



South Florida Water Management District

GOVERNING BOARD MEETING AGENDA ADDENDUM

September 11, 2008

Section 120.525, Florida Statutes, allows the District to change the published agenda for good cause shown. Based upon that authority, the Chair of the Governing Board of the South Florida Water Management District determines that good cause exists to make the following changes.

The following item has been changed:

Item #:12

Original Item Text:

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

Conservation Easements

Seminole Tribe Work Plans

Enforcement Actions

Original Item With Changes:

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 Conservation Easements Seminole Tribe Work Plans Enforcement Actions **Page 3 No 1 Bob Paul Main Grove (WU): Postponed to October Board Page 11 No 4 Mecca Farms - Lessee Boca West Farm (WU): Postponed to October Board Page 14 No 2 Images of Pembroke Pointe (WU Denial): Postponed to October Board Page 20 No 1 Graham Groves (ERP Denial): Withdrawn**

Modified Item Text:

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

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Seminole Tribe Work Plans

Enforcement Actions

Page 3 No 1 Bob Paul Main Grove (WU): **Postponed** to October Board

Page 11 No 4 Mecca Farms - Lessee Boca West Farm (WU): **Postponed** to October Board

Page 14 No 2 Images of Pembroke Pointe (WU Denial): **Postponed** to October Board

Page 20 No 1 Graham Groves (ERP Denial): **Withdrawn**

**Supporting documents for the following item have been added:
Item #:12**

See supporting document: [ca_wr_rm_101_add_sd.pdf](#)

September 9, 2008

FDEP, SFWMD, and MDC

Recommended Consolidated Condition of Certification for

FPL's Turkey Point Units 3 and 4 Uprate

Surface Water, Ground Water, Ecological Monitoring and Compliance Condition

This recommended condition is a consolidated recommended condition agreed upon by three agencies, Department of Environmental Protection ("DEP"), Miami-Dade County Department of Environmental Resource Management ("DERM) and the South Florida Water Management District ("SFWMD"). This consolidated condition sets forth the framework for new monitoring and, as may be needed, abatement or mitigation measures, for approval of Florida Power & Light's ("FPL") Turkey Point Units 3 and 4 Uprate Application. Specific monitoring and potential modeling parameters will be identified and implemented pursuant to a monitoring plan as part of a supplemental agreement between FPL and the SFWMD as described below.

In addition to the monitoring framework set forth in this consolidated condition, within 180 days after Certification, FPL shall execute an SFWMD approved Fifth Supplemental Turkey Point Agreement ("Fifth Supplemental Agreement") to the original 1972 Agreement between FPL and the SFWMD pertaining to FPL's obligation to monitor for impacts of the Turkey Point cooling canal system on the water resources of the SFWMD in general and the facilities and operations of the SFWMD (the "Agreement"). Subject to the SFWMD's approval, FPL shall also amend the Agreement's Revised Operating Manual as referenced in paragraph C. "Monitoring Provisions" (the "Revised Plan") of the Fourth Supplemental Agreement, dated July 15, 1983. The Revised Plan shall be incorporated into the Fifth Supplemental Agreement and shall include assessment of potential impacts to surface water and ground water including wetlands, as needed, in the vicinity of the cooling canal system. The specific monitoring boundaries shall be determined as part of the Revised Plan.

The Revised Plan shall be designed to be in concurrence with other existing and ongoing monitoring efforts in the area and shall include but not necessarily be limited to, surface water, groundwater and water quality monitoring, and ecological monitoring to: 1) delineate the vertical and horizontal extent of the hyper-saline plume that originates from the cooling canal system and to characterize the water quality including salinity and temperature impacts of this plume for the baseline condition; 2) determine the extent and effect of the groundwater plume on surface water quality as a baseline condition; and 3) detect changes in the quantity and quality of surface and ground water over time due to the cooling canal system associated with the Uprate project. The Revised Plan shall include installation and monitoring of an appropriate network of wells and surface water stations. The Revised Plan shall be approved by the SFWMD in consultation with the DEP Office of Coastal and Aquatic Managed Areas, the DEP Southeast District Office and DERM.

FPL shall transmit electronic copies of all data and reports required under the Fifth Supplemental Agreement and the Revised Plan to: the SFWMD, Director, Water Supply (or alternative transmittal procedures to be described in the Fifth Supplemental Agreement); Miami-Dade County, Director, DERM; DEP, Director, Southeast District Office; DEP Site Certification

Officer; and to DEP, Director, Biscayne Bay Aquatic Preserve Manager, in accordance with timeframes as approved in the Fifth Supplemental Agreement.

If the DEP in consultation with SFWMD and DERM determines that the pre- and post-Uprate monitoring data: is insufficient to evaluate changes as a result of this project; indicates harm or potential harm to the waters of the State including ecological resources; exceeds State or County water quality standards; or is inconsistent with the goals and objectives of the CERP Biscayne Bay Coastal Wetlands Project, then additional measures, including enhanced monitoring and/or modeling, shall be required to evaluate or to abate such impacts. Additional measures include but are not limited to:

- 1) the development and application of a 3-dimensional coupled surface and groundwater model (density dependent) to further assess impacts of the Uprate Project on ground and surface waters; such model shall be calibrated and verified using the data collection during the monitoring period;
- 2) mitigation measures to offset such impacts of the Uprate Project necessary to comply with State and local water quality standards, which may include methods and features to reduce and mitigate salinity increases in groundwater including the use of highly treated reuse water for recharge of the Biscayne Aquifer or wetlands rehydration;
- 3) operational changes in the cooling canal system to reduce any such impacts; and/or
- 4) other measures to abate impacts as may be described in the Revised Plan.

Sections 373.016, 373.223, Florida Statutes and Rules 40E-4.011, 40E-4.301, 40E-4.302, Florida Administrative Code. Sections 62-302 and 62-520, Florida Administrative Code. Section 24-42; Code of Miami-Dade County; Miami-Dade County Comprehensive Development Master Plan (CDMP) Land Use Element; Conservation Element; Intergovernmental Coordination Element; Coastal Management Element.

**Supporting documents for the following item have been added:
Item #:15**

See supporting document: [Sept 2008 GB denials \(9-10-08\).pdf](#)

Denial Recommendations for Variance Log Report for September 2008 Governing Board

9/10/2008

#	Var No	Project Name	Date Received	Date Completed	County	Status	Staff Text
1	4636	Glen Walk Homeowners Association	7/22/2008	7/24/2008	Broward	DENIED	Application is recommended for denial. Applicant does not appear to have a consumptive use permit and did not respond to a request for additional information.

Supporting documents for the following item have been added:

Item #:19

Resolution #:2008-902

See resolution document: [ca_wr_102_rd.pdf](#)

1 SOUTH FLORIDA WATER MANAGEMENT DISTRICT

2
3 RESOLUTION NO. 2008 - 902

4
5 A RESOLUTION OF THE GOVERNING BOARD OF THE SOUTH FLORIDA
6 WATER MANAGEMENT DISTRICT TO AUTHORIZE AN AMENDMENT TO
7 CONTRACT 3600000969 WITH THE FLORIDA DEPARTMENT OF
8 AGRICULTURAL AND CONSUMER SERVICES (FDACS) FOR THE C-139
9 BASIN VEGETABLE PRODUCTION DEMONSTRATION PROJECT TO
10 EXTEND THE TERM BY THREE YEARS FROM SEPTEMBER 28, 2008 TO
11 SEPTEMBER 28, 2011 IN AN AMOUNT NOT-TO-EXCEED \$398,370 OF
12 WHICH \$129,990 ARE SUBJECT TO GOVERNING BOARD APPROVAL OF
13 THE FY09 BUDGET; AND THE REMAINDER IS SUBJECT TO GOVERNING
14 BOARD APPROVAL OF THE FY10 AND FY11 BUDGETS; PROVIDING AN
15 EFFECTIVE DATE. (CONTRACT 3600000969-A02)
16

17 WHEREAS, the Governing Board of the South Florida Water Management District
18 deems it appropriate, and in the public interest to authorize an amendment to agreement
19 3600000969 with the Florida Department of Agricultural and Consumer Services for the C-139
20 Basin Vegetable Production Demonstration Project to extend the term by three years in an
21 amount not-to-exceed \$398,370 of which \$129,990 are subject to Governing Board approval of
22 the FY09 budget; and the remainder is subject to Governing Board approval of the FY10 and
23 FY11 budgets; providing an effective date.
24

25 NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE
26 SOUTH FLORIDA WATER MANAGEMENT DISTRICT:

27 Section 1. The Governing Board of the South Florida Water Management District hereby
28 authorizes the execution of 3600000969-A02 with the Florida Department of Agricultural and
29 Consumer Services.

