

# Governing Board Meeting

## *Agenda and Meeting Information*

*December 15, 2020*

*9:00 a.m.*

2379 Broad Street • Brooksville, Florida  
(352) 796-7211 • 1-800-423-1476

Southwest Florida  
Water Management District

WATERMATTERS.ORG • 1-800-423-1476



2379 Broad Street, Brooksville, Florida 34604  
(352) 796-7211 or 1-800-423-1476 (FL only)  
WaterMatters.org

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Employer

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, services and activities. Anyone requiring reasonable accommodation, or would like information as to the existence and location of accessible services, activities, and facilities, as provided for in the Americans with Disabilities Act, should contact Donna Eisenbeis, Sr. Performance Management Professional, at 2379 Broad St., Brooksville, FL 34604-6899; telephone (352) 796-7211 or 1-800-423-1476 (FL only), ext. 4706; or email [ADACoordinator@WaterMatters.org](mailto:ADACoordinator@WaterMatters.org). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1-800-955-8771 (TDD) or 1-800-955-8770 (Voice). If requested, appropriate auxiliary aids and services will be provided at any public meeting, forum, or event of the District. In the event of a complaint, please follow the grievance procedure located at [WaterMatters.org/ADA](http://WaterMatters.org/ADA).

## Final Agenda GOVERNING BOARD MEETING

DECEMBER 15, 2020  
9:00 AM

2379 BROAD STREET, BROOKSVILLE, FL 34604  
(352) 796-7211

*All meetings are open to the public*

- › Viewing of the Board meeting will be available through the District's website at [WaterMatters.org](http://WaterMatters.org). All or part of this meeting may be conducted by means of communications media technology.
- › Public input for issues not listed on the published agenda will be heard shortly after the meeting begins.

Pursuant to Section 373.079(7), Florida Statutes, all or part of this meeting may be conducted by means of communications media technology in order to permit maximum participation of Governing Board members.

The Governing Board may take official action at this meeting on any item appearing on this agenda and on any item that is added to this agenda as a result of a change to the agenda approved by the presiding officer of the meeting pursuant to Section 120.525, Florida Statutes.

The order of items appearing on the agenda is subject to change during the meeting and is at the discretion of the presiding officer.

Public Comment will be taken after each presentation and before any Governing Board action(s) except for Governing Board hearings that involve the issuance of final orders based on recommended Orders received from the Florida Division of Administrative Hearings.

Unless specifically stated, scheduled items will not be heard at a time certain.

The current Governing Board agenda and minutes of previous meetings are available at [WaterMatters.org](http://WaterMatters.org).

**Bartow Office**  
170 Century Boulevard  
Bartow, Florida 33830  
(863) 534-1448 or 1-800-492-7862 (FL only)

**Sarasota Office**  
78 Sarasota Center Boulevard  
Sarasota, Florida 34240  
(941) 377-3722 or 1-800-320-3503 (FL only)

**Tampa Office**  
7601 Hwy 301 N (Fort King Highway)  
Tampa, Florida 33637  
(813) 985-7481 or 1-800-836-0797 (FL only)

MEETING NOTICE

## **1. CONVENE PUBLIC MEETING**

- 1.1 Call to Order
- 1.2 Invocation and Pledge of Allegiance
- 1.3 Recognition of Former Governing Board Member Randall S. Maggard
- 1.4 Additions/Deletions to Agenda
- 1.5 Public Input for Issues Not Listed on the Published Agenda

## **2. CONSENT AGENDA**

- 2.1 **Finance/Outreach and Planning Committee:** Approval of Resolution Requesting Disbursement of Funds from the Water Protection and Sustainability Trust Fund
- 2.2 **Finance/Outreach and Planning Committee:** Approval of Resolution Requesting Disbursement of Funds from the Land Acquisition Trust Fund for Land Management
- 2.3 **Finance/Outreach and Planning Committee:** Authorization to Dispose of Equipment
- 2.4 **Resource Management Committee:** Initiation and Approval of Rulemaking to Amend Rule 40D-8.624, Florida Administrative Code, to Remove Minimum and Guidance Levels for Pasco Lake in Pasco County (P256)
- 2.5 **Resource Management Committee:** Initiation and Approval of Rulemaking to Amend Rule 40D-8.623, Florida Administrative Code, to Remove Minimum Wetland Level for Cypress Bridge A in Pasco County
- 2.6 **Resource Management Committee:** FARMS – The Eugene H. Turner Family Partnership, LTD (H786), DeSoto County
- 2.7 **Regulation Committee:** WUP No. 20020899.000, CEMEX Brooksville South Cement Plant, CEMEX Construction Materials Florida, LLC (Hernando County)
- 2.8 **Regulation Committee:** Initiation of Rulemaking to Amend Rule 40D-1.660, Florida Administrative Code and Applicant's Handbook Volume II
- 2.9 **General Counsel's Report:** Authorization to Issue Administrative Complaint and Order - Travel Imagination, LLC - Unauthorized Construction - CT Number 403929 - Manatee County
- 2.10 **Executive Director's Report:** Approve Governing Board Minutes - November 17, 2020

## **3. FINANCE/OUTREACH & PLANNING COMMITTEE**

- 3.1 **Discussion:** Information Only: Consent Item(s) Moved to Discussion
- 3.2 **Discussion:** Action Item: Preliminary Budget for Fiscal Year 2022
- 3.3 **Submit & File:** Information Only: Budget Transfer Report

## **4. RESOURCE MANAGEMENT COMMITTEE**

- 4.1 **Discussion:** Information Only: Consent Item(s) Moved to Discussion
- 4.2 **Discussion:** Information Only: Fiscal Year 2022 Cooperative Funding Process

4.3 **Discussion:** Action Item: Initiation and Approval of Rulemaking to Amend Rule 40D-8.041, Florida Administrative Code, to Adopt Minimum Flows for the Lower Peace River and Accept Final Draft Report

4.4 **Submit & File:** Information Only: Annual Status of the Southern Water Use Caution Area Recovery Strategy

## **5. OPERATIONS, LANDS, AND RESOURCE MONITORING COMMITTEE**

5.1 **Discussion:** Information Only: Consent Item(s) Moved to Discussion

5.2 **Discussion:** Information Only: Hydrologic Conditions Report

5.3 **Discussion:** Action Item: Approval of Rulemaking to Amend Chapter 40D-9, Florida Administrative Code, to Adopt Proposed Revisions to Land Use Rules

## **6. REGULATION COMMITTEE**

6.1 **Discussion:** Information Only: Consent Item(s) Moved to Discussion

6.2 **Discussion:** Information Only: Denials Referred to the Governing Board

## **7. GENERAL COUNSEL'S REPORT**

7.1 **Discussion:** Information Only: Consent Item(s) Moved to Discussion

## **8. COMMITTEE/LIAISON REPORTS**

8.1 **Discussion:** Information Only: Industrial Advisory Committee

8.2 **Discussion:** Information Only: Public Supply Advisory Committee

## **9. EXECUTIVE DIRECTOR'S REPORT**

9.1 **Discussion:** Information Only: Executive Director's Report

## **10. CHAIR'S REPORT**

10.1 **Discussion:** Information Only: Chair's Report

10.2 **Discussion:** Information Only: Employee Milestones

## **ADJOURNMENT**

# GOVERNING BOARD OFFICERS, COMMITTEES AND LIAISONS

Effective October 28, 2020

OFFICERS	
Chair	Kelly S. Rice
Vice Chair	Joel Schleicher
Secretary	Rebecca Smith
Treasurer	James Murphy

OPERATIONS, LANDS AND RESOURCE MONITORING COMMITTEE
Jack Bispham
Seth Weightman
John Mitten

RESOURCE MANAGEMENT COMMITTEE
Seth Weightman
Jack Bispham
Ed Armstrong

REGULATION COMMITTEE
Roger Germann
Joel Schleicher
Rebecca Smith

FINANCE/OUTREACH AND PLANNING COMMITTEE
James G. Murphy
Rebecca Smith
Ed Armstrong

*\* Board policy requires the Governing Board Treasurer to chair the Finance Committee.*

STANDING COMMITTEE LIAISONS	
Agricultural and Green Industry Advisory Committee	Jack Bispham
Environmental Advisory Committee	John Mitten
Industrial Advisory Committee	James G. Murphy
Public Supply Advisory Committee	Ed Armstrong
Well Drillers Advisory Committee	Seth Weightman

OTHER LIAISONS	
Central Florida Water Initiative	James G. Murphy
Spring Coast Steering Committee	John Mitten
Coastal & Heartland National Estuary Partnership Policy Committee	Jack Bispham
Sarasota Bay Estuary Program Policy Board	Joel Schleicher
Tampa Bay Estuary Program Policy Board	Rebecca Smith
Tampa Bay Regional Planning Council	Roger Germann

**Southwest Florida Water Management District Schedule of Meetings  
Fiscal Year 2021**

12/03/2020

**Governing Board Meeting**

October 20, 2020 – 9:00 a.m., Brooksville Office (Audio Visual Communication)  
November 17, 2020 – 9:00 a.m., Tampa Office (Audio Visual Communication)  
December 15, 2020 – 9:00 a.m., Brooksville Office (Audio Visual Communication)  
January 26, 2021 – 9:00 a.m., Tampa Office  
February 23, 2021 – 10 a.m., Brooksville Office  
March 23, 2021 – 9:00 a.m., Brooksville Office  
April 27, 2021 – 10:00 a.m., Lake Eva Banquet Hall  
May 25, 2021 – 9:00 a.m., Tampa Office  
June 22, 2021 – 9:00 a.m., Brooksville Office  
July 27, 2021 – 9:00 a.m., Tampa Office  
August 24, 2021 – 9:00 a.m., Brooksville Office  
September 28, 2021 – 3:00 p.m., Tampa Office

**Governing Board Public Budget Hearing – 5:01 p.m., Tampa Office**

2021 – September 14 & 28

**Agricultural & Green Industry Advisory Committee – 10:00 a.m., Brooksville Office/Audio Visual Communication**

2020 – December 1

2021 – March 9, June 8, September 14

**Environmental Advisory Committee – 10:00 a.m., Brooksville Office/Audio Visual Communication**

2020 – October 13

2021 – January 12, April 13, July 13

**Industrial Advisory Committee – 10:00 a.m., Brooksville Office/Audio Visual Communication**

2020 – November 10

2021 – February 9, May 11, August 10

**Public Supply Advisory Committee – 1:00 p.m., Brooksville Office/Audio Visual Communication**

2020 – November 10

2021 – February 9, May 11, August 10

**Springs Coast Management Committee – 1:30 p.m., Brooksville Office**

2020 – October 21 (Audio Visual Communication), December 9 (Audio Visual Communication)

2021 – January 6, February 24, May 26, July 14

**Springs Coast Steering Committee – 2:00 p.m., Brooksville Office**

2020 – November 4 (Audio Visual Communication)

2021 – January 27, March 10, July 28

**Well Drillers Advisory Committee – 1:30 p.m., Tampa Office**

2020 – October 7 (canceled)

2021 – January 6 (canceled), April 7, July 7

**Cooperative Funding Initiative – all meetings begin at 10:00 a.m.**

2021 – February 3 – Northern Region, Brooksville Office

2021 – February 4 – Southern Region, Sarasota County Board of County Commission Chambers

2021 – February 10 – Heartland Region, Bartow City Hall

2021 – February 11 – Tampa Bay Region, Tampa Office

2021 – April 7 – Northern Region, Brooksville Office

2021 – April 8 – Southern Region, Sarasota County Board of County Commission Chambers

2021 – April 14 – Heartland Region, Bartow City Hall

2021 – April 15 – Tampa Bay Region, Tampa Office

**Environmental Resource Permitting Advisory Group – 10:00 a.m., and**

**Water Use Permitting Advisory Group – 2:00 p.m., Tampa Office**

2020 – November 18 (canceled)

2021 – March 31, July 28

**Meeting Locations**

Brooksville Office – 2379 Broad Street, Brooksville, FL 34604

Tampa Office – 7601 US Highway 301 North, Tampa, FL 33637

Lake Eva Banquet Hall – 799 Johns Avenue, Haines City, FL 33844

Bartow City Hall – 450 N. Wilson Avenue, Bartow, FL 33830

Sarasota Board of County Commission Chambers – 4000 S. Tamiami Trail, Venice, FL 34293

## 1. Public Meeting

Governing Board Meeting  
December 15, 2020

1. CONVENE PUBLIC MEETING

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**CONVENE PUBLIC MEETING**

**December 15, 2020**

**Call to Order**

The Board Chair calls the meeting to order. The Board Secretary confirms that a quorum is present. The Board Chair then opens the public meeting. 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. Comments will be limited to three minutes per speaker, and, when appropriate, exceptions to the three-minute limit may be granted by the Chair. Several individuals wishing to speak on the same issue/topic should designate a spokesperson.

**Presenter:**

Kelly S. Rice, Chair

**CONVENE PUBLIC MEETING**

**December 15, 2020**

**Invocation and Pledge of Allegiance**

An invocation is offered. The Board Chair conducts the Pledge of Allegiance to the Flag of the United States of America.

Presenter:

Kelly S. Rice, Chair

**CONVENE PUBLIC MEETING**

**December 15, 2020**

**Recognition of Former Governing Board Member Randall S. Maggard**

To honor Mr. Randall S. Maggard for his term as a Governing Board member, District staff will present Resolution No. 20-07 and a plaque to commemorate his service. Mr. Maggard was appointed by Governor Rick Scott in October 2011 and served until July 2019.

**Presenter:**

Virginia Singer, Board and Executive Services Manager

**CONVENE PUBLIC MEETING**

**December 15, 2020**

**Additions/Deletions to Agenda**

Presenter:

Kelly S. Rice, Chair

**CONVENE PUBLIC MEETING**

**December 15, 2020**

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

At this time, the Board will hear public input for issues not listed on the published agenda.

Presenter:

Kelly S. Rice, Chair

## 2. Consent Agenda

# Governing Board Meeting

December 15, 2020

## 2. CONSENT AGENDA

All matters listed under the Consent Agenda are considered routine and action will be taken by one motion, second of the motion and approval by the Board. If discussion is requested by a Board member, that item(s) will be deleted from the Consent Agenda and moved to the appropriate Committee or Report for consideration.

- 2.1 **Finance/Outreach and Planning Committee:** Approval of Resolution Requesting Disbursement of Funds from the Water Protection and Sustainability Trust Fund ..... 9
- 2.2 **Finance/Outreach and Planning Committee:** Approval of Resolution Requesting Disbursement of Funds from the Land Acquisition Trust Fund for Land Management ..... 14
- 2.3 **Finance/Outreach and Planning Committee:** Authorization to Dispose of Equipment..... 19
- 2.4 **Resource Management Committee:** Initiation and Approval of Rulemaking to Amend Rule 40D-8.624, Florida Administrative Code, to Remove Minimum and Guidance Levels for Pasco Lake in Pasco County (P256) ..... 20
- 2.5 **Resource Management Committee:** Initiation and Approval of Rulemaking to Amend Rule 40D-8.623, Florida Administrative Code, to Remove Minimum Wetland Level for Cypress Bridge A in Pasco County..... 22
- 2.6 **Resource Management Committee:** FARMS – The Eugene H. Turner Family Partnership, LTD (H786), DeSoto County..... 24
- 2.7 **Regulation Committee:** WUP No. 20020899.000, CEMEX Brooksville South Cement Plant, CEMEX Construction Materials Florida, LLC (Hernando County) ..... 26
- 2.8 **Regulation Committee:** Initiation of Rulemaking to Amend Rule 40D-1.660, Florida Administrative Code and Applicant’s Handbook Volume II ..... 37
- 2.9 **General Counsel's Report:** Authorization to Issue Administrative Complaint and Order - Travel Imagination, LLC - Unauthorized Construction - CT Number 4 03929 - Manatee County ..... 38
- 2.10 **Executive Director's Report:** Approve Governing Board Minutes - November 17, 2020..... 39

## CONSENT AGENDA

**December 15, 2020**

### **Approval of Resolution Requesting Disbursement of Funds from the Water Protection and Sustainability Trust Fund**

#### *Purpose*

Request the approval of Resolution 20-18, Request to the Florida Department of Environmental Protection (FDEP) for Disbursement of Funds from the Water Protection and Sustainability Program Trust Fund (WPSPTF) for Selected Project(s).

#### *Background*

During the 2020 legislative session, the Florida Legislature appropriated \$1,800,000 to the WPSPTF for local governments and non-state entities to provide financial assistance to develop alternative water supplies. The Southwest Florida Water Management District's share was \$450,000, which was included in the fiscal year 2021 adopted budget for the Pasco County River Landing Reclaimed Water Transmission project.

The Governing Board must adopt a resolution approving the selected project(s) to receive WPSPTF dollars. Accordingly, a resolution has been prepared requesting the FDEP to reimburse the District for Pasco County River Landing Reclaimed Water Transmission project expenditures as they are incurred from the appropriated funds. The exhibit to this item includes Resolution Number 20-18.

#### Staff Recommendation:

Approve Resolution 20-18, *Request to the Florida Department of Environmental Protection for Disbursement of Funds from the Water Protection and Sustainability Program Trust Fund for Selected Project(s)*.

#### Presenters:

John J. Campbell, Division Director, Management Services, and  
Jennette M. Seachrist, P.E., Division Director, Resource Management



## **SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT**

### **RESOLUTION NO. 20-18**

#### **REQUEST TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR DISBURSEMENT OF FUNDS FROM THE WATER PROTECTION AND SUSTAINABILITY PROGRAM TRUST FUND FOR SELECTED PROJECT(S)**

**WHEREAS**, pursuant to Chapter 373, Florida Statutes (F.S.), the Governing Board of the Southwest Florida Water Management District (District) has the duty and responsibility to develop plans, projects, and programs for regional water supply planning, water resource development, water supply development, land acquisition, surface water improvement and management, and water restoration initiatives within its boundaries; and

**WHEREAS**, the Water Protection and Sustainability Program Trust Fund was established by the 2005 Florida Legislature as an annual program to provide funding assistance for the development of alternative water supplies; and

**WHEREAS**, Section 373.707(8)(a), F.S., requires a percentage of Water Protection and Sustainability Program Trust Fund allocated each year to water management districts to be shared with water providers and users, including local governments, water, wastewater, and reuse utilities, municipal, special district, industrial and agricultural water users, and other public and private water users, to be used to supplement other funding sources in the development of alternative water supplies and conservation projects that result in quantifiable water savings; and

**WHEREAS**, Section 373.707(8)(c), F.S., requires that the Governing Board of the District determine the projects selected for financial assistance as part of the Water Protection and Sustainability Program Trust Fund; and

**WHEREAS**, through Specific Appropriation 1622 under the General Appropriations Act, Chapter 2020-111, Laws of Florida, for the annual period beginning July 1, 2020 and ending June 30, 2021 (Fiscal Year 2020-21), the Legislature specifically appropriated one million eight hundred dollars (\$1,800,000) to the Water Protection and Sustainability Program Trust Fund of which four hundred fifty thousand dollars (\$450,000) shall be distributed to the Southwest Florida Water Management District according to Section 373.707(8)(b), F.S.; and

**WHEREAS**, after careful evaluation, District staff determined that the Pasco County River Landing Reclaimed Water Transmission project met all of the requirements for the use of the Water Protection and Sustainability Program Trust Fund according to Section 373.707(8)(f) and (g), F.S., and the criteria of the District's Cooperative Funding Initiative; and

**WHEREAS**, in its Fiscal Year 2020-21, the District has budgeted four hundred fifty thousand dollars (\$450,000) from the Water Protection and Sustainability Program Trust Fund to be used for the Pasco County River Landing Reclaimed Water Transmission project; and

**WHEREAS**, Section 373.501(2), F.S., prescribes a process for disbursing funds appropriated by the Legislature to the water management districts upon receipt by the Secretary of the State of Florida's Department of Environmental Protection of a resolution adopted by the Governing Board requesting such funds.

**THEREFORE, BE IT RESOLVED**, that the Governing Board of the Southwest Florida Water Management District hereby requests the Secretary of the Department of Environmental Protection to approve that the Pasco County River Landing Reclaimed Water Transmission project, attached hereto as Exhibit "A" and incorporated herein by this reference, receive the sum of four hundred fifty thousand dollars (\$450,000) from the Water Protection and Sustainability Program Trust Fund, pursuant to Section 373.501(2), F.S., and Specific Appropriation 1622 in the General Appropriations Act, Chapter 2020-111, Laws of Florida; and

**BE IT FURTHER RESOLVED** that a warrant be issued by the State of Florida's Chief Financial Officer in accordance with Section 17.52, F.S., to the Southwest Florida Water Management District for that amount available, or as may become available, from the Water Protection and Sustainability Program Trust Fund; and

**BE IT FURTHER RESOLVED** that these funds are subject to the requirements of Section 215.97, F.S., the Florida Single Audit Act. The Catalog of State Financial Assistance (CSFA) Number for the program identified herein is CSFA 37.100 and the CSFA Title for the program is "Alternative Water Supply"; and

**BE IT FURTHER RESOLVED** that these funds are subject to the requirements of Section 216.347, F.S. (Grants and Lobbying Restriction); and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be transmitted to the Secretary of the Florida Department of Environmental Protection forthwith; and

**BE IT FURTHER RESOLVED** that the Chair of the Governing Board is hereby authorized to affix his signature to this resolution on behalf of the Board and attested by its Secretary.

**APPROVED and ADOPTED** in Brooksville, Hernando County, Florida on this fifteenth day of December 2020.

SOUTHWEST FLORIDA  
WATER MANAGEMENT DISTRICT

By: \_\_\_\_\_  
Kelly Rice, Chair

Attest:

\_\_\_\_\_  
Rebecca Smith, Secretary

**Water Protection and Sustainability Program Trust Fund - Alternative Water Supply**  
**Project List and Allocation of State Funding - Approved Project Allocations for FY2021**

Project	Project Name	Total Projected Project Costs			Proposed Project Allocations For FY2021				Benefit Supply or Offset (MGD)
		Design	Construction	Total	State	District	Cooperator	Total	
Q158	Pasco County River Landing Reclaimed Water Transmission Project	\$0	\$3,386,600	\$3,386,600	\$450,000	\$1,468,300	\$1,468,300	\$3,386,600	0.29
		<b>\$0</b>	<b>\$3,386,600</b>	<b>\$3,386,600</b>	<b>\$450,000</b>	<b>\$1,468,300</b>	<b>\$1,468,300</b>	<b>\$3,386,600</b>	<b>0.29</b>

Exhibit A

**CERTIFICATE AS TO RESOLUTION NO. 20-18**

STATE OF FLORIDA  
COUNTY OF HERNANDO

We, the undersigned, hereby certify that we are, Chair and Secretary, respectively, of the Southwest Florida Water Management District, organized and existing under and by virtue of the Laws of the State of Florida, and having its office and place of business at 2379 Broad Street, Brooksville, Hernando County, Florida, and that, on the fifteenth day of December 2020, at a duly called and properly held hearing of the Governing Board of the Southwest Florida Water Management District, at the Brooksville Office, 2379 Broad Street, Brooksville, Hernando County, Florida, at which hearing a majority of the members of the Governing Board were present in person or via communications media technology, the resolution, which is attached hereto and which this certificate is a part thereof, was adopted and incorporated in the minutes of that hearing.

Dated at Brooksville, Florida, this fifteenth day of December 2020.

SOUTHWEST FLORIDA  
WATER MANAGEMENT DISTRICT

By: \_\_\_\_\_  
Kelly Rice, Chair

Attest:

\_\_\_\_\_  
Rebecca Smith, Secretary

**ACKNOWLEDGMENT**

STATE OF FLORIDA  
COUNTY OF HERNANDO

The foregoing document was acknowledged before me this fifteenth day of December 2020, by Kelly Rice and Rebecca Smith, Chair and Secretary, respectively, of the Governing Board of the Southwest Florida Water Management District, a public corporation, on behalf of the corporation. They are personally known to me.

WITNESS my hand and official seal on this fifteenth day of December 2020.

\_\_\_\_\_  
Notary Public  
State of Florida at Large  
My Commission Expires:

## CONSENT AGENDA

**December 15, 2020**

### **Approval of Resolution Requesting Disbursement of Funds from the Land Acquisition Trust Fund for Land Management**

#### *Purpose*

Request the approval of Resolution 20-17, Request to the Florida Department of Environmental Protection (FDEP) for Disbursement of Funds from the Land Acquisition Trust Fund (LATF) for Land Management.

#### *Background*

During the 2020 legislative session, the Florida Legislature appropriated \$10,237,210 to the LATF for the water management districts to use for land management purposes on District conservation lands. The Southwest Florida Water Management District's share was \$2,250,000, which was included in the fiscal year 2021 adopted budget for land management activities.

