



**Audit of Environmental Resource Permit  
Enforcement  
Project #21-17**

**Prepared by**  
Office of the Inspector General

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# SOUTH FLORIDA WATER MANAGEMENT DISTRICT

December 8, 2022

Governing Board Members

Re: Audit of ERP Enforcement –  
*Project No. 21-17*

This audit was performed pursuant to the Inspector General's authority set forth in Chapter 20.055, F.S. Our audit objective primarily focused on determining whether the Environmental Resources and Regulatory Support Bureau's enforcement activities ensure compliance with state laws, regulations, and individual ERP permits. Alyassia Taylor and I prepared this report.

Sincerely,

A handwritten signature in blue ink, reading "J. Timothy Beirnes".

J. Timothy Beirnes, CPA  
Inspector General

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## TABLE OF CONTENTS

<b>BACKGROUND.....</b>	<b>1</b>
<b>OBJECTIVE, SCOPE, AND METHODOLOGY .....</b>	<b>2</b>
<b>AUDIT RESULTS .....</b>	<b>3</b>
<b>Executive Summary .....</b>	<b>3</b>
<b>Increase Enforcement System Utilization.....</b>	<b>4</b>
<b>Enforcement Staffing and Budget .....</b>	<b>5</b>
<b>Penalty Assessments and Collections .....</b>	<b>6</b>
<b>RECOMMENDATIONS .....</b>	<b>7</b>

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## **BACKGROUND**

In accordance with the audit plan, we conducted an audit of the Environmental Resource Permit (ERP) enforcement processes. An Environmental Resource Permit is required for development or construction activities to prevent flooding, protect the water quality of Florida's lakes and streams from stormwater pollution, and protect wetlands and other surface waters. The District is mandated by provisions of Chapter 373, F.S., to provide periodic compliance inspections for ERPs. The Environmental Resource and Regulatory Support Bureau is tasked with providing compliance and enforcement services relating to both permitted and non-permitted projects. The Environmental Resource and Regulatory Support Bureau has undergone several budget cuts, leaving management with the task of finding ways to enforce permitting and address permitting issues with a smaller staff.

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## **OBJECTIVE, SCOPE, AND METHODOLOGY**

Our objective was to determine whether the Environmental Resources and Regulatory Support Bureau's enforcement activities ensure compliance with state laws, regulations, and individual ERP permits.

To accomplish our objectives, we performed the following:

- Interviewed ERP Staff from both SFWMD and other water management districts in the state.
- Reviewed ERP cases opened in the Enforcement stage.
- Reviewed policies and procedures for enforcement and penalty calculation.
- Analyzed enforcement cases for efficiency and effectiveness.

Judgmental Sampling method was used throughout the audit. Judgmental Sampling was considered the preferred methodology based on consideration of the audit population's size and characteristics, as well as audit efficiency and professional judgment. Although the sample cannot be statistically projected to the total population, we believe the sample, along with the results of the audit tests, provide reasonable assurance for us to determine whether adequate internal controls are in place.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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## **AUDIT RESULTS**

### **Executive Summary**

Overall, the controls over the ERP Enforcement process appear to be operating as designed; however, the Pega 8 system's capabilities were not always being fully utilized by all enforcement staff. We originally noted that documentation was not loaded in the system for several enforcement cases. However, subsequent to our initial audit testing, staff updated the system to ensure all open cases were input into Pega 8. We reviewed the updated information and determined that the missing six cases had been properly uploaded and that the documentation was fully and accurately input into the system. Monthly staff meetings are held to perform a routine review of cases and ensure that all cases are uploaded to the Pega 8 system.

Staffing and budget allocations to enforcement activities have been constrained in recent years, which has resulted in a higher case load per employee. The District has experienced shortages in staffing, particularly after a budget revision several years ago. These staffing shortages are evident in the Environmental Resource Bureau as managers have trained compliance and permitting staff to take on roles in enforcement. We noted a need to implement technological efficiencies or additional staffing to address the enforcement case workload.

Penalties assessed on enforcement cases are not always collected in full; however, the District's primary objective is restoration of the disturbed area to its pre-development state. Total penalties and cost assessed in Fiscal Year 2022 were \$217,857. Total penalties collected were \$201,424.06. This equates to a collection rate of approximately 92.5% of penalties and costs assessed.

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### **Increase Enforcement System Utilization**

The District's ERP Staff uses the Pega 8 system to document compliance and enforcement activities. Pega 8 was implemented in 2019, which is an off-the-shelf documentation system that was modified to track permitting, compliance, and enforcement activities. The system also enables communication among staff members. System usage has grown along with the growing ERP activity volume.

Audit testing for a sample of cases revealed that some employees were not using the Pega 8 system's full capabilities. Six of the 20 cases selected were not input into the Pega 8 system. The other 14 cases were documented fully and accurately in the system. Maintaining current information in Pega 8 is essential to ensure that each staff member has current information regarding each case in order to facilitate accurate communication among ERP staff members. Subsequent to our initial audit testing, staff updated the system to ensure all open cases were input into Pega 8. We reviewed the updated information and determined that the missing six cases had been properly uploaded and that the documentation was fully and accurately input into the system. Monthly staff meetings are held to perform a routine review of cases and ensure that all cases are uploaded to the Pega 8 system.