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

31 PASSED and ADOPTED this ___ day of _____, 2008.
32

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

36
37
38 By: _____
39 Chair
40

41 ATTEST:

42
43 _____
44 District Clerk

45 Approved as to form:

46
47 BY: _____
48 Office of Counsel

Supporting documents for the following item have been added:

Item #:35

Resolution #:2008-914

See supporting document: [ca_oc_010_exh.pdf](#)



**STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

CITY OF ST. CLOUD

Petitioner,

**DOAH CASE #: 08-0260
Order No. SFWMD 2008-DAO-WU
App. No. 060410-18**

vs.

**SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,**

Respondent,

and

**POLK COUNTY, OSCEOLA COUNTY and
TOHOPEKALIGA WATER AUTHORITY**

Intervenors.

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into by and between the City of St. Cloud, a city and political subdivision of the State of Florida, and the South Florida Water Management District, a public corporation of the State of Florida.

WITNESSETH:

WHEREAS, on December 13, 2007, SFWMD's Governing Board denied St. Cloud's application for a consumptive use permit (Application No. 060410-18) requesting to make withdrawals of surface water from East Lake Tohopekaliga, to meet existing and future urban irrigation demands by supplementing reclaimed water supplies. A copy of the SFWMD Staff Report which was presented to SFWMD's

Governing Board with Staff's recommendation on St. Cloud's permit application prior to denial is attached hereto as Exhibit "A".

WHEREAS, on January 2, 2008, St. Cloud filed a Petition for Administrative Hearing contesting SFWMD's decision to deny its application for consumptive use permit (Application No. 060410-18) and the Petition was forwarded to the Division of Administrative Hearings (DOAH Case No. 08-0260); and

WHEREAS, St. Cloud and SFWMD have agreed that in exchange for St. Cloud's dismissal with prejudice of DOAH Case No. 08-0260 and withdrawal of Application No. 060410-18 for a consumptive use permit, SFWMD will make a monetary contribution to the development of a comprehensive water supply plan.

NOW THEREFORE, in consideration of the foregoing premises, which are made a part of this Settlement Agreement, and the mutual terms, covenants and conditions set forth herein, the SFWMD and St. Cloud agree as follows:

Section 1. The parties hereto agree that the above recitals are true and correct.

Section 2. On the Effective Date of this Settlement Agreement, and contemporaneous with the actions of SFWMD set forth immediately below, and in accordance with the terms of this Settlement Agreement, St. Cloud (1) withdraws its application for consumptive use Permit No. 060410-18, and (2) voluntarily dismisses its petition for administrative hearing contesting the District's decision to deny its application for consumptive use Permit No. 060410-18 (DOAH Case No. 08-0260) as moot. Upon execution of this Settlement Agreement, St. Cloud shall file with the SFWMD a Notice of Dismissal with Prejudice and a Notice of Withdrawal of Application.

Section 3. Nothing in this Settlement Agreement shall be construed to prohibit St. Cloud from reapplying for a consumptive use permit or permits for the development of surface water from the Kissimmee River system, including the Kissimmee Chain of Lakes and the water sources identified in application for consumptive use Permit No. 060410-18.

Section 4. Nothing in this Settlement Agreement shall be construed to prohibit the SFWMD from taking appropriate action on any future permit application for surface water from the Kissimmee River system or the Kissimmee Chain of Lakes or be construed to otherwise affect the SFWMD's authority to protect the water resources or achieve the overall objectives of the SFWMD, pursuant to Chapter 373, Florida Statutes.

Section 5. In order to meet the short-term and long-term needs of water suppliers within Central Florida, St. Cloud, SFWMD, and other participating water suppliers intend to complete a comprehensive water supply plan (the "Plan") for those portions of the area within the SFWMD. The Plan shall identify short and long-term water supply projects and an incremental strategy for developing and permitting these projects such that the needs of St. Cloud are timely met. The Plan and water supply projects identified in the Plan shall be completed within a timeframe that is mutually agreed upon by the participants. SFWMD shall contribute \$500,000.00 towards development of the plan. The District's share of the funding pursuant to the Settlement Agreement shall be subject to appropriation by the District's Governing Board in the 2008-2009 fiscal year budget and encumbered in October 2008 after the adoption of the 2008-2009 budget.

Section 6. Nothing in this Settlement Agreement binds SFWMD to make any specific future permit, rule, or planning decisions. Nothing in this Settlement Agreement is intended to affect the rights of individuals or entities who are not parties to this Settlement Agreement. This Settlement Agreement is not intended in any way to modify St. Cloud's existing consumptive use permits.

Section 7. This Settlement Agreement is executed for the sole purpose of resolving the permit case identified herein and in no way precludes or limits the parties rights to make arguments relevant to issues raised at final hearing in such cases, should one become necessary. This Settlement Agreement shall not be admissible as evidence in any subsequent hearing between the parties.

Section 8. This Settlement Agreement requires the approval of the governing boards of both St. Cloud and the SFWMD.

Section 9. The Effective Date of this Settlement Agreement shall be on the date last executed by the parties hereto as evidenced by the dates recorded under the signatures of the authorized representatives below set forth.

Section 10. The Notice of Rights is hereby attached to this Settlement Agreement as Exhibit B.

ST. CLOUD, FLORIDA

By: Its City Council

By:

Donna Hart

Donna Hart, Mayor 9/4/08

ATTEST:

Linda P. Jaworski
Linda P. Jaworski, City Clerk

Approved as to form:

By:

Daniel F. Mantzaris, City Attorney

SOUTH FLORIDA WATER MANAGEMENT
DISTRICT, BY ITS GOVERNING BOARD

By:

Chair Person

ATTEST:

District Clerk

Approved as to form:

By:

Office of Counsel



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

08-0260

REC'D
08 JAN 16 AM 9:38
ADMINISTRATIVE
HEARINGS

December 13, 2007

City of St. Cloud
1300 Ninth Street
St. Cloud, FL 34769

Subject: Application No. 060410-18, Saint Cloud Surface Water Treatment Augmentation Facility
Osceola County, S34/T25S/R30E

Enclosed is a copy of the South Florida Water Management District's staff report covering the permit application referenced therein. It is requested that you read this staff report thoroughly and understand its contents. The recommendations as stated in the staff report will be presented to our Governing Board for consideration on Thursday, December 13, 2007.

Should you wish to object to the staff recommendation or file a petition, please provide written objections, petitions and/or waivers (refer to the attached "Notice of Rights") to:

Elizabeth Veguilla, Deputy Clerk
South Florida Water Management District
Post Office Box 24680
West Palm Beach, Florida 33416-4680

The "Notice of Rights" addresses the procedures to be followed if you desire a public hearing or other review of the proposed agency action. You are advised, however, to be prepared to defend your position regarding the permit application when it is considered by the Governing Board for final agency action, even if you agree with the staff recommendation, as the Governing Board may take final agency action which differs materially from the proposed agency action.

Please contact the District if you have any questions concerning this matter.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a "Notice of Rights" has been mailed to the addressee this 13th day of December, 2007 in accordance with Section 120.60 (3), Florida Statutes.

