and

**WHEREAS**, the U.S. Department of the Army and SFWMD have determined that it would be in their mutual best interests to set forth in a Master Agreement uniform terms and conditions for future Project Partnership Agreements that cover cooperation and cost-share in the construction, operation, maintenance, repair, replacement, and rehabilitation of individual projects under CERP; and

**WHEREAS**, each future Project Partnership Agreement will incorporate the terms and conditions of the Master Agreement, as applicable.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of Contract No. 460001759 with the U.S. Department of the Army, at no cost to the SFWMD, for the purpose of

establishing uniform terms and conditions for future Project Partnership Agreements covering cooperation and cost-share in the construction, operation, maintenance, repair, replacement and rehabilitation of projects in the Comprehensive Everglades Restoration Plan.

**Section 2.** The Governing Board acknowledges that the Master Agreement is subject to the subsequent approval and execution by the Assistant Secretary of the Army. Any substantive changes to the Master Agreement by the Department of the Army will require the approval of the Governing Board.

**Section 3.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_

Chair

ATTEST:

\_\_\_\_\_  
District Clerk/Secretary

Approved as to form:

By:

\_\_\_\_\_

Office of Counsel



- 52. 2009-428** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a project partnership agreement with the U.S. Department of the Army for construction, operation, maintenance, repair, replacement and rehabilitation of the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan, at a total estimated construction cost of \$438,000,000 and an estimated annual operations and maintenance cost of \$3,700,000 for which the South Florida Water Management District will be responsible for providing 50 percent cost-share, and for which funding, if any, is subject to Governing Board approval of future fiscal year budgets; providing an effective date. (Contract Number 4600001760) (Paul Warner, ext. 6512)

See supporting document: [da\\_er\\_007\\_PPA Memo\\_sd.pdf](#)

See resolution document: [da\\_er\\_007\\_Resolution\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Kenneth G. Ammon, P.E., Deputy Executive Director,  
Everglades Restoration Resource Area

**DATE:** April 9, 2009

**SUBJECT:** Project Partnership Agreement for the Picayune Strand Restoration  
Project – Contract Number 4600001760

**Background:** Staff requests Governing Board approval to enter into a Project Partnership Agreement with the U.S. Department of the Army for the construction, operation, maintenance, repair, replacement and rehabilitation of the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan (CERP). This Agreement, coupled with the Master Agreement for CERP (Contract No. 4600001759), specifies the terms and conditions for implementation responsibilities and cost-share for the Project. The estimated construction cost, including the cost of acquiring lands needed for the Project, is \$438,000,000. The estimated annual cost of operations and maintenance for the Project is \$3.7 million once all phases of construction are completed and the Project is fully operational.

Pursuant to Section 902 of the Water Resources Development Act of 1986 (Public Law 99-662), the Project Partnership Agreement allows the total project cost to increase by the total of: a) 20 percent of the total project cost authorized by Congress (\$375,330,000) to accommodate changes in design, additional land requirements, and construction of additional features that the parties agree are necessary and do not change the scope of the authorized project; and b) inflation through the period of construction. The maximum allowable project cost, without further authorization from Congress, is currently \$571,000,000. This calculation is based on the Corps' current implementation and funding schedule which anticipates completion of construction in 2018.

Between 2004 and 2007, SFWMD constructed features of the Picayune Strand Restoration Project at a cost of approximately \$15 million. Subject to Governing Board approval and execution of a Pre-Partnership Credit Agreement with the U.S. Department of the Army (Contract No. 4600001761), the SFWMD is eligible to receive credit for these early construction costs toward SFWMD's required 50 percent cost share under this Project Partnership Agreement.

The Florida Department of Environmental Protection, on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida (Board of Trustees), has acquired over 55,000 acres of lands needed for the Picayune Strand Restoration Project and continues to acquire the remaining parcels needed. Subject to Governing Board approval and execution of a Cooperative Agreement between the Board of Trustees and the SFWMD (Contract No. 4600001758), the SFWMD will receive credit

under the Project Partnership Agreement with the Army for Florida Department of Environmental Protection's expenditures on lands for the Project, estimated to be approximately \$160,000,000.

**How this helps meet the District's 10-Year Strategic Plan:** This Agreement will initiate the Army's efforts on restoration construction on CERP, which is a major component of the Strategic Plan.

**Funding Source:** At this time, no cash contributions are anticipated for the project assuming that additional Project Partnership Agreements are executed that provide for transfer of District credit among projects. Potential exceptions are discussed below. The State will continue to expend funds for land acquisition and the SFWMD's contributions will be funding for contracts covering permit-required monitoring and staff time for project management, project coordination and quality assurance oversight during construction. Any additional funding by the South Florida Water Management District would be subject to Governing Board approval of future fiscal year budgets.

**This Board item impacts what areas of the District, both resource areas and geography:** The restoration benefits of this project will primarily impact Southwest Florida, including the Picayune Strand State Forest, the Ten Thousand Island National Wildlife Refuge and Fakahatchee Strand State Preserve. Staff from the Everglades Restoration Resource Area will manage the contract.

**What concerns could this Board item raise?** If this Agreement is approved and no other CERP Project Partnership Agreements are executed between the SFWMD and the U.S. Department of the Army within a five-year period, or if the actual cost of construction increases substantially, a cash contribution or additional in-kind construction by the SFWMD may be required to maintain the 50-50 cost-share balance.

Another concern is the potential for project cost growth above the estimated project construction cost of \$438,000,000, which may result from inflation, changes in design, additional land requirements, or construction of additional features that the parties agree are necessary. Staff will keep the Governing Board apprised of increases in total estimated project construction costs over time, along with the basis for these cost increases. The Project Partnership Agreement provides for the option of deferring award of a contract that would increase total project construction costs above the \$438 million estimate until the parties decide on how to proceed.

**Why should the Governing Board approve this item?** The Governing Board should approve this Agreement so the U.S. Army Corps of Engineers will be authorized to initiate construction of the Picayune Strand Restoration Project.

Attachment – Resolution  
KGA/pw

# SOUTH FLORIDA WATER MANAGEMENT DISTRICT

## RESOLUTION NO. 2009- \_\_\_\_\_

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT AUTHORIZING ENTERING INTO A PROJECT PARTNERSHIP AGREEMENT WITH THE U.S. DEPARTMENT OF THE ARMY FOR CONSTRUCTION, OPERATION, MAINTENANCE, REPAIR, REPLACEMENT AND REHABILITATION OF THE PICAYUNE STRAND RESTORATION PROJECT, A COMPONENT OF THE COMPREHENSIVE EVERGLADES RESTORATION PLAN, AT A TOTAL ESTIMATED CONSTRUCTION COST OF \$438,000,000 AND AN ESTIMATED ANNUAL OPERATIONS AND MAINTENANCE COST OF \$3,700,000, FOR WHICH THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT WILL BE RESPONSIBLE FOR PROVIDING 50 PERCENT COST-SHARE, AND FOR WHICH FUNDING, IF ANY, IS SUBJECT TO GOVERNING BOARD APPROVAL OF FUTURE FISCAL YEAR BUDGETS; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001760)**

**WHEREAS**, the South Florida Water Management District (SFWMD) and the U.S. Army Corps of Engineers completed a Project Implementation Report in September 2004 recommending restoration of natural water flows and levels within the 55,000-acre Picayune Strand State Forest; and

**WHEREAS**, the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan, was authorized by Congress in Section 1001(15) of the Water Resources Development Act of 2007; and

**WHEREAS**, the SFWMD desires to enter into a Project Partnership Agreement with the U.S. Department of the Army for the Picayune Strand Restoration Project (Contract No. 4600001760) to set forth the parties' responsibilities for the construction, operation, maintenance, repair, replacement and rehabilitation of the Picayune Strand Restoration Project; and

**WHEREAS**, the Florida Department of Environmental Protection, on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, will be acquiring lands needed for the project at an estimated State expenditure of \$160,000,000, which will be dedicated to the Picayune Strand Restoration Project and certified to the SFWMD under a Cooperative Agreement (Contract No. 4600001758); and

**WHEREAS**, the SFWMD has completed construction of certain project features included in the Picayune Strand Project Implementation Report at a cost of approximately \$15 million; and

**WHEREAS**, the SFWMD and the U.S. Department of the Army will execute a Pre-Partnership Credit Agreement (Contract No. 4600001761) establishing eligibility for the SFWMD to receive credit for the \$15 million in early construction costs; and

**WHEREAS**, under the Project Partnership Agreement for the Picayune Strand Restoration Project, the SFWMD will receive credit toward the SFWMD's 50 percent share of project construction costs for the early construction costs as well as for the Florida Department of Environmental Protection's land costs.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of Contract No. 4600001760 with the U.S. Department of the Army for construction, operation, maintenance, repair, replacement and rehabilitation of the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan, at a total estimated construction cost of \$438,000,000 and an estimated annual operations and maintenance cost of \$3,700,000.

**Section 2.** Pursuant to Section 902 of the Water Resources Development Act of 1986 (Public Law 99-662), the Project Partnership Agreement allows the total project cost to increase by the total of: a) 20 percent of the total project cost authorized by Congress (\$375,330,000) to accommodate changes in design, additional land requirements, and construction of additional features that the parties agree are necessary and do not change the scope of the authorized project; and b) inflation through the period of construction. The maximum allowable project cost, without further authorization from Congress, is currently \$571,000,000. This calculation is based on the Corps' current implementation and funding schedule which anticipates completion of construction in 2018.

**Section 3.** No additional funding by SFWMD is anticipated for the Project. Any funding for cash contributions or additional construction by SFWMD is subject to Governing Board approval of future fiscal year budgets.

**Section 4.** The Governing Board acknowledges that the Picayune Strand Project Partnership Agreement is subject to the subsequent approval and execution by the Assistant Secretary of the Army. Any substantive changes to the Project Partnership Agreement by the Department of the Army will require the approval of the Governing Board.