The Governing Board must adopt a resolution requesting advanced funding from the LATF. Accordingly, a resolution has been prepared requesting the FDEP to advance the appropriated funds to the District for land management expenditures on District conservation lands. The exhibit to this item includes Resolution Number 20-17.

#### Staff Recommendation:

Approve Resolution 20-17, *Request to the Florida Department of Environmental Protection for Disbursement of Funds from the LATF for Land Management.*

#### Presenters:

John J. Campbell, Division Director, Management Services,  
Jerry Mallams, P.G., Operations and Land Management Bureau Chief, and  
Ellen Morrison, Operations and Land Management Assistant Bureau Chief

## **SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT**

### **RESOLUTION NO. 20-17**

#### **REQUEST TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION FOR DISBURSEMENT OF FUNDS FROM THE LAND ACQUISITION TRUST FUND FOR LAND MANAGEMENT**

**WHEREAS**, pursuant to Chapter 373, Florida Statutes (F.S.), the Governing Board of the Southwest Florida Water Management District (District) has the duty and responsibility to develop plans, projects and programs for regional water supply planning, water resource development, water supply development, land acquisition, surface water improvement and management, and water restoration initiatives within its boundaries; and

**WHEREAS**, through Specific Appropriation 1606 under the General Appropriations Act, Chapter 2020-111, Laws of Florida, for the annual period beginning July 1, 2020 and ending June 30, 2021 (Fiscal Year 2020-21), the Legislature specifically appropriated to the District a total of two million two hundred fifty thousand dollars (\$2,250,000) from the Land Acquisition Trust Fund of the State of Florida for land management purposes on District conservation lands; and

**WHEREAS**, in its Fiscal Year 2020-21, the District has budgeted two million two hundred fifty thousand dollars (\$2,250,000) from the Land Acquisition Trust Fund to be used for land management purposes on District conservation lands; and

**WHEREAS**, Section 373.501(2), F.S., prescribes a process for disbursing funds appropriated by the Legislature to the water management districts upon receipt by the Secretary of the State of Florida's Department of Environmental Protection of a resolution adopted by the Governing Board requesting such funds.

**THEREFORE, BE IT RESOLVED**, that the Governing Board of the Southwest Florida Water Management District hereby requests the Secretary of the Department of Environmental Protection to release from the Land Acquisition Trust Fund of the State of Florida the sum of up to two million two hundred fifty thousand dollars (\$2,250,000) for the activities described in the land management spending plan, attached hereto as Exhibit "A" and incorporated herein by this reference, pursuant to Section 373.501(2), F.S., and Specific Appropriation 1606 in the General Appropriations Act, Chapter 2020-111, Laws of Florida; and

**BE IT FURTHER RESOLVED** that a warrant be issued by the State of Florida's Chief Financial Officer in accordance with Section 17.52, F.S., to the Southwest Florida Water Management District for that amount available, or as may become available, from the Land Acquisition Trust Fund; and

**BE IT FURTHER RESOLVED** that these funds are subject to the requirements of Section 215.97, F.S., the Florida Single Audit Act. The Catalog of State Financial Assistance (CSFA) Number for these activities identified herein is CSFA 37.022 and the CSFA Title for these activities is "Water Management Districts – Land Acquisition and Improvement"; and

**BE IT FURTHER RESOLVED** that these funds are subject to the requirements of Section 216.347, F.S. (Grants and Lobbying Restriction); and

**BE IT FURTHER RESOLVED** that a certified copy of this resolution be transmitted to the Secretary of the Florida Department of Environmental Protection forthwith; and

**BE IT FURTHER RESOLVED** that the Chair of the Governing Board is hereby authorized to affix his signature to this resolution on behalf of the Board and attested by its Secretary.

**APPROVED AND ADOPTED** in Brooksville, Hernando County, Florida on this fifteenth day of December 2020.

SOUTHWEST FLORIDA  
WATER MANAGEMENT DISTRICT

By: \_\_\_\_\_  
Kelly Rice, Chair

Attest:

\_\_\_\_\_  
Rebecca Smith, Secretary

EXHIBIT

## **Exhibit A**

### **Land Management Spending Plan**

The specific appropriation funding in the amount of two million two hundred fifty thousand dollars (\$2,250,000) will be used for expenditures in support of land management activities within the Southwest Florida Water Management District. These include, but are not limited to, the following:

#### **Operational Maintenance and Restoration Activities on District Conservation Lands**

- Repair and maintenance of roads and bridges, including the purchase and hauling of aggregates.
- Roller chopping and hydro-axing as required for restoration, brush, and fuel management purposes.
- Prescribed burning.
- Control of feral hogs.
- Security, law enforcement, and maintenance services for public use facilities.
- Road, pasture, and restoration mowing.
- Recreational mowing such as public parking areas, campgrounds, and trails for public use facilities.
- Removal and construction of fencing.
- Replacement of culverts.
- Treatment of cogon grass, Old World climbing fern, Brazilian pepper, tropical soda apple, and other invasive plant species.
- Rearing, release, and monitoring of bio-control agents for Old World climbing fern.
- Contractual land management services.
- Contractual land use and management planning services.



**CERTIFICATE AS TO RESOLUTION NO. 20-17**

STATE OF FLORIDA  
COUNTY OF HERNANDO

We, the undersigned, hereby certify that we are, Chair and Secretary, respectively, of the Southwest Florida Water Management District, organized and existing under and by virtue of the Laws of the State of Florida, and having its office and place of business at 2379 Broad Street, Brooksville, Hernando County, Florida, and that, on the fifteenth day of December 2020, at a duly called and properly held hearing of the Governing Board of the Southwest Florida Water Management District, at the Brooksville Office, 2379 Broad Street, Brooksville, Hernando County, Florida, at which hearing a majority of the members of the Governing Board were present in person or via communications media technology, the resolution, which is attached hereto and which this certificate is a part thereof, was adopted and incorporated in the minutes of that hearing.

Dated at Brooksville, Florida, this fifteenth day of December 2020.

SOUTHWEST FLORIDA  
WATER MANAGEMENT DISTRICT

By: \_\_\_\_\_  
Kelly Rice, Chair

Attest:

\_\_\_\_\_  
Rebecca Smith, Secretary

**ACKNOWLEDGMENT**

STATE OF FLORIDA  
COUNTY OF HERNANDO

The foregoing document was acknowledged before me this fifteenth day of December 2020, by Kelly Rice and Rebecca Smith, Chair and Secretary, respectively, of the Governing Board of the Southwest Florida Water Management District, a public corporation, on behalf of the corporation. They are personally known to me.

WITNESS my hand and official seal on this fifteenth day of December 2020.

\_\_\_\_\_  
Notary Public  
State of Florida at Large  
My Commission Expires:

**CONSENT AGENDA**

**December 15, 2020**

**Authorization to Dispose of Equipment**

*Purpose*

The purpose of this item is to request authorization to dispose of surplus tangible personal property (an excavator and two dump trucks) pursuant to Board Policy 150-2.

*Background/History*

The District purchased a Mac dump truck #2094 in 2009. The District purchased a JCB off road dump truck #2060 in 2005 and purchased a Kaiser excavator #2076 in 2007. All three assets were purchased for maintenance of District properties.

*Benefits/Costs*

In FY2020, the District purchased a new dump truck to replace Unit 2094. (Unit 2163). The Kaiser (Unit 2076) and the JCB (Unit 2060) were not replaced and will be rented as needed going forward. Staff recommends sending both dump trucks and the excavator to auction with an estimated sale price of more than \$25,000 for each unit. In compliance with Board Policy 150-2, tangible personal property with a current market value in excess of \$25,000 requires Board approval.

Staff Recommendation:

Staff recommends the Governing Board approve the disposition of one Mac dump truck (2094), one JCB off-road dump truck (2060), and one Kaiser excavator (2076) through the auction process.

Presenters:

Michelle Weaver, General Services Bureau Chief, and Sean Fitzgerald, Fleet Manager

## CONSENT AGENDA

**December 15, 2020**

### **Initiation and Approval of Rulemaking to Amend Rule 40D-8.624, Florida Administrative Code, to Remove Minimum and Guidance Levels for Pasco Lake in Pasco County (P256)**

#### *Purpose*

To request the Board initiate rulemaking and approve proposed rule language to amend Rule 40D-8.624, Florida Administrative Code (F.A.C.), to remove Minimum and Guidance levels for Pasco Lake in Pasco County, and accept the Technical Memorandum entitled: "Recommendations for Pasco Lake Minimum Lake Levels" dated September 8, 2020.

#### *Background/History*

Minimum levels are water levels at which further withdrawals would be significantly harmful to the water resources of the area. Guidance levels are used to describe expected water level fluctuations and serve as advisory information for the construction of lakeshore development, water-dependent structures, and operation of water management structures. Minimum and Guidance levels for Pasco Lake were adopted in November 2006. Section 373.0421(5), Florida Statutes, requires that minimum flows and levels shall be reevaluated periodically and revised as needed.

Based on a recent reevaluation of the minimum and guidance levels for Pasco Lake, District staff have determined that existing lake standards and methodologies used to set minimum levels are not appropriate for Pasco Lake, due to multiple confounding hydrologic, geologic, and historic factors unique to Pasco Lake. Therefore, Minimum and Guidance levels for Pasco Lake are proposed to be removed from the rule for these technical and scientific reasons.

The technical report outlining the District's evaluation of Pasco Lake was posted on the District's website on October 5, 2020. In order to maintain a process of receiving valuable feedback from stakeholders on the proposed removal of the minimum and guidance levels, while also ensuring the health, safety, and wellbeing of all, stakeholders were notified and directed to a District webpage. The webpage included information about the purpose and development of lake minimum and guidance levels; the draft Technical Memorandum; and an electronic comment card for public comment on the proposed removal of the minimum levels for Pasco Lake. Staff contact details were also provided for stakeholders to request personal assistance. No comments specific to removal of Pasco Lake Minimum and Guidance levels were received.

The District will continue to monitor water levels in Pasco Lake and in several nearby waterbodies for which minimum levels have also been set. This information will be used to continue to protect local water resources.

#### *Benefits/Costs*

A Statement of Estimated Regulatory Costs is not required as this rulemaking is not expected to result in any direct or indirect cost increases for small businesses or increased regulatory costs in excess of \$200,000 within one year of implementation.

Upon Governing Board approval of removing Minimum and Guidance levels for Pasco Lake, staff will proceed with formal rulemaking without further Governing Board action. If substantive changes are

necessary as the result of comments received from the public or from reviewing entities such as the Governor's Office of Fiscal Accountability and Regulatory Reform or the Joint Administrative Procedures Committee, this matter will be brought back to the Governing Board for consideration.

Staff Recommendation:

- A. Accept the Technical Memorandum entitled, "Recommendations for Pasco Lake Minimum Lake Levels."
- B. Authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process and to complete report finalization.
- C. Initiate rulemaking and approve proposed rule language to amend Rule 40D-8.624, F.A.C., to remove Minimum and Guidance Levels for Pasco Lake, as shown in the Exhibit.

Presenter:

Mark Hurst, Senior Environmental Scientist, Water Resources Bureau

## CONSENT AGENDA

**December 15, 2020**

### **Initiation and Approval of Rulemaking to Amend Rule 40D-8.623, Florida Administrative Code, to Remove Minimum Wetland Level for Cypress Bridge A in Pasco County**

#### *Purpose*

To request the Board initiate rulemaking and approve proposed rule language to amend Rule 40D-8.623, Florida Administrative Code (F.A.C.), to remove the minimum wetland level for Cypress Bridge A.

#### *Background/History*

Minimum levels are water levels at which further withdrawals would be significantly harmful to the ecology or water resources of the area. A minimum level for the Cypress Bridge A wetland was adopted in Rule 40D-8.623, F.A.C., and Section 373.0421(5), Florida Statutes, requires that established minimum flows and levels be reevaluated periodically and revised as needed.

District staff recently completed a comprehensive review of the status of lake and wetland minimum levels in the Northern Tampa Bay (NTB) region as part of the assessment of the NTB Recovery Strategy. During that review, staff identified extensive development surrounding the Cypress Bridge A wetland. This development began approximately two years after original MFL establishment. Upon review of Cypress Bridge A's physical setting, hydrogeologic conditions, and water level data, it was determined that the wetland is meeting its MFL. However, extensive development surrounding this site has rendered it unreliable for monitoring impacts due to the influence of adjacent stormwater ponds on groundwater and, hence, not a useful MFL site. Removal of this wetland as an MFL site will not compromise the District's ability to monitor and protect environmental conditions in the surrounding area as there is another wetland site with an adopted minimum level approximately 600 feet to the northeast along with other monitored wetlands and wells.

#### *Benefits/Costs*

A Statement of Estimated Regulatory Costs is not required as this rulemaking is not expected to result in any direct or indirect cost increases for small businesses or increased regulatory costs in excess of \$200,000 within one year of implementation.

The proposed rule language removing the minimum level for the Cypress Bridge A wetland is attached as an exhibit to this recap. Upon Governing Board approval of the proposed rule amendment, staff will submit a notice to the Governor's Office of Fiscal Accountability and Regulatory Reform (OFARR) and proceed with formal rulemaking without further Governing Board action. If substantive changes are necessary as the result of comments received from the public or from reviewing entities such as OFARR or the Joint Administrative Procedures Committee, this matter will be brought back to the Governing Board for consideration.

#### **Staff Recommendation:**

- A. Initiate rulemaking and approve the proposed rule language to amend Rule 40D-8.623, F.A.C., to remove the Cypress Bridge A minimum level, as shown in the Exhibit.
- B. Authorize staff to make any necessary minor clarifying edits that may result from the rulemaking process.

Presenters:

Ron Basso, P.G., Chief Hydrogeologist, Water Resources Bureau, and  
Luke LeMond, P.G., Chief Geologist, Water Use Permitting Bureau

## CONSENT AGENDA

**December 15, 2020**

### **FARMS – The Eugene H. Turner Family Partnership, LTD (H786), DeSoto County**

#### *Purpose*

To request approval for a Facilitating Agricultural Resource Management Systems (FARMS) project with The Eugene H. Turner Family Partnership, LTD and approval to reimburse FARMS eligible costs up to a not-to-exceed limit of \$326,000 (53 percent of total project costs). Of this amount, \$326,000 is requested from the Governing Board FARMS Fund. Total project costs are estimated at \$611,000.

#### *Project Proposal*

The District received a project proposal from The Eugene H. Turner Family Partnership, LTD for their 382-acre citrus property located three miles south of Arcadia, in central DeSoto County, within the Southern Water Use Caution Area (SWUCA) and Shell, Prairie, and Joshua Creek watersheds (SPJC). This project will involve modifying an existing six-acre surface water reservoir to collect tailwater and surface water from the farm property and surrounding watershed to offset Upper Floridan aquifer groundwater used in supplemental irrigation of 250 acres of citrus. The Water Use Permit (WUP) authorizes an annual average withdrawal of 229,900 gallons per day (gpd) to irrigate 250 acres of citrus. FARMS project components consist of one surface water pump station to deliver water from the reservoir to the irrigation system, filtration system, valves, tailwater culverts and the piping necessary to connect the surface water reservoir to the existing irrigation system.

#### *Benefits/Costs*

The proposed project involves water quantity and water quality best management practices for supplemental irrigation and qualifies for a 75 percent cost-share reimbursement rate under the FARMS Program. Using an estimated 43 percent savings of permitted quantities for daily irrigation, or 100,000 gpd, yields a daily cost of \$3.64 per thousand gallons of groundwater reduced over the proposed five-year contract term. This value is within the guidelines for the generally accepted average cost savings per thousand gallons for the implementation of alternative supplies and improved irrigation techniques for citrus grove operations. Reimbursement will be from the Governing Board FARMS Fund. Upon approval of the projects presented at this meeting, the Governing Board will have \$5,674,000 remaining in its FARMS Program budget.

#### Staff Recommendation:

1. Approve the The Eugene H. Turner Family Partnership, LTD project for a not-to-exceed project reimbursement of \$326,000 with \$326,000 provided by the Governing Board;
2. Authorize the transfer of \$326,000 from fund 010 H017 Governing Board FARMS Fund to the H786 The Eugene H. Turner Family Partnership, LTD project fund;
3. Authorize the Assistant Executive Director to sign the agreement.

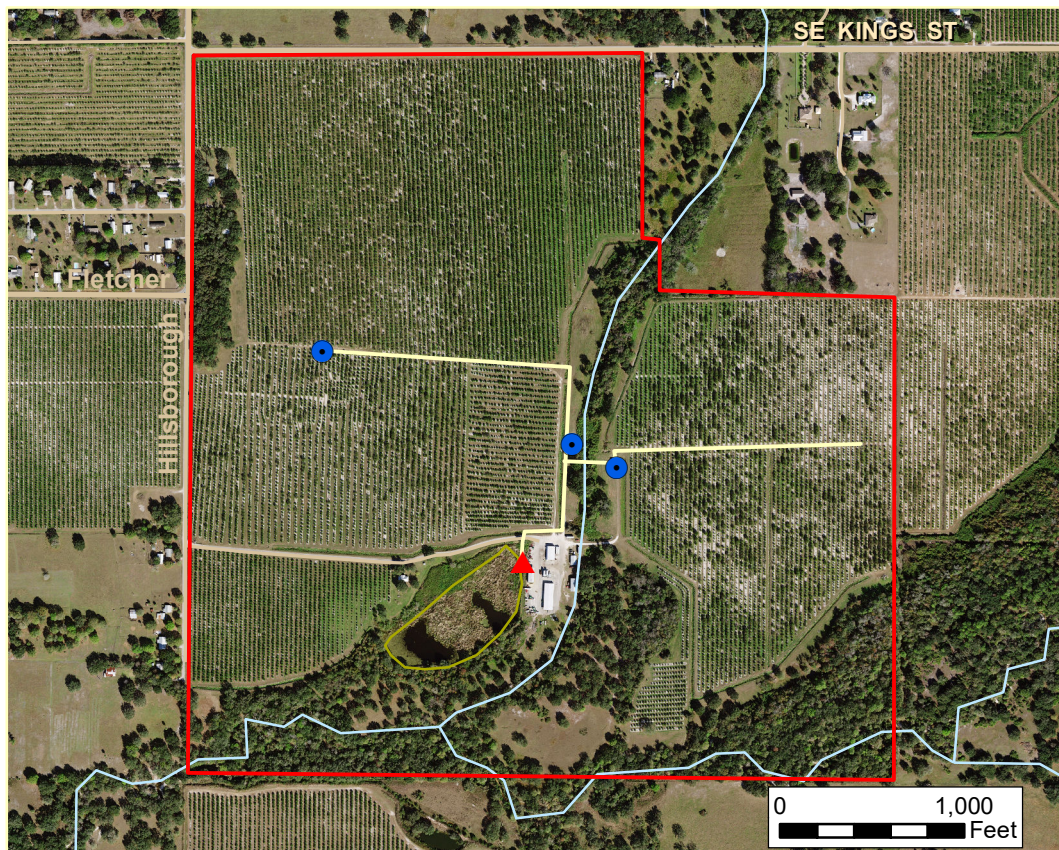
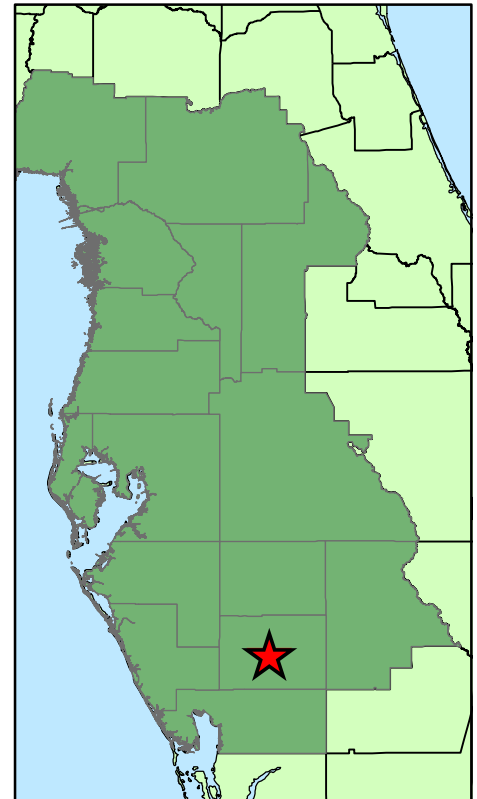
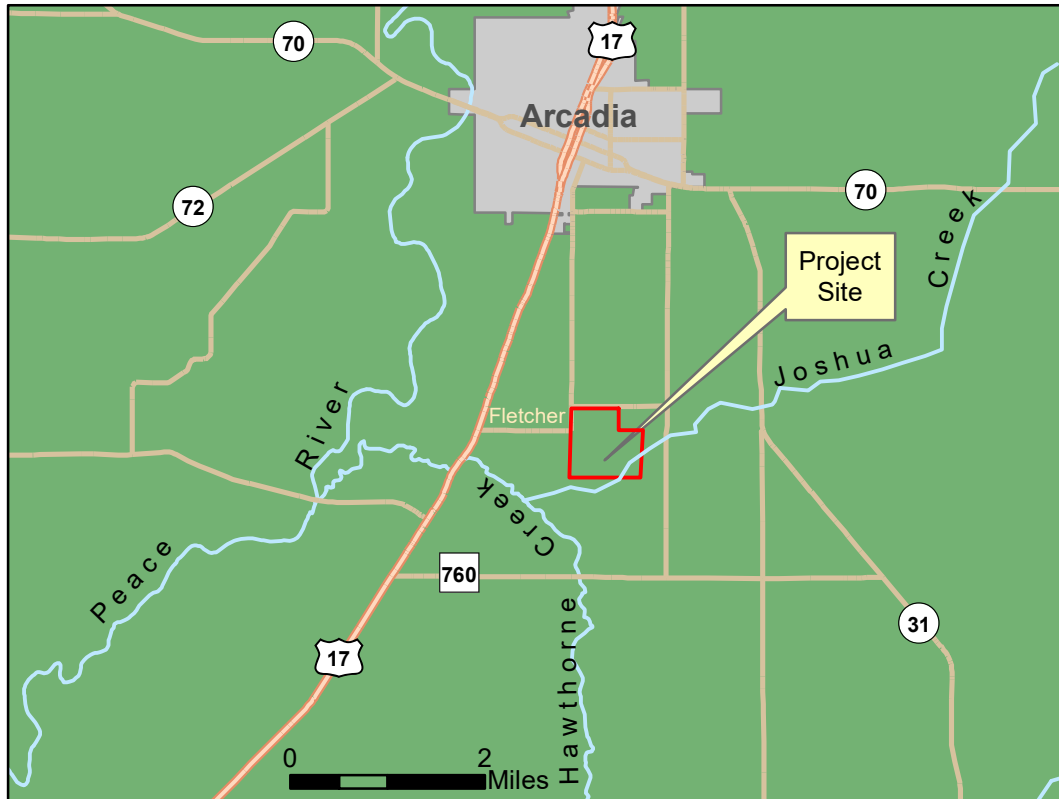
#### Presenter:

Randy Smith, PMP, Bureau Chief, Natural Systems and Restoration

# Location Map

## The Eugene H. Turner Family Partnership, LTD

### FARMS Project H786



### Legend

- District Boundary
- WUP 2240 & Project Boundaries
- Proposed Surface Water Pump Station and Mainline Pipe
- Existing Irrigation Well

### DeSoto County



Southwest Florida  
Water Management District



**CONSENT AGENDA**

**December 15, 2020**

**WUP No. 20020899.000, CEMEX Brooksville South Cement Plant, CEMEX Construction Materials Florida, LLC (Hernando County)**

This is a new Industrial/Commercial Water Use Permit that authorizes the transfer of existing authorized groundwater quantities from Water Use Permit No. 200007015, issued in 1983 as Florida Power Site Certification - PA 82-17. The annual average quantity decreases from 5,410,000 gallons per day (gpd) to 4,467,600 gpd. The peak month quantity decreases from 7,250,000 gpd to 5,502,500 gpd. The quantities are based on pumpage history and information provided by the Permittee for cement manufacturing. This permit is not located within a Water Use Caution Area.

Special conditions include those that require the Permittee to continue to record and report monthly meter readings from specified withdrawal points, periodically have all meters calibrated, implement water conservation and best management practices, submit an updated water conservation plan mid-term of the permit, and cap any wells not in use.

The permit application meets all Rule 40D-2 Conditions for Issuance.

Staff Recommendation:

Approve the proposed permit attached as an exhibit.