Sincerely,

Keith R. Smith, P.G., Deputy Director
Water Supply Department

KRS/ja

CERTIFIED # 7005 0390 0005 9817 2503
RETURN RECEIPT REQUESTED

EXHIBIT
A

Last Date for Governing Board Action:
December 13, 2007

Water Use Staff Review Summary

2007 JUN 16
11:45 AM
ADMINISTRATIVE
HEARINGS

DRAFT
Subject to Governing
Board Approval

Application Number: 060410-18

Permit Number: 49-01675-W

Project Name: SAINT CLOUD SURFACE WATER TREATMENT AUGMENTATION FACILITY

Water Use Permit Status: PROPOSED

Environmental Resource Permit Status: NOT APPLICABLE.

Right Of Way Permit Status: NOT APPLICABLE

Location: OSCEOLA COUNTY, S34/T25S/R30E

Applicant's Name and Address: CITY OF ST CLOUD
1300 NINTH ST
ST CLOUD, FL 34769

Purpose:

The purpose of this application is to obtain a Water Use Permit for water supply to meet urban irrigation demands to supplement the City of St. Cloud's reclaimed water system. Withdrawals are proposed from East Lake Tohopekaliga via three withdrawal facilities. The project is located in Osceola County, as shown on Exhibits 1 and 2.

Staff Recommendations: Denial

FILED
08 JAN 16 AM 9:38
BUREAU OF
ADMINISTRATIVE
HEARINGS

**Water Use
Classification**

Sources: Surface Water from East Lake Tohopekaliga

Recommended Allocation:

Annual Allocation: Maximum	1,825	Million Gallons (MG)	Million Gallons
Monthly Allocation:	415.2	(MG)	

Proposed Withdrawal Facilities - Surface Water
Source: East Lake Tohopekaliga 3 - 10" X 50 HP X 3100 GPM vertical turbine Pumps

Rated Capacity				
Source	Status	GPM	MGM	MGY
East lake Tohopekaliga	Proposed	9,300	401.7	4,888

Project Description

The City of St. Cloud has made application to withdraw water from East Lake Tonopokaliga in order to meet urban irrigation demands by supplementing reclaimed water supplies. This lake is part of the Kissimmee Chain of Lakes and part of the larger Kissimmee River system. These lakes and canals are part of the Kissimmee Chain of Lakes and part of the larger Kissimmee River system. The Kissimmee Chain of Lakes and the Kissimmee River form the regional surface water system and are part of the largest watershed flowing into Lake Okeechobee.

Background Information

The Kissimmee River watershed forms the headwaters of the Kissimmee - Okeechobee - Everglades system and encompasses an area of approximately 3,000 square miles. Restoring ecological integrity to this River is a critical part of the District's overall, Greater Everglades ecosystem restoration program. Restoration of the River's ecological integrity requires reconstruction of the physical form of the River and reestablishment of historic, pre-channelization, hydrologic (i.e. discharge and stage) characteristics.

The United States Congress began efforts to restore the Kissimmee River two decades ago by authorizing various activities such as demonstration programs and feasibility studies. These efforts culminated in 1992 when the U.S. Congress passed the Water Resources Development Act of 1992 authorizing ecosystem restoration of the Kissimmee River and changes to several lakes' operational schedules in the upper basin of the watershed to support the River's restoration. The South Florida Water Management District, as Local Sponsor of the Central and Southern Flood Control Project, executed a Project Cooperation Agreement with the Department of the Army for construction of the Kissimmee River Project in 1994. Section 373.1501, Florida Statutes, declares: "...the Kissimmee River Project ...[is] in the public interest, for a public purpose, and necessary for the public health and welfare." Further, sub-section 373.1501(5), F.S., requires the District, as local sponsor of identified federal projects:

"... to comply with its responsibilities under this chapter and implement project components through appropriate provisions of this chapter. In the development of project components, the district shall: (a) analyze and evaluate all needs to be met in a comprehensive manner and consider all applicable water resource issues, including water supply, water quality, flood protection, threatened and endangered species, and other natural system and habitat needs;...."

The magnitude of the state and federal efforts to restore the Kissimmee River is extensive; information on this topic is found, in summary form, in Chapter 11 of the District's South Florida Environmental Report. The numerous state, federal, and local government coordinated initiatives are summarized in this Chapter. A general overview follows, below. Five of the more significant programs include: the Kissimmee River Restoration Project with the Kissimmee River Headwaters Revitalization Project, the Kissimmee River Restoration Evaluation Program, the Kissimmee Basin Modeling and Operations Study, the Kissimmee Chain of Lakes Long-Term Management Plan and the Upper Kissimmee River Basin Water Supply Plan. A number of activities are associated with each of these projects and include, for example, such activities as ecosystem restoration, restoration evaluation, aquatic plant

management, land management, water quality improvement, and water supply planning.

River restoration deals with modifications to canal C-38 and to the water control structures in the lower basin. The Headwaters Revitalization Project authorized modifications to lake regulation schedules for Lakes Kissimmee, Hatchineha, Cypress, and Tiger in the Upper Kissimmee Basin to provide increased seasonal water storage so that releases to the Kissimmee River will be made more gradually and follow a more natural seasonal distribution. Recreating the natural seasonality of flow is essential to meeting the goals of the Kissimmee River Restoration Project. Headwaters Revitalization will have the additional benefit of increasing the quality and quantity of wetland habitat around the four upper basin lakes mentioned above. Specific goals for the projects include reducing the number of days that no flow in the restored channel of the Kissimmee River to zero cubic feet per second in a water year, and establishing annual recession events. Both of these goals require the storage and release of water obtained from the upper portion of the regional watershed.

Also, the Kissimmee River restoration will require water to be stored and released in the Kissimmee Chain of Lakes and its tributaries Boggy, Shingle and Reedy Creeks. In order to assess the quantity and timing of water required for the restoration, and how much would be available for consumptive uses, the District is in the process of preparing the Kissimmee Chain of Lakes Long-Term Management Plan. This Plan will provide recommendations to balance and manage the multiple environmental, social, economic and water supply demands being placed on the Chain of Lakes and the Kissimmee River. The Long-Term Management Plan is being completed as part of a multi-agency effort that includes participation by federal, state, and local governments. This Plan, when developed in late 2008 or early 2009, is expected to recommend River and lake structure management options to the United States Army Corps of Engineers that will best balance the multiple demands on the lake and River system and help define water supply availability for consumptive uses. Until such time as the Long-Term Management Plan and new lake operational schedule, which is an important component of the management plan, is approved and effective, the evaluation of potential impacts of proposed consumptive uses against the current system operational schedule has limited value in predicting long term impacts and cannot, therefore, serve as a basis for providing reasonable assurances.

Currently, significant portions of the Kissimmee River have been restored while other restoration segments are under construction; two of five construction phases to restore ecological integrity to the Kissimmee River have been completed. Phase I construction was completed in 2001 through backfilling of approximately 7.5 miles of the C-38 canal, resulting in the reestablishment of 15 miles of contiguous River channel. Phase IVA backfilled an additional 1.9 miles to the north of Phase I and was completed in September 2007. This Phase reestablished an additional 4 miles of River channel, bringing the overall length of contiguous River channel to almost 20 miles.

The physically restored River section has experienced continuous flow since 2001, except for a 252-day period of no-flow during the 2006-2007 drought. Positive response to reestablished flow have been documented for several physical, physiochemical, and biotic components of the ecosystem and include: (1) reestablishment of sandbars, (2) increased dissolved oxygen regimes in the river channel, (3) reduced aerial coverage of littoral vegetation, (4) increased density of passive filter-feeding invertebrates that make up the base of the food chain, and (5) increased densities of wading birds using the floodplain.

However, attainment of the River restoration requires both restoration of the physical form of the river (backfilling the C-38 canal and linkage of remnant river runs) and applying the appropriate hydrology to river/floodplain system. The Headwaters Revitalization Schedule will deliver water to the Kissimmee River and the floodplain via water control structure S-65 in a manner that mimics historic hydrologic conditions and is scheduled for implementation during the last construction phase in 2010-2012.

Impact Assessments

Existing Legal Users

East Lake Tohopekaliga

Information provided by the applicant indicates the water level in the lake will not be depressed below 0.1 foot below regulation schedule, therefore the potential for harm to occur to existing legal users of East lake Tohopekaliga as a result of the withdrawal of the recommended allocation is considered minimal.

