



## **Audit of the Lake Belt Mitigation Fund**

**Project #11-20**

**Prepared by**  
Office of the Inspector General

**J. Timothy Beirnes, CPA, Inspector General**  
**Jankie Bhagudas, CPA, Lead Consulting Auditor**



# SOUTH FLORIDA WATER MANAGEMENT DISTRICT

September 12, 2012

Audit and Finance Committee Members:

Mr. Timothy Sargent, Chair  
Mr. Glenn J. Waldman, Vice Chair  
Mr. James J. Moran, Member  
Mr. Juan M. Portuondo, Member

Re: Audit of the Lake Belt  
Mitigation Fund  
*Project No. 11-20*

This audit was performed pursuant to the Inspector General's authority set forth in Chapter 20.055, F.S. Our objectives focused on determining whether the Lake Belt Mitigation Fund's resources are expended in compliance with established legislative requirements. Jankie Bhagudas and I prepared this report.

Sincerely,

A handwritten signature in blue ink that reads "J. Timothy Beirnes".

J. Timothy Beirnes, CPA  
Inspector General

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## **BACKGROUND**

In accordance with the Office of Inspector General's Fiscal Year 2011 Audit Plan, we conducted an Audit of the Lake Belt Mitigation Fund.

The Florida Legislature found that the impact of rock mining in the Miami-Dade County Lake Belt Area 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. As a result, in 1999 legislation was adopted in Chapter 373.4149, Florida Statutes, authorizing a mitigation fee and allowable use of the fees collected. In 1992 the Legislature established a Lake Belt Implementation Committee comprised of government agencies, mining interests, non-mining interests, and environmental groups, to develop a long-term plan for the Lake Belt Area. The Legislature accepted and adopted the recommendations in the Phase 1 Lake Belt Plan, completed in 1997, and Phase 2 Lake Belt Plan, submitted in 2001, which requires that mitigation funds must be used in a manner consistent with the recommendations in the reports.

The Legislature assessed a mitigation fee on each ton of limerock and sand sold from the Miami-Dade County Lake Belt Area to provide for mitigation activities to offset the loss of value and functions of wetland resources due to mining activities within this area. Mining permits are issued by the Florida Department of Environmental Protection, Army Corps of Engineers, and Miami-Dade County Department of Environmental Resource Management. The Lake Belt Area encompasses 77.5 square miles of environmentally sensitive land at the western edge of the Miami-Dade County urban area.



*Miami-Dade County Lake Belt Area (77.5 Square Miles)*

The mitigation fee is imposed for each ton of limerock and sand sold from within the properties where the fee applies to raw, processed, or manufactured form, including, but not limited to, sized aggregate, asphalt, cement, concrete, and other limerock and concrete products. The mitigation fee is 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

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Implementation Committee and adopted under Chapter 373.4139, Florida Statutes. The photograph below is an example of mining activities in the Lake Belt Area.



The proceeds of the mitigation fee are used to conduct mitigation activities that include the following:

- Purchase, enhancement, restoration, and management of wetlands and uplands;
- Purchase of mitigation credits (acres) from a permitted mitigation bank; and
- 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 District, and Miami-Dade County, for the purchase of lands that were previously acquired in areas appropriate for rock mining mitigation. Additionally, funds may be used to reimburse governmental agencies that exchanged land under Chapter 373.4149, Florida Statutes, for mitigation due to rock mining.

The Legislature also established an interagency committee, the Lake Belt Mitigation Committee, which meets several times a year to evaluate mitigation proposals and oversee the expenditure of mitigation fees from the Lake Belt Mitigation Trust Fund. In addition, the Committee is required to annually prepare and submit a report to the District's Governing Board that evaluates the mitigation costs and revenues generated

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from mitigation fee. The committee consists of representatives from each of the following agencies:

- South Florida Water Management District
- Miami-Dade County Department of Environmental Resource Management
- Florida Department of Environmental Protection
- Florida Fish and Wildlife Conservation Commission

Further, pursuant to the legislation, the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency and U.S. Fish and Wildlife Service, have been added to the committee as voting members. The rock mining industry; Miami-Dade Limestone Products Association, Inc., (the Association), is represented on the interagency committee as a nonvoting member.

The Department of Revenue collects the mitigation fee from the mining industry and then transfers the funds to the District, where they are recorded in the Lake Belt Mitigation Trust Fund (Fund 219). The mitigation fee became effective on October 1, 1999 at the initial rate of 5 cents for each ton of limerock and sand sold from within the Miami-Dade County Lake Belt Area. The legislation included an annual fee adjustment and the fee was gradually increased over time and is now 45 cents per ton as of January 1, 2012.

