

APPROVED

MINUTES OF THE MEETING

GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

PUNTA GORDA, FLORIDA

OCTOBER 29, 2009

The Governing Board of the Southwest Florida Water Management District (SWFWMD) met for its regular meeting at 1:05 p.m. on October 29, 2009, at the Charlotte County Event and Conference Center in Punta Gorda. The following persons were present:

Board Members Present

Todd Pressman, Chair
Ronald E. Oakley, Vice Chair
Hugh Gramling, Secretary
Sallie Parks, Treasurer
Carlos Beruff, Member
Bryan Beswick, Member
Jennifer E. Closshey, Member
Neil Combee, Member
Maritza Rovira-Forino, Member
H. Paul Senft, Member
Douglas B. Tharp, Member
Judith C. Whitehead, Member

Staff Members

David L. Moore, Executive Director
William S. Bilenky, General Counsel
Lou Kavouras, Deputy Executive Director
Richard S. Owen, Deputy Executive Director
Eugene A. Schiller, Deputy Executive Director
Bruce C. Wirth, Deputy Executive Director

Board's Recording Secretary

LuAnne Stout, Administrative Coordinator

Board Member(s) Absent

Albert G. Joerger, Member

A list of others present who signed the attendance roster is filed in the permanent files of the District. This meeting was available for viewing through internet streaming. Approved minutes from previous meetings can be found on the District's Web site (www.WaterMatters.org).

Public Hearing

1. Call to Order

Chair Pressman called the meeting to order and opened the public hearing. Mr. Gramling noted a quorum was present.

2. Pledge of Allegiance and Invocation

Chair Pressman led the Pledge of Allegiance to the Flag of the United States of America. Mr. Bilenky offered the invocation.

Public Hearing

Chair Pressman introduced each member of the Governing Board. He noted that the Board's meeting was recorded for broadcast on government access channels. Public input was only taken during the meeting onsite.

Chair Pressman stated that anyone wishing to address the Governing Board concerning any item listed on the agenda or any item that does not appear on the agenda should fill out and submit a speaker's card. To assure that all participants have an opportunity to speak, a member of the public may submit a speaker's card to comment on one agenda item only during today's meeting. If additional time is needed or if the speaker wishes to address the Board on an issue not on today's agenda, a speaker's card may be submitted for comment at the end of the meeting during "Public Input." Chair Pressman stated that comments would be limited to three minutes per speaker, and, when appropriate, exceptions to the three-minute limit may be

granted by the Chair. He also requested that several individuals wishing to speak on the same issue/topic designate a spokesperson. (CD 1/Track 1 – 00:00/05:10)

3. **Additions/Deletions to Agenda** – None

4. **Public Input for Issues Not Listed on the Published Agenda**

Mr. Robert Andolsek, a resident of Ocala, read a statement into the record regarding Item 65 on the July 29, 2009 Governing Board Agenda: Consent Order – Surface Water Activity - Southern Property Management, LLC (Rearing Horse Estates) – Marion County. He also provided a copy of his statement for the record. (CD 1/Track 1 – 05:10/09:50)

Consent Agenda

Item 22 was moved to Regulation Committee Discussion Items.

Regulation Committee

5. **Approve Water Use Permit Application Supplemental - Public Supply Form and Small General Water Use Permit Application – Public Supply Attachment Form**

Staff recommended to approve the Water Use Permit Application Supplemental – Public Supply Form, No. LEG R.033.01(9/09) and Small General Water Use Permit – Public Supply Attachment Form, No. LEG-R.048.00 (9/09).

Resource Management Committee

6. **Appraisals, Purchase/Sale Agreements and Resolution Requesting Funds – Annatteliga Hammock Project, SWF Parcel Nos. 15-228-1306, 1328, 1329 and 1330**

Staff recommended to (1) accept the appraisals; (2) approve purchase/sale agreements; (3) approve resolution requesting funds in the amount of \$42,300; and (4) designate SWF Parcel Nos. 15-228-1306, 1328, 1329 and 1330 as having been acquired for conservation purposes.

7. **Appraisal and Purchase/Sale Agreement – Lake Hancock Project, SWF Parcel No. 20-503-229P**

Staff recommended to (1) accept the appraisal; (2) approve the purchase/sale agreement; and (3) approve the negotiated amount of \$138,000.

8. **Appraisals and Purchase/Sale Agreement – Myakka Prairie Project, SWF Parcel No. 21-199-106C**

Staff recommended to (1) accept the appraisals; (2) approve the resolution requesting funds in the amount of \$204,500; (3) approve the purchase/sale agreement; and (4) designate SWF Parcel No. 21-199-106C as being acquired for conservation purposes.

9. **Appraisals and Purchase/Sale Agreement – Myakka Prairie Project, SWF Parcel No. 21-199-107C**

Staff recommended to (1) accept the appraisals; (2) approve resolution requesting funds in the amount of \$162,500; (3) approve the purchase/sale agreement; and (4) designate SWF Parcel No. 21-199-107C as being acquired for conservation purposes.

10. **Non-Exclusive Perpetual Easement to City of St Petersburg for Clam Bayou Paved Multi-Use Trail – SWF Parcel Number 16-728-127X**

Staff recommended to approve conveyance of a Non-Exclusive Perpetual Easement to City of St. Petersburg for SWF Parcel No. 16-728-127X subject to the terms and conditions stated herein.

11. **Land Use and Management Plan for the Circle B Bar Reserve**

Staff recommended to approve the Land Use and Management Plan for the Circle B Bar Reserve.

12. **Five-Year Water Resource Development Work Program**

Staff recommended to approve the proposed Five-Year Water Resource Development Work Program (including the 2010 Demand Projections and new projects for inclusion in the RWSP) for submittal to the Department of Environmental Protection for review.