Legal Domestic Users

East Lake Tohopekaliga

Information provided by the applicant indicates the water level in the lake will not be depressed below 0.1 foot below regulation schedule, therefore the water level in the lake will not be depressed below 0.1 foot below regulation schedule, therefore the potential for harm to occur to legal domestic users as a result of the withdrawal of the recommended allocation is considered minimal.

Saline Water Intrusion

East Lake Tohopekaliga

The nearest source of saline surface water is approximately 50 miles. Therefore the potential for saline water intrusion or upconing to occur as a result of the withdrawal of the recommended allocation is considered minimal.

Wetlands

East Lake Tohopekaliga

Wetlands are located along portions of the lake's shoreline. The water level will not be depressed below 0.1 foot below the regulation schedule, therefore the potential for harm to occur to wetlands as a result of the withdrawal of the recommended allocation is considered minimal.

Source Of Pollution

East Lake Tohopekaliga

There are no known sources of pollution in the immediate vicinity of the lake where depressing the water could cause movement of contaminants. Therefore the potential for movement of contaminants, if present, from known pollution sources as a result of the withdrawal of the recommended allocation is considered minimal.

Additional Information

DEMONSTRATION OF DEMAND

The City of St. Cloud has requested 5 MGD of surface water from East Lake Tohopekaliga to augment their reuse water system.

The City began its public access reuse system in 1991. Initially established as an unrestricted use system, the City of St. Cloud has since implemented one of the most aggressive reuse water conservation and management efforts in the State to maximize efficient reuse water utilization. Water conservation rates, pressure management and odd/even watering restrictions are part of their reuse water management plan. At the same time the City has also aggressively expanded the number of customers in its system. The result is a reuse system that maximizes overall reuse water distribution, but has also made it prone to the effect of droughts. The City has constructed a 70 million gallon storage facility and has proposed an additional 90 million gallon storage pond to help moderate the impact of extended droughts. During the period of 2004 through 2006 the City met average reuse water demands, but experienced daily reuse peak demand shortfalls near 1.0 mgd during extended drought periods. The City has an immediate need to augment its reuse system to meet these peak demands.

The City's reuse water customer base is approximately 80% residential and approximately 20% commercial/institutional accounts. There are currently about 2,600 residential reuse water accounts, representing about 15% of the City's total residential customers. The City has experienced growth of its residential reuse water in excess of 25% annually due to high growth in new residential developments. The anticipated residential customer base is 2,800 customers by 2009. The City expects that it will continue to experience periodic daily peak flow shortfalls near 1.0 mgd in the reuse system as it attempts to continue maximizing average use. The City is requesting five mgd average and 20 mgd peak of surface water from East Lake Tohopekaliga during high lake level conditions to fill its 160 million gallon storage facilities in anticipation of drought conditions during future anticipated reuse water system growth through 2009. It is estimated that the pond storage would only need to be refilled two to three times annually to maintain the City's current and project reuse water system.

PUBLIC INTEREST

The present and projected needs of the supplying area include the Kissimmee River Restoration Project, wetlands and other surface water bodies, and other potential, regional water supply projects relying on the Kissimmee River. The state and federally authorized Kissimmee River Restoration Project requires reestablishment of the River's hydrologic conditions to restore the River's ecological integrity. The quantification of these demands is being developed as a part of the comprehensive River restoration Project described above. Given the public's interest in achieving restoration of the Kissimmee River's ecological integrity and the numerous on-going and coordinated initiatives to achieve this goal and identify water available for water supply, it is not consistent with the public interest to approve the subject permit application.

Moreover, the Kissimmee River has been identified as a potential, future alternative water supply water source for future, potable demands within the Central Florida region. Numerous consumptive use permittees, including this applicant, have been required in

consumptive use permit conditions to assess the feasibility of this supply source for public water supply purposes. The District has executed an Agreement with these entities to assess the feasibility of the River and potential surface water reservoirs as a future source.

For these reasons, the applicant has not provided reasonable assurances that the proposed use of water is consistent with the public interest.

LOWEST QUALITY SOURCE

There are a variety of alternative water sources available to meet the proposed irrigation and cooling water demands. Section 3.2 of the Basis of Review states, in part: "Consideration must be given to the availability of the lowest quality water, which is acceptable for the intended use. If a water source of lower quality is available and is feasible for all or a portion of an Applicant's use, this lower quality water must be used." The applicant has not provided reasonable assurances that surface water from the Kissimmee River Basin is the lowest quality water available for the proposed irrigation uses.

08 JAN 16 AM 9:29

ADVISORY BOARD OF HEARINGS

Project Name: SAINT CLOUD SURFACE WATER TREATMENT FACILITY

Application Number: 060410-18

Permit Number: 49-01675-W

DRAFT
Subject to Governing
Board Approval

Recommendations:

Staff recommends denial of a Water Use Permit for application No. 060410-18 for a project known as St. Cloud Surface Water Treatment Augmentation. The applicant has not provided reasonable assurance the proposed withdrawals meet the conditions of issuance listed in section 373.223, Florida Statutes, and the Basis of Review.

Application Reviewer: George M. Ogden, Jr. Date: 12/12/07
George M. Ogden, Jr. P.G.

Supervisor: Steven Meinberg Date: 12/12/07
For Steven Meinberg, P.G.

Water Use Division: Keith R. Smith Date: 12/12/07
Keith R. Smith, P.G.

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.
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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.

Supporting documents for the following item have been added:

Item #:37

Resolution #:2008-915

See supporting document: [ca_oc_011_exh1.pdf](#)

APPROVED
BY ORANGE COUNTY BOARD
OF COUNTY COMMISSIONERS
AUG 26 2008 JRL/nc

**STATE OF FLORIDA
SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

ORANGE COUNTY,

Petitioner,

**DOAH CASE #: 08-0259
Order No. SFWMD 2008- DAO-WU
App. No. 060516-41**

vs.

**SOUTH FLORIDA WATER
MANAGEMENT DISTRICT,**

Respondent,

and

**POLK COUNTY, OSCEOLA COUNTY and
TOHOPEKALIGA WATER AUTHORITY,
FLORIDA AUDUBON SOCIETY INC.,
d/b/a AUDUBON OF
FLORIDA and KENNETH GARDNER,**

Intervenors.

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made and entered into by and between Orange County, a charter county and political subdivision of the State of Florida, and the South Florida Water Management District, a public corporation of the State of Florida.

WITNESSETH:

WHEREAS, in the *Kissimmee Basin Regional Water Supply Plan 2005-2006 Update* (KBWSP Update) (approved in December 2006), the South Florida Water Management

District (“SFWMD”) determined that a significant increase in public water supply demand is likely to occur in Central Florida within the next 20 years; and

WHEREAS, SFWMD has concluded that limited water supplies are available to meet these future demands; and

WHEREAS, SFWMD adopted rules implementing the Central Florida Coordination Area Action Plan, and requiring that water users develop alternative water supplies to meet consumptive water use demands after the year 2013; and

WHEREAS, SFWMD is in the process of defining sustainable water resource availability from both surface and ground water sources; and

WHEREAS, timely development of alternative water supplies, as defined in section 373.019(1), Florida Statutes, will be necessary to meet projected demands of all water users within Central Florida; and

WHEREAS, the *KBWSP Update* provides that alternative sources include reclaimed domestic wastewater; surface water from local storm water management systems or from the Central and Southern Florida Flood Control Project that has been determined not necessary for restoration or protection of natural resources or natural resources; aquifer recharge projects using storm water or treated wastewater; and, desalinated brackish or saline water; and

WHEREAS, it is in the public interest to promote a cooperative relationship between the SFWMD and water users for the purpose of exploring opportunities to jointly develop water resource projects, water supply projects, and alternative water supplies consistent with Chapter 373, Florida Statutes, and the SFWMD’s regional water supply plans for Central Florida; and