The financial activities of the Lake Belt Mitigation Fund are shown in the following table.

<b>Year</b>	<b>Received from the Florida Dept. of Revenue</b>	<b>Investment Income</b>	<b>Total Fees Plus Income</b>	<b>Approved Payments &amp; Operating Transfers</b>	<b>Available Balance</b>
2000	\$2,386,463	\$78,162	\$2,464,625	-	\$2,464,625
2001	2,227,895	167,611	2,395,506	-	4,860,131
2002	2,436,950	174,384	2,611,334	-	7,471,465
2003	2,761,957	205,836	2,967,793	6,607,977	3,831,281
2004	3,109,122	132,434	3,241,556	866,124	6,206,713
2005	3,344,232	200,189	3,544,421	6,184	9,744,950
2006	3,808,079	521,348	4,329,427	6,151,264	7,923,113
2007	4,989,649	934,092	5,923,741	8,784,471	5,062,382
2008	4,899,784	380,229	5,280,013	3,727,447	6,614,948
2009	4,349,570	234,641	4,584,211	9,858,913	1,340,246
2010	4,481,029	83,335	4,564,364	3,010,721	<b>\$2,893,890</b>
<b>Total</b>	<b>\$38,794,730</b>	<b>\$3,112,261</b>	<b>\$41,906,991</b>	<b>\$39,013,101</b>	

It is important to note that the Legislation also required fees be collected for a water treatment plant upgrade and be deposited in a Miami-Dade County trust fund to upgrade water quality at a water treatment plant. However, the Legislation was amended to require the fees be deposited in the District's Belt Mitigation Fund for seepage mitigation projects until \$20 million, less administrative expenses, are collected, or until water samples in the Lake Belt area demonstrate that certain conditions are met.



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

Our objectives focused on determining whether the Lake Belt Mitigation Fund's resources are expended in compliance with established legislative requirements.

To accomplish our objective we obtained an understanding of the administration of the Lake Belt Mitigation Fund by interviewing District staff responsible for overseeing the Fund. We reviewed relevant documentation; such as, Lake Belt Mitigation Committee Annual Reports submitted to the District's Governing Board and Lake Belt Mitigation Committee meeting minutes. We also analyzed expenditures and reviewed supporting documentation to ensure expenditures were authorized by the Lake Belt Mitigation Committee and expended in accordance with Chapter 373.4149, Florida Statutes.

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, our audit disclosed that the Lake Belt Mitigation Fund's fees were used in accordance with Chapter 373.4149, Florida Statutes. Specifically, based on our review of the Lake Belt Mitigation Committee's Annual Reports covering the period 2002 through 2010, supporting documentation, and discussions with District staff, we concluded that the Lake Belt Mitigation Committee approved the use of mitigation fees in accordance with the Statutes; for example, purchase, enhancement, restoration, and management of wetlands and uplands, and reimbursement of funding sources for land purchases that were acquired in areas appropriate for mitigation. In addition, we reviewed payments made by the Miami-Dade Limestone Products Association, Inc., (the Association) and concluded that the payments were for services approved by the Lake Belt Mitigation Committee and were adequately tracked and approved by the District.

Our reconciliation of expenses approved by the Lake Belt Mitigation Committee to the Finance Bureau's expenditures and operating transfers from the Lake Belt Mitigation Fund (Fund 219) disclosed an instance of a duplicate/erroneous operating transfer totaling \$66,069 in September 2009 from the Lake Belt Mitigation Fund (Fund 219) to the Wetland Mitigation Fund (Fund 211). The Budget Bureau was notified in November 2009 of the duplicate transfer. According to Budget Bureau staff, the transfer will be processed upon approval of the District's Fiscal Year 2013 budget by Governing Board.

Further, our audit disclosed that the funding source information in the Land Resources Section's records did not always correspond to the Finance Bureau's records; for example, the funding sources for certain parcels in the Real Estate Section's Integrated Real Estate Information System are indicated as Farm Bill and/or Mitigation, while the funding source in the SAP Fixed Asset Module is reflected as Save Our Rivers (Fund 404). In addition, two tracts acquired for \$45,000 and totaling 15 acres were not reflected in the SAP Fixed Asset Module.

It should be noted that the Lake Belt Mitigation Committee does not have to comply with any specific procurement requirement thresholds and our examination of

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Association-sponsored projects disclosed that the Association's representative on the Lake Belt Mitigation Committee obtained and presented a cost proposal for each service procured to the Committee. Although, all project costs are discussed and approved by the Lake Belt Mitigation Committee, the District should consider recommending that the Committee establish competitive processes for procurements exceeding certain dollar thresholds.