13. **Minimum Flows and Levels Priority List and Schedule Update**
Staff recommended to approve the Minimum Flows and Levels Priority List and Schedule for submission to the Florida Department of Environmental Protection for review and approval as required by Chapter 373, Florida Statutes.
14. **Approve Initiation of Rulemaking to Amend Rule 40D-8.041, Florida Administrative Code (F.A.C.), to Establish Minimum Flows for Dona Bay/Shakett Creek below Cow Pen Slough**
Staff recommended to (1) accept the MFL report entitled, "Dona Bay/Shakett Creek System Recommended Minimum Flows and Levels" dated August 31, 2009; and (2) approve initiation of rulemaking to amend Rule 40D-8.041, Florida Administrative Code, to establish minimum flows for the Dona Bay/Shakett Creek below Cow Pen Slough.
15. **Town of Dundee Reclaimed Water Use System**
Staff recommended to (1) approve entering into a new agreement with the Town of Dundee for their Reclaimed Water System project for a total cost of \$3,400,000 with the Peace River Basin's share not to exceed \$2,584,217; and (2) authorize the Executive Director to execute the Agreement.
16. **Pinellas County Spray Nozzle Replacement Project – Second Amendment**
Staff recommended to (1) approve the Second Amendment to the agreement with Pinellas County to modify the scope of work while maintaining a total cost of \$14,000, with the Pinellas-Anclote River Basin's share not to exceed its existing commitment of \$7,000; and (2) authorize the Executive Director to execute the amendment.
17. **Facilitating Agriculture Resource Management Systems (FARMS)**
 - a. **Bermont Properties, LLC – Charlotte County**
Staff recommended to (1) approve the Bermont Properties, LLC., project for a not-to-exceed project reimbursement of \$191,250 with \$47,813 provided by the Peace River Basin Board, \$47,812 provided by the Governing Board, and \$95,625 provided from State Appropriations to the Peace River Basin Board and Governing Board; (2) authorize the transfer of \$47,813 from fund 020 H017 Peace River Basin FARMS funds, \$47,812 from fund 010 H017 Governing Board FARMS funds, \$18,084 from the 2006 State Appropriations allocated to fund 020 H017 FARMS funds, \$2,342 from the 2007 State Appropriations allocated to fund 020 H017 FARMS funds, and \$75,199 from the 2009 State Appropriations allocated to fund 010 H017 FARMS funds, to H588 Bermont Properties, LLC., project fund; and (3) authorize the Executive Director to execute the agreement.
 - b. **D & J Blueberry Farms, LLC – Citrus County**
Staff recommended to (1) approve the D & J Blueberry Farms, LLC project for a not-to-exceed project reimbursement of \$18,531 with \$4,633 provided by the Withlacoochee Basin, \$4,633 provided by the Governing Board, \$9,265 provided from 2008 State Appropriations to the Governing Board; (2) authorize the transfer of \$4,633 from fund 019 H017 Withlacoochee Basin FARMS funds, \$4,633 from fund 010 H017 Governing Board FARMS funds, \$9,265 from the 2008 State Appropriations allocated to fund 010 H017 FARMS funds to 010 H592, D & J Blueberry Farms, LLC, project fund; and (3) authorize the Executive Director to execute the agreement.
 - c. **FLM Prairie River Ranch Ila - Culverts – DeSoto County**
Staff recommended to (1) approve the FLM, Inc. Prairie River Ranch Phase Ila - Culverts Project for a not-to-exceed project reimbursement of \$37,500 with \$9,375 provided by the Peace River Basin, \$9,375 provided by the Governing Board, and \$18,750 provided from 2009 State Appropriations to the Governing Board; (2) authorize the transfer of \$9,375 from fund 020 H017 Peace River Basin FARMS funds, \$9,375 from fund 010 H017 Governing Board FARMS funds, and \$18,750 from the 2009 State Appropriations allocated to fund 010 H017 FARMS funds, to 010 H569 and 020 H569 FLM, Inc. Prairie River Ranch Phase Ila - Culverts Project fund; and (3) authorize the Executive Director to execute the agreement.

- d. **Roper Growers Cooperative – DeSoto County**
Staff recommended to (1) approve the Roper Growers Cooperative Project for a not-to-exceed project reimbursement of \$37,500 with \$9,375 provided by the Peace River Basin Board, \$9,375 provided by the Governing Board, \$18,750 provided from 2009 State Appropriations to the Governing Board; (2) authorize the transfer of \$9,375 from fund 020 H017 Peace River Basin Board FARMS funds, \$9,375 from fund 010 H017 Governing Board FARMS funds, \$18,750 from the 2009 State Appropriations allocated to fund 010 H017 FARMS funds to 010 H594 and 020 H594, Roper Growers Cooperative, project fund; and (3) authorize the Executive Director to execute the agreement.
- e. **Floyd W. Williams Blueberry Farm – Hillsborough County**
Staff recommended to (1) approve the Floyd W. Williams Blueberry Farm project for a not to exceed reimbursement of \$10,000 with \$2,500 provided by the Hillsborough River Basin Board, \$2,500 provided by the Governing Board, and \$5,000 provided from State Appropriations to the Governing Board; (2) authorize the transfer of \$2,500 from fund 013 H017 Hillsborough River Basin FARMS funds, \$2,500 from fund 010 H017 Governing Board FARMS funds, and \$5,000 from the 2005 State Appropriations allocated to fund 010 H017 FARMS funds, to the H589 Floyd W. Williams Blueberry Farm project fund; and (3) authorize the Executive Director to execute the agreement.
- f. **Blueberry Hill, LLC, - Lake County**
Staff recommended to (1) approve the Blueberry Hill, LLC project for a not-to-exceed project reimbursement of \$63,762, with \$31,881 provided by the Governing Board and \$31,881 provided from 2008 State Appropriations to the Governing Board; (2) authorize the transfer of \$31,881 from fund 010 H017 Governing Board FARMS funds and \$31,881 from the 2008 State Appropriations allocated to fund 010 H017 FARMS funds, to fund 010 H591, Blueberry Hill, LLC project fund; and (3) authorize the Executive Director to execute the agreement.
- g. **Splendid Blue Farms, LLC – Sumter County**
Staff recommended to (1) approve the Splendid Blue Farms, LLC project for a not-to-exceed project reimbursement of \$21,000, with \$5,250 provided by the Withlacoochee River Basin Board, \$5,250 provided by the Governing Board, and \$10,500 provided from 2008 State Appropriations to the Governing Board; (2) authorize the transfer of \$5,250 from fund 019 H017 Withlacoochee River Basin Board FARMS funds, \$5,250 from fund 010 H017 Governing Board FARMS funds, \$10,500 from the 2008 State Appropriations allocated to fund 010 H017 FARMS funds, to H590, Splendid Blue Farms, LLC, project fund; and (3) authorize the Executive Director to execute the agreement.

Finance & Administration Committee

18. **Board Travel**
No travel was requested.
19. **Budget Transfer Report**
Staff recommended to approve the Budget Transfer Report covering all budget transfers for September 2009.
20. **Approve Resolution No. 09-24 for the Fiscal Year 2010 Budget Amendment to include Reallocated Funds from Water Protection and Sustainability Trust Fund**
Staff recommended to approve Resolution No. 09-24, Amendment of the Fiscal Year 2010 Annual Service Budget, to increase the District's combined FY2010 budget by \$243,660 from \$298,887,497 to \$299,131,157. The individual amendments by Fund are as follows:
(1) General Fund – increase budget by \$121,830 from \$152,825,395 to \$152,947,225; and
(2) Peace River Basin – increase budget by \$121,830 from \$11,307,353 to \$11,429,183.

