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# Environmental Resource Permit Transfers

**Jennifer Krumlauf**

**April 17, 2012**

# Overview

- **Types of Permit Transfers**
- **District Criteria and Permit Requirements**
- **Acceptable Operating Entities**
- **Documentation Reviewed**
- **Challenging Scenarios**
- **Change of Ownership Transfers**





# Conversion to Operation Phase and Transfer to Operating Entity

***“Conversion Transfers”***

# Operating Entity

**The entity responsible for the long-term maintenance and function of a surface water management system.**



# Purpose of Review

To ensure that the operating entity  
has the necessary legal  
authority and responsibility  
to maintain the  
surface water management system.



# Permit General Condition #7

- A permit does NOT automatically enter operation phase when construction is deemed complete.
- A conversion transfer must be requested.
- The designated operating entity must meet District requirements.

# Permit General Condition #9

- **The original permittee remains responsible until the conversion transfer is finalized.**
- **A request for conversion transfer (Form 0920) signed by the operating entity MUST be received for the transfer to be finalized, even if the developer submits all other required documentation.**

# Permit Special Condition

- Specifies the District-approved operating entity for the surface water management system.
- Includes submittal deadlines.





# Submittal Requirements

## Form 0920

- Official request for conversion transfer of the permit.
- Acceptance of the permit's conditions and requirements.
- Signed by the entity **RECEIVING** the permit.



**SOUTH FLORIDA WATER MANAGEMENT DISTRICT**

**Request for Conversion of District Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity**

(to be completed, executed and submitted by the new owner)

SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
Regulation Division  
P.O. Box 24680  
West Palm Beach, FL 33416-4680  
[www.sfwmd.gov/ePermitting](http://www.sfwmd.gov/ePermitting)

It is hereby requested that District Permit No. \_\_\_\_\_, authorizing the construction and operation of a surface water management system for the below mentioned project, be converted from the construction phase to the operation phase and be transferred from the construction phase permittee to the operation phase operating entity.

\* Please list ALL applications included in this transfer: \_\_\_\_\_

Project Name: \_\_\_\_\_

Permittee: Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Operating Entity: Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
E-mail Address \_\_\_\_\_

Enclosed are the following documents:

- Documentary evidence of satisfaction of permit conditions (other than long term monitoring)
- Copy of recorded transfer of title to the operating entity for the common areas on which the surface water management system is located (unless dedicated by plat)
- Copy of all recorded plats
- Copy of recorded declaration of covenants and restrictions, amendments, and associated exhibits
- Copy of filed articles of incorporation
- Copy of the certificate of incorporation

To expedite the review and finalization of this transfer request, it is recommended that the following also be submitted:

- A completed, signed, and notarized affidavit attesting that the operating entity meets the requirements of Paragraph 40E-4.091(1)(a), F.A.C, Section 9.0, Basis of Review for Environmental Resource Permit Applications. Please list all application numbers included in the transfer on the affidavit.

The surface water management facilities are hereby accepted for operation and maintenance in accordance with the engineer's certification and as outlined in the restrictive covenants and articles of incorporation for the operating entity.

The signatory, as representative for the operating entity hereby agrees that the operating entity will be perpetually bound by all terms and conditions of the permit, including all compliance requirements. Authorization for any proposed modification to the project shall be applied for and obtained prior to conducting such modification.

\_\_\_\_\_  
Print Name Authorized Signature

\_\_\_\_\_  
Title Telephone Number Date

Incorporated by reference in paragraph 40E-4.361(1)(a), F.A.C.

[sfwmd.gov](http://www.sfwmd.gov)

## SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

**Operating Entity:** Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
E-mail Address \_\_\_\_\_

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---

Print Name

---

Authorized Signature

---

Title

---

Telephone Number

---

Date

*Incorporated by reference in paragraph 40E-4.361(1)(a), F.A.C.*

# Submittal Requirements

## Creation Documents

- **Must meet requirements of Section 9.0, Basis of Review**
- **Differ from one type of entity to another**



# Submittal Requirements

## Ownership / Easements

- **Plat - Dedications outline easements and state maintenance obligations**
- **Deed**
- **Recorded Easements**
- **Operating Agreements**



# Submittal Requirements

## Permit Compliance

- **Engineering:**
  - Certification accepted by SFWMD staff
- **Environmental:**
  - Mitigation requirements fulfilled
  - Monitoring reports up-to-date





# Types of Operating Entities

## Permittee

- Stand-alone
- No conversion transfer required - converted to operation phase upon acceptance of engineering certification
- Permit requires ownership transfer upon sale of property because permit does NOT run with the land.