Presenter:

Darrin Herbst, P.G., Bureau Chief, Water Use Permit Bureau

**SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
WATER USE PERMIT  
Individual  
PERMIT NO. 20 020899.000**

**PERMIT ISSUE DATE:** December 15, 2020

**EXPIRATION DATE:** December 15, 2040

The Permittee is responsible for submitting an application to renew this permit no sooner than one year prior to the expiration date, and no later than the end of the last business day before the expiration date, whether or not the Permittee receives prior notification by mail. Failure to submit a renewal application prior to the expiration date and continuing to withdraw water after the expiration date is a violation of Chapter 373, Florida Statutes, and Chapter 40D-2, Florida Administrative Code, and may result in a monetary penalty and/or loss of the right to use the water. Issuance of a renewal of this permit is contingent upon District approval.

**TYPE OF APPLICATION:** New

**GRANTED TO:** CEMEX Construction Materials Florida, LLC  
10311 Cement Plant Road  
Brooksville, FL 34601

**PROJECT NAME:** CEMEX Brooksville South Cement Plant

**WATER USE CAUTION AREA(S):** Not in a WUCA

**COUNTY:** Hernando

**TOTAL QUANTITIES AUTHORIZED UNDER THIS PERMIT (in gallons per day)**

ANNUAL AVERAGE	4,467,600 gpd
PEAK MONTH <sup>1</sup>	5,502,500 gpd

<sup>1</sup> Peak Month: Average daily use during the highest water use month.

**ABSTRACT:**

This is a new Industrial/Commercial Water Use Permit that authorizes the transfer of existing authorized groundwater quantities from Water Use Permit No. 200007015, issued in 1983 as Florida Power Site Certification - PA 82-17. The annual average quantity decreases from 5,410,000 gallons per day (gpd) to 4,467,600 gpd the peak month quantity decreases from 7,250,000 gpd to 5,502,500 gpd. The quantities are based on pumpage history and information provided by the Permittee for cement manufacturing. This permit is not located within a Water Use Caution Area.

Special conditions include those that require the Permittee to continue to record and report monthly meter readings from specified withdrawal points, periodically have all meters calibrated, implement water conservation and best management practices, submit an updated water conservation plan mid-term of the permit, and cap any wells not in use.

**WATER USE TABLE (in gpd)**

<b><u>USE</u></b>	<b><u>ANNUAL AVERAGE</u></b>	<b><u>PEAK MONTH</u></b>
Industrial And Commercial	4,467,600	5,502,500

**USE TYPE**

Cement Manufacturing

Cleaning And Maintenance

Fire Protection/Testing

Personal Sanitary Use

**WITHDRAWAL POINT QUANTITY TABLE**

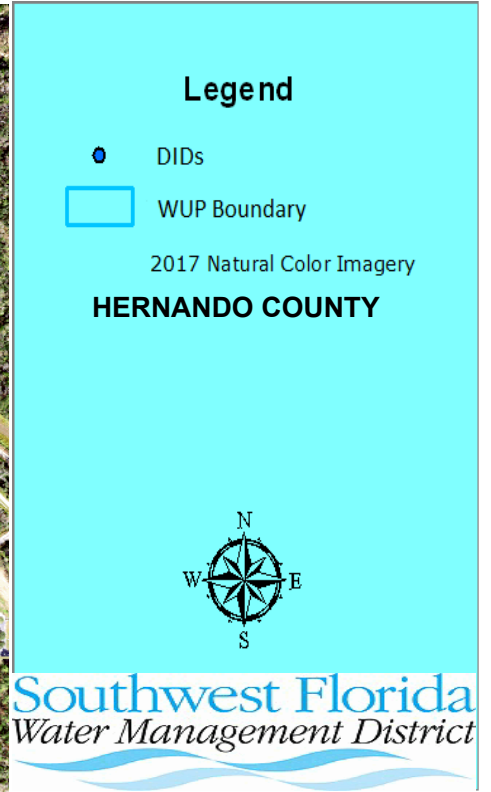
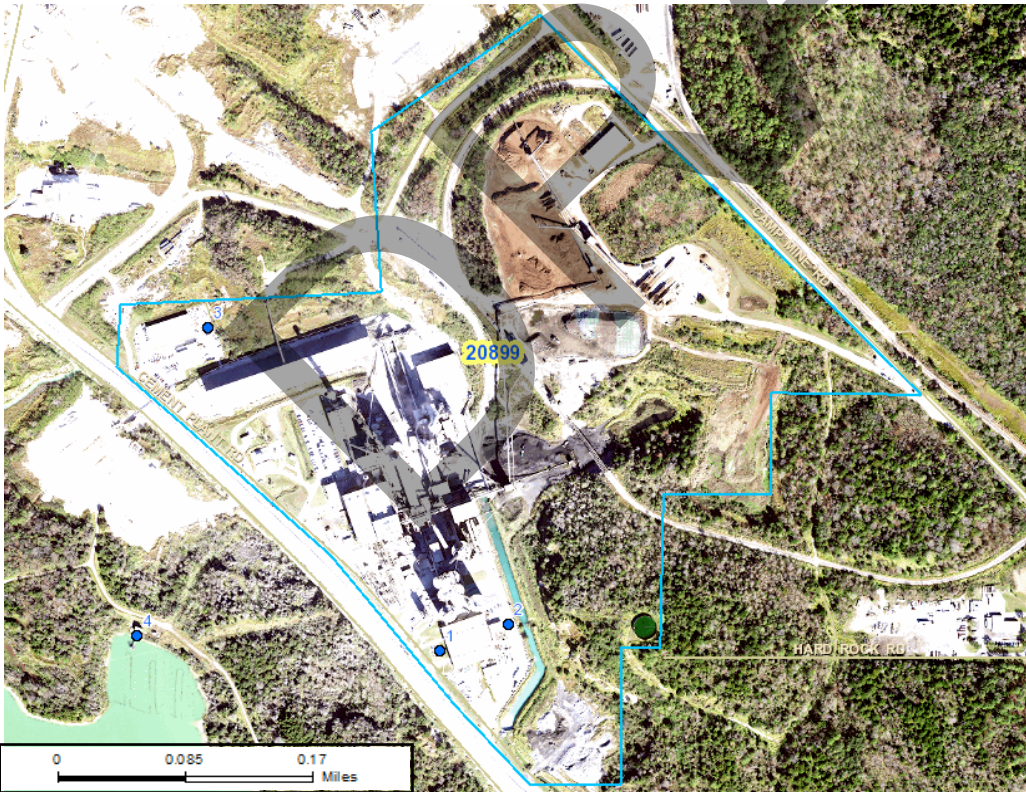
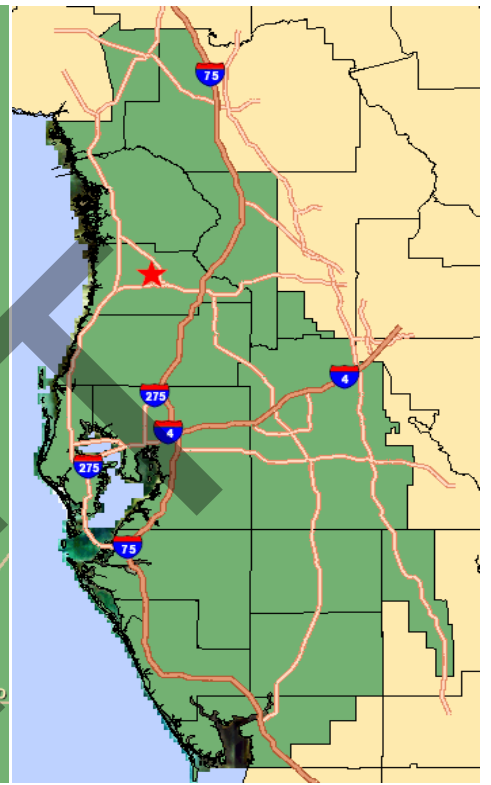
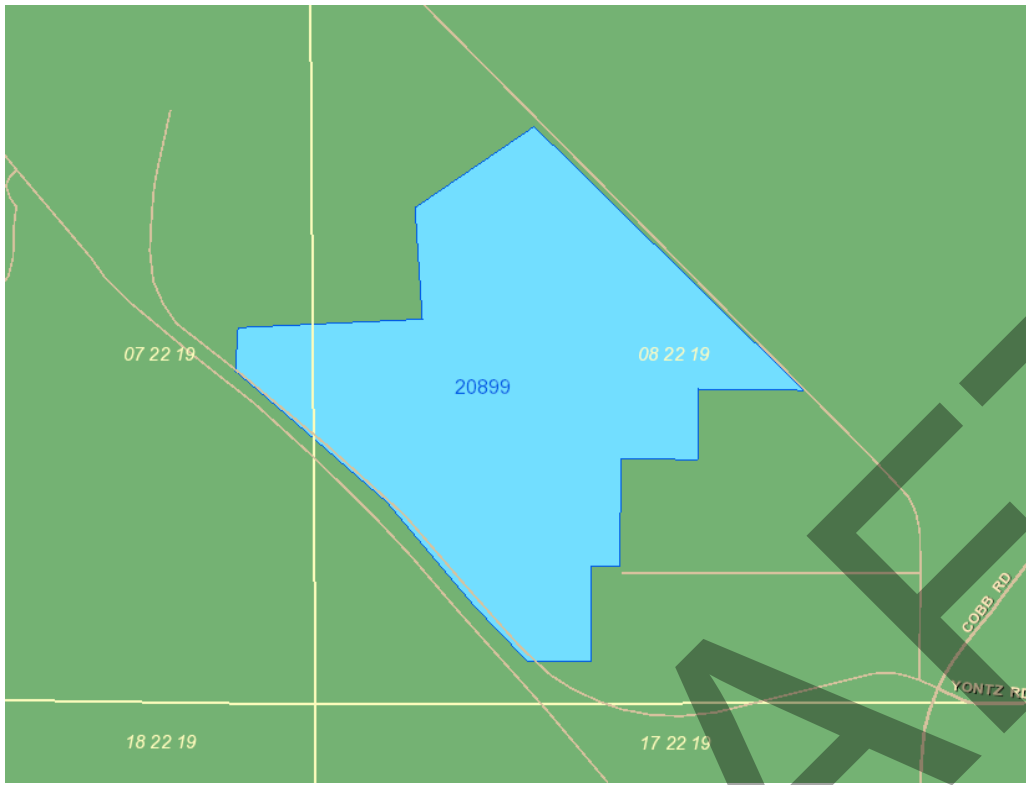
Water use from these withdrawal points are restricted to the quantities given below :

<b><u>I.D. NO.</u></b> <b><u>PERMITTEE/</u></b> <b><u>DISTRICT</u></b>	<b><u>DIAM</u></b> <b><u>(in.)</u></b>	<b><u>DEPTH</u></b> <b><u>TTL./CSD.FT.</u></b> <b><u>(feet bls)</u></b>	<b><u>USE DESCRIPTION</u></b>	<b><u>AVERAGE</u></b> <b><u>(gpd)</u></b>	<b><u>PEAK</u></b> <b><u>MONTH</u></b> <b><u>(gpd)</u></b>
1 / 1	16	600 / UNK	Industrial-Commercial	2,229,800	2,747,000
2 / 2	16	220 / UNK	Industrial-Commercial	2,229,800	2,747,000
3 / 3	6	600 / UNK	Personal Sanitary	8,000	8,500
4 / 4		N/A / N/A	Industrial-Commercial	2,229,800	2,747,000
Standby					

**WITHDRAWAL POINT LOCATION TABLE**

<b><u>DISTRICT I.D. NO.</u></b>	<b><u>LATITUDE/LONGITUDE</u></b>
1	28° 34' 48.85"/82° 25' 49.02"
2	28° 34' 50.03"/82° 25' 45.48"
3	28° 35' 03.40"/82° 26' 01.06"
4	28° 34' 49.48"/82° 26' 04.72"

**Location Map**  
**CEMEX Construction Materials Florida, LLC**  
**WUP No. 20 020899.000**



**STANDARD CONDITIONS:**

The Permittee shall comply with the Standard Conditions attached hereto, incorporated herein by reference as Exhibit A and made a part hereof.

**SPECIAL CONDITIONS:**

1. All reports and data required by condition(s) of the permit shall be submitted to the District according to the due date(s) contained in the specific condition. If the condition specifies that a District-supplied form is to be used, the Permittee should use that form in order for their submission to be acknowledged in a timely manner. The only alternative to this requirement is to use the District Permit Information Center ([www.swfwmd.state.fl.us/permits/epermitting/](http://www.swfwmd.state.fl.us/permits/epermitting/)) to submit data, plans or reports online. There are instructions at the District website on how to register to set up an account to do so. If the report or data is received on or before the tenth day of the month following data collection, it shall be deemed as a timely submittal.

All mailed reports and data are to be sent to:

Southwest Florida Water Management District  
Tampa Service Office, Water Use Permit Bureau  
7601 U.S. Hwy. 301 North  
Tampa, Florida 33637-6759

Submission of plans and reports: Unless submitted online or otherwise indicated in the special condition, the original and two copies of each plan and report, such as conservation plans, environmental analyses, aquifer test results, per capita annual reports, etc. are required.

Submission of data: Unless otherwise indicated in the special condition, an original (no copies) is required for data submittals such as crop report forms, meter readings and/or pumpage, rainfall, water level, evapotranspiration, or water quality data.  
(499)

2. The annual average and peak month quantities for District ID Nos. 1 and 2, Permittee ID Nos. 1 and 2, shown in the withdrawal point quantity table are estimates based on historic and/or projected distribution of pumpage, and are for water use inventory and impact analysis purposes only. The quantities listed for these individual sources are not intended to dictate the distribution of pumpage from permitted sources. The Permittee may make adjustments in pumpage distribution as necessary up to 4,459,600 gallons per day on an annual average basis, and up to 5,494,000 gallons per day on a peak month basis, for the individual wells, so long as adverse environmental impacts do not result and the Permittee complies with all other conditions of this Permit. In all cases, the total annual average daily withdrawal and the total peak month daily withdrawal, are limited to the quantities set forth above.(221)
3. The Permittee shall utilize the most water conserving practices in all processes and components of water use that are environmentally, technically and economically feasible for the industry or commercial activity, including reducing water losses, recycling and reuse, and utilization of water-efficient irrigation practices on drought-tolerant landscaping.(268)
4. The Permittee shall implement a leak detection and repair program as an element of an ongoing system maintenance program. This program shall include a system-wide inspection at least once per year.(309)
5. Within 90 days of the replacement of any or all withdrawal quantities from ground water or surface water bodies with an Alternative Water Supply, the Permittee shall apply to modify this permit to place equal quantities of permitted withdrawals from the ground and/or surface water resource on standby. The standby quantities can be used in the event that some or all of the alternative source is not available.(363)
6. The Permittee shall immediately implement the District-approved water conservation plan that was submitted in support of the application for this permit. Conservation measures that the Permittee has already implemented shall continue, and proposed conservation measures shall be implemented as proposed in the plan. A progress report on the implementation of water conservation practices

indicated as proposed in the plan as well as achievements in water savings that have been realized from each water conservation practice shall be submitted November 1, 2030. This report shall include an updated analysis of both annual average and peak month quantities (in gallons per day) for all sources, uses, losses and recycled water in a schematic diagram that portrays all steps in the industrial process. The total of all sources must equal the total of all uses, and the losses plus recycled water must equal the total of all sources. (449)

7. Any wells not in use, and in which pumping equipment is not installed shall be capped or valved in a water tight manner in accordance with Chapter 62-532.500, F.A.C.(568)
8. The Permittee shall comply with allocated quantities. If the allocated quantities are exceeded, upon request by the District, the Permittee shall submit a report that includes reasons why the allocated quantities were exceeded, measures taken to attempt to meet the allocated quantities, and a plan to bring the permit into compliance. The District will evaluate information submitted by Permittees who exceed their allocated quantities to determine whether the lack of achievement is justifiable and a variance is warranted. The report is subject to approval by the District; however, justification for exceeding the allowed withdrawal quantity does not constitute a waiver of the District's authority to enforce the terms and conditions of the permit.(651)
9. The following withdrawal facilities shall continue to be maintained and operated with existing, non-resettable, totalizing flow meter(s) or other measuring device(s) as approved by the Water Use Permit Bureau Chief: District ID No(s). 1 and 2, Permittee ID No(s). 1 and 2. Monthly meter reading and reporting, as well as meter accuracy checks every five years shall be in accordance with instructions in Exhibit B, Metering Instructions, attached to and made part of this permit.(719)
10. The following existing, but previously un-metered standby withdrawal facilities (those that provide back-up water for another withdrawal point in the event the other withdrawal point becomes unusable) shall be metered upon permit issuance: District ID No. 4, Permittee ID No. 4. Monthly meter reading and reporting, as well as meter accuracy checks every five years shall be in accordance with instructions in Exhibit B, Metering Instructions, attached to and made part of this permit.(723)
11. The Permittee shall incorporate use of available reclaimed water to the greatest extent practicable when the reclaimed water quality is suitable for the intended use.(990)

40D-2  
Exhibit A

**WATER USE PERMIT STANDARD CONDITIONS**

1. With advance notice to the Permittee, District staff with proper identification shall have permission to enter, inspect, collect samples, take measurements, observe permitted and related facilities and collect and document any information deemed necessary to determine compliance with the approved plans, specifications and conditions of this permit. The Permittee shall either accompany District staff onto the property or make provision for access onto the property.
2. When necessary to analyze impacts to the water resource or existing users, the District shall require the Permittee to install flow metering or other measuring devices to record withdrawal quantities and submit the data to the District.
3. A District identification tag shall be prominently displayed at each withdrawal point that is required by the District to be metered or for which withdrawal quantities are required to be reported to the District, by permanently affixing the tag to the withdrawal facility.
4. The Permittee shall mitigate any adverse impact to environmental features or offsite land uses as a result of withdrawals. When adverse impacts occur or are imminent, the District shall require the Permittee to mitigate the impacts. Examples of adverse impacts include the following:
  - A. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams or other watercourses; or
  - B. Damage to crops and other vegetation causing financial harm to the owner; and
  - C. Damage to the habitat of endangered or threatened species.
5. The Permittee shall mitigate any adverse impact to existing legal uses caused by withdrawals. When adverse impacts occur or are imminent, the District may require the Permittee to mitigate the impacts. Adverse impacts include:
  - A. A reduction in water levels which impairs the ability of a well to produce water;
  - B. Significant reduction in levels or flows in water bodies such as lakes, impoundments, wetlands, springs, streams or other watercourses; or
  - C. Significant inducement of natural or manmade contaminants into a water supply or into a usable portion of an aquifer or water body.
6. Permittee shall notify the District in writing within 30 days of any sale, transfer, or conveyance of ownership or any other loss of permitted legal control of the Project and / or related facilities from which the permitted consumptive use is made. Where Permittee's control of the land subject to the permit was demonstrated through a lease, the Permittee must either submit documentation showing that it continues to have legal control or transfer control of the permitted system / project to the new landowner or new lessee. All transfers of ownership are subject to the requirements of Rule 40D-1.6105, F.A.C. Alternatively, the Permittee may surrender the consumptive use permit to the District, thereby relinquishing the right to conduct any activities under the permit.
7. All withdrawals authorized by this WUP shall be implemented as conditioned by this permit, including any documents submitted as part of the permit application incorporated by reference in a permit condition. This permit is subject to review and modification, enforcement action, or revocation, in whole or in part, pursuant to Section 373.136 or 373.243, F.S.
8. This permit does not convey to the Permittee any property rights or privileges other than those specified herein, nor relieve the Permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.
9. The Permittee shall cease or reduce surface water withdrawal as directed by the District if water levels in lakes fall below the applicable minimum water level established in Chapter 40D-8, F.A.C., or rates of flow in streams fall below the minimum levels established in Chapter 40D-8, F.A.C.
10. The Permittee shall cease or reduce withdrawal as directed by the District if water levels in aquifers fall below the minimum levels established by the Governing Board.

11. A Permittee may seek modification of any term of an unexpired permit. The Permittee is advised that section 373.239, F.S., and Rule 40D-2.331, F.A.C., are applicable to permit modifications.
12. The Permittee shall practice water conservation to increase the efficiency of transport, application, and use, as well as to decrease waste and to minimize runoff from the property. At such time as the Governing Board adopts specific conservation requirements for the Permittee's water use classification, this permit shall be subject to those requirements upon notice and after a reasonable period for compliance.
13. The District may establish special regulations for Water-Use Caution Areas. At such time as the Governing Board adopts such provisions, this permit shall be subject to them upon notice and after a reasonable period for compliance.
14. Nothing in this permit should be construed to limit the authority of the District to declare a water shortage and issue orders pursuant to chapter 373, F.S. In the event of a declared water shortage, the Permittee must adhere to the water shortage restrictions, as specified by the District. The Permittee is advised that during a water shortage, reports shall be submitted as required by District rule or order.
15. This permit is issued based on information provided by the Permittee demonstrating that the use of water is reasonable and beneficial, consistent with the public interest, and will not interfere with any existing legal use of water. If, during the term of the permit, it is determined by the District that a statement in the application and in the supporting data are found to be untrue and inaccurate, the use is not reasonable and beneficial, in the public interest, or does impact an existing legal use of water, the Governing Board shall modify this permit or shall revoke this permit following notice and hearing, pursuant to sections 373.136 or 373.243, F.S. The Permittee shall immediately notify the District in writing of any previously submitted information that is later discovered to be inaccurate.
16. All permits are contingent upon continued ownership or legal control of all property on which pumps, wells, diversions or other water withdrawal facilities are located.



Exhibit B  
Instructions

METERING INSTRUCTIONS

The Permittee shall meter withdrawals from surface waters and/or the ground water resources, and meter readings from each withdrawal facility shall be recorded on a monthly basis within the last week of the month. The meter reading(s) shall be reported to the Water Use Permit Bureau on or before the tenth day of the following month for monthly reporting frequencies. For bi-annual reporting, the data shall be recorded on a monthly basis and reported on or before the tenth day of the month following the sixth month of recorded data. The Permittee shall submit meter readings online using the Permit Information Center at [www.swfwmd.state.fl.us/permits/epermitting/](http://www.swfwmd.state.fl.us/permits/epermitting/) or on District supplied scanning forms unless another arrangement for submission of this data has been approved by the District. Submission of such data by any other unauthorized form or mechanism may result in loss of data and subsequent delinquency notifications. Call the Water Use Permit Bureau in Tampa at (813) 985-7481 if difficulty is encountered.

The meters shall adhere to the following descriptions and shall be installed or maintained as follows:

1. The meter(s) shall be non-resettable, totalizing flow meter(s) that have a totalizer of sufficient magnitude to retain total gallon data for a minimum of the three highest consecutive months permitted quantities. If other measuring device(s) are proposed, prior to installation, approval shall be obtained in writing from the Water Use Permit Bureau Chief.
2. The Permittee shall report non-use on all metered standby withdrawal facilities on the scanning form or approved alternative reporting method.
3. If a metered withdrawal facility is not used during any given month, the meter report shall be submitted to the District indicating the same meter reading as was submitted the previous month.
4. The flow meter(s) or other approved device(s) shall have and maintain an accuracy within five percent of the actual flow as installed.
5. Meter accuracy testing requirements:
  - A. For newly metered withdrawal points, the flow meter installation shall be designed for inline field access for meter accuracy testing.
  - B. The meter shall be tested for accuracy on-site, as installed according to the Flow Meter Accuracy Test Instructions in this Exhibit B, every five years in the assigned month for the county, beginning from the date of its installation for new meters or from the date of initial issuance of this permit containing the metering condition with an accuracy test requirement for existing meters.
  - C. The testing frequency will be decreased if the Permittee demonstrates to the satisfaction of the District that a longer period of time for testing is warranted.
  - D. The test will be accepted by the District only if performed by a person knowledgeable in the testing equipment used.
  - E. If the actual flow is found to be greater than 5% different from the measured flow, within 30 days, the Permittee shall have the meter re-calibrated, repaired, or replaced, whichever is necessary. Documentation of the test and a certificate of re-calibration, if applicable, shall be submitted within 30 days of each test or re-calibration.
6. The meter shall be installed according to the manufacturer's instructions for achieving accurate flow to the specifications above, or it shall be installed in a straight length of pipe where there is at least an upstream length equal to ten (10) times the outside pipe diameter and a downstream length equal to two (2) times the outside pipe diameter. Where there is not at least a length of ten diameters upstream available, flow straightening vanes shall be used in the upstream line.
7. Broken or malfunctioning meter:
  - A. If the meter or other flow measuring device malfunctions or breaks, the Permittee shall notify the District within 15 days of discovering the malfunction or breakage.
  - B. The meter must be replaced with a repaired or new meter, subject to the same specifications given above, within 30 days of the discovery.
  - C. If the meter is removed from the withdrawal point for any other reason, it shall be replaced with another meter having the same specifications given above, or the meter shall be reinstalled within 30 days of its removal from the withdrawal. In either event, a fully functioning meter shall not be off the withdrawal point for more than 60 consecutive days.
8. While the meter is not functioning correctly, the Permittee shall keep track of the total amount of time the withdrawal point was used for each month and multiply those minutes times the pump capacity (in gallons per minute) for total gallons. The estimate of the number of gallons used each month during that period shall be submitted on District scanning forms and noted as estimated per instructions on the form. If the data is submitted

by another approved method, the fact that it is estimated must be indicated. The reason for the necessity to estimate pumpage shall be reported with the estimate.