In addition, two issues were identified relating to the Wetland Mitigation and Wetland Mitigation Permanent Funds. We found that \$820,349 allocated for long-term management costs by the Lake Belt Mitigation Committee should have been transferred to the Wetland Mitigation Permanent Fund in 2007. However, the transfer was never made. We also concluded that there was insufficient documentation to justify the use of \$2,964,850 from the Wetland Mitigation Fund for the acquisition of C-111 project lands. However, we concluded that it appears innocuous to have used excess wetland mitigation funds for the C-111 project land purchase.

### **Mitigation Fees Expended in Accordance with Legislative Requirements**

Our audit disclosed that the Lake Belt Mitigation Fund's fees were used in accordance with Chapter 373.4149, Florida Statutes. Specifically, based on our review of the Lake Belt Mitigation Committee Annual Reports covering the period 2000 through 2010, supporting documentation, and discussions with District staff, we concluded that the Lake Belt Mitigation Committee approved the use of mitigation fees for the following:

- Purchase, enhancement, restoration, and management of wetlands and uplands
- Purchase of mitigation credits
- Reimbursement of prior land purchases within approved mitigation areas that were acquired with other funding sources; such as, Save Our Rivers Land Acquisition Program; Internal Improvement Trust Fund; the District, and the Florida Department of Environmental Protection

- Structural modifications to the existing drainage system to enhance the hydrology of the Miami-Dade County Lake Belt Area

The following table details the use of \$36,202,403 of the \$39,013,101 (93 percent) expenses approved by the Lake Belt Mitigation Committee as of December 31, 2010.

<b>MAJOR USES OF LAKE BELT MITIGATION FEES</b>		
<b>Annual Report</b>	<b>Recipient / Use of Mitigation Fees</b>	<b>Amount Expended</b>
2003	<i>District</i> – Reimbursement for previous land acquisitions, enhancement and long-term management costs of lands in the Pennsuco Regional Mitigation Area	\$6,607,977
2004	<i>Florida Department of Environmental Protection</i> – Reimbursement for 160 acres of land in the Pennsuco Regional Mitigation Area	864,000
2006	<i>District</i> – Acquisition, enhancement and long-term management of 131.7 acres in the Pennsuco Regional Mitigation Area	2,242,253
2006 & 2007	<i>District</i> – Reimbursement for enhancement and long-term management costs of 1,547 acres @ various costs per acre (\$3,785,199 each year) in the Pennsuco Regional Mitigation Area	7,570,398
2007	<i>Florida Department of Environmental Protection</i> – Reimbursement for 320.9 acres @ \$10,000 per acre in Pennsuco Regional Mitigation Area	3,209,000
2008 & 2009	<i>District</i> – Phase 1 and 2 enhancement and long-term management of 379.21 acres @ various cost per acre in the 8.5 Square Mile Project Area	8,376,565
2009	<i>District</i> – Enhancement and long-term management of 1,708 acres @ \$1,630 per acre in Pennsuco Regional Mitigation Area	2,784,040
	<i>District</i> – Land acquisition, enhancement, and long-term management of 100 acres @ \$20,233 per acre in Southern Glades	2,023,300
2010	<i>District</i> – Enhancement and long-term management of 1,549 acres @ \$1,630 per acre along the Dade-Broward Levee	2,524,870
<b>Total Major Expenditures of Mitigation Fees</b>		<b>\$36,202,403</b>

In addition to the major expenditures listed in the table above, there were other smaller expenditures that include, but are not limited to, the following: smaller land acquisitions, enhancement and long-term management; administrative expenses incurred