General Counsel's Report

21. **Consent Order – ERP No. 46026659.000 - Automated Petroleum and Energy Company, Inc. (APEC - Highway 301 Gas/Convenience) – Hillsborough County**
Staff recommended to approve the proposed Consent Order and authorize the initiation of litigation in the event that Automated Petroleum and Energy Company, Inc., fails to comply with the Consent Order.

22. **Consent Order – WUP No. 2011771.00 - Tampa Bay Water – Hillsborough, Pasco, and Pinellas Counties**
Consideration of this item was moved to Regulation Committee Discussion Items.
23. **Consent Order – Surface Water Activity - Wayne Evans – Hillsborough County**
Staff recommended to approve the proposed Consent Order and authorize the initiation of litigation in the event that Wayne Evans fails to comply with the Consent Order.

Executive Director's Report

24. **Approve Governing Board Minutes**
- a. **September 15, 2009 First Public Budget Hearing for the Tentative Fiscal Year 2010 Annual Service Budget**
 - b. **September 29, 2009 Southern Water Use Caution Area Recovery Strategy and Upper Peace River Recovery Projects Workshop**
 - c. **September 29, 2009 Regular Monthly Meeting**
 - d. **September 29, 2009 Second Public Budget Hearing for the Final Fiscal Year 2010 Annual Service Budget**
- Staff recommended to approve the minutes as presented.

Following consideration, Ms. Parks moved, seconded by Mr. Gramling, to approve Consent Agenda Items 1 through 21, 23 and 24. Motion carried unanimously. (CD 1/Track 1 – 09:50/10:50)

The order of consideration for the published agenda was altered to allow items requiring action to be heard earlier; therefore, the General Counsel's Report was heard first, followed by the Finance and Administration Committee.

General Counsel's Report

Discussion Items

52. **Consent Item(s) Moved for Discussion** – None
53. **Appearance as “Friend of the Court” (Amicus Curiae) in Appeal to Florida Supreme Court in St. Johns River Water Management District v. Koontz , Case No. SC09-713**
Mr. Bilenky requested Board concurrence with action approved by the Executive Director and Chair on October 1, 2009. The owner (Owner) of a mostly wetland 14-acre parcel of undeveloped land (Property) submitted a permit application to the St. Johns River Water Management District (SJRWMD) to develop 3.7 acres of the Property. SJRWMD advised Owner that it would be willing to issue a permit under one of two scenarios: (1) allowing development of the requested 3.7 acres of the Property but requiring that Owner (a) preserve the balance of the Property by deeding it into a conservation area, and (b) perform some off-site mitigation (consisting of cleaning some culverts and ditches) to enhance 50.0 acres of existing wetlands located a few miles away from the Property; or (2) allowing development of 1.0 acre of the Property (rather than 3.7 acres) and requiring preservation of the balance of the Property by deeding it into a conservation area, with no off-site mitigation requirement. Owner refused to reduce his development from 3.7 acres to 1.0 acre and refused to perform any off-site mitigation. As a result, SJRWMD denied the permit application. Owner sued SJRWMD in circuit court alleging that the conditions imposed for permit approval (particularly the off-site mitigation) amounted to a regulatory taking of the Property. The trial court ruled that the off-site mitigation constituted an “exaction” under case law established by the United States Supreme Court, that SJRWMD “took” Owner’s Property, and that Owner is entitled to compensation for the taking. SJRWMD appealed, contending that the circuit court lacked jurisdiction to hear Owner’s claim because the claim is really a challenge to the merits of the permit denial, which must be pursued in an administrative proceeding. The Fifth District Court of Appeal affirmed the trial court’s finding, but certified the issue to the Florida Supreme Court.

On September 16, 2009, the Florida Supreme Court accepted jurisdiction to answer the certified question whether the Florida Constitution recognizes an exaction (taking) where the requirement is a condition for permit approval that the circuit court finds to be unreasonable. SJRWMD has until October 13 to serve its initial brief in the Florida Supreme Court case. On October 2, SJRWMD filed a motion for extension of time to submit its initial brief. As of the preparation of this recap, the Florida Supreme Court had not yet ruled on the motion.

The DEP has intervened on behalf of SJRWMD and is preparing an Amicus Curiae (Friend of the Court) Brief together with the Florida Solicitor General's Office. The South Florida Water Management District is joining in the Amicus Brief. The District has been asked to join in the Amicus Brief as well so that there is solidarity of the Water Management Districts (WMDs) on the issue, particularly since a negative ruling by the Florida Supreme Court could possibly affect the WMDs' ability to accept off-site mitigation for projects.

The Amicus Brief must be served within five days of service of SJRWMD's brief, which is currently due by October 13. District Board policy number 160-1 provides in pertinent part: "[T]he Executive Director with the concurrence of General Counsel and the Board Chair . . . may cause a lawsuit to be filed . . . in advance of Board approval if the Chair and the Executive Director finds it necessary and in the best interest of the District. The General Counsel shall advise the Board of such action and seeks its concurrence no later than the next regularly scheduled Governing Board meeting." Time was of the essence due to deadlines for preparing and serving briefs in the appeal. Accordingly, on October 1, 2009, the Executive Director and Board Chair approved joining in the Amicus Brief. The General Counsel now seeks the Board's concurrence with such action.

Staff recommended Board concurrence with the Executive Director and Chair's approval for the District to join in the Amicus Brief regarding the appeal to the Florida Supreme Court in *St. John's River Water Management District v. Koontz*, Case No. SC09-713. Following consideration, **Ms. Closshey moved, seconded by Mr. Oakley, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 1 – 10:50/16:45)

Consent Agenda

To clarify that the correct item was moved from the Consent Agenda to Regulation Committee Discussion Items, **Ms. Closshey moved, seconded by Mr. Combee, to approve Consent Agenda Items 1 through 21, 23 and 24, excluding Item 22, Consent Order – WUP No. 2011771.00 - Tampa Bay Water – Hillsborough, Pasco, and Pinellas Counties. Motion carried unanimously.** (CD 1/Track 1 – 16:45/19:30)

Regulation Committee

Discussion Items

25. **Consent Item(s) Moved for Discussion**

22. **Consent Order – WUP No. 2011771.00 - Tampa Bay Water – Hillsborough, Pasco, and Pinellas Counties**

In response to Ms. Rovira-Forino's questions, Mr. Jack Pepper, Assistant General Counsel, said the consent order requires that Tampa Bay Water (TBW) bring the

12-month annual average withdrawals within the permitted quantity (90 million gallons per day (mgd)) by December 31, 2009. He said the reported quantity is currently on a monthly basis using less than 60 mgd but TBW has until December to bring the 12-month average down. Mr. Pepper stated that, in lieu of the penalty amount, the District has received a preliminary draft project, and discussion has occurred on that project as well as other potential projects. He said the timetable is 10 days after approval by the Governing Board unless an extension is requested; the consent order provides for an extension five days prior to deadline passing. Ms. Rovira-Forino clarified that the 10 days will begin counting today and then identification of the proper project will occur. At the Board's next meeting, Ms. Rovira-Forino requested a summary report regarding the permit's status, what project was identified and how TBW plans to meet the deadlines.