**Section 5.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
District Clerk/Secretary

Approved as to form:

By:

\_\_\_\_\_  
Office of Counsel



- 53. 2009-429** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a pre-partnership credit agreement with the U.S. Department of the Army, at no cost, for the purpose of establishing eligibility to receive future credit for the costs of constructing features of the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan; providing an effective date. (Contract Number 4600001761) (Paul Warner, ext. 6512)

See supporting document: [da\\_er\\_006\\_PPCA Memo\\_sd.pdf](#)

See resolution document: [da\\_er\\_006\\_Resolution\\_rd.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Kenneth G. Ammon, P.E., Deputy Executive Director,  
Everglades Restoration Resource Area

**DATE:** April 9, 2009

**SUBJECT:** Pre-Partnership Credit Agreement for the Picayune Strand Restoration Project – Contract Number 4600001761

**Background:** Staff requests Governing Board approval to enter into a Pre-Partnership Credit Agreement with the U.S. Department of the Army, at no-cost to the SFWMD, to establish eligibility to receive credit for the costs of constructing features of the Picayune Strand Restoration Project toward the SFWMD's 50 percent share of the costs for the Comprehensive Everglades Restoration Plan (CERP).

Between 2004 and 2007, SFWMD completed the following construction activities at a cost of approximately \$15 million that are part of the recommended restoration plan identified in the Project Implementation Report for the Picayune Strand Restoration Project:

- Backfilling and plugging seven miles of the Prairie Canal
- Installing a total of 16 culverts under Steward Boulevard, Janes Scenic Drive, and U.S. Highway 41 (Tamiami Trail)
- Removing approximately 62 miles of roadway within the Southern Golden Gate Estates development
- Removing the Janes Scenic Drive Bridge over the Prairie Canal
- Capping approximately 128 wells
- Demolishing and removing approximately 153 homes
- Clearing approximately 97 trash sites
- Removing abandoned septic sites

In Section 6004 of the Water Resources Development Act of 2007, Congress authorized the Assistant Secretary of the Army to provide credit for construction costs incurred by the SFWMD prior to signing a Project Partnership Agreement, if the construction is carried out in accordance with the terms and conditions of an agreement between the SFWMD and the Assistant Secretary of the Army. The Army's implementation guidance for Section 6004 specifies that in order to maintain credit eligibility for construction completed prior to signing a Project Partnership Agreement, the SFWMD must execute a Pre-Partnership Credit Agreement with the U.S. Department of the Army. The SFWMD and the U.S. Army Corps of Engineers have developed a Pre-Partnership Credit Agreement for the Picayune Strand Restoration Project covering SFWMD's construction activities listed above.

While execution of this Pre-Partnership Credit Agreement is a necessary step in maintaining the SFWMD's eligibility for credit, the Agreement does not provide credit, nor does it guarantee that credit will be provided at any time in the future. Actual approval of credit requires that the Army first determine that the construction work is integral to the authorized project and that the SFWMD's construction costs are necessary, reasonable, allowable, allocable and auditable. The Army has developed a memorandum to be signed by the Assistant Secretary of the Army for Civil Works determining that the SFWMD's completed construction work listed above is integral to the Picayune Strand Restoration Project authorized by Congress and thereby eligible for credit under a Project Partnership Agreement. The Army's review of the SFWMD's costs for final approval of credit will occur after execution of a Project Partnership Agreement.

**How this helps meet the District's 10-Year Strategic Plan:** This Agreement will establish eligibility for future credit toward the SFWMD's 50 percent cost-share on CERP, which is a major component of the Strategic Plan. If credited for this expenditure, it would reduce the SFWMD's future required contributions for the remainder of CERP.

**Funding Source:** No funding is needed for this action.

**This Board item impacts what areas of the District, both resource areas and geography:** Because this Agreement enhances the SFWMD's credit toward the 50/50 cost-share for CERP, it has potential positive impact on the entire SFWMD. Staff from the Everglades Restoration Resource Area will manage the contract.

**What concerns could this Board item raise?** By approving this Pre-Partnership Credit Agreement, the Governing Board will be agreeing that the SFWMD will not receive credit for the following costs incurred by the State of Florida and SFWMD: 1) the State's costs for management and maintenance of the Picayune Strand lands prior to signing a Project Partnership Agreement; and 2) the SFWMD's costs of remediating soils contaminated with hazardous agricultural chemicals. Similar to previous cost-share agreements between the Army and the SFWMD, the Army has determined that providing credit for these costs is inconsistent with its statutory authority and/or its nationwide policy. However, the Army will be providing the SFWMD with credit for the State's actual costs of acquiring lands necessary for the project estimated at approximately \$160 million, as well as approximately \$29 million worth of incidental costs of acquisition (e.g., appraisals, surveys, title searches, legal fees, etc.) and will cost-share in the long-term control of invasive exotic vegetation within over 55,000 acres of the project lands.

**Why should the Governing Board approve this item?** The SFWMD needs to sign this Agreement to be eligible to receive credit for the \$15 million of early construction completed on the Picayune Strand Restoration Project.

Attachment – Resolution  
KGA/pw

# SOUTH FLORIDA WATER MANAGEMENT DISTRICT

## RESOLUTION NO. 2009- \_\_\_\_\_

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT AUTHORIZING ENTERING INTO A PRE-PARTNERSHIP CREDIT AGREEMENT WITH THE U.S. DEPARTMENT OF THE ARMY, AT NO COST, FOR THE PURPOSE OF ESTABLISHING ELIGIBILITY TO RECEIVE FUTURE CREDIT FOR THE COSTS OF CONSTRUCTING FEATURES OF THE PICAYUNE STRAND RESTORATION PROJECT, A COMPONENT OF THE COMPREHENSIVE EVERGLADES RESTORATION PLAN; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001761)**

**WHEREAS**, the South Florida Water Management District (SFWMD) completed construction of certain features of the Picayune Strand Restoration Project, a component of the Comprehensive Everglades Restoration Plan, prior to authorization of the project by Congress; and

**WHEREAS**, the Picayune Strand Restoration Project was authorized by Congress in Section 1001(15) of the Water Resources Development Act of 2007; and

**WHEREAS**, Section 6004 of the Water Resources Development Act of 2007 authorizes the Secretary of the Army to provide credit for construction costs incurred by the SFWMD prior to signing a Project Partnership Agreement toward the SFWMD's 50 percent share of project costs for the Comprehensive Everglades Restoration Plan, if such construction is carried out pursuant to the terms and conditions of an agreement between the SFWMD and the Assistant Secretary of the Army; and

**WHEREAS**, the Army's implementation guidance for Section 6004 of WRDA-2007 specifies that in order for the SFWMD's costs of early construction to be eligible for credit, the SFWMD and the Army must execute a Pre-Partnership Credit Agreement for that work prior to signing a Project Partnership Agreement.

**NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT:**

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of Contract No. 4600001761 with the U.S. Department of the Army, at no cost to the SFWMD, for the purpose of establishing eligibility for future credit for the costs of constructing features of the Picayune Strand Restoration Project.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT  
DISTRICT, BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
District Clerk/Secretary

Approved as to form:

By:

\_\_\_\_\_  
Office of Counsel



- 54. 2009-430** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 679-day contract with Triple R Paving, Inc., the lowest responsive and responsible bidder, for construction of the Compartment B North Buildout project near Stormwater Treatment Area-2 Cell 4 in an amount not to exceed \$17,474,383 of which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$5,300,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Contract Number 4600001699) (Jeff Kivett, ext. 4018)

See supporting document: [da\\_er\\_001\\_Memo\\_sd.pdf](#)

See supporting document: [da\\_er\\_001\\_Map\\_sd.pdf](#)

See resolution document: [da\\_cp\\_rd\\_12990\\_BFLD.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Kenneth G. Ammon, P.E., Deputy Executive Director,  
Everglades Restoration Resource Area 

**DATE:** March 18, 2009

**SUBJECT:** Compartment B North Buildout Stormwater Treatment Area -- Contract Number 4600001699

### **Background:**

The intent of the District is to construct additional Stormwater Treatment Area (STA) on Compartment B land to further assist the existing STAs in improving the quality of water entering the Everglades Protection Area (EPA). The long-term Everglades water quality goal is for all discharges to the EPA to achieve and maintain compliance with water quality standards, including phosphorus, as established in Rule 62-302.540 of the Florida Administrative Code. The project is a component of the Long-Term Plan (LTP) and will permit the State of Florida and the District to proceed to fulfillment of their obligations under the Everglades Forever Act (EFA, F.S. 373.4592). The project also is intended to help achieve compliance with the phosphorous limits and levels established under Florida law, Rule 62-302.540, F.A.C. (the Phosphorous Rule), and the Consent Decree entered in United States v. SFWMD, et al., Case No. 88-1886-CIV-Moreno (S.D. Fla.)

The purpose of this contract is to construct the Compartment B North Buildout STA civil works (canals, levees, and water control structures) by the flow capable date of December 31, 2010. There will be separate contracts for construction of the inflow and outflow pump stations within the Compartment B project. The mandated completion date of these pump stations is December 31, 2011.

The District has obtained the 404 Clean Water Act Permit and Florida Department of Environmental Protection Everglades Forever Act Permit for construction of the Compartment B South Buildout STA.

### **How this helps meet the District's 10-Year Strategic Plan:**

Compartment B is a component of the Everglades Protection Area Tributary Basins Long-Term Plan for Achieving Water Quality Goals, Revised Part 2 (LTP) which is included in the 10-Year Strategic Plan and the current Annual Plan. Compartment B enables the District to achieve Everglades water quality standards as part of the implementation of the Long-Term Plan to ensure that all waters discharging into the

Everglades Protection Area are in compliance with state water quality standards. Approval of the Compartment B North Buildout STA contract will initiate construction in order to meet the mandated flow capable date of December 31, 2010.

**Funding Source:**

This is a 679-day contract with Triple R Paving, Inc., the lowest responsive and responsible bidder, to construct the Compartment B North Buildout STA in an amount not to exceed \$17,474,383 for which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$5,300,000 are budgeted, and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date.

**This Board item impacts what areas of the District, both resource areas and geography:** The Compartment B North Buildout STA Project location is in southwestern Palm Beach County within the Everglades Agricultural Area (EAA) approximately three miles north of the Palm Beach and Broward county line on the east side of U.S. 27. Staff from the Everglades Restoration Resource Area will manage the project. Consulting engineering firms will provide construction management and engineering during construction services. Staff from Watershed Management will provide operation support, and the West Palm Beach Field Station will be responsible for the maintenance of the STA.