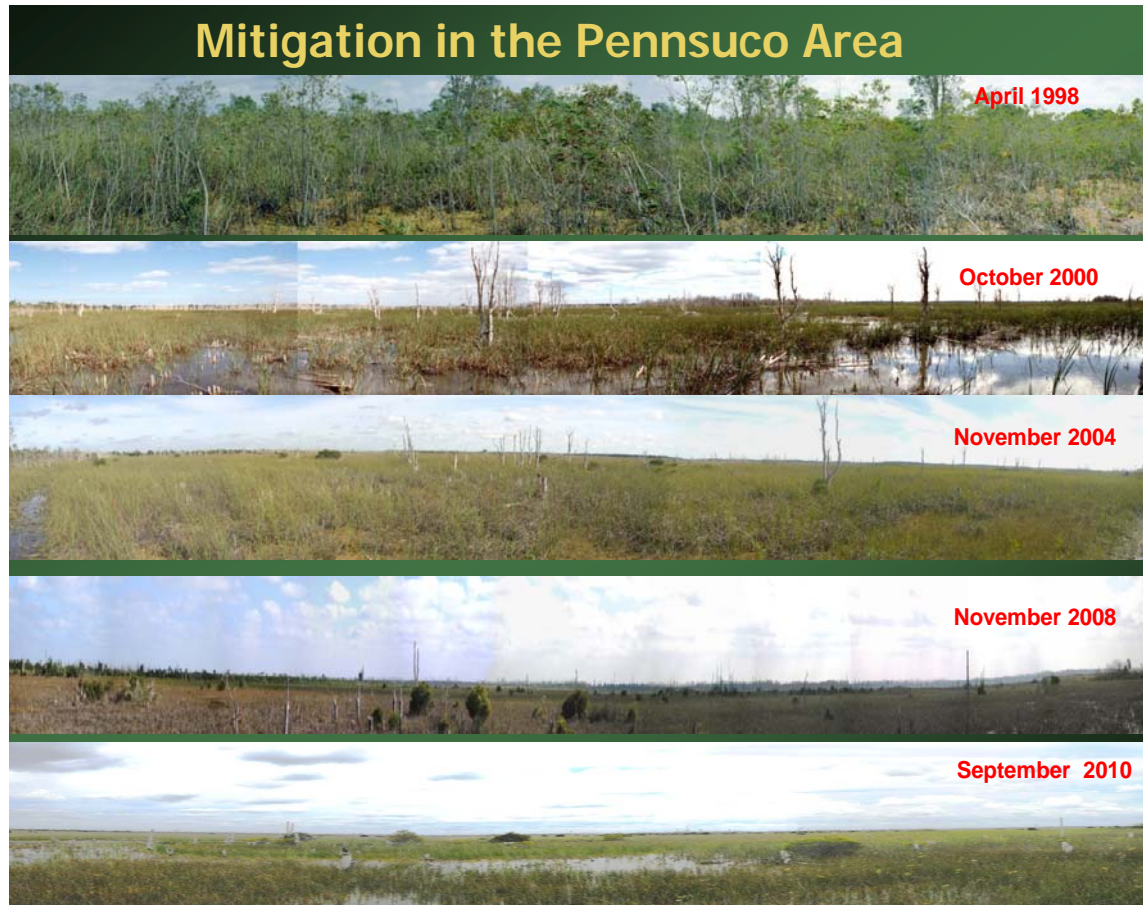
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by the Lake Belt Mitigation Committee; and a pilot seepage mitigation project, which resulted in the construction of a barrier on the berm between the District's L-31 Canal and the adjacent levee bordering Everglades National Park.

The Pennsuco Regional Mitigation Area (Pennsuco) is located in Miami-Dade County and is part of the Pennsuco Wetlands or Cell 26 of the East Coast Buffer. It covers an area of approximately 13,000 acres. In 1995, the District began using Pennsuco as a regional off-site mitigation area, allowing permit applicants to make mitigation contributions for the acquisition, enhancement, and long-term management of Pennsuco lands as compensation for permitted wetland impacts. Mitigation obligations were met in July 2002 and Pennsuco is no longer available as a mitigation option for developers with impacts to wetlands; however, Pennsuco acquisition, restoration, and long-term management continues as a mitigation option for Lake Belt miners under legislation adopted in Section 373.4149(1), Florida Statutes. The environmental benefit provides protection, enhancement, and management of the Pennsuco floral, faunal, and hydrologic resources. Pennsuco emphasizes the enhancement of a degraded ecosystem that would otherwise continue to decline and impact nearby natural areas without efforts to reduce the spread of exotics.

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The enhancement of Pennsuco has the potential to yield regional ecological benefits and contribute to the goals of Everglades restoration. The following illustrates maintenance control of melaleuca in the Pennsuco Regional Mitigation Area.



### **Reconciliation of Expenses Between the Lake Belt Mitigation Committee's and District's Records**

As part of our audit, we compared the expenses approved by the Lake Belt Mitigation Committee to the District Finance Bureau's expenditures and operating transfers from the Lake Belt Mitigation Fund (Fund 219), a special revenue fund<sup>1</sup>, to ensure approvals and transfers correspond. Our reconciliation disclosed that expenses approved by the Lake Belt Mitigation Committee were adequately reflected in the

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<sup>1</sup> Special revenue funds are used to account for and report the proceeds of specific revenue sources that are restricted or committed to expenditure for specific purposes other than debt service or capital projects.

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Finance Bureau's records. However, we noted an instance of a duplicate/erroneous operating transfer totaling \$66,069 made in September 2009 from the Lake Belt Mitigation Fund (Fund 219) to the Wetland Mitigation Fund (Fund 211)<sup>2</sup>, special revenue fund. The Finance Bureau informed the Budget Bureau in November 2009 of the duplicate transfer and requested a reversing transfer and the Governing Board's approval. According to Budget Bureau staff, the transfer will be processed upon approval of District's Fiscal Year 2013 budget by Governing Board.