Staff recommended to approve the proposed Consent Order and authorize the initiation of litigation against Tampa Bay Water to obtain compliance with the Consent Order. Following consideration, **Ms. Rovira-Forino moved, seconded by Mr. Gramling, to approve Consent Agenda Item 22. Motion carried unanimously.** (CD 1/Track 1 – 19:30/22:36)

General Counsel's Report

Submit & File Reports – None

Routine Reports

The following items were provided for the Committee's information, and no action was required.

54. **Litigation Report**
55. **Rulemaking Update**
(CD 1/Track 1 – 22:36/22:45)

Chair Pressman relinquished the gavel to Finance and Administration Committee Chair Parks.

Finance and Administration Committee

Discussion Items

48. **Consent Item(s) Moved for Discussion** – None
49. **Office of Inspector General – 2010 Audit Plan**
Mr. Kurt P. Fritsch, Inspector General, said, in accordance with Chapter 373 and Section 20.055, Florida Statutes, the Office of Inspector General develops an annual audit plan for approval by the Governing Board. The plan shows the office's proposed work schedule and presents specific cost estimates for the provision of services. The proposed audit plan includes the results of a District-wide risk assessment. During fiscal year 2010, staff plans to (1) complete the Environmental Resource Permitting Technical Business Process Mapping, (2) ensure the mainframe system decommissioning remains on schedule, (3) test and evaluate the District's information technology procurement procedures, (4) continue the rotational security testing of our strategic information systems, (5) meet the mandated assignments including following up on Board-reviewed management action plans developed during prior audits and providing investigative services, (6) continue to handle the District's whistle-blower responsibilities and remain involved in the District's ongoing performance measure initiative, and (7) provide discretionary assistance to address requests from the District Governing Board and executive and senior management.

Executive management recently participated in a risk assessment exercise and developed a partial list of audit projects for reconsideration in the latter half of FY2010 and beyond: processing regulatory violations; outsourcing controls and costs including data procurement; procuring, deploying, safeguarding, and replacing non-information technology assets; monitoring and sustaining District restoration projects; safeguarding and monitoring the District's investment portfolio; selecting, contracting, and compliance monitoring of FARMS projects; evaluating staff resource plans and workload monitoring activities; monitoring Department of Transportation mitigation program compliance; developing options for cooperative funding process efficiencies; and alternative analysis for data identification and project selection

Staff recommended to approve the 2010 annual audit plan for the Office of Inspector General. Following consideration, **Mr. Oakley moved, seconded by Ms. Closshey, to approve the staff recommendation. Motion carried unanimously.**

Committee Chair Parks requested that Mr. Fritsch provide the Board with copies of the risk universe and potential projects for consideration. She noted that it is unique to have an Inspector General, as well as knowing all the opportunities his position provides. (CD 1/Track 1 – 22:45/33:50)

Submit & File Reports – None

Routine Reports

The following items were provided for the Committee's information, and no action was required.

50. **Treasurer's Report, Payment Register, and Contingency Reserves**

In response to Mr. Oakley's inquiry, Mr. Schiller said that each month the District continues to receive a monthly payment (\$150,000 to \$170,000) reducing the amount of funds in the State Board of Administration (SBA) Fund B account. He noted that the District has not lost money and continues to follow its conservative investment policy. Mr. Oakley and Ms. Whitehead expressed their appreciation of staff in dealing with this process and keeping the Board informed.

51. **Management Services Significant Activities**

(CD 1/Track 1 – 33:50/36:44)

Finance and Administration Committee Chair Parks relinquished the gavel to Regulation Committee Chair Senft.

Regulation Committee

Discussion Items

26. **Hydrologic Conditions Status Report**

Mr. Granville Kinsman, Manager, Hydrologic Data Section, provided information on the general state of the District's hydrologic conditions, by comparing rainfall, surface water, and groundwater levels for the current month to comparable data from the historical record. September historically marks the last month of the rainy season and this year's September rainfall totals were less than expected and at the lower-end of the normal range. Rainfall during the month was scattered, regionally variable, and associated with tropical moisture from the Gulf or Atlantic Ocean moving over the Florida peninsula interacting with lessening convective (afternoon/evening) rain showers. Rainfall during the 2009 rainy season (June through September) was normal in all regions of the District, but

was disappointing as it did not bring the above-normal rainfall conditions that national weather forecasts had predicted. Although falling within the normal range, rainy season totals were approximately two inches below the long-term mean. District-wide, the provisional 12-month rainfall deficit is currently about 8.8 inches. The 24-month and 36-month cumulative rainfall deficits are approximately 8.4 and 20.4 inches, respectively.

Mr. Kinsman noted that current NOAA climate forecasts continue to predict above-normal rainfall conditions for the District during October 2009 through May 2010, due to El Niño conditions in the Pacific Ocean. Above normal rainfall during the dry season would improve overall hydrologic conditions, lessen or eliminate resource-related impacts during the coming dry season, and will be needed to fully recover from the multi-year drought.

In response to Mr. Oakley's question, Mr. Kinsman said the 36-month deficit is 21 inches and within the last year it is about 5.5 inches to date. To answer Ms. Closshey's question, Mr. Kinsman said the total number of months of cumulative drought is 42. (CD 1/Track 1 – 36:44/45:55)

This item was presented for the Committee's information, and no action was required.

27. **Consider Phase III Water Shortage Order No. SWF 09-009 for Charlotte, DeSoto, Manatee and Sarasota Counties**

Mr. Owen said that, pursuant to Water Shortage Order No. SWF 09-009, Modified Phase III water shortage restrictions are currently in effect for lawn irrigation and other select water uses in Charlotte, DeSoto, Manatee, and Sarasota counties. This Order was issued on February 24, 2009 and is currently scheduled to expire on October 31, 2009, unless the Governing Board takes further action. Staff is continuing to monitor hydrologic conditions and other pertinent factors in accordance with the District's Water Shortage Plan (Rule 40D-21, F.A.C.). At such time that any water use currently subject to this Order is released from it, the water use would become subject to applicable provisions of the Modified Phase II water shortage restrictions ordered by Water Shortage Order No. SWF 07-02. Mr. Owen said that, since the Modified Phase III restrictions became effective, the public water supply situation has greatly improved and the Peace River Manasota Regional Water Supply Authority has approximately a year's worth of demand in storage.