9. In the event a new meter is installed to replace a broken meter, it and its installation shall meet the specifications of this condition. The permittee shall notify the District of the replacement with the first submittal of meter readings from the new meter.

#### FLOW METER ACCURACY TEST INSTRUCTIONS

1. **Accuracy Test Due Date** - The Permittee is to schedule their accuracy test according to the following schedule:
- A. For existing metered withdrawal points, add five years to the previous test year, and make the test in the month assigned to your county.
  - B. For withdrawal points for which metering is added for the first time, the test is to be scheduled five years from the issue year in the month assigned to your county.
  - C. For proposed withdrawal points, the test date is five years from the completion date of the withdrawal point in the month assigned to your county.
  - D. For the Permittee's convenience, if there are multiple due-years for meter accuracy testing because of the timing of the installation and/or previous accuracy tests of meters, the Permittee can submit a request in writing to the Water Use Permit Bureau Chief for one specific year to be assigned as the due date year for meter testing. Permittees with many meters to test may also request the tests to be grouped into one year or spread out evenly over two to three years.
  - E. The months for accuracy testing of meters are assigned by county. The Permittee is requested but not required to have their testing done in the month assigned to their county. This is to have sufficient District staff available for assistance.

January	Hillsborough
February	Manatee, Pasco
March	Polk (for odd numbered permits)*
April	Polk (for even numbered permits)*
May	Highlands
June	Hardee, Charlotte
July	None or Special Request
August	None or Special Request
September	Desoto, Sarasota
October	Citrus, Levy, Lake
November	Hernando, Sumter, Marion
December	Pinellas

\* The permittee may request their multiple permits be tested in the same month.

2. **Accuracy Test Requirements:** The Permittee shall test the accuracy of flow meters on permitted withdrawal points as follows:
- A. The equipment water temperature shall be set to 72 degrees Fahrenheit for ground water, and to the measured water temperature for other water sources.
  - B. A minimum of two separate timed tests shall be performed for each meter. Each timed test shall consist of measuring flow using the test meter and the installed meter for a minimum of four minutes duration. If the two tests do not yield consistent results, additional tests shall be performed for a minimum of eight minutes or longer per test until consistent results are obtained.
  - C. If the installed meter has a rate of flow, or large multiplier that does not allow for consistent results to be obtained with four- or eight-minute tests, the duration of the test shall be increased as necessary to obtain accurate and consistent results with respect to the type of flow meter installed.
  - D. The results of two consistent tests shall be averaged, and the result will be considered the test result for the meter being tested. This result shall be expressed as a plus or minus percent (rounded to the nearest one-tenth percent) accuracy of the installed meter relative to the test meter. The percent accuracy indicates the deviation (if any), of the meter being tested from the test meter.
3. **Accuracy Test Report:** The Permittees shall demonstrate that the results of the meter test(s) are accurate by submitting the following information within 30 days of the test:
- A. A completed Flow Meter Accuracy Verification Form, Form LEG-R.101.00 (5/14) for each flow meter tested. This form can be obtained from the District's website ([www.watermatters.org](http://www.watermatters.org)) under "ePermitting and Rules" for Water Use Permits.

- B. A printout of data that was input into the test equipment, if the test equipment is capable of creating such a printout;
- C. A statement attesting that the manufacturer of the test equipment, or an entity approved or authorized by the manufacturer, has trained the operator to use the specific model test equipment used for testing;
- D. The date of the test equipment's most recent calibration that demonstrates that it was calibrated within the previous twelve months, and the test lab's National Institute of Standards and Testing (N.I.S.T.) traceability reference number.
- E. A diagram showing the precise location on the pipe where the testing equipment was mounted shall be supplied with the form. This diagram shall also show the pump, installed meter, the configuration (with all valves, tees, elbows, and any other possible flow disturbing devices) that exists between the pump and the test location clearly noted with measurements. If flow straightening vanes are utilized, their location(s) shall also be included in the diagram.
- F. A picture of the test location, including the pump, installed flow meter, and the measuring device, or for sites where the picture does not include all of the items listed above, a picture of the test site with a notation of distances to these items.

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Authorized Signature

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

This permit, issued under the provision of Chapter 373, Florida Statutes and Florida Administrative Code 40D-2, authorizes the Permittee to withdraw the quantities outlined above, and may require various activities to be performed by the Permittee as described in the permit, including the Special Conditions. The permit does not convey to the Permittee any property rights or privileges other than those specified herein, nor relieve the Permittee from complying with any applicable local government, state, or federal law, rule, or ordinance.

## CONSENT AGENDA

**December 15, 2020**

### **Initiation of Rulemaking to Amend Rule 40D-1.660, Florida Administrative Code and Applicant's Handbook Volume II**

The Florida Department of Environmental Protection (Department) and water management districts (WMDs) are initiating rulemaking as required by Section 5 of Chapter 2020-150, Laws of Florida, to update the stormwater design and operation regulations adopted pursuant to Section 373.4131, Florida Statutes, including updates to the Environmental Resource Permit Applicant's Handbook (AH), using the most recent scientific information available. The legislation dictates that the required rulemaking is initiated by December 31, 2020.

The Department and WMDs will be developing amendments to update the stormwater design and operation regulations; to consider and address low-impact design best management practices and design criteria that increase the removal of nutrients from stormwater discharges; and, to implement measures for consistent application of the net improvement performance standard to ensure significant reductions of any pollutant loadings to a waterbody.

The Environmental Resource Permit Applicant's Handbook contains two volumes. Volume I, which is adopted by the Department, contains stormwater design and operation regulations that apply statewide. Volume II, a version of which is adopted by each water management district, contains stormwater design and operation regulations that only apply to that respective WMD. The updates required by Chapter 2020-150 necessitate that the Department and each of the WMDs engage in rulemaking simultaneously to ensure that each WMD's AH Volume II is consistent with the Department's AH Volume I. As a result, the District will amend 40D-1.660, F.A.C., which incorporates by reference its AH Volume II, and will update the stormwater design and operation regulations contained within Volume II.

Upon Governing Board authorization of the initiation of rulemaking, District staff will develop the proposed amendments to Rule 40D-1.660, F.A.C., and the District's AH Volume II, and will conduct workshops to allow the public to comment on the proposed amendments. At this time, the proposed rule amendment language is not available for review and approval by the Governing Board. Upon the conclusion of the rule development period, District staff will bring the proposed amendments to the Governing Board for approval of the changes.

#### Staff Recommendation:

Authorize the initiation of rulemaking to amend Rule 40D-1.660, F.A.C., and the District's Environmental Resource Permitting Applicant's Handbook Volume II, to update stormwater design and operation regulations as required by Section 5 of Chapter 2020-150, Laws of Florida.

#### Presenters:

Dave Kramer, Bureau Chief, Environmental Resource Permit, and Allison K.Dhand, Staff Attorney

**CONSENT AGENDA****December 15, 2020****Authorization to Issue Administrative Complaint and Order - Travel Imagination, LLC -  
Unauthorized Construction - CT Number 403929 - Manatee County**

Travel Imagination, LLC (Property Owner) owns property located at 5517 Lorraine Road in Bradenton, Florida (Property). Frederick Jackson (Jackson) owns an adjacent parcel of real property located at 5427 Lorraine Road in Bradenton (Jackson Property). On April 18, 2019, the District received a complaint that unauthorized construction activities were occurring on the Property and the Jackson Property. On April 20, 2019, the District conducted a site inspection to determine if activities requiring District authorization had occurred, and staff identified actions necessary to remediate activities that were conducted without appropriate District authorization. District staff observed that the Property Owner constructed a recreational and boat parking facility on both the Property and the Jackson Property, which included the placement of fill, land clearing, earthwork, and the addition of impervious/semi-impervious surfaces. Additionally, fill was placed within the 100-year floodplain (FEMA floodplain).

On May 17, 2019 and November 25, 2019, District staff issued a Notice of Unauthorized Activities to the Property Owner, and a proposed Consent Order was issued on May 15, 2020. Following the issuance of the proposed Consent Order, the Property Owner met with District staff on June 18, 2020, to discuss options whereby the unauthorized impacts could be corrected.

The Property Owner was assessed \$33,500.00 in penalties and \$2,000.00 in District enforcement costs, for a total of \$35,500.00. The Property Owner would not agree to the penalty. The Property Owner is currently working with an engineer to prepare an Environmental Resource Permit (ERP) application for submittal to the District as to his Property but would not agree to the restoration of the Jackson Property.

The Property Owner has failed to agree to the proposed Consent Order, and District staff now seeks authorization issue an Administrative Complaint and Order for the unauthorized construction violations.

**Staff Recommendation:**

1. Authorize District staff to issue an Administrative Complaint and Order to Travel Imagination, LLC to obtain compliance with District rules.
2. Authorize District staff to initiate an action in circuit court against Travel Imagination, LLC, and any other necessary parties, to recover a civil penalty/administrative fine, enforcement costs, litigation costs, and attorneys' fees, if appropriate.
3. Authorize District staff to initiate an action in circuit court to enforce the terms of the Administrative Complaint and Order, if necessary.

**Presenter:**

Allison K. Dhand, Staff Attorney

**CONSENT AGENDA**

**December 15, 2020**

**Approve Governing Board Minutes - November 17, 2020**

Staff Recommendation:

Approve minutes as presented

Presenter:

Brian J. Armstrong, P.G., Executive Director

## MINUTES OF THE MEETING

### GOVERNING BOARD SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT

TAMPA, FLORIDA

NOVEMBER 17, 2020

**Due to the COVID-19 virus, this meeting was held through electronic media to reduce public gatherings and practice social distancing.**

The Governing Board of the Southwest Florida Water Management District (District) met for its regular meeting at 9:00 a.m., on November 17, 2020, at its Tampa Office, 7601 U.S. Highway 301 North, Tampa, Florida. The following persons were in attendance either in person or via electronic media:

#### Board Members Present

Kelly Rice, Chair  
Joel Schleicher, Vice Chair  
Rebecca Smith, Ph.D., Secretary\*  
James Murphy, Treasurer\*  
Ed Armstrong, Member\*  
Roger Germann, Member\*  
Jack Bispham, Member  
Seth Weightman, Member\*  
John Mitten, Member

\*Attended via electronic media

#### Staff Members

Brian J. Armstrong, Executive Director  
Amanda Rice, Assistant Executive Director  
Karen E. West, General Counsel  
John J. Campbell, Division Director  
Brian Starford, Division Director  
Michael Molligan, Division Director  
Jennette Seachrist, Division Director  
Michelle Hopkins, Division Director

#### Board Administrative Support

Virginia Singer, Board & Executive Services Manager  
Lori Manuel, Administrative Coordinator

Approved minutes from previous meetings can be found on the District's website ([www.WaterMatters.org](http://www.WaterMatters.org)).

### CONVENE PUBLIC MEETING

#### 1.1 Call to Order

Chair Rice called the meeting to order and opened the meeting.

Chair Rice provided a telephone number to any member of the public wishing to address the Governing Board concerning any item listed on the agenda or any item that does not appear on the agenda. Chair Rice 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.

#### 1.2 Invocation and Pledge of Allegiance

Board Member Mitten recognized the passing of Ms. Judy Whitehead who previously served as chair on the Governing Board.

Board Member Mitten offered the invocation and led the Pledge of Allegiance.

Chair Rice introduced each member of the Governing Board (this served as roll call), and staff at the dais. He noted that the Board meeting was being recorded for broadcast on government access channels, and public input was only taken during the meeting via telephone communication.

**1.3 Additions/Deletions to Agenda**

Mr. Brian Armstrong, executive director, stated the following items were added to the Consent Agenda:

**2.12a Governing Board Concurrence – Emergency Order No. SWF 20-046 – Emergency Measures Made Necessary by COVID-19**

**2.12b Concurrence with Emergency Order Nos. SWF 20-047 Suspending Certain Statutes, Rules, and Orders in Response to Tropical Storm Eta**

Mr. Armstrong stated the Regulation Committee was moved following the Finance, Outreach & Planning Committee.

Vice Chair Schleicher requested the following item be moved to Discussion:

**Operations, Lands and Resource Monitoring Committee  
2.5 Amendment to the 2020 Florida Forever Work Plan**

**1.4 Public Input for Issues Not Listed on the Agenda**

Mr. David Ballard Geddes, Jr., spoke against non-ad valorem taxes.

Chair Rice stated there was good cause to amend the agenda as allowed by Section 120.525, Florida Statutes.

**CONSENT AGENDA**

**Finance/Outreach and Planning Committee**

**2.1 Resolution No. 2016 Commending H. Paul Senft, Jr., for His Service as a Member of the Southwest Florida Water Management District Governing Board**

Staff recommended the Board approve Resolution No. 20-16, commending H. Paul Senft, Jr. for his service as a member of the Southwest Florida Water Management District Governing Board.

**2.2 Approval to Execute a Federally Funded Grant Agreement with the State of Florida, Division of Emergency Management**

Staff recommended the Board approve the District to accept and enter into a grant agreement with the State of Florida, Division of Emergency Management (FDEM), the pass-through entity for Federal Emergency Management Agency (FEMA) funds, for reimbursement of certain expenditures related to COVID-19 (Grant Agreement), and delegate authority to the Executive Director, or designee, to execute the Grant Agreement.

**2.3 Annual Review of Board Policy, District Investment Policy**

Staff recommended the Board approve and accept the recommended updates to the District's Investment Policy.

**Resource Management Committee**

**2.4 Final Charlotte Harbor Surface Water Improvement and Management (SWIM) Plan (W501)**

Staff recommended the Board approve the Charlotte Harbor SWIM Plan in accordance with Section 373.453, F.S.



## **Operations, Lands and Resource Monitoring Committee**

### **2.5 ~~Amendment to the 2020 Florida Forever Work Plan~~**

~~Staff recommended the Board approve the amendment of the 2020 Florida Forever Work Plan to include approximately 3,896 acres within the RV Griffin Reserve Project area for protection via fee simple acquisition.~~

## **Regulation Committee**

### **2.6 WUP No. 20006040.011/City of Zephyrhills/City of Zephyrhills (Pasco County)**

Staff recommended the Board approve the proposed permit.

### **2.7 WUP No. 20020721.002/South Sumter Utility Company/South Sumter Utility Company, LLC (Lake and Sumter Counties)**

Staff recommended the Board approve the proposed permit.

### **2.8 WUP No. 20004558.007/Ben Hill Griffin, Inc. - Lake Streety and Little Cuba Groves/Ben Hill Griffin, Inc. (Polk County)**

Staff recommended the Board approve the proposed permit.

### **2.9 WUP No. 20007350.007/Felton Walker Farms/Felton C Walker, Jr. (Manatee County)**

Staff recommended the Board approve the proposed permit.

## **General Counsel's Report**

### **2.10 Authorization to Issue Administrative Complaint and Order – Well Construction Violations - Dustin Tyler - CT No. 409509 - Polk County**

Staff recommended the Board:

- 1) Authorize District staff to issue an Administrative Complaint and Order to the Well Contractor to obtain compliance with District rules, and seek assessment of civil penalties, including applicable fines, including the full amount of the penalty, as well as taxable costs and attorneys' fees.
- 2) Authorize District staff to initiate litigation against the Well Contractor to enforce the terms of the Administrative Complaint and Order, if necessary.

### **2.11 Approval of Consent Order between SWFWMD and Philip VonKahle - Permit Condition Violations - Water Use Permit No. 10218.007-.009 - CT Nos. 406254 and 408507 - Charlotte County**

Staff recommended the Board:

1. Approve the Consent Order.
2. Authorize District staff to pursue additional measures to obtain compliance with the terms and conditions of the Consent Order, including filing any appropriate actions in Circuit Court, if necessary.

### **2.12 Authorization to Issue Administrative Complaint and Order – Permit Condition Violations - La Forest at Green Springs the Gardens Homeowners' Association - Environmental Resource Permit No. 44005187.002 - CT No. 403833 - Pinellas County**

Staff recommended the Board:

1. Authorize District staff to issue an Administrative Complaint and Order to La Forest HOA to obtain compliance with District rules.
2. Authorize District staff to initiate an action in Circuit Court against La Forest HOA to recover a civil penalty/administrative fine, enforcement costs, litigation costs, and attorneys' fees if appropriate.
3. Authorize District staff to initiate an action in Circuit Court to enforce the terms of the Administrative Complaint and Order, if necessary.

**2.12a. Governing Board Concurrence – Emergency Order No. SWF 20-046 – Emergency Measures Made Necessary by COVID-19**

Staff recommended the Board approve the Fifth Amended and Restated Emergency Order No. SWF 20-046 and concur with the executive director's determinations regarding the state of emergency and the actions necessary to meet the emergency.

**2.12b. Concurrence with Emergency Order Nos. SWF 20-047 Suspending Certain Statutes, Rules, and Orders in Response to Tropical Storm Eta**

Staff recommended the Board approve Emergency Order No. SWF 20-047 and concur with the executive director's determinations regarding the state of emergency and the actions necessary to meet the emergency.

**Executive Director's Report**

**2.13 Executive Director's Report: Approve Governing Board Minutes - October 20, 2020**

Staff recommended the Board approve the minutes as presented.

**A motion was made and seconded to approve the Consent Agenda. The motion carried unanimously. (Audio – 00:11:54)**

**Chair Rice relinquished the gavel to the Finance Committee Chair James Murphy, who called the meeting to order. (Audio – 00:13:11)**

**Finance/Outreach & Planning Committee**

**3.1 Moved for Discussion - None**

**Submit & File Reports**

**3.2 Budget Transfer Report**

This item was for the Board's information; no action was needed.

**Committee Chair Murphy relinquished the gavel to the Regulation Committee Chair Roger Germann, who called the Committee to order. (Audio – 00:14:04)**

**Regulation Committee**

**6.1 Consent Item(s) Moved for Discussion – None**

**6.2 Consider Water Shortage Order(s) as Necessary**

None were presented.

**6.3 Denials Referred to the Governing Board**

None were presented.

Vice Chair Schleicher expressed concerns regarding permit holder Bay Laurel Center Public Water Supply System as related to the overpumpage report. Mr. Darrin Herbst, Water Use Permitting Bureau chief, responded to questions. Mr. Brian Armstrong, executive director, explained the processes associated with the overpumpage report.

**Committee Chair Germann relinquished the gavel to the Resource Management Committee Chair Seth Weightman, who called the Committee to order. (Audio – 00:22:47)**

## **Resource Management Committee**

### **4.1 Consent Item(s) Moved for Discussion - None**

### **4.2 2020 Central Florida Water Initiative (CFWI) Regional Water Supply Plan**

Mr. Joseph Quinn, Water Supply project manager, provided a presentation. He outlined the purpose of the CFWI water supply plan, the outreach provided, projected water demands, environmental measures, groundwater availability, and conclusions and recommendations.

A Request to Speak card was received for this item.

Ms. Benita Whalen, Florida Cattlemen's Association water environmental manager, spoke regarding demands and protection of water resources associated with the agricultural community.

Vice Chair Schleicher requested a future presentation to address impacts the agricultural community may be experiencing.

Staff recommended the Board approve the 2020 Central Florida Water Initiative Regional Water Supply Plan final draft.

**A motion was made and seconded to approve the staff's recommendation. The motion carried unanimously.** (Audio – 00:36:44)

### **4.3 2020 SWFWMD Regional Water Supply Plan (RWSP)**

Mr. Joseph Quinn outlined the purpose of the RWSP, resource protection criteria, a map of the planning regions, projected demands by water use category, demand growth by planning region, evaluation of potentially available water sources, water supply and resource development projects, and funding mechanisms.

Chair Rice stated it would be beneficial to have comparison data from the inception of the RWSP to present. Mr. Quinn responded in the affirmative.

Staff recommended the Board approve the 2020 Regional Water Supply Plan final draft.

**A motion was made and seconded to approve the staff's recommendation. The motion carried unanimously.** (Audio – 00:57:57)

**Committee Chair Weightman relinquished the gavel to the Operations, Lands and Resource Monitoring Committee Chair Jack Bispham, who called the Committee to order.** (Audio – 00:58:58)

## **Operations, Lands & Resource Monitoring Committee**

### **5.1 Consent Item(s) Moved for Discussion**

### **2.5 Amendment to the 2020 Florida Forever Work Plan**

Ms. Ellen Morrison, Land Management Bureau assistant bureau chief, provided information and responded to questions regarding the benefits of amending the Florida Forever work plan to include the RV Griffin Reserve project area and how the property would meet all four areas of responsibility.

Vice Chair Schleicher expressed concerns regarding this potential land acquisition.

Mr. Armstrong, executive director, provided additional information regarding the potential use of this land acquisition and specifically how this property has the potential to support the water supply area of responsibility associated with the Peace River Manasota Regional Water Supply Authority's next reservoir..

Staff recommended the Board approve the amendment of the 2020 Florida Forever Work Plan to include approximately 3,896 acres within the RV Griffin Reserve Project area for protection via fee simple acquisition.

**A motion was made and seconded to approve the staff's recommendation. The motion carried with seven in favor and one opposed.** (Audio – 01:15:02)

Mr. Brian Starford, Operations, Lands & Resource Monitoring director, provided information to the Board regarding the activation of the emergency operations center due to tropical storm Eta. He commended staff for their support during these storms.

## **5.2 Land Resources Overview and Presentation**

Ms. Ellen Morrison provided a presentation. She outlined the purpose of the Land Resources and Land Management section and the support provided to internal and external customers. Ms. Morrison provided overviews for the recreation, real estate, and land management programs.

This item was for the Board's information only and no action was required.

**Committee Chair Bispham relinquished the gavel to Chair Rice.** (Audio – 01:30:53)

## **General Counsel's Report**

### **7.1 Consent Item(s) Moved for Discussion - None**

## **Committee/Liaison Reports**

### **8.1 Environmental Advisory Committee**

Mr. Michael Molligan, Employee and External Relations director, provided an update to the Board regarding the October 13 meeting. He stated the Committee voted to support the proposed minimum flows for the Lower Peace River. A written summary was provided.

## **Executive Director's Report**

### **9.1 Executive Director's Report**

Mr. Brian Armstrong, executive director, stated the Florida Department of Environmental Protection (FDEP) will be publishing the Central Florida Water Initiative (CFWI) rule on November 19 in preparation for potential ratification by the Florida Legislature. He stated that public records requests associated with the rule have been received.

Mr. Armstrong thanked staff for their support during activation of emergency operations during the tropical storms.

## **Chair's Report**

### **10.1 Chair's Report**

Chair Rice reminded the Board of the significance of the CFWI and the opportunity of providing solutions.

The next Board meeting is scheduled for December 15 at 9:00 a.m., in the Brooksville Office.

### **10.2 Employee Milestones**

Chair Rice recognized staff who reached at least 20 years of service with the District and thanked them for their service. The following staff were recognized: Ross Morton and Cheryl Glenn.

**Adjournment**

The meeting adjourned at 10:39 a.m.