### **Align Land Resources Bureau's Records with Finance Bureau's Records**

Our audit disclosed that the funding source information in the Land Resources Bureau's records did not always correspond to the Finance Bureau's records. In 2003, the Lake Belt Mitigation Committee approved reimbursing the District for 56 land parcels previously acquired within the Pennsuco Regional Mitigation Area boundaries that were partially acquired with funds from the Save Our Rivers Land Acquisition Program (Florida Preservation 2000 Trust Funds). These reimbursements were made in accordance with Chapter 373.4149, Florida Statutes. It should be noted that the parcels were initially purchased with funds from different funding sources and the District was reimbursed for the portion acquired with Save Our Rivers funds.

As part of our audit, we verified whether the information for the 56 parcels in the Real Estate Section's Integrated Real Estate Information System and the Finance Bureau's records (i.e., SAP Fixed Asset Module) correspond. Our audit disclosed the following:

- The funding source for all parcels in the Integrated Real Estate Information System is indicated as Farm Bill and/or Mitigation, while the funding source in the SAP Fixed Asset Module is reflected as Save Our Rivers (Fund 404). Further, Finance Bureau staff stated that funding source changes are a common occurrence and changes are not made unless they are notified and provided with appropriate supporting documentation. We believe that, at a minimum, the new funding

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<sup>2</sup> The Wetland Mitigation Fund tracks the activities of several special revenue projects. We use the Wetland Mitigation Fund to refer only to the Pennsuco portion of the fund.

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source should be noted in the asset record in the SAP Asset Module to reflect that the initial funding source was changed.

- The acreage information for three tracts totaling 345 acres (W9304-966, W9304-968, and W9304-974) in the Integrated Real Estate Information System were reflected as zero acres in the SAP Fixed Asset Module and another tract (W9300-996) for five acres was reflected as one acre. According to the Finance Bureau staff, the Integrated Real Estate Information System is the system of record for acreage information, not the SAP Asset Module. Nevertheless, we believe the Finance Bureau should revise the SAP Asset Module data to reflect the correct acreage.
- Two tracts acquired for \$45,000 and totaling 15 acres (W9306-929 and W9307-929) were not reflected in the SAP Fixed Asset Module. The Finance Bureau acknowledged that these tracts were not included in the SAP Fixed Asset Module.

## **Recommendations**

- 1. Ensure that the Budget Bureau transfers the \$66,069 back to the Lake Belt Mitigation Fund, upon approval of the District's Fiscal Year 2013 budget by the Governing Board.**

**Management Response:** Management agrees with the recommendation and an operating transfer from the Wetland Mitigation Restoration Fund to the Lake Belt Mitigation Fund in the amount of \$66,069 has been budgeted for Fiscal Year 2013.

**Responsible Division:** Administrative Services

**Estimated Completion:** October 31, 2012

- 2. Require the Finance Bureau to note in the SAP Asset Module's asset record those instances where lands were retroactively acquired with funds from the Lake Belt Mitigation Fund. Further, take necessary steps to include the two**



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**missing tracts and update the acreage information for the four tracts in the SAP Asset Module.**

**Management Response:** Management agrees with the recommendation. Going forward Finance will note on asset records any properly documented change in funding source. Finance will also add any missing tracts to the fixed asset records and update acreage information as necessary.

**Responsible Division:** Administrative Services

**Estimated Completion:** October 31, 2012

### **Mitigation Projects Managed by the Miami-Dade Limestone Products Association, Inc.**

Prior to December 2010, Lake Belt Mitigation Fund expenses were administered by the District. However, in December 2010, the District and the Miami-Dade Limestone Products Association, Inc., (the Association) executed a five-year agreement (October 1, 2010 to September 30, 2015) to establish administrative procedures allowing the Association to directly pay contractors for certain Association-sponsored projects using funds from the Lake Belt Mitigation Fund. Based on the agreement, after a project is approved by the Lake Belt Mitigation Committee, the District is authorized to advance the approved funding amount at the beginning of the project to the Association's Counsel and the funds are held in a trust account. The Association and the District approve invoices for payment before payments are made to contractors. In addition, paid invoices are presented to the Lake Belt Mitigation Committee for acceptance.