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## **Enforcement Staffing and Budget**

The Enforcement staff suffered a budget cut in 2011, which resulted in the removal of several staff positions. At commencement of this audit, enforcement staff was comprised of 6 full-time employees to cover the District's 16-county area. Three staff members and two managers are located in West Palm Beach covering permitting and compliance (enforcement falls under compliance). One of the enforcement staff members resided in the Fort Meyers Service Center.

Over the course of the audit, ERP management has worked to cross-train the permitting and compliance staff to also handle enforcement cases. Although this allows more enforcement cases to be started, it provides more cases which need to be handled. The newly trained staff does not have the experience to quickly handle the enforcement cases while maintaining compliance and permitting work demands. The workload thus increases. Management asserts that the cross training translates to 18 staff working 25% of their time on enforcement, or approximately 5 enforcement cases per employee. Moreover, cross-training staff may allow for more enforcement cases; however, it may cause a delay in permitting and compliance cases as the staff works to meet enforcement deadlines.

Analysis of other Water Management District Permitting and Compliance staff showed that the SFWMD has a higher staff per area of land enforcement ratio than other Water Management Districts in the state. As the SFWMD has jurisdiction over 1 million acres, one enforcement employee at SFWMD must cover an average of 200,000 acres of land.

Additionally, the staff are currently allotted a \$75 boot allowance for use towards purchasing snake boots or work boots. These boots allow the staff to safely visit sites in wetlands as well as construction sites. Providing financial assistance towards boots is helpful in keeping the staff safe, however, a search for boots showed that quality snake boots cost approximately \$150 - \$200. Employees are currently unable to deduct unreimbursed employment expenses. Therefore, having safe boots may result in an annual cost to the employees, and thus a risk that employees without safe boots may avoid adequately visiting sites for some cases.

With the increase in development plans for the South Florida area it is important that the District can handle the amount of case load that may increase in the future.



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## **Penalty Assessments and Collections**

Penalties assessed on enforcement cases are not always collected in full. The District's primary objective is restoration of the disturbed area to its pre-development state. Florida Statute, Chapter 373, authorizes the District to assess fines and fees up to \$15,000 per occurrence per day; however, current rules restrict the fines to a maximum limit of \$10,000 per occurrence per day. According to management, the process for updating the rules to reflect the higher allowable fine amount is underway; however, updating administrative rules is a process that may take years.

Penalties documented on a case file are not always paid by the case holder in a timely manner. Therefore, it is difficult to calculate a percentage of penalties paid as a metric for enforcement activities. If an entity communicates a willingness to restore the land, and negotiates a lower penalty, the District can remove the penalty, or lower the penalty amount.

Penalties assessed on enforcement cases are not always collected in full; however, the District's primary objective is restoration of the disturbed area to its pre-development state. Total penalties and cost assessed in Fiscal Year 2022 were \$217,857. Total penalties collected were \$201,424.06. This equates to a collection rate of approximately 92.5% of penalties and costs assessed.

During discussion with Management, we noted that calculating metrics, such as Collection Rate, with current reporting methods proves difficult without manual interaction by an employee who knows the intricacies of each case. Pega 8 has the capabilities of collecting the data points needed to run such reports; however, the programming of these reports has not been completed by Information Technology.

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## RECOMMENDATIONS:

### **1. Management should assess the adequacy of environmental enforcement staffing and budget levels.**

**Management Response:** Workload levels for staff are very high and have remained so for several years. Current budget constraints make it difficult to add new positions to address the issue. To get the required work completed, managers, supervisors and staff have prioritized enforcement work based on the risk to the resource, staff workload and scope of the violation. While much of the enforcement case load results from noncompliance issues with permitted projects, there are also a sizable number of cases resulting from new work being conducted without a permit authorization or in flagrant violation of Florida Statutes. Each case is evaluated based on its resource risk and assignments are given to staff based on the complexity of the case and current staff workload. All engineering and environmental compliance staff are being trained in processing enforcement cases.

**Responsible Division:** Regulation and Executive Office

**Estimated Completion:** Ongoing

### **2. Explore whether additional technological solutions could be implemented to enhance staff efficiencies.**

**Management Response:** The Environmental Resource Bureau continually looks for technological innovations to enhance the effectiveness of staff. Aerial surveillance utilizing the District's helicopter assists staff in identifying unpermitted construction sites and impacts to environmental resources. Staff are utilizing iPads to conduct inspections and gather georeferenced photos for enforcement cases. Several years ago, underwater cameras were purchased to document seagrass surveys and impacts to benthic resources.

Additional IT support to create supplemental enforcement reports and further integrate enforcement with permitting, compliance and Water Use in the Regulation Portal is necessary. Currently, reporting is limited to open/closed cases and enforcement deliverables. Additional functionality for staff to run reports to track payments of penalties and costs and progress

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towards case resolution would further benefit the program reducing the reliance on individualized reports generated by IT staff.

**Responsible Division:** Regulation and Information Technology

**Estimated Completion:** Third Quarter 2023