**What concerns could this Board item raise?**

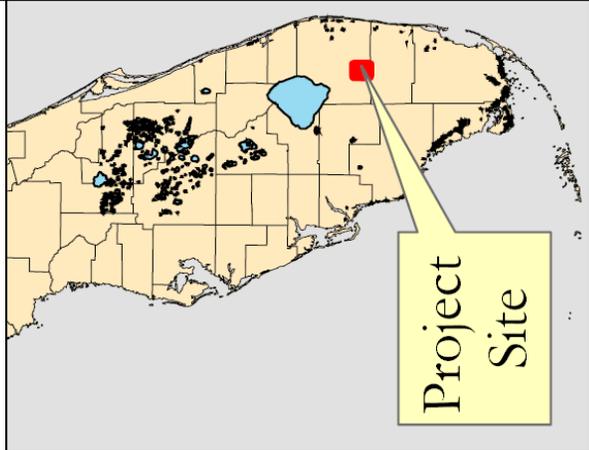
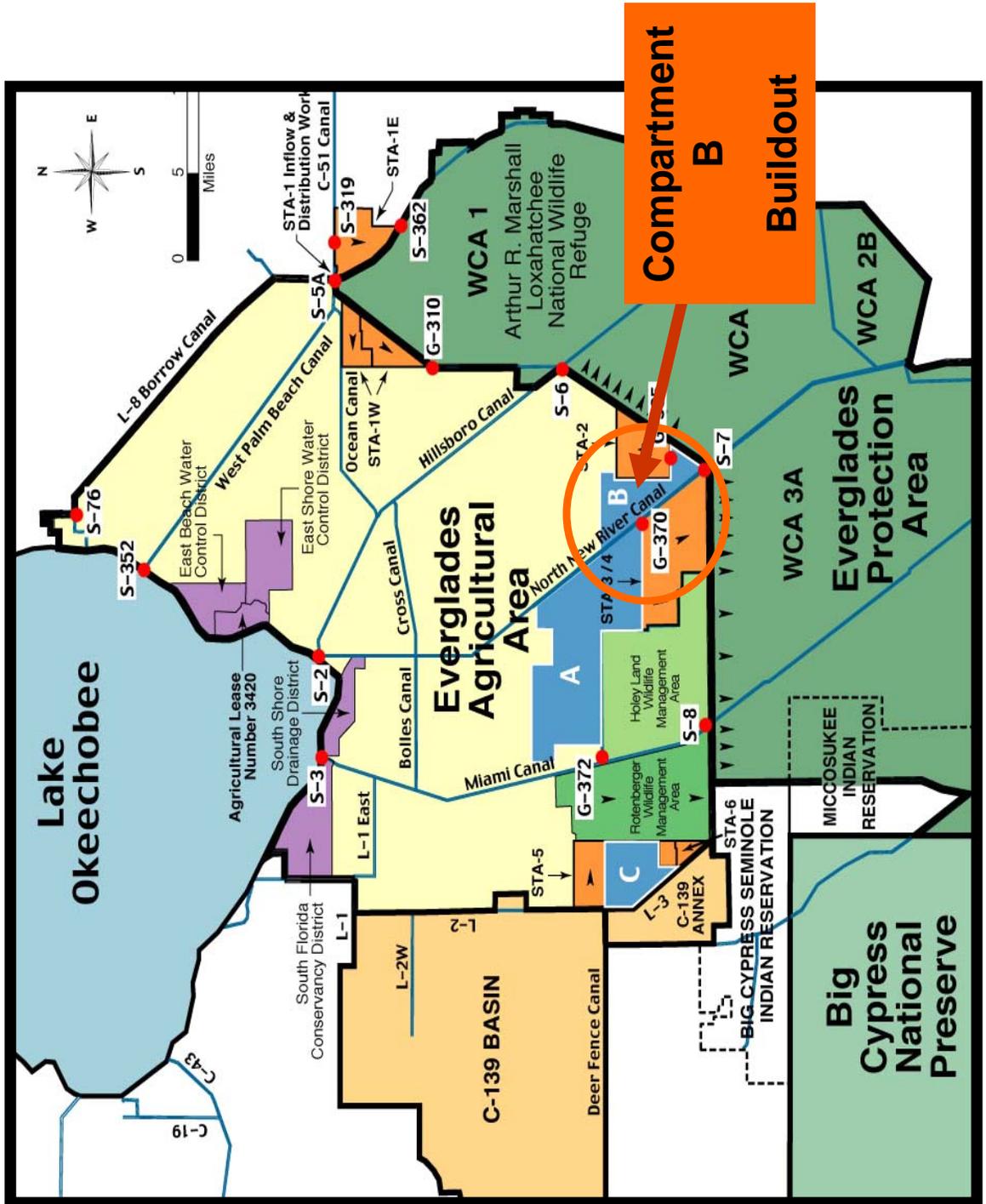
Prior to start of construction of Compartment B Buildout, the U.S. Fish & Wildlife Service must provide approval of the interim change of land use of the Talisman lands acquired with the 1996 Farm Bill funding. The approval of this interim land use change will be provided once the 404 permit is issued.

**Why should the Governing Board approve this item?**

The construction contract for civil works must be executed expeditiously in order to meet the overall Compartment B Project schedule of being flow-capable by December 31, 2010 and achieve the goals of the Long-Term Plan.

Attachments – Resolution, Map  
KGA/ma

**EXHIBIT A-1  
PROJECT LOCATION MAP  
COMPARTMENT B BUILDOUT STA**



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE ENTERING INTO A 679-DAY CONTRACT WITH TRIPLE R PAVING, INC., THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, FOR CONSTRUCTION OF THE COMPARTMENT B NORTH BUILDOUT PROJECT NEAR STORMWATER TREATMENT AREA-2 CELL 4 IN AN AMOUNT NOT TO EXCEED \$17,474,383 OF WHICH DEDICATED FUNDS (PROCEEDS FROM SERIES 2006 CERTIFICATES OF PARTICIPATION) IN THE AMOUNT OF \$5,300,000 ARE BUDGETED AND THE REMAINDER IS SUBJECT TO GOVERNING BOARD APPROVAL OF THE FY10-FY11 BUDGETS; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001699) (JEFF KIVETT, EXT. 4018)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a 679-day contract with Triple R Paving, Inc., the lowest responsive and responsible bidder, for construction of the Compartment B North Buildout project near Stormwater Treatment Area-2 Cell 4 in an amount not to exceed \$17,474,383 of which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$5,300,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Contract Number 4600001699) (Jeff Kivett, ext. 4018) and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of 4600001699 with TRIPLE R PAVING INC .

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

Approved as to form:

By:

By:

\_\_\_\_\_  
District Clerk/Secretary



- 55. 2009-431** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 4-year contract with Florida Power & Light Company (FPL) for construction of electrical power distribution facilities needed to serve the Compartment B North Buildout and South Buildout Stormwater Treatment Area in an amount not to exceed \$2,500,000 for which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$1,000,000 are budgeted, and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Contract Number 46000001713) (Jeff Kivett, ext. 4018)

See supporting document: [da\\_er\\_003\\_Memo\\_sd.pdf](#)

See supporting document: [da\\_er\\_003\\_Map\\_sd.pdf](#)

See resolution document: [da\\_cp\\_rd\\_12992\\_BFLD.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Kenneth G. Ammon, P.E., Deputy Executive Director, Everglades Restoration Resources 

**DATE:** March 20, 2009

**SUBJECT:** Compartment B Buildout Electrical Power Distribution Facilities – Contract Number 4600001713

### **Background:**

The purpose of this contract is for Florida Power & Light Company (FPL) to upgrade the existing South Bay Sub-station and distribution lines to the Compartment B Buildout site in order to provide reliable electrical power for the future G-434, G-435, G-445 and G-436 Pump Stations. The Pump Stations have large electrically powered pumps that will increase the power demand in the area when in use, and an upgrade to the existing FPL system and distribution network is necessary.

### **How this helps meet the District's 10-Year Strategic Plan:**

Compartment B is a component of the Everglades Protection Area Tributary Basins Long-Term Plan for Achieving Water Quality Goals, Revised Part 2 (LTP), which is included in the 10-Year Strategic Plan and the Annual Work Plan. This Project will enable the District to achieve Everglades water quality standards to ensure that all waters discharging into the Everglades Protection Area are in compliance with state water quality standards. Upgrading the FPL distribution system will allow for the reliable use of the electrically powered pumps within the Pump Stations without interruption or having to use the generators inside each of the Pump Stations.

### **Funding Source:**

This is a 4-year contract with Florida Power & Light Company (FPL) for construction of electrical power distribution facilities needed to serve the Compartment B North Buildout and South Buildout Stormwater Treatment Area in an amount not to exceed \$2,500,000 for which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$1,000,000 are budgeted, and the remainder is subject to Governing Board approval of the FY10-FY11 budgets.

**This Board item impacts what areas of the District, both resource areas and geography:** The Compartment B Buildout Project location is in Palm Beach County, approximately 20 miles south of South Bay on the East side of US 27. It is bounded on the north by the Everglades Agricultural Area and on the east and south by Water Conservation Area 2, and on the west by STA 3/4. Staff from the Everglades Restoration Resource Area will oversee the project.