As part of our audit, we reviewed payments made by the Association and concluded that the payments were for services approved by the Lake Belt Mitigation Committee and were adequately tracked and approved by the District. A review of Association-sponsored projects disclosed that the Association's representative on the Lake Belt Mitigation Committee, MacVicar, Federico & Lamb, obtained and presented a cost proposal for each service procured to the Committee. In October 2011, District engineers reviewed a \$5.4 million cost proposal for a Lake Belt Mitigation Funded

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project, L-31 Seepage Control Project, sponsored by the Association to ensure the cost proposal was reasonable. District engineers also reviewed the proposal and concluded that the cost was reasonable. Although, all project costs are discussed and approved by the Lake Belt Mitigation Committee, the District should consider recommending that the Committee establish competitive processes for procurements exceeding certain dollar thresholds.

### **Recommendation**

- 3. The District should consider recommending to the Lake Belt Mitigation Committee that it establish competitive processes for procurements exceeding certain dollar thresholds.**

**Management Response:** All contracting for Lake Belt Mitigation Committee-approved projects that is implemented by the District is done in accordance with the District's procurement policy. Scopes of Work and cost proposals for mitigation activities implemented by the Miami-Dade Limestone Product Association itself are reviewed and approved by the interagency committee, following input from the engineering, construction and technical staff from the committee member agencies. District staff will discuss the issue with the Lake Belt Mitigation Committee at an upcoming meeting.

**Responsible Division:** Water Resources

**Estimated Completion:** December 31, 2012

### **Issues Regarding the District's Wetland Mitigation and Wetland Mitigation Permanent Funds**

In 2003, the Lake Belt Committee approved reimbursements to the District totaling \$7,570,398 for wetland restoration and long-term management costs for lands within the Pennsuco Regional Mitigation Area. The reimbursement was comprised of \$5,929,701 for restoration and \$1,640,697 for long-term management costs. The

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restoration costs were to be transferred to the Wetland Mitigation Fund (Fund 211) and the long-term management costs portion to the Wetland Mitigation Permanent Fund (Fund 701). Based on the Lake Belt Mitigation Committee's 2004 Annual Report and other documentation, the Committee and the District agreed that the District would perform the restoration and the Committee would reimburse the District's Wetland Mitigation Fund when the District needed the cash. The funds were not transferred at the time of approval because the Committee wanted to have sufficient funds readily available in the Lake Belt Mitigation Fund for potential land acquisition opportunities in the Pennsuco Area. The District agreed to defer receipt and performed the restoration using available funds from the Wetland Mitigation Fund.

Subsequently, the Committee approved reimbursement to the District in two equal payments totaling \$3,785,199 each (with \$2,964,850 designated for restoration and \$820,349 designated for long-term management). Our review of District budget amendments and other financial records disclosed that operating transfers from the Lake Belt Mitigation Fund (Fund 219) were made in September 2007 and April 2008. The April 2008 transaction appropriately transferred \$3,785,199 from the Lake Belt Mitigation Trust to the following funds: \$2,964,850 was transferred to the Wetland Mitigation Fund for restoration and \$820,349 to the Wetland Mitigation Permanent Fund for long-term management costs. However, our review of the September 2007 operating transfer disclosed that \$3,785,199 was transferred from the Lake Belt Mitigation Fund to a Capital Projects Fund (Fund 402) for the C-111 project,<sup>3</sup> which was used for land acquisitions.

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<sup>3</sup> The acquisition was for the C-111 project that will provide ecosystem restoration of freshwater wetlands, tidal wetlands, and near-shore habitat as well as flood protection maintenance and recreation opportunities.

The reimbursement activities from the Lake Belt Mitigation Fund for the two \$3,785,199 transfers are summarized in the following table.

Actions / Effects	Notes	FUNDS			
		Lake Belt Mitigation	Wetland Mitigation (Restoration)	Wetland Permanent Mitigation (Long-Term Mgmt)	Capital Projects (C-111)
<b>APPROVED Allocation by the Lake Belt Mitigation Committee</b>					
2003 Committee Authorization for Pennsuco Wetland Mitigation	<i>1</i>	(\$7,570,398)	\$5,929,701	\$1,640,697	
<b>TRANSFERRED from the Lake Belt Mitigation Fund</b>					
April 2008 Transfer: To Mitigation Funds as Authorized	<i>2</i>	(\$3,785,199)	\$2,964,850	\$820,349	-
September 2007 Transfer: Used to Acquire C-111 Project Lands	<i>3</i>	(\$3,785,199)	-	-	\$3,785,199
<b>EFFECT of Using Funds for C-111 Land Acquisition</b>					
Excess Funds in Wetland Fund Used for Acquisition	<i>4</i>	-	(\$2,964,850)	-	
Permanent Fund Dollars Used for Acquisition	<i>5</i>	-	-	(\$820,349)	
Wetland Mitigation Funds Used for C-111 Land		-	-		\$3,785,199