WHEREAS, the *KBWSP Update*, in addition to other SFWMD plans, projects, permits and rules have stressed the need for undertaking technical evaluations for identifying available water supplies for meeting future consumptive use demands while sustaining the natural systems and meeting the overall objectives of the SFWMD, such as Kissimmee River restoration and protection of the Kissimmee Chain of Lakes; and

WHEREAS, in June of 2007, SFWMD issued to Orange County a water use permit wherein Orange County is required to develop (1) an alternative water supply source having the capability of producing at least ten million gallons per day (“mgd”) for use by Orange County by 2013, and (2) an alternative water supply source from the Upper Kissimmee Basin or one or more alternative water supply projects meeting a minimum of 10 mgd of Orange County’s public supply water demands not met by the groundwater allocation authorized by the SFWMD; and

WHEREAS, Notwithstanding the present limitations set forth in the SFWMD’s rules implementing the Central Florida Coordination Area Action Plan, there is an immediate need to develop and implement a combination of alternative and traditional water supply projects in Central Florida, which are permissible and environmentally, economically, and technically viable. Implementation of a variety of such projects on an incremental or phased basis through a prioritization process is needed in order to meet Orange County’s water needs and permit requirements, as well as the water needs and permit requirements of other water suppliers in Central Florida; and

WHEREAS, over the past several years, SFWMD, Orange County, and other Central Florida water suppliers have been cooperating to develop a joint and comprehensive

program for the identification, permitting, funding, and timely development of water supplies in Central Florida; and

WHEREAS, the comprehensive program mentioned above should be completed in a sufficiently detailed manner to enable timely short-term and long-term water supply decisions, and provide assurances of satisfying District consumptive use permitting requirements; and

WHEREAS, in an effort to avoid the adverse effects of competition and potentially associated litigation, the parties agree that it is desirable to equitably allocate the available surface water and remaining available groundwater in Central Florida; and

WHEREAS, SFWMD intends to establish long-term criteria defining surface and groundwater availability in Central Florida; and

WHEREAS, some key SFWMD activities and future decisions expected to facilitate achieving above expressed objectives include the following:

- a. Work with local governments to develop a strategy for identification of sustainable withdrawals from available surface water and groundwater sources and developing a program for equitable distribution of those resources to meet future demands in a timely manner;
- b. Conduct surface water and groundwater availability research;
- c. Modify, as appropriate, consumptive use permitting criteria;
- d. Develop Kissimmee River & Kissimmee Chain of Lakes system operating criteria and resource protection rules, such as water reservations, so that regulatory constraints on supply sources are identified;
- e. Provide water suppliers with development and simulation assistance regarding a surface water model for the Kissimmee River and Kissimmee Chain of Lakes;
- f. Provide funding assistance for alternative water supply project planning and implementation; and
- g. Provide access to and use of SFWMD land for water supply development activities, as appropriate.

WHEREAS, Orange County anticipates the need for development of alternative water supplies as well as implementation of additional water conservation and reuse measures in

order to meet future water demands beyond the demands addressed under the County's existing permits. Key activities expected to be undertaken by Orange County to meet these additional future demands, and future decisions that are anticipated in connection therewith, include the following:

- a. Implement development of alternative water supplies consistent with its permit limiting conditions, SFWMD rules and Chapter 373, Florida Statutes;
- b. Investigate additional water conservation measures and projects for reuse of reclaimed water to mitigate, as necessary, water demands in excess of demands currently provided for in the County's existing water use permits; and
- c. Participate in regional water resource development planning and regional water supply planning activities.

WHEREAS, on December 13, 2007, SFWMD's Governing Board denied Orange County's application for a consumptive use permit (Application No. 060516-41) authorizing withdrawals of surface water from the C-29 and C-29A canals, a part of the headwaters of the Kissimmee River; and

WHEREAS, on December 31, 2007, Orange County filed a Petition for Administrative Hearing contesting SFWMD's decision to deny its application for consumptive use permit (Application No. 060516-41) (DOAH Case No. 08-0259); and

WHEREAS, on June 2, 2008, Orange County filed a Petition Challenging Agency Statements of South Florida Water Management District Pursuant to § 120.56(4), Florida Statutes (DOAH Case No. 08-2624RU); and

WHEREAS, Orange County and SFWMD have agreed that in exchange for Orange County's dismissal with prejudice of DOAH Cases Nos. 08-0259 and 08-2624RU and withdrawal of Application No. 060516-41, SFWMD will vacate its decision dated December 13, 2007, denying the application of Orange County for a consumptive use permit (Application No. 060516-41); and

WHEREAS, SFWMD published notice of this Settlement Agreement and other intended agency actions identified herein pursuant to Chapter 120, Florida Statutes.

NOW THEREFORE, in consideration of the foregoing premises, which are made a part of this Settlement Agreement, and the mutual terms, covenants and conditions set forth herein, the SFWMD and Orange County agree as follows:

Section 1. The parties hereto agree that the above recitals are true and correct, and the above-stated recitals are made a part of this Settlement Agreement.

Section 2. On the Effective Date of this Settlement Agreement, and contemporaneous with the actions of SFWMD set forth immediately below, and in accordance with the terms of this Settlement Agreement, Orange County (1) voluntarily dismisses with prejudice its petition for administrative hearing contesting SFWMD's decision to deny its application for consumptive use permit no. 060516-41 (DOAH Case No. 08-0259); (2) voluntarily dismisses with prejudice its Petition Challenging Agency Statements of the District Pursuant to § 120.56(4), Florida Statutes (DOAH Case No. 08-2624RU); and (3) withdraws its application for consumptive use permit no. 060516-41. Upon execution of this Settlement Agreement, Orange County shall file the Notices of Dismissal with Prejudice for each of the petitions referenced above, and a Notice of Withdrawal of Application with the SFWMD, which will be come effective only after the contingencies set forth in Sections 3 and 4 below are complete.

Section 3. Contemporaneous with the effective Date of this Settlement Agreement, and in accordance with the terms of this Settlement Agreement, SFWMD will by order vacate its prior determination, dated December 13, 2007, on consumptive use permit Application No. 060516-41 and withdraw its staff report relating to same and published

on or about December 13, 2007. The order shall also accept the Notices of Dismissal with Prejudice and Notice of Withdrawal of Application filed by Orange County, referenced in Section 2., contingent upon the order becoming final pursuant to Section 4., below. If the order does not become final, the notices will be deemed withdrawn.

Section 4. On August 23, 2008, SFWMD published notice of intended agency action on this Settlement Agreement and the order identified in Section 3., above, to provide a clear point of entry as required under Chapter 120, Florida Statutes. SFWMD also provided actual notice to interested parties that have requested said notice. If any third-party challenges any of these proposed actions, SFWMD may accept the notices provided by Orange County pursuant to Section 2., above, only upon a resolution of all challenges, including all appeals, upholding the proposed actions or actions of SFWMD. Otherwise, such notices shall be deemed withdrawn.

Section 5. Nothing in this Settlement Agreement shall be construed to prohibit Orange County from reapplying for a consumptive use permit or permits for the development of surface water from the Kissimmee River system, the Kissimmee Chain of Lakes, including the C-29 or C-29A canals.

Section 6. Nothing in this Settlement Agreement shall be construed to prohibit the SFWMD from taking appropriate action on any future permit application for surface water from the Kissimmee River system or the Kissimmee Chain of Lakes, including the C-29 or C-29A canals, or be construed to otherwise affect SFWMD's authority to protect the water resources or achieve the overall objectives of SFWMD, pursuant to Chapter 373, Florida Statutes.

Section 7. In order to meet the short-term and long-term needs of water suppliers within Central Florida, Orange County, SFWMD, and other participating water suppliers intend to complete a comprehensive water supply plan (the "Plan") for those portions of the area within SFWMD. The Plan shall identify short and long-term water supply projects and an incremental strategy for developing and permitting these projects such that the needs of Orange County are timely met. The Plan and water supply projects identified in the Plan shall be completed within a timeframe that is mutually agreed upon by the participants and may vary depending upon strategy. SFWMD agrees to contribute \$500,000.00 towards development of the Plan. The District's share of the funding pursuant to the Settlement Agreement shall be subject to appropriation by the District's Governing Board in the 2008-2009 fiscal year budget and encumbered in October 2008 after the adoption of the 2008-2009 budget.