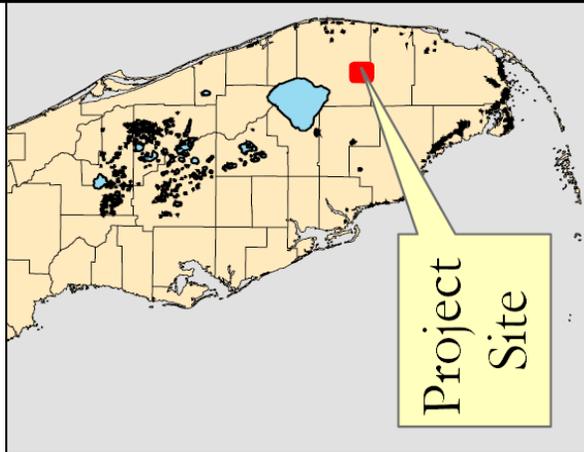
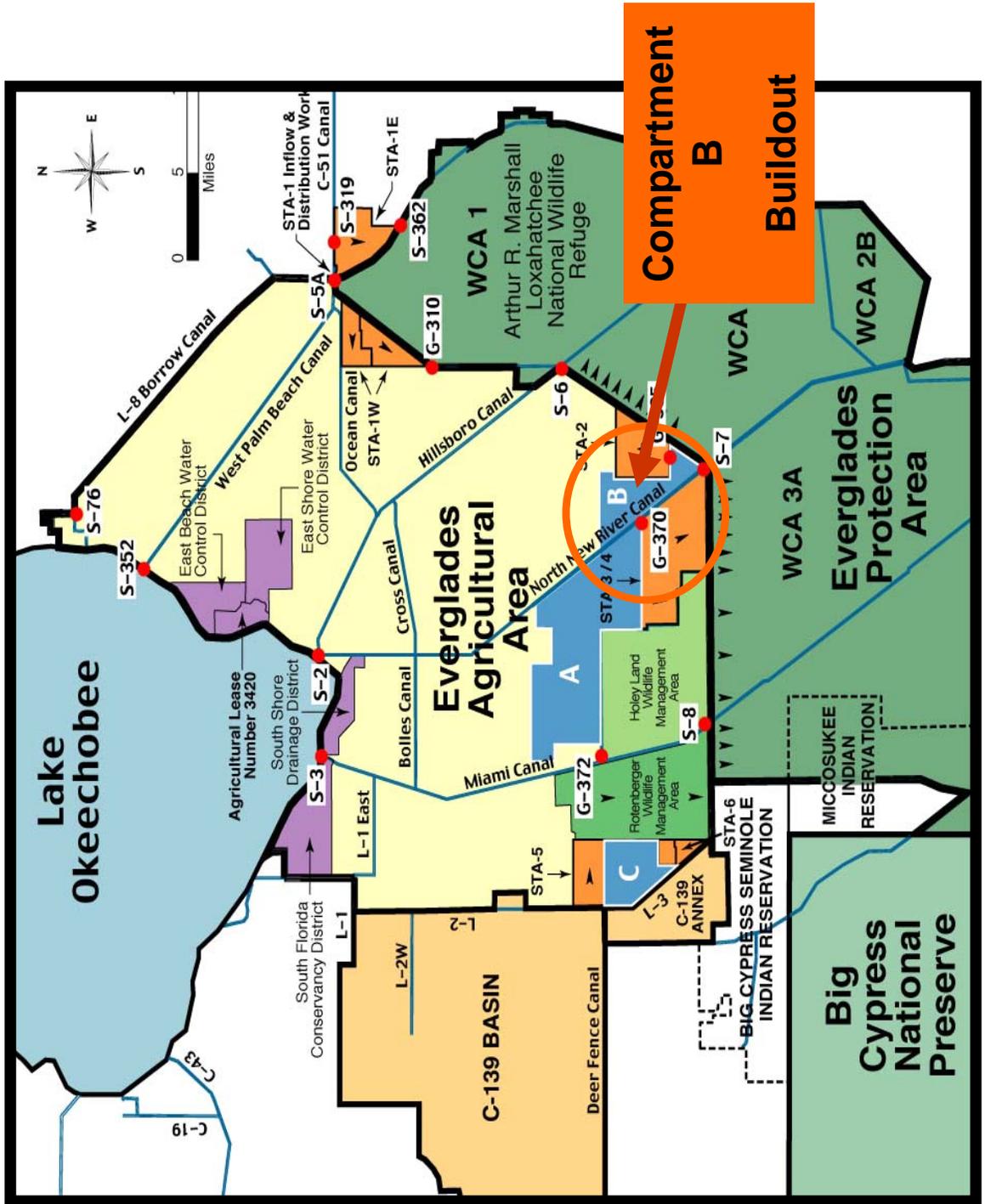
**What concerns could this Board item raise?** The District is paying for an upgrade to the FPL infrastructure that other FPL customers may benefit from later on. However, the District needs the upgrade now and cannot wait for others to share the costs of the upgrades. FPL's infrastructure cannot provide reliable power to the site without the upgrade.

**Why should the Governing Board approve this item?**

The reliability of the electric power system must be upgraded in order for the Compartment B Buildout Pump Stations and water control structures to operate as designed. This will increase the District's ability to meet the overall Project schedule and achieve the goals of the Long-Term Plan.

Attachments – Resolution, Map  
KGA/oc

**EXHIBIT A-1  
PROJECT LOCATION MAP  
COMPARTMENT B BUILDOUT STA**



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE ENTERING INTO A 4-YEAR CONTRACT WITH FLORIDA POWER & LIGHT COMPANY (FPL) FOR CONSTRUCTION OF ELECTRICAL POWER DISTRIBUTION FACILITIES NEEDED TO SERVE THE COMPARTMENT B NORTH BUILDOUT AND SOUTH BUILDOUT STORMWATER TREATMENT AREA IN AN AMOUNT NOT TO EXCEED \$2,500,000 FOR WHICH DEDICATED FUNDS (PROCEEDS FROM SERIES 2006 CERTIFICATES OF PARTICIPATION) IN THE AMOUNT OF \$1,000,000 ARE BUDGETED, AND THE REMAINDER IS SUBJECT TO GOVERNING BOARD APPROVAL OF THE FY10-FY11 BUDGETS; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 46000001713) (JEFF KIVETT, EXT. 4018)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a 4-year contract with Florida Power & Light Company (FPL) for construction of electrical power distribution facilities needed to serve the Compartment B North Buildout and South Buildout Stormwater Treatment Area in an amount not to exceed \$2,500,000 for which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$1,000,000 are budgeted, and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Contract Number 46000001713) (Jeff Kivett, ext. 4018) and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of 4600001713 with FPL SVCS LLC DBA FLORIDA POWER & LIGHT CO.

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

Approved as to form:

By:

By:

\_\_\_\_\_  
District Clerk/Secretary



- 56. 2009-432** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 681-day contract with Lodge Construction, Inc., the lowest responsive and responsible bidder, for construction of the Compartment B South Buildout project near Stormwater Treatment Area-2 in an amount not to exceed \$14,234,726 of which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$4,300,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Contract Number 4600001700) (Jeff Kivett, ext. 4018)

See supporting document: [da\\_er\\_002\\_Memo\\_sd.pdf](#)

See supporting document: [da\\_er\\_002\\_Map\\_sd.pdf](#)

See resolution document: [da\\_cp\\_rd\\_12991\\_BFLD.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Kenneth G. Ammon, P.E., Deputy Executive Director,  
Everglades Restoration Resource Area 

**DATE:** March 18, 2009

**SUBJECT:** Compartment B South Buildout Stormwater Treatment Area -- Contract Number 4600001700

### **Background:**

The intent of the District is to design and construct additional stormwater treatment area (STA) on Compartment B land to further assist the existing STAs in improving the quality of water entering the Everglades Protection Area (EPA). The long-term Everglades water quality goal is for all discharges to the EPA to achieve and maintain compliance with water quality standards, including phosphorus, as established in Rule 62-302.540 of the Florida Administrative Code. The project is a component of the Long-Term Plan (LTP) and will permit the State of Florida and the District to proceed to fulfillment of their obligations under the Everglades Forever Act (EFA, F.S. 373.4592). The project also is intended to help achieve compliance with the phosphorous limits and levels established under Florida law, Rule 62-302.540, F.A.C. (the Phosphorous Rule), and the Consent Decree entered in United States v. SFWMD, et al., Case No. 88-1886-CIV-Moreno (S.D. Fla.)

The purpose of this contract is to construct the Compartment B South Buildout STA civil works (canals, levees, and water control structures) by the mandated flow-capable date of December 31, 2010. There will be separate contracts for construction of the inflow and outflow pump stations within the Compartment B project. The mandated completion date of these pump stations is December 31, 2011.

The District has obtained the 404 Clean Water Act Permit and Florida Department of Environmental Protection Everglades Forever Act Permit for construction of the Compartment B South Buildout STA.

### **How this helps meet the District's 10-Year Strategic Plan:**

Compartment B is a component of the Everglades Protection Area Tributary Basins Long-Term Plan for Achieving Water Quality Goals, Revised Part 2 (LTP) which is included in the 10-Year Strategic Plan and the current Annual Plan. Compartment B enables the District to achieve Everglades water quality standards as part of the implementation of the Long-Term Plan to ensure that all waters discharging into the Everglades Protection Area are in compliance with state water quality standards.

Approval of the Compartment B South Buildout STA contract will initiate construction in order to meet the mandated flow-capable date of December 31, 2010.

**Funding Source:**

This is a 681-day contract with Lodge Construction, Inc., the lowest responsive and responsible bidder, to construct the Compartment B South Buildout STA in an amount not to exceed \$14,234,726 of which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$4,300,000 are budgeted, and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date.

**This Board item impacts what areas of the District, both resource areas and geography:** The Compartment B South Buildout STA Project is in southwestern Palm Beach County within the Everglades Agricultural Area, approximately three miles north of the Palm Beach and Broward county line on the east side of U.S. 27. Staff from the Everglades Restoration Resource Area will manage the project. Consulting engineering firms will provide construction management and engineering during construction services. Staff from Watershed Management will provide operation support, and the West Palm Beach Field Station will be responsible for the maintenance of the STA.