**Notes**

- 1* Pennsuco restoration activities were initially paid for from the Wetland Mitigation Fund with the intent to reimburse the cost from the Lake Belt Mitigation Fund. The reimbursement was deferred because the committee wanted to ensure that sufficient funds were readily available in the Lake Belt Mitigation Fund for potential land acquisition opportunities that may arise in the Pennsuco Area. Reimbursements were to be made in two equal amounts.
- 2* 50% of the funds were appropriately transferred from the Lake Belt Mitigation Fund to the Wetland Mitigation Fund and the Wetland Mitigation Permanent Fund as planned.
- 3* The remaining 50% was transferred to Fund 402 (Capital Projects) to acquire lands for the C-111 project. We determined that there was inadequate authorization and documentation to substantiate using wetland mitigation funds for this land acquisition.
- 4* Audit analysis revealed that there were excess funds in the developers' restoration fees after developers' obligations were satisfied; however, there was inadequate authorization and documentation to justify the use of the excess funds.
- 5* Audit analysis revealed that the Wetland Mitigation Permanent Fund still needs to be funded by an additional \$820,349.

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Since \$2,964,850 of the second transfer should have been a repayment to the Wetland Mitigation Fund and \$820,349 should have been funded to the Wetland Mitigation Permanent Fund for long-term land management, we assessed whether expending these funds for the acquisition of C-111 project lands was an allowable use of these wetland mitigation funds' resources.

***\$820,349 Due to the Wetland Mitigation Permanent Fund for Long-Term Land Maintenance***

Our audit disclosed that \$820,349 (50% of the \$1,640,697 that the Lake Belt Mitigation Committee allocated for long-term management costs) has not been transferred to the Wetland Mitigation Permanent Fund. Since these funds were earmarked for perpetual long-term land management, the District should have made the transfer in September 2007 when it shifted the \$3,785,199 from the Lake Belt Mitigation Fund to the Capital Project Fund for acquiring C-111 project lands.

***Insufficient Documentation to Substantiate Authorization to Use Wetland Mitigation Funds for Land Acquisition***

According to staff, the \$2,964,850 intended to repay the Wetland Mitigation Fund was used to acquire C-111 project lands because the Wetland Mitigation Fund had an excess balance after required restoration work in the Pennsuco area was completed. In 1995, the District began using Pennsuco as a regional off-site mitigation area, allowing permit applicants (developers) to make cash mitigation payments to the District for the acquisition, enhancement, and long-term management of Pennsuco lands as compensation for permitted wetland impacts. Developers' fees were allocated as follows: 50% for land acquisition; 40% for restoration; and 10% for perpetual long-term management. District staff explained that the developers' obligations were deemed satisfied after they paid the District the required mitigation fees and that the District was responsible for completing the mitigation activities. In July 2002, the District ceased using Pennsuco as a regional off-site mitigation area for developers because mitigation

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areas were no longer available. However, Pennsuco continues to be a mitigation option for Lake Belt miners under legislation adopted in Section 373.4149(1), Florida Statutes.

After the Lake Belt Mitigation Committee approves District-sponsored restoration activities, funding is transferred from the Lake Belt Mitigation Fund to the Wetland Mitigation Fund. As a result, developers' and Lake Belt restoration funds are combined in the Wetland Mitigation Fund. The Lake Belt Miners' obligations were also deemed satisfied after they paid the District the required mitigation fees and the District is responsible for completing the mitigation activities. The first transfer from the Lake Belt Mitigation Fund to the Wetland Mitigation Fund was made in Fiscal Year 2004.

Audit procedures were performed to determine whether the \$2,964,850 from the Wetland Mitigation Fund used to acquire C-111 project lands were excess funds and whether the use was allowable. The analysis focused on restoration fees collected from developers and the District's mitigation obligations. Documentation<sup>4</sup> revealed that the District was required to acquire, restore,<sup>5</sup> and manage 2,694.23 acres of lands in the Pennsuco area to offset impacts caused by developers' permitted activities. The District collected the following fees for these activities.

<b>Mitigation Activity</b>	<b>Approximate Revenue Collected from Developers</b>
Land Acquisition	\$7,649,547
Restoration	\$6,109,230
Long-Term Management	\$1,531,076
<b>Total</b>	<b>\$15,289,853</b>

To determine whether the District satisfied the developers' mitigation obligations, we reviewed relevant documentation and concluded the following:

- The District acquired fee interest in over 2,244 acres of land within Pennsuco using developers' fees. However, due to the unavailability of willing sellers in the area, the District decided to restore and manage an additional 450.4 acres of

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<sup>4</sup> Since fees were collected and expenses were incurred years ago, our conclusions are based on available substantiating documentation and limited tests.

<sup>5</sup> Restoration involved a multi-year herbicidal and manual exotic vegetation removal program followed by controlled burns.