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Chair

Attest:

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Secretary

*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, services, and activities. Anyone requiring reasonable accommodation, or who would like information as to the existence and location of accessible services, activities, and facilities, as provided for in the Americans with Disabilities Act, should contact Donna Eisenbeis, Sr. Performance Management Professional, at 2379 Broad St., Brooksville, FL 34604-6899; telephone (352) 796-7211 or 1-800-423-1476 (FL only), ext. 4706; or email [ADACoordinator@WaterMatters.org](mailto:ADACoordinator@WaterMatters.org). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1-800-955-8771 (TDD) or 1-800-955-8770 (Voice). If requested, appropriate auxiliary aids and services will be provided at any public meeting, forum, or event of the District. In the event of a complaint, please follow the grievance procedure located at [WaterMatters.org/ADA](http://WaterMatters.org/ADA).*

### 3. Finance/Outreach & Planning

# Governing Board Meeting

## December 15, 2020

### 3. FINANCE/OUTREACH & PLANNING COMMITTEE

3.1	<b>Discussion:</b> Information Only: Consent Item(s) Moved to Discussion .....	47
3.2	<b>Discussion:</b> Action Item: Preliminary Budget for Fiscal Year 2022 .....	48
3.3	<b>Submit &amp; File:</b> Information Only: Budget Transfer Report .....	50

**FINANCE/OUTREACH & PLANNING COMMITTEE**

**December 15, 2020**

**Discussion: Information Only**

**Consent Item(s) Moved to Discussion**

Presenter:

Michael Molligan, Division Director, Employee and External Relations



## FINANCE/OUTREACH & PLANNING COMMITTEE

December 15, 2020

### Discussion: Action Item

#### Preliminary Budget for Fiscal Year 2022

##### *Purpose*

Submit fiscal year (FY) 2022 Preliminary Budget for consideration by the Governing Board as required by statute; and authorize staff to prepare the *Standard Format Preliminary Budget Submission* based on the preliminary budget, adjusted for any modifications made by the Governing Board on December 15, for submission to the Florida Legislature on or before January 15, 2021.

##### *Background*

Section 373.535, Florida Statutes, requires water management districts (WMDs) to submit a preliminary budget for the next fiscal year to the Florida Legislature for review by January 15. The statutory language specifies the information to be included in the preliminary budget submission. The President of the Senate and the Speaker of the House of Representatives may submit comments regarding the preliminary budgets to the WMDs on or before March 1 of each year. Each WMD must respond to those comments in writing on or before March 15 of each year.

In addition, the following specific provisions are contained in s. 373.536(5)(c), F.S., regarding the legislative review of the WMDs tentative budgets due August 1:

*The Legislative Budget Commission* may reject any of the following WMDs budget proposals:

1. A single purchase of land in excess of \$10 million, except for land exchanges.
2. Any cumulative purchase of land during a single fiscal year in excess of \$50 million.
3. Any issuance of debt on or after July 1, 2012.
4. Any program expenditures as described in s. 373.536(5)(e)4.e. and f. (i.e., Outreach and Management and Administration programs) in excess of 15 percent of a district's total annual budget.
5. Any individual variances in a district's tentative budget in excess of 25 percent from a district's preliminary budget.

At the October 20, 2020 Governing Board meeting, staff provided an overview of factors affecting budget development and recommended approval of the general budget assumptions needed to prepare the District's preliminary budget for FY2022. The Governing Board approved the assumptions as presented at the meeting.

On December 15, 2020 staff shall present the preliminary budget for FY2022 and request approval to submit the *FY2021-22 Preliminary Budget Submission* to the Florida Legislature by January 15, 2021. The preliminary budget has been prepared using the same budget assumptions as presented to the Governing Board on October 20, 2020.

The development of the District's final budget will begin in February 2021. All budget requests will be subject to Governing Board review and approval during the development of the final budget for FY2022. At the June 22, 2021 Governing Board meeting, staff will present and request approval of the

## Recommended Annual Service Budget.

At the July 27, 2021 Governing Board meeting, staff will present a budget update, including information regarding the results of the Certifications of Taxable Value, and will request approval to submit the *FY2021-22 Tentative Budget Submission* to the Governor and Florida Legislature on August 1, 2021.

### Staff Recommendation:

Authorize staff to prepare the Standard Format Preliminary Budget Submission for FY2022 based on the preliminary budget as presented, adjusted for any modifications made by the Governing Board on December 15, for submission to the Florida Legislature on or before January 15, 2021.

### Presenter:

John J. Campbell, Division Director, Management Services

**FINANCE/OUTREACH & PLANNING COMMITTEE**

**December 15, 2020**

**Submit & File: Information Only**

**Budget Transfer Report**

*Purpose*

Provide the Budget Transfer Report covering all budget transfers made during the month of November 2020.

*Background*

In accordance with Board Policy, Budget Authority Transfer of Funds, all transfers approved by the Executive Director and Finance Bureau Chief under delegated authority are presented to the Finance/Outreach & Planning Committee of the Governing Board as a Submit and File Report at the next regular scheduled meeting. The exhibit for this item reflects all such transfers executed during the month of November 2020.

Staff Recommendation:

Present the Budget Transfer Report for the Committee's information. No action required.

Presenter:

Melisa J. Lowe, Bureau Chief, Finance

**SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT**  
**Budget Transfer Report**  
**November 2020**

--- TRANSFERRED FROM ---		--- TRANSFERRED TO ---		
Item No.	Bureau / Expenditure Category	Bureau / Expenditure Category	Reason For Transfer	Transfer Amount
<b><u>Change from Original Budget Intent</u></b>				
1	Water Resources Grant - Financial Assistance	Operations & Land Management Other Contractual Services	Transfer of funds originally budgeted for the Culbreath Road Area Flood Relief Cooperative Funding Initiative project with Hernando County. A contract amendment due to a scope reduction approved by the Governing Board on August 25, 2020 has released previously budgeted funds. The funds are needed for the removal and closure of an underground storage tank in accordance with FDEP guidelines. The tank was discovered after donation of the Cypress Creek Mertz Parcel.	34,000.00
<b>Total Change from Original Budget Intent</b>				<b>\$ 34,000.00</b>
<b><u>Consistent with Original Budget Intent</u></b>				
1	Information Technology Other Contractual Services Software Software Maintenance Cloud Software Usage Fees Equipment - Non-Capital Outlay Registration for Training Not Requiring Travel	Information Technology Other Contractual Services Software Software Maintenance Cloud Software Usage Fees Equipment - Non-Capital Outlay Registration for Training Not Requiring Travel	Funds are needed for the original purpose budgeted for Information Technology (IT) operations and projects managed by the IT Bureau. The funds are being transferred to a new budgetary structure implemented for enhanced tracking, reporting, and budgetary control.	1,299,992.76
2	General Services Other Contractual Services	Communications and Board Services Other Contractual Services	Funds are needed for the original purpose budgeted for the digital remediation of documents on the District's website to be in compliance with Section 508 of the Rehabilitation Act. These documents include Governing Board agendas and books, and any other documents upon request. The funds are being transferred from the Document Services section to the Communications section for management and oversight of the work performed.	35,200.00
<b>Total Consistent with Original Budget Intent</b>				<b>\$ 1,335,192.76</b>
<b>Total Transfers for Governing Board Ratification</b>				<b>\$ 1,369,192.76</b>

This report identifies transfers made during the month that did not require advance Governing Board approval. These transfers have been approved by either the Executive Director, or designee, or the Finance Bureau Chief consistent with Budget Authority Transfer of Funds Board Policy, and are presented to the Governing Board as a Submit and File Report. This Board Policy limits transfers made for a purpose other than the original budget intent to \$75,000. However, transfers made for accounting reallocation purposes consistent with original budget intent are not limited.

## 4. Resource Management

**Governing Board Meeting**  
**December 15, 2020**

**4. RESOURCE MANAGEMENT COMMITTEE**

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4.2 **Discussion:** Information Only: Fiscal Year 2022 Cooperative Funding Process..... 53

4.3 **Discussion:** Action Item: Initiation and Approval of Rulemaking to Amend Rule 40D-8.041, Florida Administrative Code, to Adopt Minimum Flows for the Lower Peace River and Accept Final Draft Report ..... 55

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**RESOURCE MANAGEMENT COMMITTEE**

**December 15, 2020**

**Discussion: Information Only**

**Consent Item(s) Moved to Discussion**

Presenter:

Jennette M. Seachrist, P.E., Division Director, Resource Management

**RESOURCE MANAGEMENT COMMITTEE****December 15, 2020****Discussion: Information Only****Fiscal Year 2022 Cooperative Funding Process***Purpose*

To update the Board on the status of the fiscal year (FY) 2022 Cooperative Funding process and prepare the Governing Board members for their upcoming February regional public meetings.

*Background*

The Cooperative Funding Initiative application deadline was Friday, October 2, 2020: 125 applications were received totaling \$163.5 million in District funding requests.

The proposed February and April meeting schedule for the four regional subcommittees is detailed below:

<b>Planning Region</b>	<b>Meeting Date</b>	<b>Meeting Time</b>	<b>Location</b>
Northern	February 3	10 a.m.	Brooksville
Southern	February 4	10 a.m.	RLA Commission Chambers (Sarasota)
Heartland	February 10	10 a.m.	Bartow City Hall
Tampa Bay	February 11	10 a.m.	Tampa

<b>Planning Region</b>	<b>Meeting Date</b>	<b>Meeting Time</b>	<b>Location</b>
Northern	April 7	10 a.m.	Brooksville
Southern	April 8	10 a.m.	RLA Commission Chambers (Sarasota)
Heartland	April 14	10 a.m.	Bartow City Hall
Tampa Bay	April 15	10 a.m.	Tampa

*Discussion*

The FY2022 applications were distributed to staff and are undergoing in-depth evaluation for ranking purposes. The raw applications have been compiled by region, distributed to the Governing Board members, and posted on the District's website. Governing Board members are asked to familiarize themselves with the applications in preparation of the February public meetings. The following topics are proposed for the Governing Board's discussion at the February meetings:

- Summarize Funding Applications Received by Region
- Discuss Past Budgeted Expenditures by Region
- Receive Public/Stakeholder Input
- Review Preliminary Project Rankings
- Select Projects for Presentations in April
- Review Timeline and Next Steps



The February meetings are the Governing Board's opportunity to review the preliminary project rankings, ask questions of staff and the applicants, and to hear public and stakeholder input from non-applicants. During the February meetings, each subcommittee will be asked to identify proposals for presentation and further discussion at the April meetings. Final staff rankings will be provided in April, and the regional subcommittees will be asked to prepare their final rankings and recommendations at that time.

Applications submitted by the cooperators in each region will be provided to the Governing Board members at the December Governing Board meeting (see regional application booklets). In addition, applications can be located on the District's website at <http://www.swfwmd.state.fl.us/business/coopfunding/>.

Staff Recommendation:

This item is for the Board's information only and no action is required.

Presenter:

Kevin Wills, Cooperative Funding Initiative Lead

**RESOURCE MANAGEMENT COMMITTEE****December 15, 2020****Discussion: Action Item****Initiation and Approval of Rulemaking to Amend Rule 40D-8.041, Florida Administrative Code, to Adopt Minimum Flows for the Lower Peace River and Accept Final Draft Report***Purpose*

To request the Board initiate and approve rulemaking to amend Rule 40D-8.041, Florida Administrative Code (F.A.C.), to adopt minimum flows for the Lower Peace River, and accept the report entitled: "Recommended Minimum Flows for the Lower Peace River and Proposed Minimum Flows for Lower Shell Creek, Final Draft, November 30, 2020."

*Background/History*

Minimum flows for the Lower Peace River were adopted (Rule 40D-8.041(8), F.A.C.) in July 2010 and became effective in August 2010. The adopted rule requires the reevaluation of the minimum flows within five years of the original adoption date to incorporate additional ecological data. Based on this requirement, staff presented an initial reevaluation of the minimum flows to the Governing Board in September 2015 that described additional ecological information and indicated no significant harm to the Lower Peace River and downstream Charlotte Harbor was occurring as a result of water withdrawals that were permitted in accordance with the minimum flows. A more comprehensive reevaluation of the minimum flows established for the Lower Peace River was initially scheduled for 2018 and is currently scheduled for 2020 on the District's Minimum Flows and Levels Priority List and Schedule.

For the comprehensive minimum flows analyses, the Lower Peace River and Lower Shell Creek were modeled as a single system "Lower Peace/Shell System" to appropriately characterize the strong hydrologic interactions between the river, creek, and Charlotte Harbor. The District re-mapped the bathymetry of the Lower Peace/Shell System and upper Charlotte Harbor, produced a LiDAR-based high resolution digital elevation model for the area, and developed and used a refined hydrodynamic model to predict salinity, water level and temperature in the Lower Peace/Shell System and Charlotte Harbor. In addition, habitat modeling for a number of estuarine-dependent taxa, including several fish species and Blue Crab, water quality assessments, and floodplain inundation analysis for the upper portion of the Lower Peace River were conducted to support minimum flows development for the Lower Peace River and Shell Creek.

Among the various factors assessed for the Lower Peace/Shell System, the most sensitive criterion was low-salinity (< 2 practical salinity units or psu) habitat. Potential flow-related changes in this habitat were modeled and used to develop minimum flows for the Lower Peace River and Lower Shell Creek that are expected to maintain 85% of the low-salinity habitat and thereby prevent significant harm to the water resources and ecology of the area.

Staff submitted a draft report on recommended minimum flows for the Lower Peace River and Shell Creek to the Governing Board in March 2020. The recommended minimum flows allow for potential reductions of 13% of daily flow under low-flow conditions (Block 1), 23% of the daily flow under moderate-flow conditions (Block 2), and 40% of daily flow under high-flow conditions (Block 3) from each system. For the Lower Peace River, the recommended minimum flows also include a low flow threshold

of 130 cfs and a maximum daily withdrawal limit of 400 cfs from the lower river that are applicable regardless of flow conditions. For the Lower Peace River, the daily flows used for identifying allowable flow reductions are based on the combined flow at the U.S. Geological Survey (USGS) Peace River at Arcadia, Horse Creek near Arcadia and Joshua Creek at Nocatee gages. For Lower Shell Creek, the minimum flows are based on inflows to Shell Creek Reservoir estimated using outflow from the reservoir at the USGS Shell Creek near Punta Gorda gage, reservoir storage and permitted withdrawals from the reservoir.

The draft minimum flows report was voluntarily submitted to an independent scientific peer review panel for review. The peer review was conducted from March 25 through June 26, 2020, and all panel meetings, as well as a publicly-accessible internet-based forum set up by the District for panel communication, were advertised in the Florida Administrative Register in accordance with Florida's Government-in-the-Sunshine Law. The peer review panel found that the draft report met relevant statutory requirements and that the analyses were thorough, scientifically reasonable, and based on best available information. Staff revised the draft minimum flows report based on consideration of comments of the peer review panel and interested stakeholders. A link to the electronic version of the draft report is provided below.

<https://www.swfwmd.state.fl.us/sites/default/files/documents-and-reports/reports/Draft%20MFLs%20report.pdf>

In addition to the scientific peer review, the District facilitated stakeholder review by hosting meetings and corresponding with individual stakeholders or stakeholder groups and facilitating a public workshop on October 29, 2020, for discussion of the recommended minimum flows for the Lower Peace River. Comments and questions from the public workshop and other stakeholder input were reviewed but did not necessitate the need for further revision of the draft minimum flows report. All stakeholder input is included in an appendix of the final draft report.

Status assessments based on the best available information indicate the recommended minimum flows for the Lower Peace River are being met and a recovery strategy is currently not required. Similarly, given projected demands in the region for 2040, implementation of a specific prevention strategy is also not warranted at this time. The newly developed minimum flows for the Lower Peace River are identified in the final draft report as "recommended" for current consideration by the District Governing Board for incorporation into District Rules.

The newly developed minimum flows for Lower Shell Creek are identified in the final draft report as "proposed" rather than "recommended", as investigation of Lower Shell Creek minimum flows status and need for a recovery and/or prevention strategy is ongoing. Following completion of the investigation, District staff will update the Lower Shell Creek minimum flows status in this report and change the designation of the minimum flows for Lower Shell Creek from "proposed" to "recommended" for consideration by the District Governing Board for incorporation into District Rules in 2021.

The recommended minimum flows for the Lower Peace River are protective of all relevant environmental values identified for consideration in the Water Resource Implementation Rule when establishing minimum flows and levels. The District will reevaluate the minimum flows, as necessary. The proposed rule language for establishment of minimum flows for the Lower Peace River is included as Exhibit A.

### *Benefits/Costs*

Adoption of the minimum flows for the Lower Peace River will support the District's water supply planning, water use permitting, and environmental resource permitting programs. A Statement of Estimated Regulatory Costs is not required for the Lower Peace River minimum flows as this rulemaking is not expected to result in any direct or indirect cost increases for small businesses or increased regulatory costs in excess of \$200,000 within one year of implementation.

Upon Governing Board approval of the proposed rule language, staff will submit notice to the Governor's Office of Fiscal Accountability and Regulatory Reform (OFARR) and proceed with formal rulemaking without further Board action. If substantive changes are necessary as the result of comments received from the public or reviewing entities such as OFARR, this matter will be brought back to the Board for consideration.

### Staff Recommendation:

1. Accept the report entitled "Recommended Minimum Flows for the Lower Peace River and Proposed Minimum Flows for Lower Shell Creek, Final Draft, November 30, 2020."
2. Authorize the initiation of rulemaking and approve the proposed rule language for the adoption of an amendment to Rule 40D-8.041, Florida Administrative Code, to update minimum flows for the Lower Peace River.
3. Authorize staff to make any necessary clarifying or minor technical changes that may result from the rulemaking process.

### Presenter:

Douglas A. Leeper, MFLs Program Lead, Environmental Flows and Assessments Section

Exhibit A  
RULES OF THE  
SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
RULE 40D-8.041  
MINIMUM FLOWS

**40D-8.041 Minimum Flows.**

(1) through (7) No Change.

(8) Minimum Flows for the lower Peace River.

(a) For purposes of this rule, the lower Peace River in DeSoto County, FL and Charlotte County, FL includes the watercourse from U.S. Geological Survey Peace River at SR 70 at Arcadia, FL Gage #02296750 to Charlotte Harbor. The Minimum Flows are to ensure that the minimum hydrologic requirements of the water resources or ecology of the natural systems associated with the estuarine reach of the lower Peace River are met.

(b) Minimum Flows for ~~the estuarine reach of the lower Peace River~~ are based on the sum of the daily average, combined, adjusted flows of the USGS Peace River ~~near~~ Arcadia, FL Gage (“Gage No. 02296750”), ~~#02296750~~ plus the flow at the U.S. Geological Survey Joshua Creek at Nocatee, FL Gage (“Gage No. 02297100”), and the U.S. Geological Survey USGS-Horse Creek at SR 72 near Arcadia, FL Gage (“Gage No. 02297310”) #02297310, and the USGS Joshua Creek at Nocatee Gage #02297100, as and are set forth in Table 8-20, ~~below~~. Adjusted flow is defined as flow that would exist in the absence of withdrawal impacts. Minimum Flows for the lower Peace River are ~~both seasonal and flow dependent, and were developed based on the daily average, combined flow at Gage No. 02296750, Gage No. 02297100 and Gage No. 02297310 adjusted for withdrawals for the period of record from January 1, 1950 through December 31, 2018. There are seven flow dependent Minimum Flows. One standard, the Minimum Low Flow Threshold, is flow based and applied continuously regardless of season. No surface water withdrawals shall be permitted that would cumulatively cause the flow to be reduced below the Minimum Low Flow Threshold of 130 cfs based on the sum of the mean daily flows for the three gages listed above. Permitted~~ Additionally, permitted withdrawals shall cease when the sum of the mean daily flows for the three gages denoted above is ~~are~~ below the Minimum Low Flow Threshold of 130 cfs. Also, the ~~The~~ total permitted maximum withdrawals on any day from the lower Peace River shall not exceed 400 cfs. ~~There are also three seasonally dependent or Block-specific Minimum Flows that are based on the sum of the mean daily flows for the three gages denoted above that would occur in the absence of any permitted upstream withdrawals. The Block Minimum Flows are based on potential changes in habitat availability for select salinity ranges within a season.~~

Table 8-20 Minimum Flow for Lower Peace River Based on the Combined (i.e., summed) Flows from the USGS Peace River at SR 70 at Arcadia, FL, Joshua Creek at Nocatee, FL, and Horse Creek at SR 72, near Arcadia, FL Gages Adjusted for Upstream Withdrawals

<u>If Adjusted Combined Flow in cubic feet per second (cfs) on the previous Day is:</u>	<u>Minimum Flow is:</u>
<u>≤130 cfs</u>	<u>Combined flow on the previous day</u>
<u>&gt;130 cfs and ≤149 cfs</u>	<u>130 cfs</u>
<u>&gt;149 cfs and ≤ 297 cfs</u>	<u>87% of combined flow on the previous day</u>
<u>&gt; 297 cfs and ≤ 335 cfs</u>	<u>258 cfs</u>
<u>&gt; 335 cfs and ≤ 622 cfs</u>	<u>77% of combined flow on the previous day</u>
<u>&gt; 622 cfs and ≤ 798 cfs</u>	<u>479 cfs</u>
<u>&gt; 798 cfs</u>	<u>60% of combined flow on the previous day</u>

Table 8 20 Minimum Flow for Lower Peace River based on the sum of flows from Horse Creek, Joshua Creek, and the Peace River at Arcadia gages.

<u>Period</u>	<u>Effective Dates</u>	<u>Where Flow on Previous Day Equals:</u>	<u>Minimum Flow Is</u>
Annually	January 1 through December 31	_____ ≤130 cfs	Actual flow (no surface water withdrawals permitted)
		_____ >130 cfs	Seasonally dependent — see Blocks below
Block 1	April 20 through June 25	_____ ≤130 cfs	Actual flow (no surface water withdrawals permitted)
		_____ >130 cfs	previous day's flow minus 16% but not less than 130 cfs
Block 2	October 28 through April 19	_____ ≤130 cfs	Actual flow (no surface water withdrawals permitted)
		_____ >130 cfs and <625 cfs	previous day's flow minus 16% but not less than 130 cfs
		_____ ≥625 cfs	previous day's flow minus 29%
Block 3	June 26 through October 27	_____ ≤130 cfs	Actual flow (no surface water withdrawals permitted)
		_____ >130 cfs and <625 cfs	previous day's flow minus 16% but not less than 130 cfs
		_____ ≥625 cfs	previous day's flow minus 38%

(c) Status assessments of the Minimum Flows for the lower Peace River will be completed to determine whether the flow is below or projected to fall below the Minimum Flows. Each status assessment is independent from and not a determination of water use permit

compliance or environmental resource permit compliance. Permit compliance is a regulatory function that is not within the scope of this subsection. As part of each status assessment, the District will use the following approach:

1. The District will evaluate the Minimum Flow annually to determine the extent to which the flow of the lower Peace River has been reduced due to withdrawals as of the date of each status assessment at Gage No. 02296750, Gage No. 02297100 and Gage No. 02297310. The annual evaluation will be completed through a review of:

(a) Flow data;

(b) Water withdrawals;

(c) Aquifer water levels;

(d) Rainfall data; and

(e) Hydrologic modeling.

2. The District will also evaluate the Minimum Flows every five years as part of the regional water supply planning process. This evaluation will include the use of hydrologic modeling.

3. If the Minimum Flows are being met based on the annual evaluation or the evaluation performed as a part of the regional water supply planning process, then no further actions are required beyond continued monitoring.

~~(c) Minimum five-year and ten-year moving mean and median flow values are set forth in Table 8-20 as a tool to assess whether flows to the lower Peace River remain above flow rates that are expected to occur with implementation of the Minimum Flow described in Table 8-21 and a daily maximum withdrawal rate of 400 cfs. The means and medians are based on evaluation of daily flow records for the three gages listed above for the period 1951 through 2008. Yearly means and medians were computed for January 1 through December 31 of each year, then moving five-year and ten-year averages were calculated from these yearly values. Therefore, the five-year and ten-year means and medians are hydrologic statistics that represent the flows that will be met or exceeded if compliance with the Minimum Flow and the 400 cfs maximum withdrawal rate is maintained during hydrologic conditions similar to the 1951-2008 period. Climatic changes or future structural alterations in the watershed could potentially affect surface water or groundwater flow characteristics within the watershed and flows in the river. Therefore, as additional information relevant to Minimum Flows development becomes available, the District is committed to periodically evaluate whether any declines in these minimum moving average values below that expected with the application of the Minimum Flow are due to factors other than permitted water use.~~

~~(d) The Minimum Flows for the lower Peace River will be reevaluated to incorporate additional ecological data for the Lower Peace River within 5 years of adoption of this rule.~~

Table 8-21 Minimum Five Year and Ten Year Moving Mean and Median flows for the lower Peace River based on the sum of flows from Horse Creek, Joshua Creek, and the Peace River at Arcadia		
Minimum Flow	Hydrologic Statistic	Flow (cfs)
Annual Flow	<del>10 Year Mean</del>	<del>713</del>
	<del>10 Year Median</del>	<del>327</del>
	<del>5 Year Mean</del>	<del>679</del>
	<del>5 Year Median</del>	<del>295</del>
Block 1	<del>10 Year Mean</del>	<del>284</del>
	<del>10 Year Median</del>	<del>264</del>
	<del>5 Year Mean</del>	<del>204</del>
	<del>5 Year Median</del>	<del>114</del>
Block 2	<del>10 Year Mean</del>	<del>429</del>
	<del>10 Year Median</del>	<del>383</del>
	<del>5 Year Mean</del>	<del>330</del>
	<del>5 Year Median</del>	<del>235</del>
Block 3	<del>10 Year Mean</del>	<del>1260</del>
	<del>10 Year Median</del>	<del>930</del>
	<del>5 Year Mean</del>	<del>980</del>
	<del>5 Year Median</del>	<del>595</del>

(9) through (22), No Change.