**What concerns could this Board item raise?**

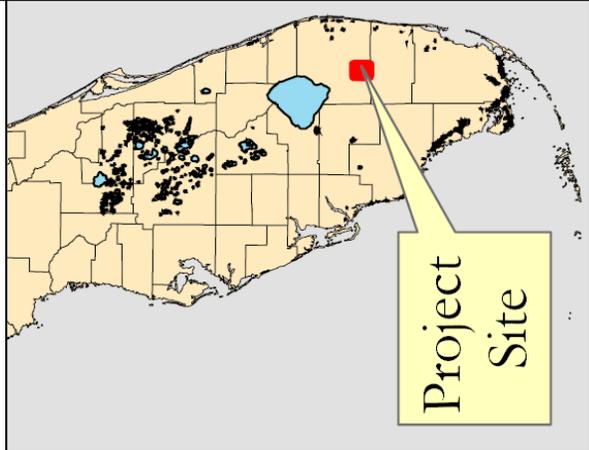
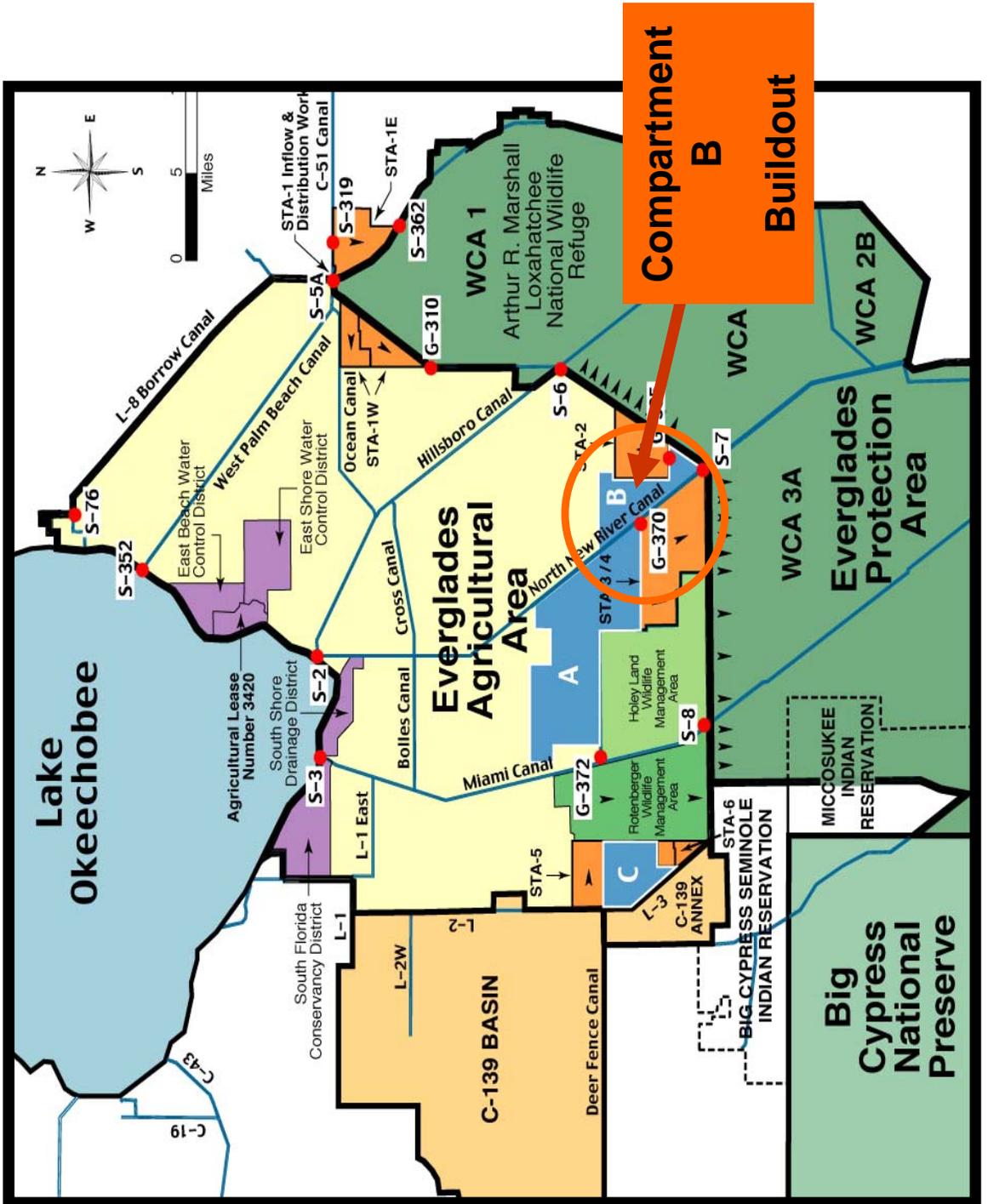
Prior to start of construction of Compartment B Buildout, the U.S. Fish & Wildlife Service must provide approval of an interim change of land use of the Talisman lands acquired with the 1996 Farm Bill funding. The approval of this interim land use change will be provided once the 404 permit is issued.

**Why should the Governing Board approve this item?**

This construction contract for civil works must be executed expeditiously in order to meet the overall Compartment B Project schedule of being flow-capable by December 31, 2010 and achieve the goals of the Long-Term Plan.

Attachments – Resolution, Map  
KGA/ma

**EXHIBIT A-1  
PROJECT LOCATION MAP  
COMPARTMENT B BUILDOUT STA**



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**RESOLUTION NO. 2009-**

**A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA WATER MANAGEMENT DISTRICT TO AUTHORIZE ENTERING INTO A 681-DAY CONTRACT WITH LODGE CONSTRUCTION, INC., THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER, FOR CONSTRUCTION OF THE COMPARTMENT B SOUTH BUILDOUT PROJECT NEAR STORMWATER TREATMENT AREA-2 IN AN AMOUNT NOT TO EXCEED \$14,234,726 OF WHICH DEDICATED FUNDS (PROCEEDS FROM SERIES 2006 CERTIFICATES OF PARTICIPATION) IN THE AMOUNT OF \$4,300,000 ARE BUDGETED AND THE REMAINDER IS SUBJECT TO GOVERNING BOARD APPROVAL OF THE FY10-FY11 BUDGETS; PROVIDING AN EFFECTIVE DATE. (CONTRACT NUMBER 4600001700) (JEFF KIVETT, EXT. 4018)**

**WHEREAS**, the Governing Board of the South Florida Water Management District deems it necessary, appropriate and in the public interest to authorize entering into a 681-day contract with Lodge Construction, Inc., the lowest responsive and responsible bidder, for construction of the Compartment B South Buildout project near Stormwater Treatment Area-2 in an amount not to exceed \$14,234,726 of which dedicated funds (proceeds from Series 2006 Certificates of Participation) in the amount of \$4,300,000 are budgeted and the remainder is subject to Governing Board approval of the FY10-FY11 budgets; providing an effective date. (Contract Number 4600001700) (Jeff Kivett, ext. 4018) and;

**NOW THEREFORE, BE IT RESOLVED** by the Governing Board of the South Florida Water Management District:

**Section 1.** The Governing Board of the South Florida Water Management District hereby authorizes the execution of 4600001700 with LODGE CONSTRCTN INC .

**Section 2.** This resolution shall take effect immediately upon adoption.

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,  
BY ITS GOVERNING BOARD

By:

\_\_\_\_\_  
Chair

ATTEST:

Approved as to form:

By:

By:

\_\_\_\_\_  
District Clerk/Secretary



**57. Public Comment**



**58. *Public Hearing - Water Resources***  
**Continuation of Public Hearing**

Adopt amendments to Rules 40E-2.051, 40E-2.091, 40E-2.331, 40E-24.011, 40E-24.101, 40E-24.201, 40E-24.301, 40E-24.401, 40E-20.091, 40E-20.331, F.A.C., and the Basis of Review for Water Use Applications within the South Florida Water Management District, and new Rules 40E-2.061, and 40E-24.501, F.A.C., to: 1) implement District-wide mandatory year-round landscape irrigation conservation measures; 2) create a general permit by rule for outdoor residential consumptive use of water and to allow modification of such a permit that does not allow more cumulative days and time to conduct landscape irrigation than those provided under Chapter 40E-24, F.A.C.; and 3) amend the water conservation measures in the Basis of Review to be consistent with the landscape irrigation conservation measures set forth in Chapter 40E-24, F.A.C. (Terrie Bates, Ext. 6952)

**Continue Public Hearing**

See supporting document: [ph\\_wr\\_001\\_sd.pdf](#)

See supporting document: [40E-20 Amendments v4.pdf](#)

See supporting document: [40E-24 Draft rule v8.pdf](#)

See supporting document: [40E-2 Amendments v5.pdf](#)

## MEMORANDUM

**TO:** Governing Board Members

**FROM:** Chip Merriam, Deputy Executive Director, Water Resources

**DATE:** April 9, 2009

**SUBJECT:** Proposed Year-Round Landscape Irrigation Conservation Rule

**Background:** The Governing Board has asked for rulemaking to amend and expand existing Chapter 40E-24, F.A.C., to implement District-wide mandatory year-round landscape irrigation conservation measures. The proposed mandatory measures are intended to provide a framework for consistent implementation to ensure the long-term sustainability of the region's water resources, increase water use efficiency, and curtail or prevent wasteful water use practices through regulatory means for landscape irrigation.

To complement these proposed modifications, the Governing Board also authorized publication of a Notice of Rule Development in the Florida Administrative Weekly at its June 2008 Governing Board meeting to establish new Rules 40E-2.061 and 40E-24.501, and to amend Rules 40E-2.051, 40E-2.091, and 40E-20.091, F.A.C. and Section 2.6.1(A) of the Basis of Review for Water Use Applications within the South Florida Water Management District ("Basis of Review"), to create a general permit by rule for outdoor residential consumptive use of water, and amend water conservation requirements public water supply permits consistent with the ongoing rule amendments for mandatory year-round landscape irrigation conservation measures in Chapter 40E-24, F.A.C.

Eight public workshops were conducted to receive verbal comments from water users in all of the District's major market areas; four of these were web-cast to reach geographically dispersed audiences. Written comments on the proposed rule also were solicited and received. The District prepared a Statement of Estimated Regulatory Costs. In response, several lower cost regulatory alternatives were submitted. All public comments and lower cost regulatory alternatives were considered in development of the final rule.

**How this helps meet the District's 10-Year Strategic Plan:** The water supply program's strategic plan goal is to ensure an adequate supply of water, and to sustain water resources for future generations. Reducing unnecessary and wasteful use of water helps to advance this goal.

**Funding Source:** No funding from the District is needed to modify this rule or expand the geographic area covered by the rule.

**This Board item impacts what areas of the District, both resource areas and geography:** This item has District-wide benefits. For nearly five years, the Lower West

Coast has used the current version of Chapter 40E-24, F.A.C., to protect and stretch local water resources. Expansion and modification of Chapter 40E-24, F.A.C., to other regions of the District will extend these benefits to the entire SFWMD geographic area. In tandem with the proposed modifications in Chapter 40E-24, F.A.C., the proposed modifications to Chapters 40E-2 and 40E-20, F.A.C. and the Basis of Review, will also have District-wide benefits, such as reducing inefficient and wasteful uses of water.