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land previously acquired by the District or the State of Florida within Pennsuco in order to meet its acquisition obligation. All fees collected for acquisition were expended by 2005.

- As of 2003, the District restored approximately 5,100 acres of lands within Pennsuco and about \$3.5 million in restoration fees remained unexpended. District staff stated that the balance was due to the District's successful and efficient restoration program. Since then, the unexpended balance has grown to \$10,111,081, as of September 30, 2011. In addition, none of the long-term management fees have been expended. As of September 30, 2011, a total of \$7,566,449 (\$6,158,595 in revenue and \$1,407,854 in accumulated interest income) was available for long-term management in the Pennsuco area.

In summary, we concluded that the District fulfilled its acquisition and restoration obligations and excess developers' funds were available; however, documentation submitted to authorize the fund transfer should have indicated that the funding source for the C-111 project land acquisition was excess Wetland Mitigation Funds. Since the Wetland Mitigation Fund is a special revenue fund, management should have consulted the Office of Counsel and the Finance Bureau to determine whether these funds could be used for land acquisition outside the Pennsuco area. However, our review disclosed that staff involved in the January 2007 budget amendment requesting that the Governing Board authorize the transfer of \$3,785,199 from the Lake Belt Mitigation Fund to the Capital Projects Fund did not consult with the appropriate staff to determine whether the use was allowable.

We consulted with District counsel to determine whether using excess developers' restoration fees towards the land acquisition was allowable. In consultation with District counsel it appears that there would be no basis for anyone to make a legal claim against the funds since the funds were excess and the District met its obligations. Since the developers' obligations were fulfilled upon payment of the mitigation fees to the District, if the actual mitigation costs were more than the fees collected then the District would have been responsible for the unfunded costs.

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Thus, we concluded that it appears innocuous to have used excess wetland mitigation funds for C-111 project land purchases; however, budget amendment documentation presented to the District's Governing Board did not fully explain the nature of the transfer. The documents indicated that funds were being shifted from the Lake Belt Mitigation Fund to ad valorem to reimburse the District for prior year Pennsuco acquisitions and that the funds were being used for C-111 project land acquisitions. The Governing Board should also have been informed that the funds for the acquisition were excess special revenues funds and staff should have provided justification for use of wetland mitigation funds. Further, since the acquisitions were made with funding from the Wetland Mitigation Fund, the District should ensure that corresponding land records include the correct funding source.

## **Recommendations**

- 4. Ensure that the Wetland Mitigation Permanent Fund is funded by an additional \$820,349 for long-term land management in the Pennsuco area.**

**Management Response:** Budget Bureau staff will include an operating transfer of \$820,349 from the Wetland Mitigation Restoration Fund (Fund 211) to the Wetland Mitigation Permanent Fund (Fund 701) in the updated Fiscal Year 2013 budget to be considered for adoption by the Governing Board in September. With the experience gained over the last 10 years, the District has effectively and efficiently implemented required restoration activities in Pennsuco to the extent that there is sufficient fund balance available in Fund 211 to transfer a portion to Fund 701, while still providing for restoration activity contingencies.

**Responsible Division:** Administrative Services

**Estimated Completion:** October 31, 2012

- 5. Consult with the District's General Counsel and the Finance Bureau before using any special revenue funds for purposes other than those specified by the fund.**



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**Management Response:** Management agrees with the recommendation.

**Responsible Division:** Administrative Services

**Estimated Completion:** Completed

6. **Ensure that the use of any special revenue funds for purposes other than those specified by the fund is adequately communicated to Governing Board.**

**Management Response:** Management agrees with the recommendation.

**Responsible Division:** Administrative Services

**Estimated Completion:** Completed

7. **Determine whether re-authorization should be obtained from the Governing Board for the use of funds from the Wetland Mitigation Fund towards the acquisition of C-111 project lands.**

**Management Response:** This use of funds was adopted as a budgeted line item for C-111 land acquisition in the Fiscal Year 2007 budget; and subsequently itemized in an agenda item that was approved by the Governing Board in January, 2007. The backup memo stated that “funding will be used for C-111 land acquisition”. Since it has already been approved twice, management does not believe that any further approvals or authorizations are needed.

**Responsible Division:** Administrative Services

**Estimated Completion:** Completed

8. **Ensure that the funding source for the C-111 project lands acquired with the \$3,785,199 from the Wetland Mitigation Fund is correctly reflected in the District’s asset records.**

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**Management Response:** Management agrees with the recommendation and will ensure that the funding source for land acquired for the C-111 project is properly reflected on the District's asset records.

**Responsible Division:** Administrative Services

**Estimated Completion:** October 31, 2012