# Types of Operating Entities

## Property Owners Association

- **Signature authority = board member**
- **Declaration of Covenants, Restrictions and Easements, including Articles of Incorporation**
- **Affidavit Form #1351**

# Types of Operating Entities

## Community Development District

- **Signature authority = CDD supervisor or Board member**
- **Ordinance establishing the CDD pursuant to Chapter 190, F.S.**



# Types of Operating Entities

## Multipurpose Special Taxing Unit

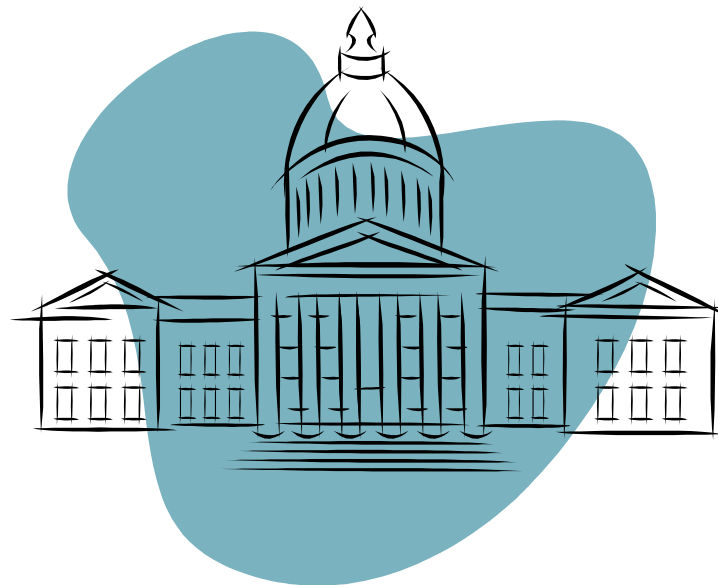
- Ordinance establishing the MSTU pursuant to county or city code
- Special Taxing Units – do NOT cover surface water management systems



# Types of Operating Entities

## Government

- **County**
- **Municipality**
- **Local 298 District**



# Challenging Scenarios

**Engineering certification is accepted but the conversion transfer is not requested.**

- **Reminder within certification acceptance letters**
- **Convert/transfer applications as they are certified rather than waiting for certification of entire permit**

# Challenging Scenarios

**Entity requesting conversion transfer differs from permitted operating entity.**

- **Submit recorded documentation supporting actual operating entity**
- **Request letter modification to change operating entity**



# Challenging Scenarios

## Multiple operating entities with split operational functions.

- **Submit a conversion transfer request for each entity**
- **Each entity must meet District requirements**
- **Operating agreement**



# Challenging Scenarios

**Association documents NOT satisfactory according to Section 9, Basis of Review.**

- **Amendment required**
- **Recorded Notice of Permit**

# Challenging Scenarios

## Golf Course/Residential Communities

- **Golf course as member of association**
- **Operating agreements between parties**
- **Cross-easements**



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# Permit Transfer At Change of Ownership *“Ownership Transfers”*

# Limiting/General Condition

- **Permittee required to notify SFWMD within 30 days of transfer or conveyance of property (Rule 40E-1.6105)**
- **Permittee remains responsible for the permit until the permit transfer is completed (Rule 40E-1.6107)**
- **Conditions under which a permit transfer will be given by SFWMD are also provided under Rule 40E-1.6107**



# Importance of Transfer for Seller

- **Permits are not transferred/conveyed with the deed. Separate action is required.**
- **Permittee remains liable/responsible for the permit until the permit transfer is completed.**
- **Permittee is responsible for notifying SFWMD of sale of property.**
  - **SFWMD notifies the new owner that they must transfer the permit.**



# Importance of Transfer for Buyer

- **Rule 40E-4.041 Permits Required**
  - **The new owner is constructing and/or operating a system without a permit until the permit transfer is completed.**
  - **Applicable even if the new owner changes nothing in the plans.**

# Submittal Requirements

- **Proof of ownership for entire permitted area**
- **Application Form 0483**
  - **Signed by owner or authorized agent**
  - **Letter of authorization for agent**
- **Processing fee(s):**
  - **\$675 for ERP/SWM, \$300 for WU**
- **Project Map**