**What concerns could this Board item raise?** The Florida Department of Environmental Protection has directed all five of the State's water management districts to achieve a high level of consistency in their respective landscape irrigation rules. St. Johns River and Southwest Florida Water Management Districts are also amending their year-round rules to allow irrigation two days a week, when drought restrictions are not in effect. However, both agencies are enacting a one-day schedule during winter months. Due to different soil types and higher year-round temperatures in its sub-tropic region, the SFWMD is proposing a year-round two-day-a-week irrigation schedule.

The current language in Chapter 40E-2, F.A.C., exempts outdoor use of water at single family dwellings and duplexes from the requirement that such use be reasonable-beneficial, necessitating rule development to correct discrepancies and institute provisions for a general permit by rule for outdoor residential water use. The proposed amendments to Chapter 40E-2, F.A.C., will have no discernable impact on area residents/homeowners and will not require them to seek individual permits from the District.

**Why should the Governing Board approve this item?** This item will clarify the means by which the District may regulate residential outdoor water use for such activities as landscape irrigation and vehicle washing by creating a general permit by rule and with certain modifications, will expand the District's current year-round landscape irrigation measures to encompass the boundaries of the SFWMD, thereby promoting the efficient use of water for landscape irrigation purposes, reducing the wasteful use of water by an estimated five to ten percent, and helping to ensure the long-term sustainability of water resources within the District's jurisdiction.

If you have any questions, please do not hesitate to call me at ext. 6597.

CM/mc

**1-23-09 DRAFT**  
**General Water Use Permits**  
**40E-20**

**40E-20.091 Publications Incorporated by Reference.**

The “Basis of Review for Water Use Permit Applications within the South Florida Water Management District – \_\_\_\_\_ ~~October 14, 2008~~” is hereby published by reference and incorporated into this chapter. A current version of this document is available upon request.

*Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.042, 373.0421, 373.103(4), 373.118, 373.223, 373.229, FS. History–New 8-14-02, Amended 8-31-03, 4-23-07, 9-13-07, 2-13-08, \_\_\_\_\_.*

(For proposed amendments to the “Basis of Review for Water Use Permit Applications within the South Florida Water Management District”, see Rule 40E-2.091, F.A.C.)

**40E-20.331 Modification of Permits.**

(1) through 3(a)(5). No change.

3(a)(6) Does not allow more cumulative days and time to conduct landscape irrigation pursuant to Chapter 40E-24, F.A.C.

(7) Demonstrates equivalent or greater water conservation than the measures set forth in Rule 40E-24.201(5), F.A.C., through implementation of an advanced irrigation control system or other technology that is not time-based and which limits the application of water for irrigation purposes based on plant needs as determined by soil moisture, measured evapotranspiration, weather conditions, and other similar factors. Such systems shall be properly maintained and replaced in accordance with manufacturer specifications.

3(b) No change.

*Specific Authority 373.044, 373.113 FS. Law Implemented 373.219, 373.223, 373.229, 373.239 FS. History–New 4-20-94, Amended 7-11-96, 4-9-97, 12-10-97, 8-14-02, 8-31-03, 4-23-07, 2-13-08, \_\_\_\_\_.*

**1-23-09 DRAFT**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1 **40E-24.011 Policy and Purpose.**

2 (1) This chapter comprises the ~~South Florida Water Management District's (District)~~  
3 ~~Mandatory Year-Round Landscape Irrigation Conservation Measures for the area within~~  
4 ~~Lee, Collier and that portion of Charlotte County~~ within the boundaries of the South  
5 Florida Water Management District (District). These mandatory conservation measures  
6 are intended to provide a framework for consistent implementation to ensure the long-  
7 term sustainability of the water resources of the region, increase water use efficiency  
8 and prevent and curtail wasteful water use practices through regulatory means for  
9 landscape irrigation by all users. Local governments are encouraged to implement  
10 these conservation measures through the adoption of ordinances that would include  
11 these measures, variance and enforcement provisions. These measures are in addition  
12 to Chapters 40E-2 and 40E-20, F.A.C., provisions and non-regulatory measures, such  
13 as education and incentive programs, which are also utilized by the District to promote  
14 water conservation. These conservation measures prohibit landscape irrigation during  
15 those periods of the day when irrigation efficiency significantly decreases, and limit  
16 landscape irrigation water use to a maximum number of two ~~three~~ days per week unless  
17 specified otherwise herein. Users are encouraged to apply no more than ¾-inch to 1-  
18 inch of water per week on their lawns and landscapes and/or operate their irrigation  
19 systems for no more than 30 minutes per zone in accordance with the following rules.

20 (2) through (3) No Change.

21 *Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421,*  
22 *373.171, 373.219, 373.223, 373.227 FS. History—New 6-12-03, Amended \_\_\_\_\_.*

23 **40E-24.101 Definitions.**

24 When used in this chapter:

25 (1) "Address" means the "house number" (a numeric or alphanumeric designation)  
26 that, together with the street name, describes the physical location of a specific  
27 property. This includes "rural route" numbers but excludes post office box numbers. If a  
28 lot number in a mobile home park or similar community is used by the U.S. Postal  
29 Service to determine a delivery location, the lot number shall be the property's address.  
30 If a lot number in a mobile home park or similar residential community is not used by the  
31 U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the  
32 community's address), then the community's main address shall be the property's  
33 address. If a property has no address it shall be considered "even-numbered".

34 (2) "Athletic play area" means all golf course fairways, tees, roughs, and greens, and  
35 other athletic play surfaces; including, football, baseball, soccer, polo, tennis and lawn  
36 bowling fields, and rodeo, equestrian and livestock arenas.

37 (3) "Consumptive Use Permit (CUP)" means a permit issued pursuant to Chapter  
38 40E-2 or 40E-20, F.A.C., authorizing the consumptive use of water.

39 (4) "Even Numbered Address" means an address, ending in the numbers 0, 2, 4, 6,  
40 8, or rights-of-way or other locations with no address, or the letters A-M.

41 (5) "Existing landscaping" means any landscaping which has been which has been  
42 planted and in the ground for more than sixty (60) days.

**1-23-09 DRAFT**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1       (6) “Landscaping” means shrubbery, trees, lawns, sod, grass, ground covers, plants,  
2 vines, ornamental gardens, and such other flora, not intended for resale, which are  
3 situated in such diverse locations as residential landscapes, recreation areas,  
4 cemeteries, public, commercial, and industrial establishments, public medians, and  
5 rights-of-way except athletic play areas as defined in Subsection 40E-24.101(2), F.A.C.

6       (5 7) “Low Volume Hand Watering” means the watering of landscape by one person,  
7 with one hose, fitted with a self-canceling or automatic shutoff nozzle.

8       (8) “Low Volume Irrigation” means the use of equipment and devices specifically  
9 designed to allow the volume of water delivered to be limited to a level consistent with  
10 the water requirement of the plant being irrigated and to allow that water to be placed  
11 with a high degree of efficiency in the root zone of the plant. The term also includes  
12 water used in mist houses and similar establishments for plant propagation. Overhead  
13 irrigation and flood irrigation are not included.

14       (6 9) “Landscape Irrigation” means the outside watering of delivery of water to  
15 shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens,  
16 and such other flora, not intended for resale, which are planted and established for  
17 more than sixty (60) days and are situated in such diverse locations as residential  
18 landscapes, recreation areas, cemeteries, public, commercial, and industrial  
19 establishments, public medians, and rights-of-way except athletic play areas as defined  
20 in Subsection 40E-24.101(2), F.A.C.

21       (10) “Micro-irrigation” means the application of small quantities of water on or below  
22 the soil surface as drops or tiny streams of spray through emitter or applicators placed  
23 along a water delivery line. Micro-irrigation includes a number of methods or concepts  
24 such as bubbler, drip, trickle, mist or microspray, and subsurface irrigation.

25       (11) “New landscaping” means any landscaping which has been planted and in the  
26 ground for sixty (60) days or less.

27       (12 7) “Odd Numbered Address” means an address ending in the numbers 1, 3, 5, 7,  
28 9 or the letters N-Z.

29       (13 8) “Reclaimed Water” means wastewater that has received at least secondary  
30 treatment and basic disinfection and is reused after flowing out of a wastewater  
31 treatment facility as defined by Rule 62-40.210, F.A.C.

32       (14 9) “User” means any person, individual, firm, association, organization,  
33 partnership, business trust, corporation, company, agent, employee or other legal entity  
34 whether natural or artificial, the United States of America, and the State and all political  
35 subdivisions, regions, districts, municipalities, and public agencies thereof, which  
36 directly or indirectly takes water from the water resource, including uses from private or  
37 public utility systems, uses under water use permits issued pursuant to Chapter 40E-2  
38 or 40E-20, F.A.C., or uses from individual wells or pumps.

39       (15 40) “Wasteful and unnecessary” means allowing water to be dispersed without  
40 any practical purpose to the water use; for example, excessive landscape irrigation,  
41 leaving an unattended hose on a driveway with water flowing, allowing water to be  
42 dispersed in a grossly inefficient manner, regardless of the type of water use; for  
43 example, allowing landscape irrigation water to unnecessarily fall onto pavement,  
44 sidewalks and other impervious surfaces; allowing water flow through a broken or

**1-23-09 DRAFT**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1 malfunctioning water delivery or landscape irrigation system.

2 *Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421,*  
3 *373.171, 373.219, 373.223, 373.227 FS. History–New 6-12-03, Amended \_\_\_\_\_.*

4 **40E-24.201 Year-Round Landscape Irrigation Measures.**

5 (1) The year-round landscape irrigation conservation measures contained in this  
6 chapter are applicable to all users as defined in Subsection 40E-24.101(14 9), F.A.C.,  
7 including permitted and exempt users under Chapter 40E-2, F.A.C., unless indicated  
8 otherwise herein. These conservation measures apply to all water sources, except that  
9 the use of water from a reclaimed water system is allowed anytime. For the purpose of  
10 this section, a reclaimed water system includes systems in which the primary source is  
11 reclaimed water, which may or may not be supplemented from another source.  
12 ~~landscape irrigation accomplished using reclaimed water is subject to only Paragraphs~~  
13 ~~5(a) of this section.~~ In addition to the requirements of this section, all permitted users  
14 under Chapters 40E-2 and 40E-20, F.A.C., are required to maintain compliance with all  
15 CUP conditions and terms, including those designed to require the implementation of  
16 water conservation practices.