Section 8. Nothing in this Settlement Agreement binds SFWMD to make any specific future permit, rule, or planning decisions. Nothing in this Settlement Agreement is intended to affect the rights of individuals or entities who are not parties to this Settlement Agreement. This Settlement Agreement is not intended in any way to modify Orange County's existing consumptive use permits.

Section 9. This Settlement Agreement is executed for the sole purpose of resolving the permit and rule challenge cases and in no way precludes or limits the parties rights to make arguments relevant to issues raised at final hearing in such cases, should one become necessary. This Settlement Agreement shall not be admissible as evidence in any subsequent hearing between the Parties.

Section 10. This Settlement Agreement requires the approval of the governing boards of both Orange County and SFWMD.

Section 11. The Effective Date of this Settlement Agreement shall be on the date last executed by the parties hereto as evidenced by the dates recorded under the signatures of the authorized representatives below set forth.

Section 12. Notwithstanding Section 11, this Settlement Agreement shall not become effective until a Settlement Agreement is executed by the City of St. Cloud and the South Florida Water Management District in resolution of *City of St. Cloud vs. South Florida Water Management District, DOAH Case No. 08-0260.*

Section 13. The Notice of Rights is attached hereto as Exhibit A.



ORANGE COUNTY, FLORIDA
By: Board of County Commissioners

By: *Richard T. Crotty*
Richard T. Crotty
Orange County Mayor

ATTEST: Martha O. Haynie, County Comptroller
As Clerk of the Board of County Commissioners

By: *Martha O. Haynie*
Deputy Clerk

SOUTH FLORIDA WATER MANAGEMENT DISTRICT,
BY ITS GOVERNING BOARD

By: _____
Chair Person

ATTEST:

District Clerk

Approved as to form:

By: _____
Office of Counsel

EXHIBIT A

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Supporting documents for the following item have been added:

Item #:56

Resolution #:2008-929

See supporting document: [aws exhibit A.pdf](#)

See supporting document: [aws backup memo.pdf](#)

EXHIBIT A
FY2009 ALTERNATIVE WATER SUPPLY FUNDING
Recommended Projects
South Florida Water Management District

Proposal Number	Project Name	Entity Name	County	AWS Source	Phase water made available (MGD)	Total water made available (MGD)	Current FY Construction Cost	Recommended Funding
KB-23	Williamson Cattle Company 0.35 MGD Expanded Reuse System from Okeechobee Utility Authority	Williamson Cattle Company	Okeechobee	Reclaimed	0.35 [a]	0.35 [a]	\$380,650	\$152,300
Total for Okeechobee County								
Kissimmee Basin Total								
LEC-65	Lincoln Park and New Lincoln Park Elementary School	Hollywood	Broward	Reclaimed	0.03 [a]	0.03 [a]	\$187,000	\$74,800
LEC-66	2.0 MGD Floridan RO System Expansion, PH 3	Hollywood	Broward	Brackish	2.00 [b]	4.00 [b]	\$3,367,900	\$509,300
LEC-70	2.0 MGD Reclaimed Water Expansion, PH 1 WWRF Treatment Plant	Miramar	Broward	Reclaimed	2.00 [a]	2.00 [a]	\$4,000,000	\$859,612
LEC-71	2.5 MGD RO Treatment Plant at West Water Plant - PH II	Miramar	Broward	Brackish	2.50	2.50	\$5,500,000	\$770,000
LEC-72	Reuse Distribution System Expansion, Service Area II	Pompano Beach	Broward	Reclaimed	0.07 [a]	0.07 [a]	\$370,000	\$148,000
LEC-77	West Water Treatment Plant 3 MGD RO Facility-PH II	Deerfield Beach	Broward	Brackish	3.00	3.00	\$5,938,215	\$1,308,000
LEC-84	West Reclaimed Water Delivery System for the City of Coconut Creek	Broward County BCC	Broward	Reclaimed	2.00 [a]	2.00 [a]	\$2,300,000	\$920,000
Total for projects in Broward County								
LEC-76	6 MGD Brackish Water Supply and Treatment, PH 3	Florida Keys Aqueduct Authority	Miami-Dade	Brackish	6.00	6.00	\$8,000,000	\$943,800
-	Hialeah RO (State Line Item # 1778)		Miami-Dade	Brackish	0.00	0.00	\$0	\$6,000,000
							\$21,663,115	\$4,589,712

[a] Distribution type project, water counted in plant capacity
[b] Support facility/phased project, water previously counted or in future years
Note: Resubmissions - 25% funding reduction

EXHIBIT A
FY2009 ALTERNATIVE WATER SUPPLY FUNDING
Recommended Projects
South Florida Water Management District

Proposal Number	Project Name	Entity Name	County	AWS Source	Phase water made available (MGD)	Total water made available (MGD)	Current FY Construction Cost	Recommended Funding
Total for projects in Miami-Dade County								
				6.00	6.00		\$8,000,000	\$6,943,800
LEC-67	5.0 MG Reclaimed Water Storage Tank	Boca Raton	Palm Beach	Reclaimed	0.00	5.00 [a]	\$2,333,000	\$933,200
LEC-68	7.5 MGD Reclaimed Water Production Capacity Expansion	Boca Raton	Palm Beach	Reclaimed	0.00	7.50 [b]	\$4,150,000	\$1,187,700
LEC-69	Reclaimed Distribution System Expansion to Broken Sound Country Club	Boca Raton	Palm Beach	Reclaimed	0.88 [a]	0.88 [a]	\$1,257,544	\$503,000
LEC-85	Phase 1-B Reclaimed Water Distribution System	Boynton Beach Utilities	Palm Beach	Reclaimed	0.37 [a]	0.66 [a]	\$1,399,700	\$559,900
LEC-86	Delray Beach Area 11 Reclaimed Water System (Phase A)	Delray Beach	Palm Beach	Reclaimed	0.23 [a]	4.84 [a]	\$2,794,900	\$1,118,000
Total for projects in Palm Beach County								
Lower East Coast Total								
				0.00	0.00		\$11,935,144	\$4,301,800
				11.50	11.50		\$41,598,259	\$15,835,312
LWC-55	.90 MGD Reverse Osmosis Water Plant Capacity Upgrade-PH II	Greater Pine Island Water Association	Lee	Brackish	0.34	0.90	\$992,682	\$397,100
LWC-56	8.4 MGD Southwest Water Reclamation Facility Expansion, PH III	Cape Coral	Lee	Reclaimed	8.40 [b]	8.40 [b]	\$39,130,000	\$900,000
LWC-57	Surface Water Aquifer Storage and Recovery Program	Cape Coral	Lee	ASR	1.80 [b]	1.80 [b]	\$3,750,000	\$303,800
LWC-60 & 62	12 MGD North RO Water Treatment Plant, PH I / North RO Wellfield Improvements PH III	Cape Coral	Lee	Brackish	12.00	12.00	\$45,393,000	\$2,712,500

[a] Distribution type project, water counted in plant capacity
[b] Support facility/phased project; water previously counted or in future years
Note: Resubmissions - 25% funding reduction

EXHIBIT A
FY2009 ALTERNATIVE WATER SUPPLY FUNDING
Recommended Projects
South Florida Water Management District