Staff recommended to allow the Modified Phase III Water Shortage Order No. SWF 09-009 restrictions to expire on October 31, 2009. Following consideration, **Mr. Tharp moved, seconded by Ms. Rovira-Forino, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 1 – 45:55/49:38)

28. **Consider City of Tampa Petition for Variance from Rules 40D-80.073(4)(b)3.a. and 40D-80.073(4)(b)3.b., F.A.C., Relating to Lower Hillsborough River Recovery Strategy**

Mr. Owen said the District's Minimum Flow Recovery Strategy for the Lower Hillsborough River (LHR) is adopted in Rule 40D-80.073, Florida Administrative Code (F.A.C). Under the Recovery Strategy, the City of Tampa is responsible for ensuring that the minimum flow for the LHR is met by October 1, 2017. A number of projects designed to provide additional water to the LHR to achieve the minimum flows are specified in the rule. Two of the projects are the modification of the lower and upper weirs on Sulphur Springs so that all available flows not needed to provide a thermal refuge to manatees and not needed to meet the minimum flows adopted by rule for Sulphur Springs by October 1, 2012, can be provided to the LHR. The rule provides that modification to the lower and upper weirs are to be completed by October 1, 2009, and October 1, 2010, respectively.

The City has not yet been able to obtain the necessary permits for the modifications to the Sulphur Springs weirs. The City is in the process of responding to the second requests for additional information from the Tampa Port Authority and the United States Army Corps of Engineers regarding the lower weir. The permitting process will extend beyond October 1, 2009. The design work is underway for the modifications to the upper weir; however, based on the longer than expected time period to process the permits for the lower weir, it is anticipated that the permitting for modifications to the upper weir will take longer than envisioned at the time that the October 1, 2010 deadline was adopted by rule.

On September 14, 2009, the City of Tampa submitted a petition for variance from rules 40D-80.073(4)(b)3.a. and 40D-80.073(4)(b)3.b., F.A.C., seeking a one-year extension of each of the deadlines for completion of the lower and upper weir modifications. The petition meets the statutory requirements, including demonstrating that even though the date is extended to complete the Sulphur Springs projects, the purpose of the underlying statute to achieve minimum flows will continue to be met. Granting of the petition will not affect the City's obligation nor deadlines to meet the minimum flows for Sulphur Springs and the LHR.

Ms. Jan McLean, representing the City of Tampa, was in attendance to answer questions by the Board and said the City appreciates the Board's consideration of the request for variance.

Staff recommended to issue an order granting the City of Tampa's request for a variance from Rules 40D-80.073(4)(b)3.a. and 40D-80.073(4)(b)3.b., F.A.C. Following consideration, **Mr. Gramling moved, seconded by Ms. Rovira-Forino, to approve the staff recommendation. Motion carried unanimously.** (CD 1/Track 1 – 49:38/52:12)

29. **Request for Authorization to File an Amicus Curiae Brief Regarding Development of Numeric Nutrient Criteria for Florida's Waters**

Mr. Bilenky said the purpose of this presentation is to request Board authorization to file an amicus curiae brief in the case *Florida Wildlife Federation, et al. v. Johnson, et al., United States District Court*, Northern District of Florida. Under the Clean Water Act (CWA) Section 303, states are required to establish water quality standards, which define the amounts of pollutants (in either numeric or narrative form) that waters can contain without impairment of their designated beneficial uses. Florida currently uses a narrative nutrient standard to guide the management and protection of its waters. The Florida Department of Environmental Protection (FDEP) has relied on this narrative for many years because nutrients are unlike any other pollutant regulated by the federal Clean Water Act (CWA). Nutrients are not only present naturally in aquatic systems, they are necessary for the proper functioning of biological communities.

In July 2008, the Florida Wildlife Federation and other environmental groups sued the Environmental Protection Agency (EPA) in an attempt to compel the adoption of numeric nutrient criteria. The lawsuit claims that numeric nutrient criteria are necessary and that EPA was obligated by the CWA Section 303 (c)(4) to promptly propose such criteria. EPA has signed a consent decree which obligates them to propose numeric nutrient standards for Florida's fresh water lakes and streams by January 2010, and estuaries and coastal systems by January 2011. A number of organizations, including the Florida Department of Agriculture and Consumer Services (FDACS), have filed a Motion to Intervene in the Federal lawsuit citing "its effective preemption of efforts by the FDEP to develop nutrient standards that are scientifically based" and its "imposition of arbitrary and unreasonable

numeric nutrient standards for state waters.” On November 16, FDACS will ask a federal judge to reject the proposed agreement and allow FDEP to set those standards.

In September 2009, Commissioner Bronson, FDACS, wrote a letter to Governing Board Chair Pressman requesting the District become involved in this issue. He asked that the District consider intervening in the case in order to stress to the court the magnitude of the issues and the importance of careful scientifically based standards. This request has also been sent to the St. Johns, Suwannee River and Northwest Florida Water Management Districts (WMDs). The South Florida WMD previously intervened in this case and has requested that the Court reject the settlement, allow additional time for the imposition of numeric standards and require that those standards be science based. The WMDs have discussed this request with FDACS. In lieu of intervening, staff is seeking authorization to file an *amicus curiae* brief. This brief expresses the District’s support of FDEP’s recent efforts to arrive at meaningful, science-based nutrient standards, and a process that has a reasonable time frame, is science-based and allows for meaningful public participation and comment.