17 (2) Any restrictions or other measures declared pursuant to Chapter 40E-21, F.A.C.,  
18 or related Board or Executive Director orders which are more restrictive than a measure  
19 contained within this chapter, shall supersede this rule for the duration of the applicable  
20 water shortage declaration.

21 (3) It shall be the duty of each water user to keep informed as to the landscape  
22 irrigation conservation measures presented within this chapter, which affect each  
23 particular water use.

24 (4) In addition to the specific conservation measures enumerated below, all wasteful  
25 and unnecessary water use as defined in Subsection 40E-24.101(15 40), F.A.C., is  
26 prohibited.

27 (5) The following requirements or exceptions shall apply to all users unless specified  
28 otherwise herein:

29 ~~(a) Landscape irrigation shall be prohibited daily between the hours of 10:00 a.m.~~  
30 ~~and 4:00 p.m., except as otherwise provided herein. Irrigation of existing~~  
31 ~~landscaping shall comply with the following provisions:~~

32 1. Landscape irrigation shall be prohibited daily between the hours of  
33 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.

34 ~~2.(b) Even addresses, installations with irrigation systems that irrigate~~  
35 ~~both even and odd addresses within the same zones, including multi-family units and~~  
36 ~~homeowners' associations, and rights-of-way or other locations with no address as~~  
37 ~~defined in Subsection 40E-24.101(4), F.A.C., may accomplish necessary landscape~~  
38 ~~irrigation only on Tuesday, and/or Thursday and/or Sunday.~~

39 ~~3.(c) Odd addresses as defined in Subsection 40E-24.101(12 7), F.A.C.,~~  
40 ~~and rights-of-way or other locations without an address may accomplish necessary~~  
41 ~~landscape irrigation only on Monday, and/or Wednesday and/or Saturday.~~

42 (b) Irrigation of new landscaping shall comply with the following provisions:

**1-23-09 DRAFT**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1 1. Irrigation of new landscaping shall be prohibited daily between the  
2 hours of 10:00 a.m. and 4:00 p.m., except as otherwise provided herein.

3 2. On the day the new landscaping is installed, the new landscaping  
4 may be irrigated once without regard to the normally allowable watering days and times.  
5 Irrigation of the soil immediately prior to the installation of the new landscaping is also  
6 allowable without regard to the normal allowable watering days and times.

7 3. The sixty (60) day period begins the day the new landscaping is  
8 installed. The new landscaping shall be installed within a reasonable time from the date  
9 of purchase, which may be demonstrated with a dated receipt or invoice.

10 4. Irrigation of new landscaping which has been in place for thirty (30)  
11 days or less may be accomplished on Monday, Tuesday, Wednesday, Thursday,  
12 Saturday, and/or Sunday.

13 5. Irrigation of new landscaping which has been in place for thirty-one  
14 (31) to sixty (60) days may be accomplished on Monday, Wednesday, Thursday, and/or  
15 Saturday.

16 6. Irrigation of the new landscaping is limited to areas containing the  
17 new landscaping only. An entire zone of an irrigation system shall only be utilized for  
18 landscape irrigation under this paragraph if the zone in question is for an area that  
19 contains at least 50% new landscaping. If a zone contains less than 50% new  
20 landscaping, or if the new landscaping is in an area that will not typically be irrigated by  
21 an irrigation system, only the individual new plantings are eligible for additional irrigation  
22 under this paragraph. Targeted watering may be accomplished by low volume hand  
23 watering, or any appropriate method which isolates and waters only the new  
24 landscaping.

25 (c-d) Landscape irrigation systems may be operated during restricted days  
26 and/or-times for cleaning, maintenance, and repair purposes with an attendant on site in  
27 the area being tested. Landscape irrigation systems may routinely be operated for such  
28 purposes no more than once per week, and the run time for any one test should not  
29 exceed 10 minutes per zone.

30 (d e) Landscape irrigation for the purpose of watering-in fertilizers, insecticides,  
31 pesticides, fungicides and herbicides, where such watering-in is required recommended  
32 by the manufacturer, or by federal, state or local law, or best management practices,  
33 shall be allowed under the following conditions:

34 1. Such watering-in shall be limited to one application unless the need for  
35 more than one application is stated in the directions for application specified by in the  
36 absence of specific alternative instructions from the manufacturer; and

37 2. Such watering-in shall be accomplished during normally allowable  
38 watering days and times set forth in Paragraphs 5(a) and 5(b) unless a professional  
39 licensed applicator has posted a temporary pesticide sign containing the date of  
40 application and the date(s) of needed watering-in activity.

41 (e f) Any plant material may be watered using low volume irrigation, micro-  
42 irrigation, low-volume hand watering methods, and rain barrels, cisterns, or other similar  
43 rain-harvesting devices without regard to the watering days or times allowed pursuant to  
44 this section.

**1-23-09 DRAFT**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1           *Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042,*  
2           *373.0421, 373.171, 373.219, 373.223, 373.227 FS. History–New 6-12-03, Amended*  
3           \_\_\_\_\_.

4  
5           **40E-24.301 Local Government Option.**

6           (1) Local governments that wish to enforce alternative landscape irrigation  
7           conservation measures, shall be considered to be in substantial compliance with this  
8           rule upon the enactment of an ordinance establishing landscape irrigation measures  
9           which achieve water conservation and which allow no more cumulative days and time  
10           for landscape irrigation than Subsection 40E-24.201(5) or Subsection 40E-24.301(4),  
11           F.A.C. Such ordinance shall provide for variance and enforcement procedures that do  
12           not diminish the intent and effectiveness of the measures and which do not conflict with  
13           the District’s authority under Chapter 373, F.S. and District rules.

14           (2) Irrigation of landscapes, as defined above, may be further restricted by local  
15           governments in response to concerns directly related to the local water supply system.

16           (3) Local governments with a jurisdiction divided between the South Florida Water  
17           Management District and another water management district may propose an  
18           alternative schedule of landscape irrigation conservation measures as necessary for the  
19           local government to achieve a uniform schedule within its jurisdiction.

20           (4) Local governments served by a public or private water supply utility that was  
21           issued a water use permit on or before February 12, 2009 pursuant to Chapter 40E-2,  
22           F.A.C., which contained an allocation from a brackish or saline water source and the  
23           utility’s treatment plant capacity for the brackish or saline water source constituted at  
24           least 20% of the utility’s total treatment plant capacity and which develops a public  
25           information and enforcement program to implement these alternative landscape  
26           irrigation conservation measures, shall be considered to be in substantial compliance  
27           with this rule upon the enactment of an ordinance for the irrigation of existing  
28           landscaping subject to the following restrictions:

29           (a) Landscape irrigation shall be prohibited daily between the hours of 10:00  
30           a.m. and 4:00 p.m., except as otherwise provided herein.

31           (b) Even addresses, rights-of-way or other locations with no address as  
32           defined in Subsection 40E-24.101(4), F.A.C., and installations with irrigation systems  
33           that irrigate both even and odd addresses within the same zones, which may include  
34           multi-family units and homeowners’ associations, may accomplish necessary landscape  
35           irrigation only on Tuesday, Thursday and/or Sunday.

36           (c) Odd addresses as defined in Subsection 40E-24.101(12), F.A.C., may  
37           accomplish necessary landscape irrigation only on Monday, Wednesday, and/or  
38           Saturday.

39           (d) Users within the local government’s jurisdiction that do not utilize water  
40           supplied by a public or private water supply utility to irrigate existing landscaping shall  
41           conduct landscape irrigation in accordance with the requirements set forth in Subsection  
42           40E-24.201(5)(a) or alternative landscape irrigation conservation measures enacted  
43           pursuant to Subsections 40E-24.301(1) or (3), F.A.C.

44           (e) By December 31, 2019, landscape irrigation shall be conducted in

**1-23-09 DRAFT**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1 accordance with the requirements set forth in Subsections 40E-24.201(5) or 40E-  
2 24.301(1) or (3), F.A.C.

3 (5) At least thirty (30) days prior to the adoption of an ordinance for alternative  
4 landscape irrigation conservation measures, the local government shall submit the  
5 proposed ordinance to the District to review for consistency with Chapter 373, F.S., and  
6 District rules.

7 (6 2) In order to evaluate the effectiveness of the approved alternative landscape  
8 irrigation conservation measures, such local governments shall provide an annual report  
9 to the District which includes any variances granted or denied, enforcement actions  
10 taken and any measures proposed to be amended in the next reporting period. Each  
11 annual report shall be submitted no later than September 30th of each year following  
12 the adoption of this Chapter. The first report shall be submitted no later than January 1,  
13 2004.

14 (7 3) Users within the jurisdiction or customers of such local governments shall  
15 comply with the alternative landscape irrigation conservation measures contained within  
16 the ordinance implementing that program and are not subject to the measures  
17 contained in Subsection 40E-24.201(5), F.A.C.

18 *Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.042, 373.0421,*  
19 *373.171, 373.219, 373.223, 373.227, 373.609 FS. History–New 6-12-03, Amended*  
20 \_\_\_\_\_.

21 **40E-24.401 Enforcement.**

22 (1) As required by Section 373.609, F.S., each county and city commission,  
23 state and county attorney, sheriff, police officer and other appropriate local government  
24 official in the region covered by this chapter which is not implementing alternative  
25 landscape irrigation conservation measures pursuant to a local government ordinance,  
26 shall respond to address-specific or location-specific violations of this chapter upon  
27 request from the District.

28 (2) A local government may enforce Rule 40E-24.201, F.A.C., within its  
29 jurisdiction by adopting an ordinance incorporating the provisions specified therein. At  
30 least thirty (30) days prior to the adoption of an ordinance to enforce Rule 40E-24.201,  
31 F.A.C., the local government shall submit the proposed ordinance to the District to  
32 review for consistency with Chapter 373, F.S., and District rules.