Rulemaking Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.036, 373.042, 373.0421 FS. History—New 10-5-74, Amended 12-31-74, Formerly 16J-0.15, 40D-1.601, Amended 10-1-84, 8-7-00, 2-6-06, 4-6-06, 1-1-07, 11-25-07, 2-18-08, 3-2-08, 5-12-08, 5-10-09, 3-23-10, 3-28-10, 7-12-10, 8-2-10 (8), 8-2-10 (15), 10-16-12, 3-20-13(16), 3-20-13(17), 6-20-16, 3-15-18, 6-19-18, 4-15-20, 8-9-20, \_\_\_\_.



## RESOURCE MANAGEMENT COMMITTEE

December 15, 2020

### Submit & File: Information Only

#### Annual Status of the Southern Water Use Caution Area Recovery Strategy

##### *Purpose*

This is the annual update and status of the District's efforts to monitor the recovery of water levels and flows in the Southern Water Use Caution Area (SWUCA). The update addresses the status of water levels and flows and development of sufficient water supplies through the end of 2019.

##### *Background/History*

In March 2006, the Governing Board (Board) adopted minimum "low" flows for the Upper Peace River, minimum levels for eight lakes along the Lake Wales Ridge in Polk and Highlands counties and a saltwater intrusion minimum aquifer level (SWIMAL) for the Upper Floridan aquifer in the Most Impacted Area (MIA) of the SWUCA. Since most of these minimum flows and levels (MFLs) were not meeting their adopted levels and flows, the Board adopted the SWUCA Recovery Strategy (Strategy) and changes to water use permitting rules to implement the Strategy. Principle goals of the Strategy to achieve by 2025 are:

1. Restore minimum levels to priority lakes in the Ridge area.
2. Restore minimum flows to the upper Peace River.
3. Reduce the rate of saltwater intrusion in coastal Hillsborough, Manatee and Sarasota counties (referred to as MIA) by achieving the proposed minimum aquifer level for saltwater intrusion.
4. Ensure there are sufficient water supplies for all existing and projected reasonable-beneficial uses.

The Strategy provides a plan addressing these goals and tracking progress towards achieving the MFLs and ensuring there are sufficient water supplies for all reasonable-beneficial uses while protecting the investments of existing water use permittees.

The District uses its extensive data collection network to monitor trends in resource conditions as well as permitted and actual water use. Results of this monitoring are provided to the Board each year, and every five years this information is evaluated in detail as part of a five-year review of the Strategy. Monitoring provides the information necessary to determine whether progress is being made and enables the District to adaptively manage water resources to achieve the goals of the Strategy.

The most recent five-year review of the Strategy encompassed the period 2012 through 2016 and concluded progress had been made on all four principle goals. The review was completed in 2017 and presented to the Board at their meeting in April 2018.

Progress has also been made on options identified during the 2015 outreach efforts for the MIA and Ridge Lakes. The District continues to monitor resources in the region and update the analytical tools used to establish MFLs and assess factors affecting levels and flows. In the MIA, the District completed construction of a test recharge well and monitoring wells at Flatford Swamp. Construction of the surface facilities began in FY2020 and recharge is anticipated to begin by late FY2021. This project will

determine the feasibility of recharging the Upper Floridan aquifer with excess surface water from Flatford Swamp. Preliminary modeling of the aquifer recharge shows this project, if constructed, could increase aquifer levels in the MIA that contribute to achieving the SWIMAL, as well as benefit Flatford Swamp. In the Ridge Lakes area, the District continues to meet with water users to identify projects to recover impacted lakes. The focus of the District's lake recovery efforts has been to work collaboratively with stakeholders to identify projects that can be cooperatively implemented. Currently, the District has developed a recovery option and feasibility project for Lake Wailes and has begun constructing an integrated surface water/groundwater model for lakes Eagle and McLeod, which will be used to help make decisions regarding recovery options. The integrated model for lakes Eagle and McLeod is anticipated to be completed in FY2021. Development of an integrated model for Lake Starr will begin in FY2021. Additionally, a Cooperative Funding project that explores recovery options for Lake Eva will be completed cooperatively with the City of Haines City in FY2021. The District also continues to expand the FARMS program and work through its Cooperative Funding Program to promote and expand water conservation and beneficial reuse. The Ridge Lakes minimum lake level goal continues to be the biggest recovery challenge. Following is a summary of the annual update and status of resource monitoring in the SWUCA for the period ending in December 2019.

#### *Annual Update and Status of Resource Monitoring Efforts*

Though data are reviewed from the many sites comprising the District's monitoring network, the overall status of water resources in the SWUCA can be illustrated by trends observed at six long-term groundwater level sites (referred to as sentinel wells) and water levels and flows associated with established MFL water bodies located throughout the SWUCA. Figure 1 (see exhibit) shows the locations of the six sentinel wells. ROMP 50 and 60, and the Coley Deep wells reflect water level trends in the northern portion of the SWUCA; and the Marshall Deep, Edgeville Deep, and Sarasota 9 wells reflect water level trends in the southern portion of the SWUCA. Since the early 1990s, groundwater levels have been stable or increasing in the north and stable or decreasing in the south. This was anticipated to occur as it was understood that changes in withdrawal locations and reductions in water use in the northern areas were occurring and that additional water use would likely occur in the southern areas.

In January 2007, when regulatory portions of the Strategy went into effect, MFLs were adopted on 17 water bodies with five (29 percent) water bodies meeting and 12 (71 percent) water bodies not meeting their adopted MFLs. Since that time, additional MFLs have been adopted and there are now a total of 45 water bodies with adopted MFLs in the SWUCA: 32 lakes, 11 river segments (including four estuaries), one spring and one aquifer. In 2019, 24 (53 percent) water bodies were meeting and 21 (47 percent) water bodies were not meeting their adopted MFLs. Figure 2 (see exhibit) shows the locations of water bodies with adopted MFLs and the corresponding determination of met versus not met status. There is an increase of two percent (one lake) in the percentage of MFLs met compared to the previous year (2018).

The number of lakes with minimum levels is 32, with 14 lakes met and 18 lakes not met in 2019 (Goal 1). Most of the lakes not meeting their minimum levels have recently been on a positive trend towards their adopted minimum levels. In all, 16 lakes have shown improvement since 2018 and continue to show improvement, one lake has changed status from not met to met, 14 lakes have remained the same, and one lake has slightly declined.

The minimum flow status assessment of 2019 data for the upper Peace River (Goal 2) remains the same as the assessment of 2018 data; one gage met, and two gages not met. In order for each gage to be

met, low flow conditions must be equal to or above low flow conditions for three consecutive years. Note that, at the two gages where the minimum flow status was not met, the Minimum Low Flow at each river gage was achieved for 2019 thereby achieving two of the required three consecutive years in 2018 and 2019. If this can be achieved again in 2020, the goal for all three gages would be met. Low flow conditions in the river were improved by the operation of the Lake Hancock project starting in 2016.

The SWIMAL for the MIA (Goal 3) is an important indicator of overall progress on the Strategy due to the regional nature of the aquifer and implications for requests for new groundwater withdrawals. The SWIMAL was calculated as the average Upper Floridan aquifer groundwater level in the MIA over the 10-year period from 1990 to 1999; and the SWIMAL is achieved when the ten-year average equals or exceeds the SWIMAL of 13.1 feet for five consecutive years. Figure 3 (see exhibit) presents the current MIA aquifer level compared to the adopted SWIMAL. At the end of 2019, the 10-year average aquifer level was 13.6 feet marking the second of the required five years the level needs to equal or exceed the SWIMAL to be considered met. The 2019 level increased by 0.5 feet from the 2018 level. The levels over the next three years will determine if the SWIMAL is achieved.

The District continues to support development of conservation and alternative water supply projects to ensure there are sufficient water supplies for existing and projected reasonable-beneficial uses (Goal 4). For FY2019, a review of ongoing and completed reuse projects within the Southern Water Use Caution Area reveals a total of 15 ongoing District cooperatively funded reuse projects, which will result in approximately 11 million gallons per day (mgd) of additional reuse supply upon completion. Of those 15 ongoing projects, two were completed during FY2019 resulting in 2.5 mgd of additional reuse supply. Ongoing or completed public supply water conservation projects in FY2019 included a total of 18 District cooperatively funded conservation projects, which will result in approximately one mgd of additional conservation savings upon completion. An additional 13 water supply and water resource development projects, including those related to aquifer storage and recovery, aquifer recharge, brackish groundwater development, and potable water interconnects/line looping, were ongoing or completed in FY2019. These projects may eventually provide at least 19 mgd of new alternative water supply and 11 mgd of recharge to the Upper Floridan aquifer.

The two primary factors influencing hydrologic conditions in the region are rainfall and groundwater withdrawals. Rainfall is the principle source of water to the hydrologic system in the groundwater basin and, as expected, has been highly varied over the last several decades with major droughts and periods of very high rainfall. The area has received above average annual rainfall for five out of the last 10 years as shown in Figure 4 (see exhibit). Additionally, the ten-year moving average for rainfall is now slightly above the long-term rainfall average calculated from 1915 through 2019. During the high rainfall periods, more water is available to replenish surface water bodies, resulting in higher levels and flows. Inversely, during below average rainfall periods, less water is available to replenish surface water bodies, resulting in lower levels and flows. Additionally, activities that use water, such as agricultural and landscape irrigation, require increased withdrawals to supplement lower rainfall amounts. Increases in groundwater withdrawals during low rainfall periods can cause surface water levels to decline further than would be expected given below average rainfall alone. Recent trends in total estimated groundwater withdrawals in the SWUCA, as well as withdrawals by use type, are shown in Figure 5 (see exhibit). Metered and estimated groundwater withdrawals have generally declined due to changes in water use related activities in the basin and have averaged about 510 million gallons per day (mgd) since 2009. Withdrawals from the Upper Floridan aquifer represent about 90 percent of total groundwater withdrawals in the area. Though total groundwater withdrawals in the region have decreased over the past 10 years, locally there are areas that have experienced increases in withdrawals, as well as a shift

from one water use type to another, which have affected groundwater levels.

In summary, progress towards recovery continues but challenges remain. Water resource trends have generally been stable and consistent with rainfall received, though several sites still remain below adopted MFLs. Recent rainfall has been above the long-term average, which is reflected in increases in surface water levels and flows experienced throughout the basin. Total estimated groundwater withdrawals have declined in recent years and continue to be approximately 50 percent of total permitted groundwater quantities. Though withdrawals have declined regionally, some areas have experienced increased withdrawals due to changes in associated land use activities.

Staff Recommendation:

This item is for the Board's information only and no action is required.

Presenter:

JP Marchand, Bureau Chief, Water Resources Bureau



## **Governing Board Meeting**

**December 15, 2020**

### **5. OPERATIONS, LANDS, AND RESOURCE MONITORING COMMITTEE**

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Administrative Code, to Adopt Proposed Revisions to Land Use Rules..... 74

**OPERATIONS, LANDS, AND RESOURCE MONITORING COMMITTEE**

**December 15, 2020**

**Discussion: Information Only**

**Consent Item(s) Moved to Discussion**

Presenter:

Brian S. Starford, P.G., Division Director, Operations, Lands and Resource Monitoring

**OPERATIONS, LANDS, AND RESOURCE MONITORING COMMITTEE**

**December 15, 2020**

**Discussion: Information Only**

**Hydrologic Conditions Report**

Please see attached report.

Staff Recommendation:

This item is provided for the Board's information only, and no action is required.

Presenter:

Asmita Shukla, Lead Hydrologic Data Analyst

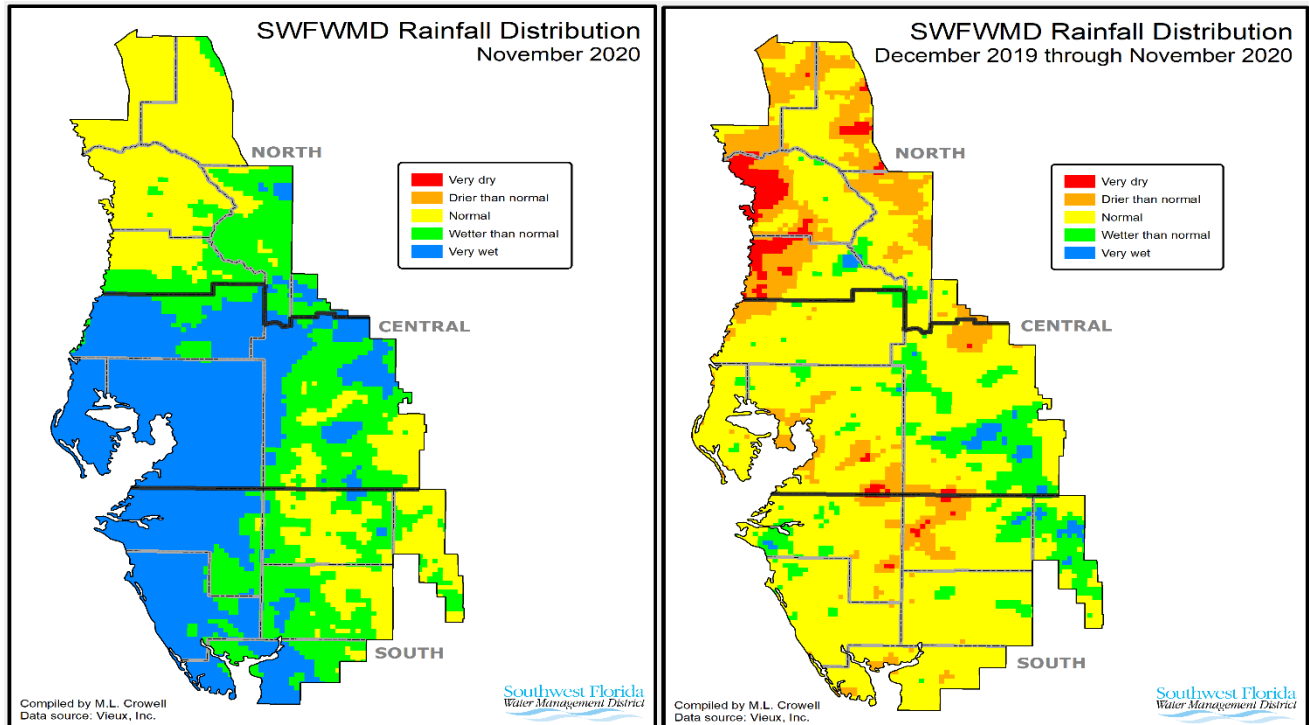


# Hydrologic Conditions Report

## SUMMARY OF CONDITIONS

- November marks the second month of the eight-month dry season (October through May). It is historically the driest month of the year, with a District-wide long-term rainfall average of just 1.8 inches. Rainfall this November has been abundant, regionally variable, and mainly associated with Tropical Storm Eta (November 9-12), which brought about 3.3 inches of rainfall District-wide and up to 8.9 inches (and some flooding) to localized areas.
- Rainfall:** Provisional rainfall totals (as of November 18) are at the upper-end of the normal range in the northern counties, while they are above-normal in the central and southern counties. The District-wide 12-month cumulative rainfall totals have improved in November and are at a deficit of about 0.22 inch below the long-term historical average. The rainfall deficit is greatest in the northern counties at about 3.06 inches below the mean.
- Streamflow:** Provisional monthly data (as of November 16) indicates flow has increased at six monitoring stations, while decreasing at six stations, compared to last month. Two stations are within the normal range of historical values, while ten are above-normal. Regional streamflow, based on three index rivers, is within the normal range in the northern region, while it is above-normal in the central and southern regions.
- Groundwater:** Provisional regional aquifer levels (as of November 15) show statistical increases in all three regions of the District, compared to last month. All regions are within the normal to above-normal range.
- Lake Levels:** Provisional water level data (as of November 16) indicates that regional lake levels have decreased in the northern, Tampa Bay and Polk Uplands regions, while slightly increased in the Lake Wales Ridge region, compared to last month. All four lake regions remain within normal levels.
- Overall:** Regional hydrologic indicators have seen mixed results, while remaining in the normal to above-normal range of historical values. The tropics remain active.

## RAINFALL



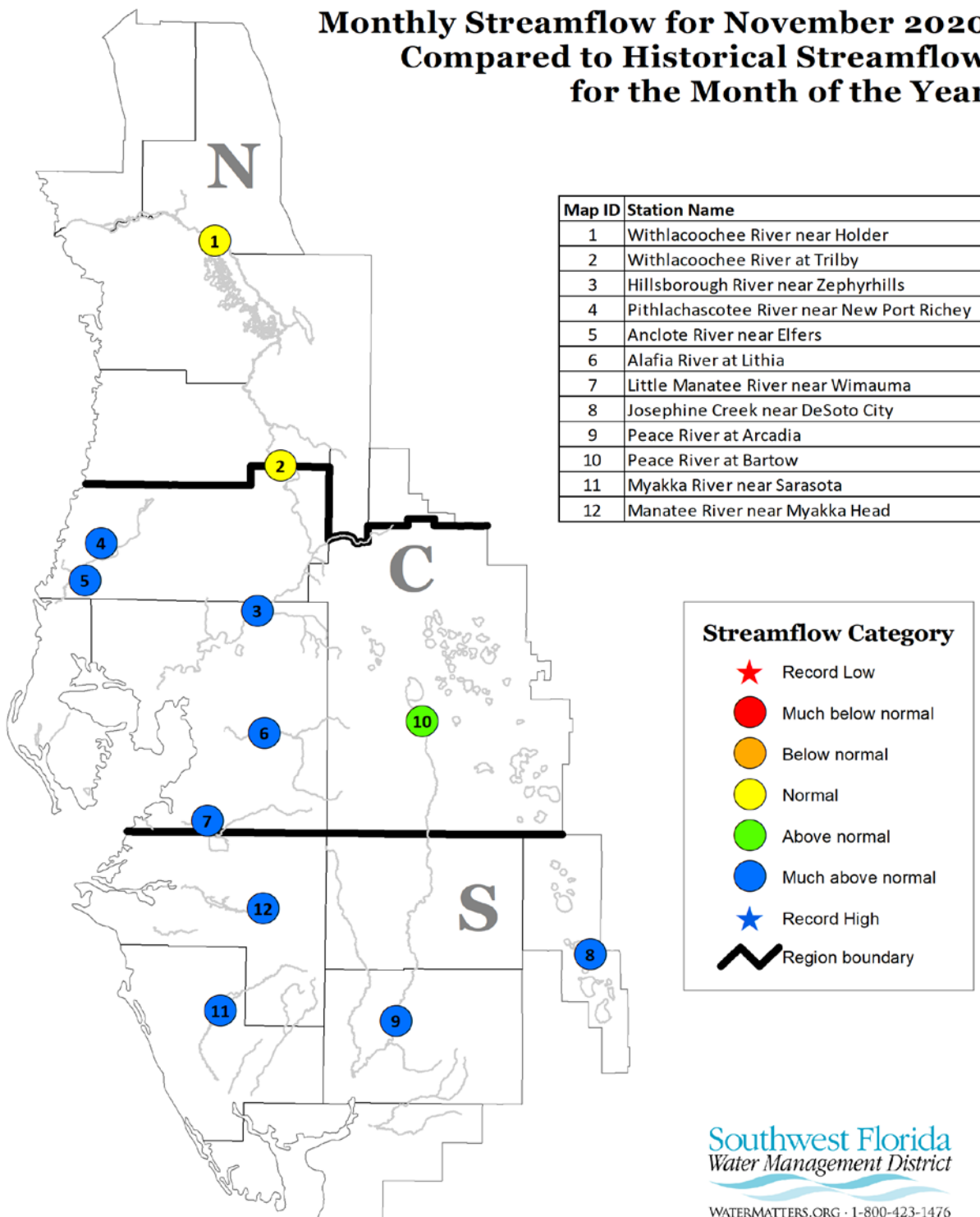
### RELATIONSHIP OF PROVISIONAL NOVEMBER 2020 RAINFALL TO HISTORICAL RAINFALL AVERAGE

Regional Summary (in inches):

Region	NOV 2020 Average Rainfall	Historical Average For NOV	Departure From Historical Average	Cumulative 12-month Rainfall DEC 2019 – NOV 2020	Historical 12-month Cumulative Rainfall	Departure From Historical 12-month Cumulative
Northern Counties	2.54	1.96	0.58	50.50	53.56	-3.06
Central Counties	4.47	1.81	2.66	53.91	52.63	1.28
Southern Counties	3.78	1.73	2.05	53.14	52.48	0.66
District All Counties	3.69	1.84	1.85	52.70	52.92	-0.22