## Request for Environmental Resource, Surface Water Management, Water Use or Wetland Resource Permit Transfer

(To be completed, executed and submitted by the new owner)

SOUTH FLORIDA WATER MANAGEMENT DISTRICT  
Environmental Resource Regulation

It is hereby requested that District Permit No.(s) \_\_\_\_\_, issued  
under Application No.(s) \_\_\_\_\_ be transferred as follows:

**FROM:** Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
Project Name \_\_\_\_\_  
Permitted Acreage \_\_\_\_\_

**TO:** Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_  
E-mail Address \_\_\_\_\_ Acreage to be transferred \_\_\_\_\_  
Project Name \_\_\_\_\_

Enclosed are the following documents:

- Recorded copy of documents effectuating transfer of ownership
- Permit Application Processing fee(s)
- Project or boundary map

Pursuant to Rule 40E-1.6107, Rule 40E-2.351 (Water Use), and Rule 40E-4.351 (Environmental Resource), Florida Administrative Code, the undersigned agrees to be bound by all terms and conditions of the permit, including any subsequent modifications thereto. Authorization for any proposed modification to the project shall be applied for and obtained prior to conducting such modification.

(Deviation from the permitted acreage, such as the purchase of less acreage than permitted, or from any activities authorized by a District Permit shall require a Permit modification prior to consideration of Permit transfer).

\_\_\_\_\_  
Print Name of New Permittee

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Date



SOUTH FLORIDA WATER MANAGEMENT DISTRICT

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\_\_\_\_\_  
Print Name of New Permittee

\_\_\_\_\_  
Authorized Signature

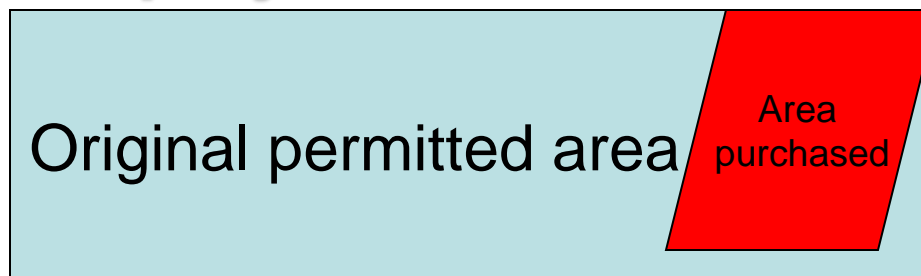
\_\_\_\_\_  
Title

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Date

# When is an ownership transfer NOT appropriate?

- Permit is ready to be converted/ transferred to the operating entity
- Permit has expired (transfers do not extend the permit)
- Any change to the permit is proposed
- Applicant owns less than the originally permitted project area



# A few last thoughts...

- If working on a conversion transfer, check to see if a Water Use/Irrigation permit exists for the project that must also be transferred.
- Forms 0920 and 0483 can be downloaded from the SFWMD's *Library & Multimedia* link on the home page: [www.sfwmd.gov](http://www.sfwmd.gov)





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WATER MANAGEMENT DISTRICT

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# April is Water Shortage Warning Water Conservation Month

Information on water restrictions  
and water conditions

**LEARN MORE**

- Water Conservation
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LAKE OKEECHOBEE LEVEL	LAKE ISTOKPOGA LEVEL
Apr 09, 2012 <b>12.06 ft.</b>	Apr 09, 2012 <b>38.82 ft.</b>

## In the News





**SOUTH FLORIDA**  
WATER MANAGEMENT DISTRICT

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<a href="#">Form 0920 Request for Conversion of District Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity</a>	31 KB	Word Document	[DOCX] 12/2011
<a href="#">Form 0920 Request for Conversion of District Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity</a>	30 KB	Adobe PDF	(12/11)
<a href="#">OFARR Rulemaking Notification - 40E-3 and 40E-30</a>	92 KB	Adobe PDF	OFARR Rulemaking Notification for Rule Chapters 40E-3 and 40E-30 FAC
<a href="#">PR09-131 Standard procedure all document in the custody of SFWM</a>	54 KB	Adobe PDF	Gaylon Lawrence, the Lawrence group

# A few last thoughts...

- If you have questions, please contact staff sooner rather than later.

Jennifer Krumlauf

(561) 682-2712

[jkrumla@sfwmd.gov](mailto:jkrumla@sfwmd.gov)



05/14/2009