33 ~~Irrigation of landscapes, as defined above, may be further restricted by local~~  
34 ~~governments only in response to concerns directly related to the local water supply~~  
35 ~~system or as provided in Rule 40E-24.301, F.A.C., above.~~

36 (3) In enforcing the provisions of this chapter the District will utilize any of the  
37 enforcement remedies available pursuant to Chapter 120 or 373, F.S., or applicable  
38 District rule. The Executive Director may take appropriate action pursuant to Sections  
39 373.119, 373.175(4), 373.246(7) and 120.69, F.S., to enforce the provisions of this  
40 chapter.

41 *Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.119, 373.171,*  
42 *373.175(4), 373.219, 373.227, 373.246(7), 373.603, 373.609 FS. History–New 6-12-03,*  
43 *Amended \_\_\_\_\_.*

**1-23-09 DRAFT**  
**District-wide Year-Round Water Conservation**  
**40E-24, F.A.C.**

1 **Section 40E-24.501 Variances and Waivers.**

2 (1) Users may request relief from the provisions of this Chapter by filing a  
3 petition for variance or waiver pursuant to Section 120.542, Florida Statutes, and Rule  
4 28-104, F.A.C. Examples of circumstances, which subject to the above-referenced  
5 statute and rule and the provisions below, may be candidates for the issuance of a  
6 variance, include but are not limited to:

7 (a) Two or more properties which share a common source of water;

8 (b) A public or private water system experiencing, or anticipating,  
9 distribution problems that cannot be addressed through Rule 40E-24.301, F.A.C.; or

10 (2) A variance or waiver is invalid if it has expired or if the user or its agent  
11 violates the terms of the variance or waiver.

12 (3) Where a local government has adopted an ordinance incorporating the  
13 provisions set forth in Rule 40E-24.201, F.A.C., or alternative landscape irrigation  
14 measures pursuant to Rule 40E-24.301, F.A.C., users requiring relief from such  
15 alternative landscape irrigation conservation measures must petition that local  
16 government for relief.

17 *Specific Authority 120.542, 373.044, 373.113, 373.171 FS. Law Implemented 120.542,*  
18 *373.119, 373.171, 373.175, 373.219, 373.227, 373.246, 373.603, 373.609 FS. History—*  
19 *New \_\_\_\_\_.*

**1-23-09 DRAFT**  
**Consumptive Use**  
**40E-2**

1 **40E-2.051 Exemptions.**

2 (1) and (2) no change.

3 ~~(3) Water used at a single family dwelling or duplex including but not limited to home~~  
4 ~~lawn and ornamental irrigation, car washing, and other incidental uses provided that~~  
5 ~~water is obtained from one withdrawal facility for each single family dwelling or duplex.~~  
6 *Specific Authority 373.044, 373.113, 373.171, FS. Law Implemented 373.219 FS.*  
7 *History – New 9-3-81, Formerly 16K-2.025, Amended 2-24-85, 4-20-94, \_\_\_\_\_.*  
8

9 **40E-2.061 No-Notice General Permit by Rule.**

10 (1) The Board hereby grants a general water use permit by rule to each person  
11 within the District to use, withdraw, or divert water at a single family dwelling or duplex  
12 including but not limited to home lawn and ornamental irrigation, car washing, and other  
13 incidental uses provided that water is obtained from one withdrawal facility for each  
14 single family dwelling or duplex.

15 (2) The filing of an application for a permit under this rule is not required.

16 (3) As a condition of this permit, each person issued pursuant to this rule shall  
17 comply with Chapters 40E-21 and 40E-24, F.A.C.

18 (4) Persons using or proposing to use water in a manner that differs from the  
19 conditions imposed by Chapter 40E-24, F.A.C., shall apply for a modification of this  
20 permit pursuant to Rule 40E-2.331(4), F.A.C.

21 *Specific Authority 373.044, 373.113, 373.118, 373.171, FS. Law Implemented 373.118,*  
22 *373.219, 373.223, History -- New \_\_\_\_\_.*  
23

24 **40E-2.091 Publications Incorporated by Reference.**

25 The “Basis of Review for Water Use Permit Applications within the South Florida Water  
26 Management District – \_\_\_\_\_ October 14, 2008”, is hereby published by  
27 reference and incorporated into this chapter. A current version of this document is  
28 available upon request.

29 *Specific Authority 373.044, 373.113, 373.118, 373.171 FS. Law Implemented 373.042,*  
30 *373.0421, 373.109, 373.196, 373.219, 373.223, 373.224, 373.229, 373.232, 373.233,*  
31 *373.236, 373.239, 373.250 FS. History–New 9-3-81, Formerly 16K-2.035(1), Amended*  
32 *2-24-85, 11-21-89, 1-4-93, 4-20-94, 11-26-95, 7-11-96, 4-9-97, 12-10-97, 9-10-01, 12-*  
33 *19-01, 8-1-02, 6-9-03, 8-31-03, 4-23-07, 9-13-07, 2-13-08, \_\_\_\_\_.*  
34

35 **“Basis of Review for Water Use Permit Applications Within the South Florida**  
36 **Water Management District”**

37 **Section 2.6.1(A)**

38  
39 All public water supply utilities applying for an individual permit are required to develop  
40 and implement a water conservation plan. The water conservation elements of each  
41 plan need to be identified as part of the application. A timetable outlining the  
42 implementation schedule of each of the required water conservation elements will be  
43 required to be submitted or shown to already exist prior to issuance or renewal of a  
44 public water supply water use permit. The conservation plan shall be prepared and

**1-23-09 DRAFT**  
**Consumptive Use**  
**40E-2**

1 implemented for the service area incorporating, at a minimum, the following mandatory  
2 components. For those components which require ordinance adoption, such ordinance  
3 should incorporate the entire boundary of the enacting jurisdiction. The Permittee shall  
4 provide a copy of the ordinances for each of the mandatory elements for which  
5 ordinances are adopted. The mandatory water conservation elements are as follows:  
6

7 A. The limitation of all lawn and ornamental irrigation to the hours and days  
8 specified in Rule 40E-24.201, F.A.C., or alternative landscape irrigation conservation  
9 measures pursuant to Rule 40E-24.301, F.A.C. at a minimum, of 4:00 P.M. to 10:00  
10 A.M. The permit Applicant or enacting local government may adopt an ordinance which  
11 includes exemptions from the irrigation hour restrictions for the following circumstances,  
12 irrigation systems and/or users:

- 13 1. ~~Irrigation using a micro-irrigation system;~~
- 14 2. ~~Reclaimed water end users;~~
- 15 3. ~~Preparation for or irrigation of new landscape;~~
- 16 4. ~~Watering in of chemicals, including insecticides, pesticides,~~  
17 ~~fertilizers, fungicides, and herbicides when required by law,~~  
18 ~~recommended by the manufacturer, or constituting best~~  
19 ~~management practices;~~
- 20 5. ~~Maintenance and repair of irrigation systems;~~
- 21 6. ~~Irrigation using low volume hand watering, including watering by~~  
22 ~~one hose attended by one person, fitted with a self-canceling or~~  
23 ~~automatic shutoff nozzle or both or~~
- 24 7. ~~Users irrigating with 75% or more water recovered or derived from~~  
25 ~~an aquifer storage and recovery system.~~

26 B. through I. no change.  
27

28 **40E-2.331 Modification of Permits.**

29 (1) through 4(a)(5). No change.

30 4(a)(6) Does not allow more cumulative days and time to conduct landscape irrigation  
31 pursuant to Chapter 40E-24, F.A.C., for those permits issued pursuant to Rule 40E-  
32 2.061, F.A.C., and those permits classified as landscape irrigation use.

33 (7) Demonstrates equivalent or greater water conservation than the measures set forth  
34 in Rule 40E-24.201(5), F.A.C., through implementation of an advanced irrigation control  
35 system or other technology that is not time-based and which limits the application of  
36 water for irrigation purposes based on plant needs as determined by soil moisture,  
37 measured evapotranspiration, weather conditions, and other similar factors. Such  
38 systems shall be properly maintained and replaced in accordance with manufacturer  
39 specifications.

40 4(b) No change.

41 Specific Authority 373.044, 373.113 FS. Law Implemented 373.223, 373.229, 373.239  
42 FS. History—New 9-31-81, Formerly 16K-2.09(1), Amended 4-20-94, 7-11-96, 4-9-97,  
43 12-10-97, 8-1-02, 4-23-07, 2-13-08, \_\_\_\_\_.



**59. General Counsel Report - Sheryl Wood**



**60. Executive Director's Report - Carol Wehle**



**61. Board Comment**



- 62.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in South Florida Water Management District v. State of Florida, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50-2008-CA-031975XXXXMB. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in South Florida Water Management District v. State of Florida, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50-2008-CA-031975XXXXMB. (Sheryl G. Wood, Ext. 6976)



63. Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 02-80309-CV-Altonaga/Turnoff; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Friends of the Everglades, Inc. and Fishermen Against Destruction of the Environment, Inc. v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 02-80309-CV-Altonaga/Turnoff; Miccosukee Tribe of Indians of Florida v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 98-6056-CIV-Lenard/Klein; and Friends of the Everglades v. South Florida Water Management District, United States District Court, Southern District of Florida, Case No. 98-6057-CIV-Lenard/Klein. (Sheryl G. Wood, Ext. 6976)



64. Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. (Sheryl G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Natural Resources Defense Council, Inc., et al. v. Van Antwerp, et al., United States District Court, Southern District of Florida, Case No. 07-80444-CIV-Middlebrooks. (Sheryl G. Wood, Ext. 6976)



- 65.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Florida Wildlife Federation, et al. v. Johnson, et al., United States District Court, Northern District of Florida, Case No. 08-CV-00324-RH-WCS. (Sheryl. G. Wood, Ext. 6876)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in Florida Wildlife Federation, et al. v. Johnson, et al., United States District Court, Northern District of Florida, Case No. 08-CV-00324-RH-WCS. (Sheryl. G. Wood, Ext. 6976)



- 66.** Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl. G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2008) to discuss strategy related to litigation expenditures and / or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl. G. Wood, Ext. 6976)



**67. Adjourn**