Proposal Number	Project Name	Entity Name	County	AWS Source	Phase water made available (MGD)	Total water made available (MGD)	Current FY Construction Cost	Recommended Funding
LWC-61	4.9 MGD Everest Water Reclamation Facility Expansion, PH III	Cape Coral	Lee	Reclaimed	4.90 [b]	4.90 [b]	\$21,800,000	\$138,000
Total for projects in Lee County								
Lower West Coast Total								
SUBTOTAL								
-	ASR Well Gordon River Water Quality Park	Collier County Utilities - BCBB	Collier - BCBB	Surface/ Stormwater	0.00	0.00	\$8,000,000	\$500,000
-	ASR Wells Burning Tree Rd. Hole in The Wall	Naples - BCBB	Collier - BCBB	Surface/ Stormwater	0.00	0.00	\$10,000,000	\$300,000
-	Reclaimed Water Production Facility Expansion - Phase II	Marco Island - BCBB	Collier - BCBB	Reclaimed	0.00	5.00	\$4,500,000	\$300,000
-	High Service Pump & standby Generator for ASR System	Marco Island - BCBB	Collier - BCBB	Surface/ Stormwater	0.00	14.25	\$4,000,000	\$500,000
Big Cypress Basin Total								
GRAND TOTAL								
							\$26,500,000	\$1,600,000
							\$179,544,591	\$22,039,012

[a] Distribution type project, water counted in plant capacity
[b] Support facility/phased project, water previously counted or in future years
Note: Resubmissions - 25% funding reduction

**EXHIBIT A
FY2009 ALTERNATIVE WATER SUPPLY FUNDING
Recommended Projects
South Florida Water Management District**

Proposal Number	Project Name	Entity Name	Total Project Construction Cost	District FY06 Funding Reallocated	State FY07 Funding Reallocated	District FY07 Funding Reallocated	State FY08 Funding Reallocated	District FY08 Funding Reallocated	State FY09 Funding Amount	District FY09 Funding Amount	Total FY09 Funding Amount
KB-23	Williamson Cattle Company 0.35 MGD Expanded Reuse System from Okeechobee Utility Authority	Williamson Cattle Company	\$380,650	\$0	\$0	\$0	\$0	\$0	\$76,150	\$76,150	\$152,300
Total for Okeechobee County			\$380,650	\$0	\$0	\$0	\$0	\$0	\$76,150	\$76,150	\$152,300
Kissimmee Basin Total			\$380,650	\$0	\$0	\$0	\$0	\$0	\$76,150	\$76,150	\$152,300
LEC-65	Lincoln Park and New Lincoln Park Elementary School	Hollywood	\$250,000	\$0	\$0	\$0	\$0	\$0	\$37,400	\$37,400	\$74,800
LEC-66	2.0 MGD Floridan RO System Expansion, PH 3	Hollywood	\$12,016,618	\$0	\$0	\$509,300	\$0	\$0	\$0	\$0	\$509,300
LEC-70	2.0 MGD Reclaimed Water Expansion, PH 1 WWRF Treatment Plant	Miramar	\$4,200,000	\$0	\$0	\$582,984	\$276,628	\$0	\$0	\$0	\$859,612
LEC-71	2.5 MGD RO Treatment Plant at West Water Plant - PH II	Miramar	\$10,000,000	\$591,387	\$0	\$178,613	\$0	\$0	\$0	\$0	\$770,000
LEC-72	Reuse Distribution System Expansion, Service Area II	Pompano Beach	\$370,000	\$148,000	\$0	\$0	\$0	\$0	\$0	\$0	\$148,000
LEC-77	West Water Treatment Plant 3 MGD RO Facility-PH II	Deerfield Beach	\$14,300,000	\$1,308,000	\$0	\$0	\$0	\$0	\$0	\$0	\$1,308,000
LEC-84	West Reclaimed Water Delivery System for the City of Coconut Creek	Broward County BCC	\$3,042,700	\$0	\$0	\$0	\$0	\$0	\$460,000	\$460,000	\$920,000
Total for projects in Broward County			\$44,179,318	\$2,047,387	\$0	\$1,270,897	\$276,628	\$0	\$497,400	\$497,400	\$4,589,712
LEC-76	6 MGD Brackish Water Supply and Treatment, PH 3	Florida Keys Aqueduct Authority	\$33,000,000	\$0	\$0	\$0	\$943,800	\$0	\$0	\$0	\$943,800
-	Hialeah RO (State Line Item # 1778)		\$0	\$0	\$0	\$0	\$0	\$0	\$3,000,000	\$3,000,000	\$6,000,000

(a) Distribution type project, water counted in plant capacity
 (b) Support facility/phased project, water previously counted or in future years
 Note: Resubmissions - 25% funding reduction

EXHIBIT A
FY2009 ALTERNATIVE WATER SUPPLY FUNDING
Recommended Projects
South Florida Water Management District

Proposal Number	Project Name	Entity Name	Total Project Construction Cost	District FY06 Funding Reallocated	State FY07 Funding Reallocated	District FY07 Funding Reallocated	State FY08 Funding Reallocated	District FY08 Funding Reallocated	State FY09 Funding Amount	District FY09 Funding Amount	Total FY09 Funding Amount
Total for projects in Miami-Dade County			\$33,000,000	\$0	\$0	\$0	\$943,800	\$0	\$3,000,000	\$3,000,000	\$6,943,800
LEC-67	5.0 MG Reclaimed Water Storage Tank	Boca Raton	\$5,000,000	\$933,200	\$0	\$0	\$0	\$0	\$0	\$0	\$933,200
LEC-68	7.5 MGD Reclaimed Water Production Capacity Expansion	Boca Raton	\$8,910,000	\$1,187,700	\$0	\$0	\$0	\$0	\$0	\$0	\$1,187,700
LEC-69	Reclaimed Distribution System Expansion to Broken Sound Country Club	Boca Raton	\$1,257,544	\$503,000	\$0	\$0	\$0	\$0	\$0	\$0	\$503,000
LEC-85	Phase 1-B Reclaimed Water Distribution System	Boynton Beach Utilities	\$3,568,000	\$0	\$0	\$0	\$87,000	\$0	\$236,450	\$236,450	\$559,900
LEC-86	Delray Beach Area 11 Reclaimed Water System (Phase A)	Delray Beach	\$15,634,153	\$0	\$728,483	\$389,517	\$0	\$0	\$0	\$0	\$1,118,000
Total for projects in Palm Beach County			\$34,369,697	\$2,623,900	\$728,483	\$389,517	\$87,000	\$0	\$236,450	\$236,450	\$4,301,800
Lower East Coast Total			\$111,549,015	\$4,671,287	\$728,483	\$1,660,414	\$1,307,428	\$0	\$3,733,850	\$3,733,850	\$15,835,312
LWC-55	.90 MGD Reverse Osmosis Water Plant Capacity Upgrade-PH II	Greater Pine Island Water Association	\$1,272,031	\$0	\$0	\$0	\$0	\$397,100	\$0	\$0	\$397,100
LWC-56	8.4 MGD Southwest Water Reclamation Facility Expansion, PH III	Cape Coral	\$171,778,345	\$0	\$0	\$0	\$0	\$900,000	\$0	\$0	\$900,000
LWC-57	Surface Water Aquifer Storage and Recovery Program	Cape Coral	\$14,570,000	\$0	\$0	\$0	\$0	\$303,800	\$0	\$0	\$303,800
LWC-60 & 62	12 MGD North RO Water Treatment Plant, PH 1 / North RO Wellfield Improvements PH III	Cape Coral	\$110,769,706	\$0	\$0	\$0	\$2,485,419	\$227,081	\$0	\$0	\$2,712,500

(a) Distribution type project, water counted in plant capacity
(b) Support facility/phased project, water previously counted or in future years
Note: Resubmissions - 25% funding reduction

EXHIBIT A
FY2009 ALTERNATIVE WATER SUPPLY FUNDING
Recommended Projects
South Florida Water Management District