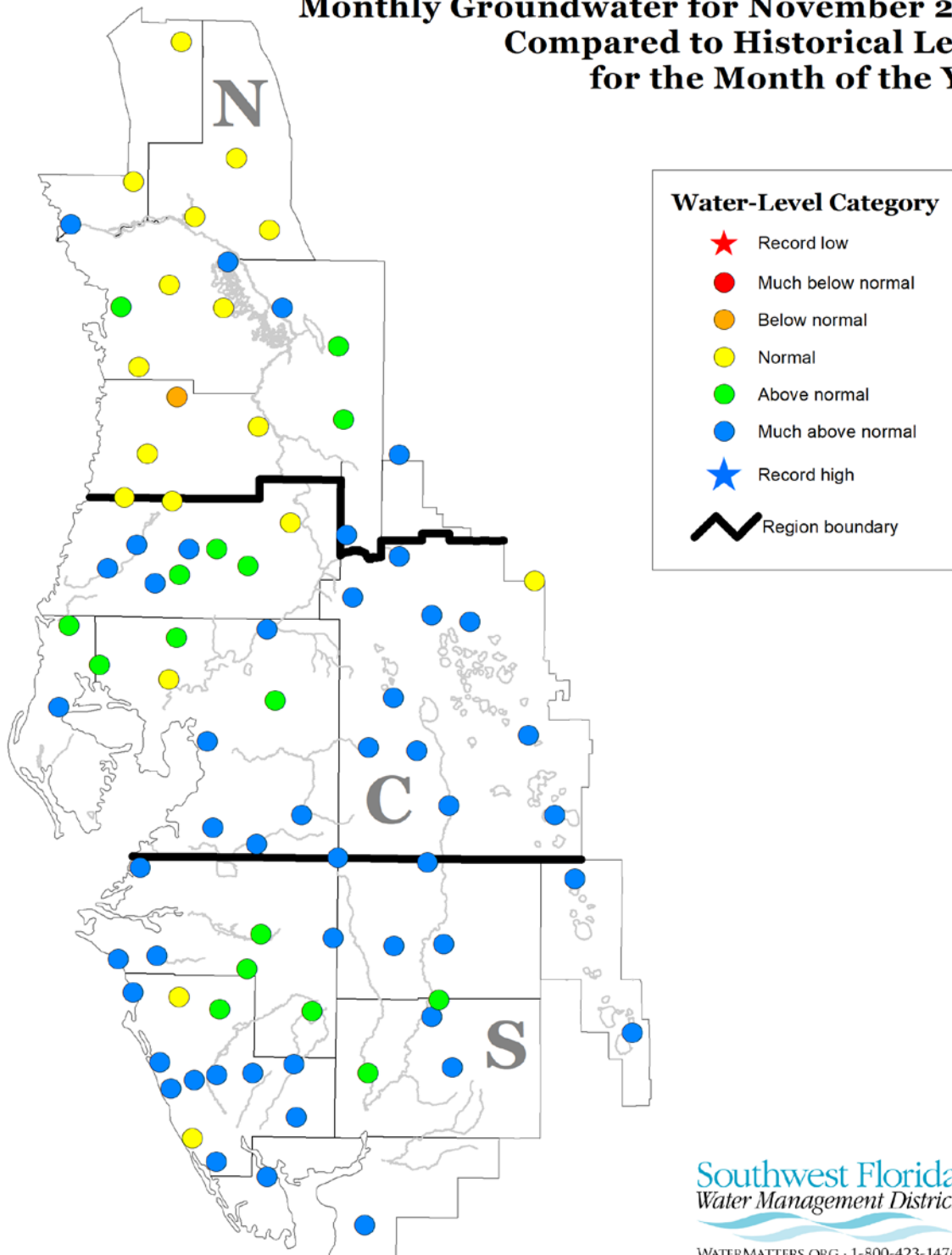
# STREAMFLOW

## Monthly Streamflow for November 2020 Compared to Historical Streamflow for the Month of the Year



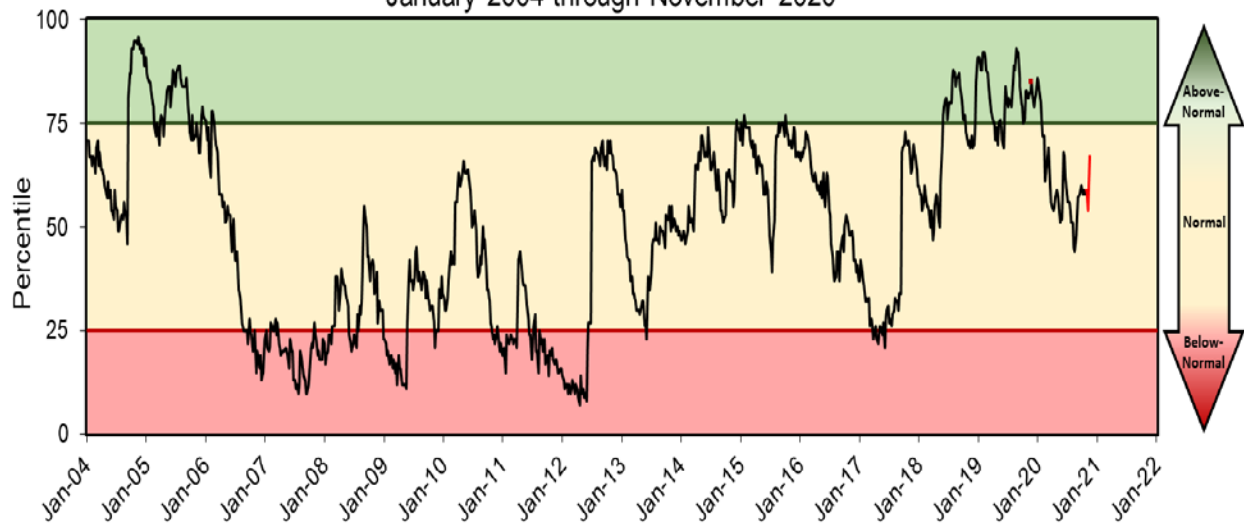
# GROUNDWATER

## Monthly Groundwater for November 2020 Compared to Historical Levels for the Month of the Year

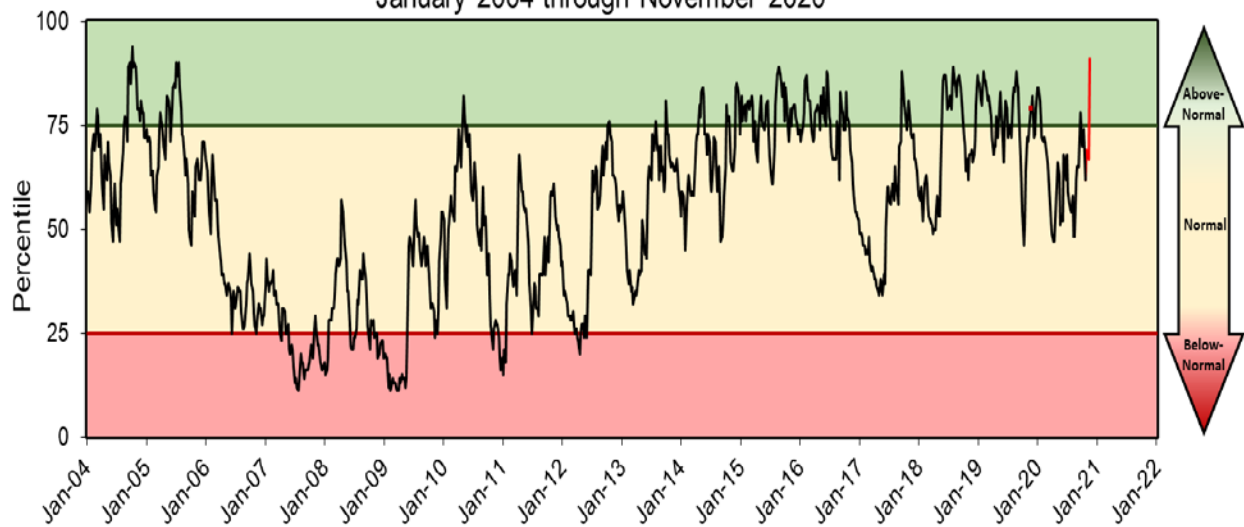


## GROUNDWATER (Continued)

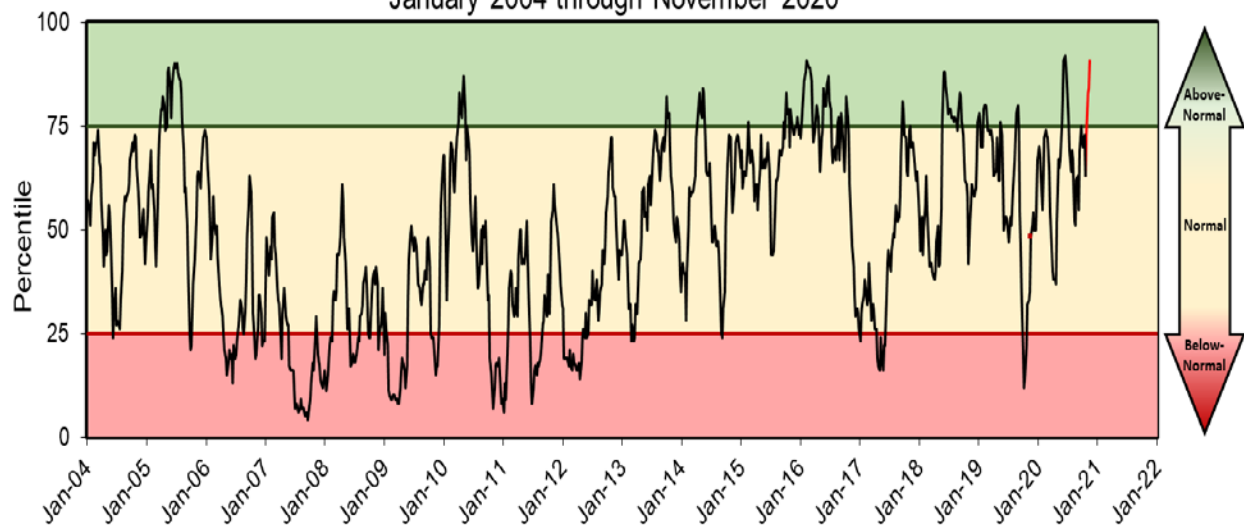
Groundwater Levels: Northern Counties  
January 2004 through November 2020



Groundwater Levels: Central Counties  
January 2004 through November 2020

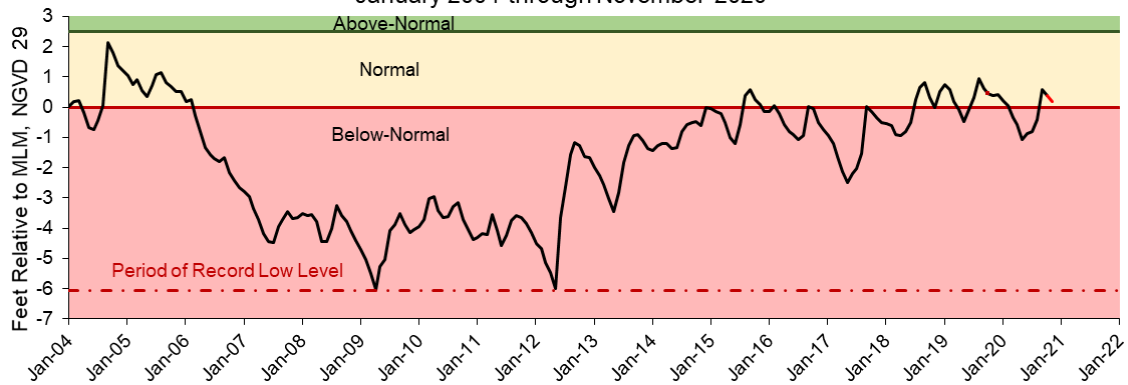


Groundwater Levels: Southern Counties  
January 2004 through November 2020

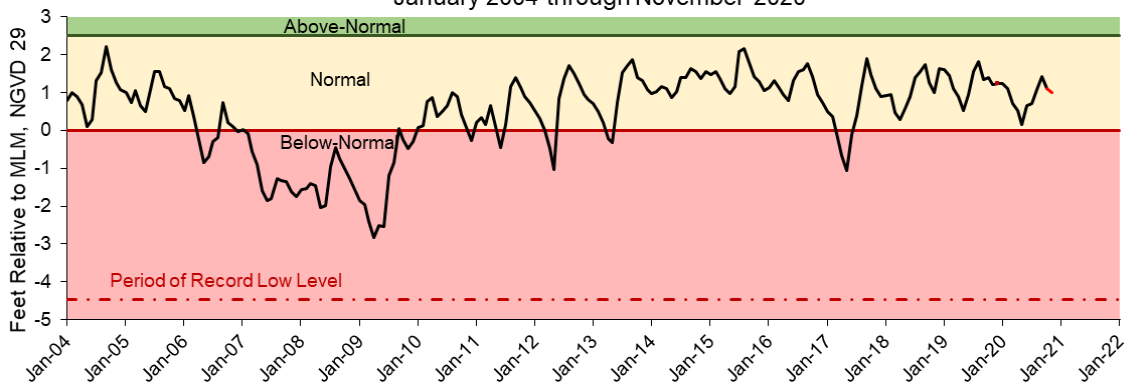


# LAKES

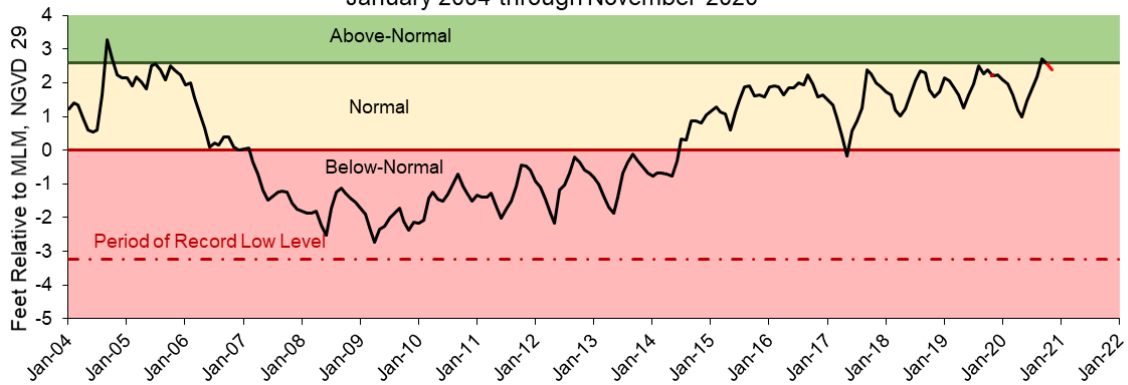
Surface Water Levels: Northern Lakes  
January 2004 through November 2020



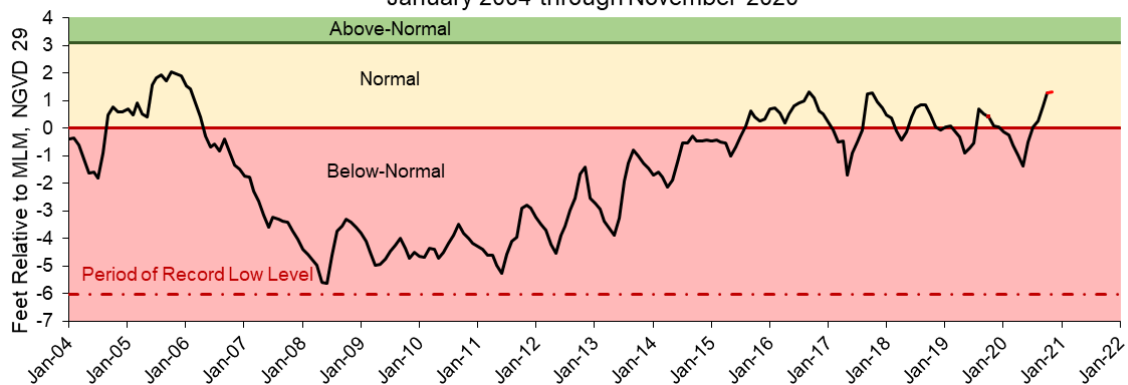
Surface Water Levels: Tampa Bay  
January 2004 through November 2020



Surface Water Levels: Polk Uplands  
January 2004 through November 2020

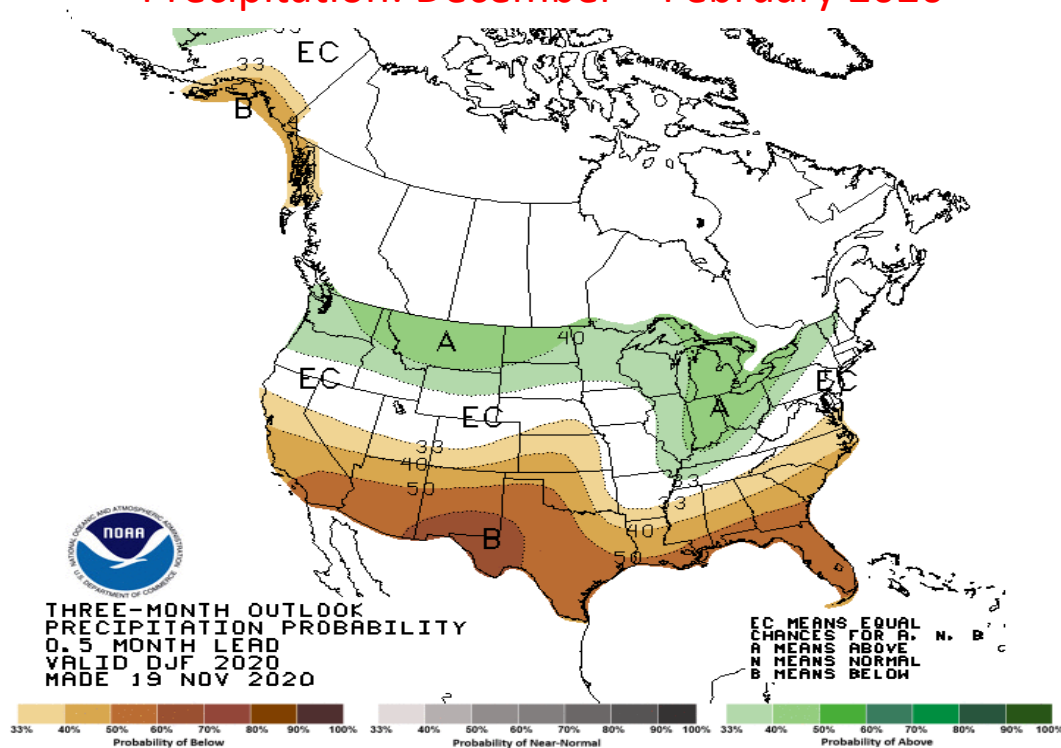


Surface Water Levels: Lake Wales Ridge Lakes  
January 2004 through November 2020

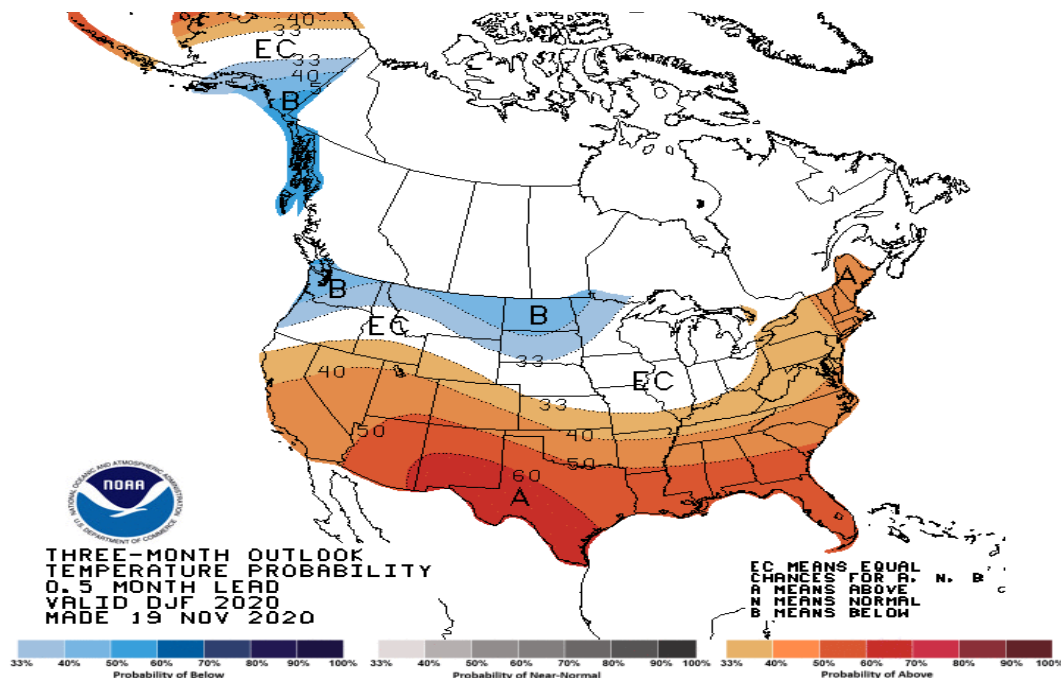


# NOAA THREE-MONTH WEATHER FORECAST

## Precipitation: December – February 2020



## Temperatures: December – February 2020



### NOAA Climate Prediction Center: Precipitation and Temperature Forecast

**December through February:** The three-month forecast, as of November 19, 2020, predicts below-normal rainfall throughout the District during the composite three-month period of December 2020 through February 2021. The temperature forecast for this same time-period indicates above-normal temperatures in all three regions of the District. For more information log on to the CPC's website at:

<https://www.cpc.ncep.noaa.gov/products/predictions/90day/>

**OPERATIONS, LANDS, AND RESOURCE MONITORING COMMITTEE**

**December 15, 2020**

**Discussion: Action Item**

**Approval of Rulemaking to Amend Chapter 40D-9, Florida Administrative Code, to Adopt Proposed Revisions to Land Use Rules**

*Purpose*

The purpose of this item is to recommend the Governing Board approve amendments to Rule 40D-9, Florida Administrative Code (F.A.C.), as to District Land Use Rules. A copy of the proposed amendments is attached as exhibit A. The initiation of this rulemaking effort was approved by the Governing Board at its October 17, 2020, meeting.

*Background/History*

The District's Land Use Rules were adopted in 2004, and for the most part have not been amended or updated since that time. District Land Use and Land Management Staff performed a comprehensive review of the existing rules to determine necessary changes to address issues that Staff often deal with, the changing nature of our recreation opportunities, as well as bring the District's Rules better in line with other water management districts.

A virtual public workshop on the proposed Rule changes was held on December 1, 2020, and public comment via an online method was solicited from November 20, 2020, through December 7, 2020. District Staff will provide all public commentary received to the Governing Board for consideration prior to action on the proposed changes.

*Benefits/Costs*

Adoption of the proposed revisions and updates to the District's Land Use Rules will support better and more efficient management of District lands and improved enforcement of the Rules. There are minimal costs associated with the proposed Rule changes and these will involve staff time to update the District's website and the campground permit conditions. A Statement of Estimated Regulatory Costs is not required for the proposed revisions to Chapter 40D-9 as this rulemaking is not expected to result in any direct or indirect cost increases for small businesses or increased regulatory costs in excess of \$200,000 within one year of implementation.

Upon Governing Board approval of the proposed rule language, staff will proceed with formal rulemaking without further Board action. If substantive changes are necessary as the result of comments received from the public or reviewing entities such as the Governor's Office of Fiscal Accountability and Regulatory Reform, this matter will be brought back to the Board for consideration.

Staff Recommendation:

- Approve the proposed rule language for the adoption of amendment to Rule 40D-9, Florida Administrative Code, to update District Land Use Rules.
- Authorize staff to make any necessary clarifying or minor technical changes that may result from the rulemaking process.

Presenter:

Chris Reed, Land Management Manager



## **CHAPTER 40D-9 DISTRICT LAND USE RULES**

40D-9.021	Definitions
40D-9.101	Recreational Land Use Policy (Repealed)
40D-9.110	Scope and Applicability (Repealed)
40D-9.111	Access to and Closures of District Lands
40D-9.120	Commercial Recreational Activities
40D-9.130	Recreational Fishing
40D-9.131	Commercial Fishing
40D-9.140	Hiking
40D-9.150	Equestrian Activities; Use of Saddle Animals
40D-9.160	Bicycling
40D-9.170	Hunting
40D-9.171	Trapping
40D-9.180	Swimming
40D-9.181	Diving
40D-9.182	<u>Swings, Diving, and Jumping</u>
40D-9.190	Dogs, Cats, or Other Animals
40D-9.191	Plant or Animal Removal, Destruction, or Harassment
40D-9.192	Introduction of Plants and Animals to District Lands
40D-9.200	Archaeological or Cultural Resources Removal, Alteration, or Destruction
40D-9.210	Disposal or Discharge of Waste
40D-9.220	Destruction, Removal, or Alteration of <u>District-Owned</u> <del>District-owned</del> Facilities or Equipment
40D-9.230	Potentially Dangerous Equipment
40D-9.231	Fireworks and Explosives
40D-9.240	Posting or Distributing Bills
40D-9.250	Fires
40D-9.260	Camping
40D-9.270	Use of Motorized Vehicles, Recreational Vehicles, Boats, and Aircraft
40D-9.280	Unauthorized Facilities or Structures
40D-9.290	Other Uses; Use of Alcoholic Beverages on District Lands Prohibited
40D-9.300	Trespass After Notice (Repealed)
40D-9.310	Penalties (Repealed)
40D-9.320	Conflicting Rules
40D-9.330	Special Use Authorization

### **40D-9.021 Definitions.**

When used in this part:

(1) “Access point” means a designated location or boundary for public access to District Lands.

(2) “Bicycle” means every vehicle propelled solely by human power, and every motorized bicycle propelled by a combination of human power and an electric helper motor capable of propelling the vehicle at a speed of not more than 20 miles per hour on level ground upon which any person may ride, having two tandem wheels, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels. The term does not include such a vehicle with a seat height of no more than 25 inches from the ground when the seat is adjusted to its highest position or a scooter or similar device. A person under the age of 16 may not operate or ride upon a motorized bicycle.

(3) “Bicycling” means to ride a bicycle.

(4) ~~(4)~~ “Commercial” activities means selling or offering to sell any merchandise or service including those derived from the consumptive or non-consumptive recreational use of District Lands including, but not limited to, providing guide services or tours, or providing rental vehicles or animals for use on District Lands.



- (5) ~~(2)~~ “Camping” means to use a vehicle, tent, or other shelter, and/or to arrange bedding or both with the intent to stay overnight.
- ~~(3) “Concession” means the privilege to establish a commercial operation or business on District Land.~~
- ~~(4) “Designated road” means any road, path, land, or trail designated by name or number for public vehicular travel.~~
- ~~(6) (5)~~ “District” means the Southwest Florida Water Management District, operating under the authority of Chapter 373, F.S.
- ~~(7) (6)~~ “District Lands” means any real property owned, leased, managed, or controlled by in which the District has an equitable or legal interest that allows the District to possess or regulate entry upon the property.
- ~~(7) “Entry point” means a designated location or boundary for public access to District Lands.~~
- (8) “Facility” or “Structure” means any object placed on District Lands, which is intended to be permanently attached to the land, or which would be considered a fixture under Florida Law.
- (9) “Fireworks” means any device as defined in Chapter 791, F.S.
- (10) “Historic resource” means any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value, and folklife resources. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the state.
- (11) “Horse cart” means a non-motorized two- (2) wheeled vehicle pulled by a single saddle animal driven by a human.
- ~~(12) (40)~~ “Mobility impaired persons” means a person eligible for a disabled person exemption parking permit pursuant to Section 320.0848, F.S.
- ~~(13) (44)~~ “Motorized Vehicle” means any vehicle, which travels over land and is partially or completely powered by a motor, as well as animal-drawn carriages and buggies.
- ~~(14) (42)~~ “Natural resource” means land, water, soils, flora, and fauna.
- ~~(13) “On foot” means activities such as hiking and jogging where travel is by foot only and does not involve any type of device, apparatus, or other means of enhancing mobility.~~
- ~~(14) “Recreational purposes” means resource based outdoor recreational activities including, but not limited to, fishing, hunting, horseback riding, bicycling, swimming, camping, hiking, canoeing, boating, diving, wildlife watching, sailing, and jogging.~~
- ~~(15) “Recreational site” means an improved or unimproved site established to facilitate public use.~~
- ~~(15) (46)~~ “Resource-based” means an activity that depends on natural resources for its occurrence such as fishing, boating, camping, wildlife study, or hunting.
- ~~(16) (47)~~ “Special Use Authorization” means the granting of a privilege to go on or use District Lands for a certain purpose without conveying any property or possessory interest.