Staff recommended that staff be authorized to file an *amicus curiae* brief in the case *Florida Wildlife Federation, et al. v. Johnson, et al., United States District Court, Northern District of Florida*. Following consideration, **Mr. Oakley moved, seconded by Ms. Closshey, to approve the staff recommendation. Motion carried unanimously.**

Mr. Gramling said the standards need to be science based and achievable. He noted that EPA is asking only the State of Florida to set standards which may be due to the lawsuit originating in Florida. In response to Ms. Closshey’s question, Mr. Bilenky said environmental groups filed the lawsuit in Florida against the EPA. He said the lawsuit was filed but the EPA did not respond and instead of answering the District received a letter from the EPA area administrator suggesting to settle the case by imposing standards. Mr. Moore said an underlying factor is concerns with nutrients are not a drinking water problem but may affect natural systems and species. Florida has two issues which bring the national focus here. First, Florida has the most natural systems—lakes, rivers, springs and estuaries—and this state is perceived by EPA as being one of the most sensitive states to nutrient issues. Second, Mr. Moore said a compounding factor also is that no other state has collected as much data as Florida on nutrients and understands it better than anywhere else in the country which may be why EPA sees this as a necessity to properly manage nutrients. In response to Ms. Whitehead’s question, Mr. Moore said the FDEP was planning to set standards by regions in Florida. He noted that agencies in Florida have been working to manage nutrients site specifically for years. (CD 1/Track 1 – 00:52:12/01:04:40)

30. **Denials Referred to the Governing Board**

There were no requests for applications or petitions to be referred to the Governing Board for final action.

Submit & File Report

The following item was submitted for the Committee’s information, and no action was required.

31. **Individual Permits Issued by District Staff**

(Mr. Joerger left the meeting at this time.)

Routine Reports

The following items were provided for the Committee's information, and no action was required.

32. **Southern Water Use Caution Area Quantities**

33. **Overpumpage Report**

Ms. Rovira-Forino noted that two entities have been listed in overpumpage for 36 months and 16 months, and requested information. Mr. Owen said staff has been working with the two entities and will provide her information following the meeting.

In response to Ms. Closshey's questions regarding the permit process, Mr. Moore said that three meetings have been held to date. The third meeting included the Yankeetown project and most of the City Council attended the meeting. He said the permit met the District's ERP conditions, but the Town did not want it due to land resource issues and the City Council denied the zoning request. Mr. Moore said the permittee may have the District's approval but may not be able to get the Town to approve its request. Mr. Moore noted that legislation may be filed to change the permit process. For the record, Mr. Owen clarified that the District has an approved agency action for approval, but submerged sovereign lands are involved which requires Governor and Cabinet approval. Ms. Closshey asked if this process is bringing more robust discussion than when it came before the Board. Mr. Owen said the same discussion would have occurred before the Board. He noted people in attendance have been appreciative of being able to speak to the Executive Director. He said a number of people have suggested holding the public meeting earlier in the process before the District deems a permit complete and a proposed agency action set.

Regarding the Overpumpage Report, Mr. Tharp asked whether an explanation of action being taken could be provided to the Board when an entity appears on the report for a certain length of time. Mr. Owen said staff will include more information about the staff's actions to resolve the overpumpage and then briefly provide a history of the report. Discussion ensued regarding resolution/compliance timeline before it becomes a legal matter, and perception of the public regarding consistency in handling entities. Committee Chair Senft requested that staff provide the Board with a recommended timeline for providing additional information on entities who are experiencing overpumpage and a method for educating Board members about this process, such as during new Board member briefings. At Mr. Moore's request, Mr. Pepper briefly noted that for Mad Hatter Utilities, it has been determined to be a permit condition violation rather than overpumpage. Chair Pressman said he agrees it is a matter of public perception, and specific Board questions may be handled by directly contacting staff. Mr. Gramling said he does not want to see staff burdened with creating reports when a conversation with staff to discuss questions can provide an explanation.

34. **Resource Regulation Significant Initiatives**

(CD 1/Track 1 – 01:04:40/01:23:43)

(Mesdames Rovira-Forino and Whitehead left the meeting at this time.)

Regulation Committee Chair Senft noted there is no consensus on the Overpumpage Report nor is there a motion. He then relinquished the gavel to Resource Management Committee Vice Chair Beruff.

Resource Management Committee

Discussion Items

35. **Consent Item(s) Moved for Discussion** – None

36. **Surface Water Improvement and Management Program – Charlotte Harbor**

Ms. Jennette M. Seachrist, SWIM Program Manager, Resource Data & Restoration Department, provided the Board with an overview of Charlotte Harbor water quality improvement and restoration projects performed by the District's Surface Water Improvement and Management (SWIM) Program. In 1987, the Florida Legislature established the SWIM Act to protect, maintain, and restore Florida's surface water bodies in the areas of water quality and habitat. The Act required the five water management districts identify and select a list of priority water bodies of statewide significance within their boundaries, and develop programs to preserve or improve them.

For Charlotte Harbor, the SWIM Program has completed 13 projects which have restored 1,083-acres of coastal habitat and improved water quality. Several of the large-scale ecosystem restoration projects include Alligator Creek, Cattle Dock Point, and Coral Creek. The District's SWIM Program is also managing the Lake Hancock Outfall Treatment Project, which will create a 1,000-acre wetland treatment system to reduce nitrogen loading to Charlotte Harbor by 27 percent. This project is very important for improving water quality in the Peace River and helping to maintain Charlotte Harbor's water quality.

Mr. Wirth said the District has had success with the SWIM Program since 1987. He noted the District has to work where there is opportunity such as with the Florida Department of Transportation and Department of Environmental Protection (DEP). Mr. Wirth said DEP has land acquisition programs but limited resources to make great strides in restoration of those lands. He said the District partners with DEP and then turns the projects over to DEP for operation and maintenance. He noted that most of the program is funded from the State Water Management Lands Trust Fund. (CD 1/Track 1 – 01:23:43/01:39:00)

This item was presented for the Committee's information, and no action was required.

(Mr. Senft left the meeting at this time.)

37. **Biological Control Agent for Invasive Old World Climbing Fern Released in Flatford Swamp**

Mr. Brian Nelson, Manager, Aquatic Plant Management Section, said this is an information item to inform the Board about an agreement with the U. S. Department of Agriculture, Agriculture Research Service (ARS) to release a biological control agent *Neomusotima conspurcatalis* ("Neo" moth), in the Flatford Swamp to help control the invasive plant species Old World Climbing Fern (*Lygodium microphyllum*). Old World Climbing Fern (OWCF) is an invasive, perennial vine that is native to wet tropical and subtropical regions of Asia, Africa and Australia. First detected in South Florida (Martin County), this troublesome weed now occupies large areas in southern and central Florida and it is spreading north and west into southwest Florida and northern Florida peninsula. OWCF is invading hardwood hammocks, cypress and maple swamps, bayheads, along rivers, coastal prairies, Everglades's tree islands, marshes and flatwoods. It grows and forms thick mats along the ground and into the forest canopy which allows OWCF to smother native plant communities including herbaceous species, shrubs and large trees. Another significant impact of OWCF is its ability to alter fire ecology. It is flammable and carries

fire into wet habitats that are not fire tolerant. The resulting canopy fires in cypress and pine dominated ecosystems kill canopy and sub canopy trees. Dense infestations of OWCF can bridge the gap between wetlands and uplands resulting in the spread of fire into swamps which normally act as natural fire breaks. District staff currently controls OWCF infestations on District-owned lands with herbicide treatments using truck or ATV mounted spray systems or backpack sprayers. In large, heavily infested areas with limited or no access, aerial application is an option, but herbicide selectivity is an issue. For these reasons, staff has been unable to aggressively treat OWCF infestations in the Flatford Swamp.