Proposal Number	Project Name	Entity Name	Total Project Construction Cost	District FY06 Funding Reallocated	State FY07 Funding Reallocated	District FY07 Funding Reallocated	State FY08 Funding Reallocated	District FY08 Funding Reallocated	State FY09 Funding Amount	District FY09 Funding Amount	Total FY09 Funding Amount
LWC-61	4-9 MGD Everest Water Reclamation Facility Expansion, PH III	Cape Coral	\$55,800,000	\$0	\$0	\$0	\$0	\$138,000	\$0	\$0	\$138,000
Total for projects in Lee County			\$354,190,082	\$0	\$0	\$0	\$2,485,419	\$1,965,981	\$0	\$0	\$4,451,400
Lower West Coast Total			\$354,190,082	\$0	\$0	\$0	\$2,485,419	\$1,965,981	\$0	\$0	\$4,451,400
SUBTOTAL			\$466,119,747	\$4,671,287	\$728,483	\$1,660,414	\$3,792,847	\$1,965,981	\$3,810,000	\$3,810,000	\$20,439,012
-	ASR Well Gordon River Water Quality Park	Collier County Utilities - BCBB	\$63,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$500,000	\$500,000
-	ASR Wells Burning Tree Rd. Hole in The Wall	Naples - BCBB	\$20,750,000	\$0	\$0	\$0	\$0	\$0	\$0	\$300,000	\$300,000
45	Reclaimed Water Production Facility Expansion - Phase II	Marco Island - BCBB	\$4,500,000	\$0	\$0	\$0	\$0	\$0	\$0	\$300,000	\$300,000
-	High Service Pump & standby Generator for ASR System	Marco Island - BCBB	\$4,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$500,000	\$500,000
Big Cypress Basin Total			\$92,250,000	\$0	\$0	\$0	\$0	\$0	\$0	\$1,600,000	\$1,600,000
GRAND TOTAL			\$558,369,747	\$4,671,287	\$728,483	\$1,660,414	\$3,792,847	\$1,965,981	\$3,810,000	\$5,410,000	\$22,039,012

(a) Distribution type project, water counted in plant capacity
(b) Support facility/phased project, water previously counted or in future years
Note: Resubmissions - 25% funding reduction

MEMORANDUM

TO: Governing Board Members

FROM: Chip Merriam, Deputy Executive Director, Water Resources

DATE: September 11, 2008

SUBJECT: A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into one year agreements with Alternative Water Supply Funding Program applicants as shown in Exhibit A of the Resolution in an amount not to exceed \$22,039,012 for which \$3,810,000 in District FY2009 ad valorem funds, \$1,600,000 in Big Cypress Basin FY2009 ad valorem funds, \$3,810,000 in FY2009 Dedicated Funds (State Appropriation), \$3,792,847 in FY2008 State Appropriations, \$728,483 in FY2007 State Appropriations, \$1,965,981 in District FY2008 ad valorem funds, \$1,660,414 in District FY2007 ad valorem funds, and \$4,671,287 in District FY2006 ad valorem funds are budgeted, subject to Governing Board approval of the FY2009 budget; delegating authority to the Executive Director to execute project funding agreements for the projects; providing an effective date.

Background: This is the fourth year of a program authorized by the 2005 Florida Legislature providing state funding that is matched with district funds to support development of alternative water supplies (AWS). Due to the significant State budget constraints, the amount of State funding provided for FY09 is substantially reduced from previous years. State funding in FY2009 is \$3.81 million, compared to \$15.6 million in FY2008, \$18 million in FY2007, and \$30 million in FY2006. However, unused and unallocated funding resulting from cancelled or amended projects from previous years combined with the \$3.81 million allocated by the State and District ad valorem match funding, the District has a total of \$22.04 million to award to AWS projects this year. Furthermore, the legislature directed \$3.0 million of the FY2009 state appropriation towards the Hialeah Floridan aquifer and reverse osmosis project that is required to be matched by the District, and the Big Cypress Basin Board will award their \$1.6 million in funding to projects within their basin. The resulting discretionary to be allocated is \$14.4 million.

There were 62 proposals submitted for funding consideration in FY2009. These projects are listed in the attached Exhibit 1. The list of projects recommended for funding will be presented at the Governing Board meeting. Exhibit 2 provides a breakdown of the Alternative Water Supply Funding available for allocation in FY2009.

How this helps meet the District's 10-Year Strategic Plan: The Water Supply Program strategy to provide financial incentives for water suppliers and users to develop alternative water sources.

Funding Source: Projects will be funded using unused and unallocated Alternative Water Supply rebudgeted funds of \$728,483 in FY2007 State Appropriations, \$3,792,847 in FY2008 State Appropriations, \$1,965,981 in District FY2008 ad valorem funds, \$4,671,287 in FY2006 District ad valorem funds, \$1,660,414 in FY2007 District ad valorem funds; and \$3,810,000 in FY2009 State Appropriations, \$3,810,000 in FY2009 District ad valorem revenues, and \$1,600,000 in FY2009 Big Cypress Basin ad valorem revenues.

This Board item impacts what areas of the District, both resource areas and geography: This item has District-wide benefits. The Water Supply Department is overseeing this process in cooperation with the Procurement Department, Finance and Administration Department and Office of Counsel and Regional Service Centers.

What concerns could this Board item raise? While a few of the proposed projects will not be recommended for funding because they do not meet the requirements of the program, the majority of the projects meet the established program criteria. However, due to the substantial reduction in available funds for FY2009, eligible projects must be prioritized. Staff's recommendation is that funding be prioritized for:

1. Year 2 and Year 3 funding of previously funded multi-year projects (nine (9) projects; \$7,982,500)
2. Projects supporting elimination of ocean outfall wastewater disposal (eight (8) projects; \$5,444,600)
3. "Special Merit" projects (one (1) Agricultural project \$152,300; one (1) Broward Reuse Project \$859,612)

With the above recommended prioritization strategy, AWS funding will be concentrated in the Lower East Coast and Lower West Coast regions of the District.

Why should the Governing Board approve this item? It will further the use of alternative water supplies throughout the District, as mandated by the Florida Legislature and the District's strategic plan.

CM/sa

Attachment – Exhibit 1, Exhibit 2, Resolution including Exhibit A, Exhibit B & Exhibit C

Supporting documents for the following item have been added:

Item #:110

Resolution #:2008-982

See resolution document: [da_eo_001_rd_1.pdf](#)

The following item has been deleted:

Item #:117

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Lehtinen v. South Florida Water Management District, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50 2008 CA 022974 XXXX MB. (Sheryl. G. Wood, Ext. 6976)

Action Items (if any) Stemming from Closed Sessions

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) to discuss strategy related to litigation expenditures and / or settlement negotiations in Lehtinen v. South Florida Water Management District, Fifteenth Judicial Circuit, Palm Beach County, Florida, Case No. 50 2008 CA 022974 XXXX MB. (Sheryl. G. Wood, Ext. 6976)

The following item has been deleted:

Item #:118

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) 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)(2007) 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)

The following item has been deleted:

Item #:119

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) 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)(2007) 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)

The following item has been deleted:

Item #:120

Attorney-client session pursuant to Fla. Stat. Section 286.011(8)(2007) 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)(2007) 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)

The following item has been added:

Item #:122

Northern Everglades River Watershed Protection Plan Update - Temperince Morgan, Northern Everglades Program Implementation Manager, Everglades Restoration Resources (ext. 4204)

The following item has been added:

Item #:123

"River of Grass" Land Acquisition Update (continued)

- A. Due Diligence - Capital Asset Reporting & Control - Aaron Basinger
- B. Financing Team & Process - Paul Dumars, PFM, Bryant Miller Olive
- C. Restoration Concepts and Planning - Ken Ammon, Tommy Strowd
- D. Outreach Update, Community Resolutions and Identified Needs - Deena Reppen
- E. Inter-modal Logistics Center - Port Authority Director

The following item has been added:

Item #:124

Discussion of Integrated Delivery Schedule for the South Florida Restoration Program - Kim Taplin, West Palm Beach Deputy Program Manager for Restoration, U.S. Army Corps of Engineers

The following item has been added:

Item #:125

Update on Rule Development for Chapter 40E-24, Mandatory Year-Round Landscape Irrigation Measure - Terrie Bates, Assistant Deputy Executive Director, Water Resources Management (ext. 6952)

The following item has been added:

Item #:126

Overview of Chapter 373, Florida Statutes, (Continued), Reservations of Water from Consumptive Use - Part II, Section 373.223(4) - Beth Lewis, Senior Supervising Attorney, Office of Counsel (ext. 6343)