*Rulemaking Authority 373.044, 373.113, 373.1391 FS. Law Implemented 259.105, 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.101 Recreational Land Use Policy.**

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40D-9.110 Scope and Applicability.**

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40D-9.111 Access to and Closures of District Lands.**

- (1) District Lands shall be open to the public during daylight hours only, unless otherwise authorized by the District posted.
- (2) Public Access to District Lands is provided at designated access ~~entry~~ points from public roadways. District Lands may be accessed from any adjacent waterway or waterbody at any point, unless otherwise posted.
- (3) District Lands may be closed to public use during certain hours or for certain periods of time when such closure is necessary due to emergency conditions such as floods, severe weather events, and wildfires; or during prescribed burns, construction, vegetation spraying, or other land management activities if such activity presents a danger to the public. If a governmental entity other than the District is conducting the activity, that entity shall close District Lands with the concurrence of the District pursuant to this subsection.

(4) District Lands may be closed to public use in areas undergoing construction or restoration, or subject to other land or water management activities, ~~when~~ where necessary to protect the site.

(5) District Lands may be closed to public use when such action is necessary to protect the water, natural or cultural resources of such lands.

(6) District Lands may be closed to public use when necessary to conduct research, studies, or data collection that has been approved or ~~contracted~~ ~~sponsored~~ by the District.

(7) The District shall provide notice by signs, District website, press release, or social media postings when District Lands are closed for public use.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.120 Commercial Recreational Activities.**

Any entity planning to conduct a commercial recreational activity consistent with these rules on District Lands shall contact the District and provide the following information prior to entry upon District Lands:

- (1) Name of business and owner,
- (2) Address of business and owner,
- (3) Type of activity to be conducted on District Lands,
- (4) Number of participants in the activity, and
- (5) Duration of the activity.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04.*

#### **40D-9.130 Recreational Fishing.**

Recreational fishing as authorized and regulated by the Florida Fish and Wildlife Conservation Commission is allowed on District Lands except where specifically restricted by signs. The Florida Fish and Wildlife Conservation Commission requires any person engaging in recreational fishing to have appropriate fishing licenses in their possession, unless exempted by the Commission.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04.*

#### **40D-9.131 Commercial Fishing.**

Commercial fishing is prohibited on all District Lands unless authorized by a Special Use Authorization.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04.*

#### **40D-9.140 Hiking.**

Hiking is allowed on District Lands except where specifically restricted by signs. For the purposes of this subsection, hiking shall include jogging, wildlife watching, or any other activity where travel is by foot only, ~~and does not involve another activity described in this chapter.~~

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.150 Equine ~~Equestrian~~ Activities, ~~;~~ Use of Saddle Animals.**

(1) Equestrian activities ~~and the use of saddle animals other than horses~~ are allowed on District Lands where identified by posted signage on trails, areas, roads, or equestrian campgrounds. ~~, on designated trails or areas.~~

(2) Persons using saddle animals on District lands must have proof of a negative Coggins test for Equine Infectious Anemia in their possession at all times. The responsible party for each saddle animal on District Lands shall carry proof of negative Coggins test administered within the last twelve months for each such saddle animal while on District Lands.

(3) Equestrian activities are prohibited in wetlands.

(4) The use of a horse cart as defined by subsection 40D-9.021(11), F.A.C., must be authorized by the District and is allowed only on designated District lands as identified by posted signage on trails, areas, roads, or equestrian campgrounds.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.160 Bicycling.**

Bicycling is allowed ~~on District Lands~~ only on District Lands designated for this purpose. ~~designated trails or areas.~~

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.170 Hunting.**

Hunting is allowed on District Lands designated by the District. ~~The Under cooperative agreements with the District, the Florida Fish and Wildlife Conservation Commission (Commission) regulates and manages recreational hunting on District Lands by agreement with the District and pursuant to the Florida Statutes and the Commission's own rules. designated as Type I Wildlife Management Areas. The Commission requires any person engaging in recreational hunting to have a valid hunting license and a wildlife management area stamp in their possession, unless exempted by the Commission.~~ On District Lands not designated as a Type I Wildlife Management Area Areas, the District allows hunting by permit where hunting is part of the site-specific management plan developed or authorized by the District. The District shall issue permits or Special Use Authorizations for ~~specifically authorized~~ hunts on District Lands and shall limit the number of permits based upon the conservation management goals and objectives contained within the specific management plan for the property. Any person engaging in hunting on District Lands during such authorized hunts must have in their possession a valid hunting license for game animals and a District permit or Special Use Authorization.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended 7-6-10, \_\_\_\_.*

#### **40D-9.171 Trapping.**

Trapping on District Lands is prohibited except by Special Use Authorization.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04.*

#### **40D-9.180 Swimming.**

Swimming is allowed on District Lands only in designated areas unless authorized by a Special Use Authorization.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04.*

#### **40D-9.181 Underwater Diving.**

Scuba diving, or the use of underwater breathing apparatus of a similar nature, is prohibited on District Lands unless authorized by a Special Use Authorization. A person issued a Special Use Authorization to perform a dive from District Lands shall submit a report informing the District of any scientific or archaeological evidence discovered during the dive within 30 days after completing the dive. To receive a Special Use Authorization for diving, the applicant must satisfy the requirements contained in Rule 40D-9.330, F.A.C., and must provide reasonable assurances that:

- (1) The dive is for a scientific or resource investigation purpose; and
- (2) The person performing the dive is certified for the type of dive to be performed.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.182 Swings, Diving, and Jumping.**

The installation or use of swings, rope swings, platforms or stairs in trees is prohibited, unless otherwise authorized by Florida law. Diving or jumping from trees, banks, structures or bridges on District Lands into any body of water is prohibited.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New \_\_\_\_.*

#### **40D-9.190 Dogs, Cats, or Other Animals.**

Dogs and saddle animals ~~horses~~ are allowed on District Lands only in designated areas. Dogs must be leashed or caged at all times unless they are authorized as part of an approved hunting program or authorized by a Special Use Authorization. Other types of domesticated animals, such as cats, are prohibited on District Lands. Pet waste must be removed by owner. Horse manure must be pulverized on site or removed by the owner/handler.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.191 Plant or Animal Removal, Destruction, or Harassment.**

~~All plants and animals on District Lands are protected.~~ Removing, destroying, or harassing animals or plants, including the felling of dead trees, from or on District Lands is prohibited except for ~~specifically authorized~~ research efforts, hunting and fishing activities authorized by permit or Special Use Authorization, or District initiated removals associated with restoration ~~reforestation~~, control of exotic or nuisance species, silvicultural timber harvests or other land management activities.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.059 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.192 Introduction of Plants and Animals to District Lands.**

The introduction or release of any plant or animal on District Lands is prohibited unless done pursuant to a District initiated or authorized land management or restoration activity.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.200 Historic ~~Archaeological or Cultural~~ Resources Removal, Alteration, or Destruction.**

~~All archaeological and cultural resources on District Lands are protected.~~ Removal, alteration or destruction of historic ~~archaeological or cultural~~ resources is prohibited on District Lands unless authorized by a Special Use Authorization. The District shall consult the Florida Department of State, Division of Historical Resources, prior to authorizing the removal, alteration or destruction of historic ~~any archaeological or cultural~~ resources on District Lands. ~~Archaeological or cultural resources means associated physical remnants and features contained in the ground including artifacts, fossils, bones, shell mounds, or primitive culture facilities or items.~~ Any person discovering historic ~~archaeological or cultural~~ resources on District Lands shall notify the District of such discovery within 24 hours.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.210 Disposal or Discharge of Waste.**

The disposal or discharge of any waste outside of designated waste collection facilities is prohibited on District Lands. The disposal of oil, gasoline or other hazardous substances is prohibited on District Lands.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04.*

#### **40D-9.220 Destruction, Removal, or Alteration of District-owned ~~District-owned~~ Facilities or Equipment.**

The destruction, removal or alteration of any District-owned ~~District-owned~~ facilities, vehicles or other equipment is prohibited on District Lands. District-owned ~~District-owned~~ facilities and equipment include but are not limited to water control structures, scientific study plots, photo points, transect lines, survey markers, public buildings, towers, recorders, gauges, signs, gates, fences, ~~and~~ monuments, monitoring wells, and associated equipment.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.230 Potentially Dangerous Equipment.**

The possession or use of potentially dangerous equipment on District Lands, as set forth below, is prohibited except:

- (1) For hunting purposes during specifically authorized hunts;
- (2) For District initiated land management activities;
- (3) As authorized by a Special Use Authorization.

Potentially dangerous equipment includes blow guns, crossbows, spear guns, or other devices capable of mechanically propelling an arrow, spear, or similar projectile. The use of paintball guns, paintball markers, and paintball equipment on District Lands is prohibited. Paintball equipment includes, but is not limited to: paint balls, paint gun refillable gas tanks, paint gun propellant canisters, and targets.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended 7-15-12.*

#### **40D-9.231 Fireworks and Explosives.**

The possession or discharge of any fireworks or explosives on District Lands is prohibited unless authorized by a Special Use

Authorization.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04.*

#### **40D-9.240 Posting or Distributing Bills.**

Distributing any handbills or circulars or posting, placing, or erecting any bills, notices, papers, signs or advertising devices or informational matter of any kind, excluding District or managing agency notices, is prohibited on all District Lands unless authorized by a Special Use Authorization.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04.*

#### **40D-9.250 Fires.**

Igniting any fire on District Lands is prohibited except for District authorized prescribed burns, campfires in fire rings in designated camping areas or day use areas, or fires authorized by a Special Use Authorization.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*

#### **40D-9.260 Camping.**

(1) Camping is allowed on District Lands at designated sites by permit or Special Use Authorization only.

(2) Camping using a motorized vehicle is allowed on District Lands only in camping sites designated for this purpose. The use of a motorized vehicle is subject to Rule 40D-9.270, F.A.C.

(3) The District shall grant a permit for camping on District Lands ~~with or without using motorized vehicles~~, subject to the following conditions:

(a) Camping permits are issued on a first come-first served basis to those registered on the District's website. Reservations must be made no later than 24 hours prior to the start of the camping permit. The number of camping permits issued per site is limited to the capacity of the site; The District is given ten days prior written notice of the camp;

(b) Campers may arrive no earlier than 3 p.m. on the first day of the camping permit and must depart no later than 11 a.m. on the final day of the camping permit. The ten day prior written notice is delivered to:

Southwest Florida Water Management District

Land Use and Protection Section

Land Resource Department

2379 Broad Street, Brooksville, FL 34604 6899

(c) Overnight camping or the presence of camping equipment is limited to no more than seven (7) consecutive days, and thirty (30) total days per year on District lands where camping is authorized, unless authorized by Special Use Authorization. The campground capacity is not exceeded by the proposed camping activity.

(d) Camping is allowed outside of areas designated for camping only by Special Use Authorization.

(e) No person shall install, erect, or maintain any unauthorized camp, building, structure, shelter, residence or sign.

(f) Between the hours of 10:00 p.m. and 7:00 a.m., music, barking dogs, running generators, or any other activities causing excessive noise are prohibited in camping areas. Generator use is only allowed in camping areas on District Lands. Generators are not to be left running unattended at any time

(g) Pets permitted include horses and dogs on District lands where allowed. Pets must be leashed or tethered at all times while on District lands. Dogs must remain on a 6ft leash at all times

(h) Campers are limited to two dogs per camping reservation.

(i) Within camping areas, pet waste must be disposed of in waste bins, if provided, or removed by the owner. Horse manure must be removed by owner/handler, or pulverized adequately on site.

(j) Permittees can hold no more than two (2) active camping permits within the reservation system at any given time.

(k) Changing the registered name of a group or individual, or if the same individuals or the similar persons in a family group or camping rig make multiple advanced reservations, through any means, including the use of multiple user profiles, to circumvent the 7-day maximum or 30 day total annual length of stay is prohibited.

(4) Camping on District Lands, whether authorized by permit or Special Use Authorization, does not create a tenancy or any other interest in land. The length of stay for camping authorized by this section shall be no greater than seven continuous days.

(5) The District may revoke a camping permit if the permittee fails to comply with the rules in Chapter 40D-9, F.A.C., or any provision of a camping permit.

#### **40D-9.270 Use of Motorized Vehicles, Recreational Vehicles, Boats, and Aircraft.**

(1) Motorized vehicles that are licensed for Florida highway use are allowed on District Lands in designated areas. Use of all-terrain, off-road, or other motorized vehicles not licensed for Florida highway use is prohibited on District Lands except by a Special Use Authorization for access by mobility impaired persons, research, studies, or data collection. ~~Special Use Authorizations for access by mobility impaired persons shall be issued by the Land Resources Director or the Director's designee pursuant to Rule 40D-9.330, F.A.C.~~

(2) Motorized vehicles licensed for Florida highway use shall be operated by licensed drivers only on roads designated as open for motorized vehicles.

(3) Motorized vehicles shall not exceed posted speed limits. If no speed limit is posted, the speed limit shall be 20 miles per hour.

(4) For purposes of this section, the term "boating" includes both motorized and non-motorized boats.

(5) (4) Boating is allowed on all District-owned waterways (canals, impoundments, etc.) subject to the following:

(a) Boats traveling within 500 feet of any District structure or levee shall not exceed idle speed unless otherwise indicated by signs.

(b) Boats shall not be operated in a manner which would damage plants, animals or other environmental resources.

(c) Boat use shall be limited to ~~designated boat trails except in~~ areas posted as open for boats.

~~(d) The District shall prohibit or limit boating in areas for public safety, resource protection, and protection of District facilities or equipment. The District shall limit boating~~ Boating shall be limited by engine horsepower, speed, or vessel type as necessary for public safety, resource protection, or protection of District facilities or equipment, and these limitations shall be specific to each water body. Areas closed to boating and boating limitations shall be designated by signs.

(e) The mooring of any boat on any District Lands for more than 24 continuous hours is prohibited, unless otherwise posted. The mooring of any boat on any District Lands for less than 24 continuous hours is authorized, unless otherwise posted.

(f) No person shall operate an airboat or vessel beyond posted signage or on upland areas.

(5) Boats on trailers shall only be launched in designated areas. ~~from areas designated by signs.~~

(6) Parking a motor vehicle or trailer in an unauthorized location or in a manner blocking roads, gates, firelines, monitoring wells, or water control structures is prohibited.

~~(6) For the purposes of this section, the term "boating" includes both motorized and non-motorized boats.~~

(7) Taking off or landing aircraft on District Lands is prohibited unless authorized by a Special Use Authorization.

(8) Unmanned aerial vehicles, including recreational drones, are prohibited from taking off or landing on District Lands unless authorized by the District.

#### **40D-9.280 Unauthorized Facilities or Structures.**

(1) Constructing, erecting or maintaining any facility or any other structure of a permanent or semi-permanent nature on District Lands is prohibited unless authorized by a Special Use Authorization.

(2) Any unauthorized facility or structure discovered on District Lands shall be removed according to the following procedure:

(a) Upon discovery of the unauthorized facility or structure, District staff will post a notice on such facility or structure, for a period of 30 days, informing the owner that such facility or structure is not authorized on District Lands and that the owner must remove such facility or structure.

(b) The owner of an unauthorized facility or structure must remove such facility or structure within 30 days after the posting of the District notice.

(c) If the owner of the unauthorized facility or structure fails to remove such facility or structure within 30 days after posting of the District notice, the District will remove such facility or structure from District Lands or claim such facility or structure as District property. The District may seek reimbursement of costs for removal of any unauthorized facility or structure from the owner of such facility or structure.

#### **40D-9.290 ~~Other Uses; Use or Possession~~ of Alcoholic Beverages on District Lands Prohibited.**

~~(1) Any recreational use of District Lands not authorized by this chapter is prohibited.~~

~~(1) (2)~~ The use or possession of alcoholic beverages on District Land is prohibited, except as authorized herein.

(a) The possession, sale, and use of alcoholic beverages may be allowed on District Land that is cooperatively managed by another agency or local government when that agency or local government has adopted a rule or ordinance that allows the sale and use of alcoholic beverages in parks or facilities owned or managed by the agency or local government and makes such a request in writing.

(b) The rule or ordinance must, at a minimum, require \$1,000,000 liquor liability insurance, and the agency or local government must agree in writing to indemnify and hold the District harmless from any claims of liability resulting from events authorized by the agency or local government pursuant to its rule or ordinance at which alcoholic beverages are sold or used on District Land.

(c) If the conditions of paragraphs (a) and (b) are not met, the District shall deny a request by an agency or local government to allow the possession, sale, or use of alcoholic beverages on District Land.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended 9-11-11, Amended \_\_\_\_.*

#### **40D-9.300 Trespass After Notice.**

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12.*

#### **40D-9.310 Penalties.**

(1) Any person who violates any provision of this chapter is subject to ejection from the premises and may be subject to criminal prosecution.

(2) Any person who is ejected more than once from District Lands may be barred from applying for any permit or Special Use Authorization contemplated by this chapter for a period of up to five years.

(3) The penalties identified in these rules do not supersede other remedies available to the District at law and/or in equity.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Repealed by Section 3, Chapter 2012-31, Laws of Florida, 5-27-12, Repromulgated \_\_\_\_.*

#### **40D-9.320 Conflicting Rules.**

If an agency or local government has entered into a cooperative land management agreement with the District regarding specific District Lands, the District's Land Use Rules shall apply if in conflict with the rules of the agency or local government unless the cooperative land management agreement addresses a specific land use, then the terms of the cooperative land management agreement shall apply.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History--New 7-20-04, Amended 9-11-11.*

#### **40D-9.330 Special Use Authorization.**

(1) A person or entity must obtain ~~apply for~~ a Special Use Authorization to use District Lands for activities not specifically authorized by ~~provided for in~~ this chapter.

(2) For recreational activities specifically authorized by this chapter involving 25 or more participants, a Special Use Authorization must be obtained on behalf of the group.

(3) (2) To receive a Special Use Authorization the applicant must provide reasonable assurance in writing that:

(a) The requested use is natural resource-based,

(b) The requested use will not permanently alter District Lands or involve the placing of any structure or facility on District Lands,

(c) The requested use is consistent with the management plan for the District Lands involved,

(d) The requested use will not harm the environmental or historical resources of the District Lands,

(e) The requested use will not cause unreasonable expense to the District,

(f) The requested use will not create a substantial risk of liability to the District,

(g) The requested use will not harm any dam, impoundment, works, water control structures, roads, or District-owned ~~District owned~~ facilities or equipment,

(h) The requested use will not interfere with District water management, leased, licensed, or authorized uses of the land, and

(i) The requested use will not interfere with any other use allowed by the rules in this chapter.

~~(4) (3)~~ The District shall impose upon any Special Use Authorization issued pursuant to this chapter such reasonable conditions as are necessary to assure that the use or activity authorized will meet the criteria set forth in this chapter.

~~(4) The Governing Board delegates to the Land Resources Director or a person designated by the Director, the authority to issue or revoke Special Use Authorizations pursuant to this section.~~

(5) Any person ~~must~~ may apply for a Special Use Authorization according to the following procedure:

(a) Submit request ~~by email~~ to:

[Land@swfwmd.state.fl.us](mailto:Land@swfwmd.state.fl.us), or by mail to:

Southwest Florida Water Management District

Operations and Land Management Bureau

Land Use and Protection Section

Land Resource Department

2379 Broad Street

Brooksville, FL 34604-6899

(b) If the requested use will create a substantial risk of liability to the District, the District may require the applicant to ~~can~~ mitigate substantial risk of liability by:

1. Providing proof of liability and property damage insurance naming the District as an additional insured in an amount sufficient to cover the cost of the liability which is posed to the District, or

2. Providing waivers or releases of liability sufficient to eliminate the liability, ~~which is~~ posed to the District.

~~(c) The application shall be reviewed by the Land Resources Department for compliance with the criteria listed in this section and a recommendation regarding the application forwarded to the Land Resources Director.~~

~~(d) If the requested use satisfies all of the criteria set forth in this section, the Land Resources Director, or the Director's designee, shall issue the Special Use Authorization.~~

~~(e) If the requested use does not meet the criteria set forth in this section, the Land Resources Director, or the Director's designee, shall deny the Special Use Authorization application.~~

~~(f) The District's notices of intent to issue or deny a Special Use Authorization shall be governed by Chapter 28-106 and Rule 40D-1.1010, F.A.C.~~

(6) Any person receiving a Special Use Authorization from the District must have the Special Use Authorization in their possession at all times while on District Lands.

(7) Special Use Authorizations shall be subject to terms, conditions, and restrictions as may be prescribed therein. Failure to abide by all terms and conditions shall be a violation of the authorization and this chapter.

~~(8) (7)~~ The District Land Resources Director, or the Director's designee, shall revoke a Special Use Authorization if the grantee violates ~~the conditions of~~ the authorization or engages in a use not specifically authorized.

(9) (8) A Special Use Authorization does not eliminate the necessity to obtain any required federal, state, or local approval or permit prior to the start of any authorized use.

*Rulemaking Authority 373.044, 373.113 FS. Law Implemented 373.1391, 373.59 FS. History—New 7-20-04, Amended \_\_\_\_.*



## 6. Regulation

# **Governing Board Meeting**

## **December 15, 2020**

### **6. REGULATION COMMITTEE**

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- 6.2 **Discussion:** Information Only: Denials Referred to the Governing Board .....85

**REGULATION COMMITTEE**

**December 15, 2020**

**Discussion: Information Only**

**Consent Item(s) Moved to Discussion**

Presenter:

Michelle Hopkins, P.E., Division Director, Regulation

**REGULATION COMMITTEE**

**December 15, 2020**

**Discussion: Information Only**

**Denials Referred to the Governing Board**

District Rule 40D-1.6051, Florida Administrative Code, provides that if District staff intends to deny a permit application, the applicant will be advised of the opportunity to request referral to the Governing Board for final action.

Under these circumstances, if an applicant or petitioner requests their application or petition be referred to the Governing Board for final action, that application or petition will appear under this agenda item for consideration. As these items will be presented at the request of an outside party, specific information may not be available until just prior to the Governing Board meeting.

**Staff Recommendation:**

If any denials are requested to be referred to the Governing Board, these will be presented at the meeting.

**Presenter:**

Michelle Hopkins, P.E., Division Director, Regulation

## **7. General Counsel's Report**

**Governing Board Meeting**  
**December 15, 2020**

**7. GENERAL COUNSEL’S REPORT**

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**GENERAL COUNSEL'S REPORT**

**December 15, 2020**

**Discussion: Information Only**

**Consent Item(s) Moved to Discussion**

Presenter:

Karen West, General Counsel

## 8. Committees/Liaison Reports



**COMMITTEE/LIAISON REPORTS**

**December 15, 2020**

**Discussion: Information Only**

**Industrial Advisory Committee**

Presenter:

James G. Murphy, Board Member

**COMMITTEE/LIAISON REPORTS**

**December 15, 2020**

**Discussion: Information Only**

**Public Supply Advisory Committee**

Presenter:

Ed Armstrong, Board Member

## **9. Executive Director's Report**

**EXECUTIVE DIRECTOR'S REPORT**

**December 15, 2020**

**Discussion: Information Only**

**Executive Director's Report**

Presenter:

Brian J. Armstrong, P.G., Executive Director



**CHAIR'S REPORT**

**December 15, 2020**

**Discussion: Information Only**

**Chair's Report**

Presenter:

Kelly S. Rice, Chair

**CHAIR'S REPORT**

**December 15, 2020**

**Discussion: Information Only**

**Employee Milestones**

Presenter:

Kelly S. Rice, Chair

Years of Service	Seniority Date	Preferred Full Name	Position Title	Office Location	Bureau	Anniversary Year	Next Milestone
15	12/12/2005	Scott Letasi	PMO Office Chief	Brooksville	Project Management Office	2020	12/12/2020
30	12/01/1990	Junior Beatty	Staff Network Systems Engineer	Brooksville	Information Technology	2020	12/01/2020
35	12/02/1985	Gwen Brown	Business Process Supervisor	Brooksville	Water Resources	2020	12/02/2020