Biological control has been a desired management tool for OWCF for many years. In 2008, following twelve years of research, a leaf-feeding moth nicknamed "Neo" from northern Australia and Hong Kong was approved for release to control OWCF. The ARS has released the moth in Jonathan Dickinson State Park in Martin County, Florida. Within a year large populations of the leaf-eating moth caterpillars developed and defoliated OWCF in the release sites. At some sites the moths attacked the re-growth of the vine following defoliation further suppressing the weed. While the operational phase of this project has just begun, the initial results look very promising. Through an agreement between the District and ARS, the ARS will release a minimum of 8,000 moth larvae on the Upper Myakka (Flatford Swamp) property. The project includes a year of quantitative monitoring to document the establishment and overwintering of the moths; documentation of vegetative impacts; and field training to enable District staff to collect and spread the moths to other infested properties. Additionally, this project supports one of the District's climate change initiatives to implement environmentally friendly invasive plant control operations by using biological control methods when feasible.

Additional information was provided concerning District efforts to prevent the establishment of OWCF within the Green Swamp ecosystem through the District's participation in the Central Florida Lygodium Strategy and the creation of the Green Swamp Cooperative Invasive Species Management Area. Funding for this project in the amount of \$30,000 is from the Water Management Lands Trust Fund budgeted in the Manasota Basin for the Upper Myakka Property.

Mr. Gramling expressed his appreciation of staff's efforts to aggressively manage this species. Ms. Closshey noted the Florida Audubon Society, during its conference last week, included this invasive plant in its report on severe problems. (CD 1/Track 1 – 01:39:00/02:00:50)

This item was presented for the Committee's information, and no action was required.

Submit & File Report – None

Routine Reports

The following items were provided for the Committee's information, and no action was required.

38. **Florida Forever Funding**
39. **Minimum Flows and Levels**
40. **Structure Operations**
41. **Watershed Management Program and Federal Emergency Management Agency Map Modernization**
42. **Significant Water Supply and Resource Development Projects**
(CD 1/Track 1 – 02:00:50/02:01:13)

Resource Management Committee Vice Chair Beruff relinquished the gavel to Outreach and Planning Committee Chair Tharp.

Outreach and Planning Committee

Discussion Items

43. **Get Outside! Campaign**

Mr. Eric Sutton, Director, Land Resources Department, said the purpose of this presentation is to provide an overview of the *Get Outside!* campaign, which is part of a long-term, multi-department effort to promote watershed stewardship and sustainability through recreation on conservation lands. The District has acquired fee title to more than 343,000 acres of conservation lands that serve a critical role in protecting water resources while providing a tremendous opportunity for nature-based recreation. Although these lands have always been open for recreation, including significant sites managed by partners, considerable potential exists to improve the awareness of those opportunities. Over the past two years, a team consisting of staff from several departments has developed a comprehensive recreation strategy that increases awareness of recreation opportunities, connecting our citizens and visitors to southwest Florida's ecosystems and the watersheds they protect. A specific program that is important to many components of the strategy is the *Get Outside!* campaign.

Mr. Michael Molligan, Director, Communications Department, said The *Get Outside!* campaign is designed to promote watershed stewardship and sustainability through recreation on conservation lands. The campaign is based on data obtained through a public opinion survey regarding outdoor recreational opportunities in the service area. The primary goal of the research was to examine citizens' attitudes, expectations and current use of the District's land resources. The secondary goal was to determine avenues for potential educational, social marketing and communication outreach. The survey results revealed that, overall, people want to "get outside" more to "hike and walk," mostly with their "friends and family," and they want to be able to do this close to home and on the "spur of the moment." Based on the research, a communications plan was developed. The resulting *Get Outside!* campaign targets several audiences — the general public, community leaders, elected officials, likely users, new users and other stakeholders.

The *Get Outside!* campaign was officially launched September 26 in conjunction with National Public Lands Day. The new, more user-friendly Recreation web page and the revised *Recreation Guide* and *Recreation At A Glance* brochure were unveiled as part of the campaign kickoff. As part of the campaign, the District is also hosting three *Get Outside!* days — community events to showcase District lands with the hope that those attending will come back with family and friends to enjoy these properties on their own. The events will be held at Starkey Wilderness Preserve's Senenova Tract in Pasco County on November 7; the Green Swamp Wilderness Preserve's Hampton Tract in Polk County on February 27, 2010; and Deep Creek in DeSoto County on April 10, 2010. Staff will continually assess the program and look for the best ways to promote watershed stewardship and sustainability through recreation on conservation lands.

In response to Committee Chair Tharp's question to measure success, Mr. Molligan said staff will look at the number of media hits and coverage received. He said the public will be asked to do a survey during the Senenova event, and the number of people visiting properties will be measured. Mr. Molligan said Tampa television covers about eight of the District's counties. Committee Chair Tharp asked if smaller audiences are being targeted

through other television markets. Mr. Molligan said the District is reaching out to local media and cable programs that are interested.

Mr. Moore said that, in addition to the outreach program, a stakeholders group with senior level representation has been formed to receive feedback on how to better use and manage District lands. He reiterated the District's Recreation Guide is a great tool. (CD 1/Track 1 – 02:01:13/02:23:50)

This item was provided for the Committee's information, and no action was required.

Submit & File Report – None

Routine Reports

The following items were provided for the Committee's information, and no action was required.

44. **Comprehensive Plan Amendment and Related Reviews**
45. **Development of Regional Impact Reviews**
46. **Speakers Bureau**
47. **Significant Activities**

Ms. Closshey said she has attended several conferences around the state, and a variety of people have asked when the District will be holding another water management conference and mentioned to her how significant the conferences have been in the past. She just wanted to make the Board and staff aware that there is interest. (CD 1/Track 1 – 02:23:50/02:24:51)

Outreach & Planning Committee Chair Tharp relinquished the gavel to Chair Pressman.

Executive Director's Report

56. **Executive Director's Report**
 - Mr. Moore noted that two weeks ago the desalination plant began averaging more than 25 mgd and will try to meet the test of four months of 25 mgd or more.
 - Mr. Moore said, in regards to earlier presentation on water reuse, the National Research Council/National Academy of Sciences is doing a major report to Congress on the use of reclaimed water. The number of people focused on reclaimed water is growing and acceptance is increasing.
 - Mr. Moore noted that Suwannee River Water Management District Governing Board will be in the District's Tampa Service Office on December 9, 2009, for a briefing before touring the desalination plant, regional reservoir and Tampa Bypass Canal. He said that Board members are welcome to join the tour.
 - In regards to the earlier workshop, Mr. Moore said the \$19 million pipeline voted down by Charlotte County includes \$2.2 million already spent on design and permitting. He said if that project cannot be worked out between the Peace River Manasota Regional Water Supply Authority and County, \$1.1 million is District funding and the money should be returned if the project does not continue. Mr. Moore said agreements have a clause that the District does not reimburse for design and permitting until construction begins. He said the water supply authority contracts have not included that clause but moving forward the District will adhere to the policy of including that clause that reimbursement will not occur until construction occurs. Mr. Gramling said he agreed with the policy but not to have a policy that hinders expediency since certain circumstances may require to be done in a different manner. Mr. Beruff said he did not want to see a policy that ties the District's hands. Mr. Moore noted that design and permitting is typically 10 to 15

percent of overall project costs, and this sends a message not to start and then stop. Ms. Closshey said she would like to emphasize the difference between policy and procedure. She said the Board sets policy and encouraged staff to address the points that Messrs. Gramling and Beruff made about how does the District have the right language in all the contracts to have the latitude to protect the District at all times. She said the Board is talking about a procedural matter that gives latitude to be able to cover all bases and still be general. She requested staff to come back to the Board with language that is been recommended with staff approval for the Board to set as policy. In response to Mr. Combee's question, Mr. Moore said the other half of the \$2.2 million is from the Authority, and the permit is valid for five years. Chair Pressman said Mr. Lehman said there are steps to follow and they are working through them. (CD 1/Track 1 – 02:24:51/02:33:55)

Committee/Liaison Reports

57. Industrial Advisory Committee

Ms. Closshey said the Committee met on September 20, 2009. She said Ms. Kavouras has done an excellent job organizing the meetings. Topics of discussion included Rulemaking Update, Hydrologic Conditions/Drought Update and Water Shortage Restrictions, Net Improvement Policy for Stormwater, Lake Hancock Outfall Treatment, Dredging Project at Lake Hancock, *Get Outside!* Campaign, Peace River Manasota Regional Water Supply Authority Facilities Overview, and potential topics for the joint meeting with the Public Supply Advisory Committee scheduled for January 12, 2010.

58. Public Supply Advisory Committee

The Committee met on September 20, 2009. A report was not provided since Mr. Senft was not available.

59. Well Drillers Supply Advisory Committee

Mr. Oakley said the Committee met on October 14, 2009. He said topics of discussion included local well drilling ordinances by the different cities and municipalities regarding the consumptive use of water. He noted that Mr. Bilenky had previously provided a report on this issue. Mr. Oakley noted he attended the Dade City hearing regarding wells drilled within city limits and wells are still banned due to bond companies taking into consideration water revenues. He noted he attended the Florida Audubon Society conference last week. (CD 1/Track 1 – 02:33:55/02:37:50)

Chair's Report

60. Chair's Report

- Chair Pressman said the Tampa Bay Regional Planning Council (TBRPC) met on October 12. Council members heard presentations on various topics related to oil drilling off the Gulf coast, and several members voiced opposition to the drilling, citing the potential for harm to beaches and other coastal resources. The next meeting is scheduled for November 9 at 10 a.m.

Ms. Parks said the Florida Audubon Society has an offshore oil drilling discussion which is a major legislative focus. She noted that former Governing Board Chair and Member Heidi McCree was acknowledged at the conference. She said Dr. Sylvia Earl presented her book, "The World is Blue," and suggested the Board members read it.

Ms. Parks said she is representing the Board at the University of South Florida on a sustainability project which consists of about 50 students, 25 faculty and 25 community leaders. She said the students will be able to grant money to organizations demonstrating sustainability and this is based on Margaret Wheatley's book, "Leadership for an Uncertain Time."

Ms. Closshey asked when the Board will receive a report from staff about how climate change facts and science is being integrated into the decisions that staff is taking at a broad level. Chair Pressman said he just received an extensive report from the Governor's office which he thought was directed at the water management districts (WMDs). Mr. Moore said that was the Florida Ocean and Coastal Council report; and to answer Ms. Closshey's question, there is a section in the District's Strategic Plan on which Messrs. Schiller and Mazur will report to the Board in November or December. Mr. Schiller noted the District has an extensive internal program and staff reported on that program in August. He said there was conference call on October 8, 2009, with the State to organize the FDEP, WMDs and Climate Change in Florida Steering Committee mentioned in FDEP's "Framework for Action: Water Management and Climate Change in Florida" report. He said the District is participating with the State but, at this first steering committee, the State was trying to get an understanding of what FDEP and the WMDs are doing after discussing the recommendations of the report. A copy of the FDEP report will be provided to the Board in December with the presentation. Ms. Closshey questioned whether operational implications are being based on the science and assumptions adopted by the District in the individual project decisions. She noted that when reading the oceans study there are direct assumptions made. She wants to be assured that the District is incorporating those type of assumptions or taking a position against them on the basis of science such as their position about sea water levels, infrastructure locations, and the economic implication of projects that would no longer be viable if some of their assumptions are true, especially when looking into the future. She said she wants some assurance that the District is taking that into consideration every time a million dollars goes into a project. Mr. Moore suggested staff come back in December. (CD 1/Track 1 – 02:33:55/02:46:11)

Chair Pressman noted that each Board member received the packet of information for completing the performance evaluations for the Executive Director and Inspector General; and if there are questions, contact Ms. Elaine Kuligofski, Director of the Human Resources Department.

There being no further business to come before the Board, **Ms. Closshey moved, seconded by Mr. Oakley, to adjourn the meeting. Motion carried unanimously.** (CD 1/Track 1 – 02:46:11/02:47:00)

The meeting was adjourned at 4:10 p.m.

The Southwest Florida Water Management District (District) does not discriminate on the basis of disability. This nondiscrimination policy involves every aspect of the District's functions, including access to and participation in the District's programs and activities. Anyone requiring reasonable accommodation as provided for in the Americans with Disabilities Act should contact the District's Human Resources Director, 2379 Broad Street, Brooksville, Florida 34604-6899; telephone (352) 796-7211, ext. 4702 or 1-800-423-1476 (FL only), ext. 4702; TDD (FL only) 1-800-231-6103; or email to ADACoordinator@swfwmd.state.fl.us.